

**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING**

**MONDAY, OCTOBER 28, 2019
2:30 P.M.**

2180 Milvia Street, 6th Floor, Berkeley, CA – Redwood Room

Teleconference Location - 1170 San Bernard Street, Austin, TX 78702

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

AGENDA

Roll Call

Public Comment

Review of Agendas

- 1. Approval of Minutes: October 15, 2019**
- 2. Review and Approve Draft Agendas:**
 - a. 11/12/19 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

Scheduling

- 5. Council Worksessions Schedule**
- 6. Council Referrals to Agenda Committee for Scheduling**
- 7. Land Use Calendar**

Referred Items for Review

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

8. Discussion of Potential Revisions to the City Council Rules of Procedure and Order

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment – Next Meeting Monday, November 4, 2019

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### Additional items may be added to the draft agenda per Council Rules of Procedure.

*Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items*

*Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.*

*The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

*The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.*

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*

#### 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.

\* \* \*

I hereby certify that the agenda for this special 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 October 24, 2019.



Mark Numainville, City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.*



# BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

TUESDAY, OCTOBER 15, 2019

2:30 P.M.

2180 Milvia Street, 6<sup>th</sup> Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**Roll Call:** 2:35 p.m. All present.

**Public Comment** – 3 speakers

## Review of Agendas

### 1. Approval of Minutes: October 1, 2019

**Action:** M/S/C (Wengraf/Harrison) to approve the minutes of 10/1/19.

**Vote:** All Ayes.

### 2. Review and Approve Draft Agendas:

a. 10/29/19 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Wengraf) to request that Item 29 be revised by the author to be a referral to the Transportation Commission.

**Vote:** All Ayes.

**Action:** M/S/C (Wengraf/Harrison) to approve the agenda of the 10/29/19 regular meeting with the changes noted below.

**Vote:** All Ayes.

- *Ceremonial Items: Joy's Clothing; Carlos Baron; Domestic Violence Awareness Month*
- *Item 8 Housing Trust Fund (City Manager) – Moved to Action Calendar*
- *Item 13 Age-Friendly (Arreguin) – Councilmember Bartlett added as a co-sponsor*
- *Item 15 Consider the Homeless (Davila) – Councilmember Bartlett added as a co-sponsor*
- *Item 16 HR 1595 (Davila) – Councilmember Harrison added as a co-sponsor*
- *Item 17 Landmarks Grants (Harrison) – Councilmember Hahn added as a co-sponsor*
- *Item 18 AB 500 (Harrison) – Item removed from the agenda by Councilmember Harrison*
- *Item 22a/b Measure P Funds – Item scheduled to November 19, 2019*
- *Item 24 Five-Year Paving Plan (Public Works Commission) – Item scheduled to 12/3/19*
- *Item 25 Gas Shut-Off (Harrison) – Councilmembers Wengraf, Hahn, Bartlett added as co-sponsors; Moved to Consent Calendar*
- *Item 26 JSISHL Extension (Arreguin) – Councilmember Harrison added as a co-sponsor; Moved to Consent Calendar*
- *Item 27 Civic Arts (Kesarwani) – Councilmembers Wengraf, Hahn added as co-sponsors; Moved to Consent Calendar*
- *Item 28 Code Enforcement (Kesarwani) – Moved to Consent Calendar*

- *Item 29 Oversized Vehicles (Harrison) – Revised item submitted; Councilmember Bartlett added as a co-sponsor; Revision requested by Committee; Moved to Consent Calendar*
- *Item 30 Ohlone Park Mural (Harrison) – Revised item submitted; Moved to Consent Calendar*
- *Item 31 Opportunity Zones (Harrison) – Councilmembers Hahn, Davila, and Bartlett added as a co-sponsor; Referred to Land Use, Housing & Economic Development Committee*
- *Item 32 Formula Retail (Hahn) – Scheduled for 10/29/19 Action Calendar*
- *Item 33 Traffic Enforcement and Bicycle Safety (Robinson) – Scheduled for 10/29/19 Action Calendar*

### Order of Items on the Action Calendar

Item 19 Elmwood BID  
 Item 20 Solano BID  
 Item 21 Metered Parking  
 Item 8 Housing Trust Fund  
 Item 23a/b Smoke-Free  
 Item 32 Formula Retail  
 Item 33 Traffic Enforcement and Bicycle Safety

- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**  
 - Selected Item 33 Traffic Enforcement and Bicycle Safety

- 4. Adjournments In Memory – none**

### **Scheduling**

- 5. Council Worksessions Schedule – received and filed**
- 6. Council Referrals to Agenda Committee for Scheduling – received and filed**
- 7. Land Use Calendar – received and filed**

### **Referred Items for Review**

*Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

### **8. Discussion of Potential Revisions to the City Council Rules of Procedure and Order**

No action taken.

## Items for Future Agendas

- **Discussion of items to be added to future agendas - none**

## Adjournment

**Action:** M/S/C (Wengraf/Harrison) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 3:29 p.m.

## Communications

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.*

I hereby certify that the forgoing is a true and correct record of the Agenda and Rules Committee meeting held on October 15, 2019.

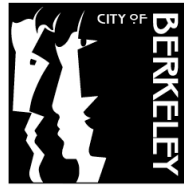
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Mark Numainville, City Clerk





## DRAFT AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, November 12, 2019

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

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

*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. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, 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 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. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## 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. **Revision to the 2020 City Council Meeting Schedule**

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the City Council regular meeting schedule for 2020, with starting times of 6:00 p.m. and rescinding Resolution No. 69,029-N.S.

**Financial Implications:** None

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

### 2. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 12, 2019**

**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 - \$40,093,600

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

## Consent Calendar

- 3. Contract No. 31900203 Amendment: Resource Development Associates for Crisis, Assessment and Triage Line Evaluation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900203 with Resource Development Associates (RDA) to provide additional evaluation consulting services for the Crisis, Assessment and Triage (CAT) line, in an amount not to exceed \$15,000 for a total contract amount not to exceed \$63,000 through June 30, 2021. The amended contract will include a revised scope of services, paid for with the additional funding requested here.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 4. Contract: Berkeley Unified School District for Mental Health MHSA-Funded Programs**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Berkeley Unified School District (BUSD) to provide Mental Health Services Act (MHSA) funded programs in local schools through June 30, 2020 in an amount not to exceed \$392,778.  
**Financial Implications:** Various Funds - \$392,778  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 5. Authorize the City Manager to Submit Senate Bill 2 Planning Grants Program Application**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit the application for Senate Bill 2 Planning Grants Program (PGP) in the amount of \$310,000 and sign documents or amendments when the grant is awarded.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Consent Calendar

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

**From: City Manager**

**Recommendation:**

1. Adopt first reading of an Ordinance repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions, and schedule a Public Hearing for the second reading on December 3, 2019, pursuant to state law; and
2. Adopt a Resolution setting forth findings of local conditions that justify more stringent regulations than those provided by the 2019 California Building Standards Code, approving cost effectiveness studies relevant to local amendments to the 2019 California Energy Code, and rescinding Resolution No. 67,736-N.S.

**Financial Implications:** See report

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

**7. Contracts: On-Call Environmental Consulting Services: GSI Environmental, Inc., Wood Environment & Infrastructure Solutions, Inc., and Northgate Environmental Management, Inc.**

**From: City Manager**

**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call citywide environmental consulting services, each for a period of November 1, 2019 through November 30, 2022:

1. GSI Environmental, Inc. for an amount not to exceed \$150,000.
2. Wood Environment & Infrastructure Solutions, Inc. \$300,000.
3. Northgate Environmental Management, Inc. for an amount not to exceed \$150,000.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**8. Final Map of Tract 8369: 2747 San Pablo Avenue**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the final map of Tract Map 8369, a forty-two unit condominium project consisting of thirty-nine residential units, two live/work units, and one commercial unit, located at 2747 San Pablo Avenue.

**Financial Implications:** None

Contact: Phillip Harrington, Public Works, (510) 981-6300

## Consent Calendar

### 9. Bird Safe Berkeley Requirements

**From: Community Environmental Advisory Commission**

**Recommendation:** Refer to the Planning Commission and the City Attorney the attached ordinance amending Berkeley Municipal Code Title 23C, adding a new Chapter 23C.27 establishing bird safety requirements for new construction and significant renovations and a new Chapter 23C.28 establishing a dark skies ordinance, for review and approval.

**Financial Implications:** See report

Contact: Viviana Garcia, Commission Secretary, (510) 981-7460

### 10. Stop Sign Warrant Policy

**From: Transportation Commission**

**Recommendation:** Adopt the attached Berkeley Stop Sign Warrant to supplement state law for determining when stop signs may be warranted to protect pedestrians, wheelchair users and/or bicyclists in the City of Berkeley.

**Financial Implications:** See report.

Contact: Farid Javandel, Commission Secretary, (510) 981-6300

## Council Consent Items

### 11. Support of SB 378 – Reducing Deenergization Events

**From: Mayor Arreguin and Councilmember Wengraf**

**Recommendation:** Adopt a Resolution in support of SB 378 (Wiener), which would place commonsense regulations on deenergization events such as PG&E's Public Safety Power Shutoffs. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Scott Wiener and Nancy Skinner, and Assemblymember Buffy Wicks.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

### 12. Budget Referral: BART Station Environmental Planning

**From: Mayor Arreguin**

**Recommendation:** Refer to the budget process \$250,000 for BART station planning. This budget allocation will allow the initiation of environmental review required as part of developing and adopting zoning for the Ashby and North Berkeley BART Stations that is in conformance with Assembly Bill 2923.

**Financial Implications:** \$250,000

Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Council Consent Items

- 13. Additional funding to Enhance Services at the Berkeley Drop-In Center**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers to the November Budget Annual Appropriations Ordinance to fund \$210,000 to enhance services at the Berkeley Drop-In Center, specifically for the installation of a public shower, installation of washer and dryer, renovation of the existing publicly accessible restroom, and additional payee service capacity. This request will provide one-time funding for the renovation of permits and installation of the washer, dryer, and shower.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 14. Additional funding for Berkeley Community Gardening Collaborative/Moving South Berkeley Forward**  
**From: Councilmember Bartlett and Mayor Arreguin**  
**Recommendation:** That the Council refers to the November Budget Annual Appropriations Ordinance to fund \$10,582.06 to Berkeley Community Gardening Collaborative for a coordinator for the year-long Moving South Berkeley Forward project.  
**Financial Implications:** \$10,582.06  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 15. Budget Referral: Evaluation and Implementation of Pedestrian and Bicycle Safety Along Oxford Street**  
**From: Councilmember Harrison**  
**Recommendation:** Refer \$75,000 to the FY20 2019 AAO Process for the purpose of assessing, identifying, and implementing improvements to pedestrian and bicycle safety across Oxford Street, particularly between University Avenue and Bancroft Street.  
**Financial Implications:** Excess Equity - \$75,000  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 16. Wildfire Mitigation Mid-Year Budget Referral**  
**From: Councilmember Wengraf**  
**Recommendation:** Refer to the Mid-Year Budget Process an amount of \$550,000 for wildfire mitigation measures, including the removal of fire fuel on City properties and the extension by six additional months of the Fire Captain position to provide wildfire safety planning, Safe Passages implementation, and oversight of mitigation programs and public education.  
**Financial Implications:** \$550,000  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## 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.*

## Action Calendar

*The Presiding Officer will request that persons wishing to speak line up at the podium 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, line up at the podium 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.*

### 17. Adoption of the 2019 California Fire Code with Local Amendments

**From: City Manager**

**Recommendation:**

1. Adopt the first reading of an Ordinance repealing the Berkeley Fire Code (Berkeley Municipal Chapter 19.48) and reenacting BMC Chapter 19.48;
2. Adopt a Resolution setting forth findings of local conditions that require more stringent building standards than those provided by the 2019 California Fire Code (“CFC”) and rescinding Resolution number 67,743–N.S.;
3. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 3, 2019.
4. Conduct a public hearing, and upon conclusion, adopt a Resolution establishing annual permit fees, inspection and billing rates for inspection of property sites by the Berkeley Fire Department, and rescinding Resolution number 67,990–N.S. and all Resolutions amendatory thereof.

**Financial Implications:** See report

Contact: David Brannigan, Fire, (510) 981-3473

## Action Calendar – Public Hearings

**18. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for 1601 Oxford Street**

**From: City Manager**

**Recommendation:**

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended; and
2. Adopt a Resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of Satellite Affordable Housing Associates or an affiliate thereof, a California limited partnership (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**19. ZAB Appeal: 2701 Shattuck Avenue, Use Permit #ZP2016-0244**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution approving “Plan B”, as presented to the Council on November 12, 2019 for Use Permit #ZP2016-0244 to construct a 5-story, 60-foot tall, mixed-use building with 57 dwelling units (including five Very Low Income units and three live/work units), and 14 parking spaces, and dismissing the appeal.

**Financial Implications:** None

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

## Action Calendar – Old Business

**20. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers (Continued from September 24, 2019)**

**From: City Manager**

**Recommendation:** Refer to the City Manager to conduct a feasibility analysis of 1281 University Avenue as an interim site to host Recreational Vehicle (RV) dwellers.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400



## Action Calendar – New Business

- 21a. Recommendations for a Fossil Fuel Free Berkeley** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Energy Commission**  
**Recommendation:** The Berkeley Energy Commission recommends the City Council refer to the City Manager to implement the recommendations listed below as well as additional measures outlined in the attached report to aggressively reduce greenhouse gas (GHG) emissions in the city and the region.  
**Financial Implications:** Unknown  
Contact: Billi Romain, Commission Secretary, (510) 981-7400
- 21b. Companion Report: Recommendations for a Fossil Fuel Free Berkeley** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee. Item contains revised material.)*  
**From: City Manager**  
**Recommendation:** Refer to the City Manager to continue to implement existing policies and programs that are consistent with the recommendations in the Berkeley Energy Commission's Fossil Fuel Free Berkeley Report, such as the Building Energy Saving Ordinance and development of new building codes that promote building electrification, and also to complete new evaluations and analyses of current and potential future greenhouse gas reduction programs and policies in order to inform next steps for accelerating progress to a Fossil Fuel Free Berkeley.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Action Calendar – Policy Committee Track Items

- 22. Support impeachment actions to immediately remove the 45th President of the United States**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution supporting impeachment efforts to immediately remove the 45th President of the United States.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 23. Healthy Checkout Ordinance**  
**From: Councilmembers Harrison and Hahn**  
**Recommendation:**  
1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.  
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar – Policy Committee Track Items

**24. Request for Information: Police Dispatch**

**From: Councilmember Harrison**

**Recommendation:** Refer to the City Manager a request for information clarifying:  
1. when non-emergency phone calls to the police are directed to the Berkeley Police Department and when to the California Highway Patrol or other outside agencies, and 2. what staffing or technological changes would be needed to direct more calls to Berkeley dispatch.

**Financial Implications:** Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**25. Budget Referral: Transportation to Support Mobility-Impaired Individuals Experiencing Homelessness who are Engaged in Rehousing and other Services**

**From: Councilmember Hahn and Mayor Arreguin**

**Recommendation:**

Refer to the budget process to allocate funds to provide transportation for mobility-impaired individuals experiencing homelessness who are engaged with rehousing and other services through the STAIR Center, The Hub, or other City of Berkeley-funded homeless services.

Refer to staff to determine needs and establish the best method for providing such transit services. Options include, but are not limited to, helping one or more service providers to purchase or lease wheelchair-accessible vehicle(s), or to repair or retrofit currently owned vehicle(s), providing additional vouchers for existing Paratransit services, providing additional taxi scripts (as recommended by the Homeless Commission), or contracting with a suitable transportation service. Consistent with the Americans with Disabilities Act (ADA), vehicles purchased, leased, or otherwise procured for these purposes should include the option of/access to a boarding device (e.g. lift or ramp) so that a passenger who uses a wheelchair or mobility device can reach a securement location onboard.

**Financial Implications:** See report

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

**26. Budget Referral: Expansion of Homeless Navigation Facilities and Programs**

**From: Councilmember Hahn and Mayor Arreguin**

**Recommendation:** Pursuant to Measure P Panel of Expert Investment Area Priorities #1 and #2:

-Authorize the establishment of a third sleeping unit at the Berkeley Pathways STAIR Center to increase capacity, and direct staff to explore options to operate and provide services to the expanded population.

-Refer to the budget process to allocate funds to establish a third sleeping unit and additional facilities as needed to increase capacity at the STAIR Center, and to fund operational and programmatic needs.

**Financial Implications:** See report

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

## Information Reports

27. **Age-Friendly Berkeley Update**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
28. **Denial of Request to Waive Fees, 2992 Adeline Street**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

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Community Environmental Advisory Commission

CONSENT CALENDAR

November 12, 2019

To: Honorable Mayor and Members of the City Council  
 From: Community Environmental Advisory Commission (CEAC)  
 Submitted by: Ben Gould, Chairperson, CEAC  
 Subject: Bird Safe Berkeley Requirements

RECOMMENDATION:

Refer to the Planning Commission and the City Attorney the attached ordinance amending Berkeley Municipal Code Title 23C, adding a new Chapter 23C.27 establishing bird safety requirements for new construction and significant renovations and a new Chapter 23C.28 establishing a dark skies ordinance, for review and approval.

FISCAL IMPACTS OF RECOMMENDATION:

Potential for small additional ongoing costs associated with slightly increased requirements for staff review of new construction proposals to ensure compliance.

CURRENT SITUATION AND ITS EFFECTS

Bird safety is aligned with the City of Berkeley's Strategic Plan, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

According to the Audubon Society, bird collisions with windows is a leading cause of human-induced bird deaths (second only to outdoor house cats). Berkeley is located in the midst of the Pacific Flyway, a major migratory route for birds including hummingbirds, robins, blackbirds, numerous shorebirds, raptors, and more. When these birds encounter unfamiliar urban areas along the migratory path, they are at particular risk for collisions and death.

At present, there are no bird safety measures required for new construction or renovations. As a result, it is possible that new and existing buildings may incorporate features which pose preventable hazards to local and migratory birds.

Unfettered outdoor lighting also poses known risks to birds, as well as generating unwanted light pollution. The City of Berkeley's Downtown Area Plan<sup>1</sup>, as well as

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<sup>1</sup> Lighting, City of Berkeley Downtown Area Plan. Accessed August 2019:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_DAP/Chapter%2012%20Lighting.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_DAP/Chapter%2012%20Lighting.pdf)

Southside zoning regulations (BMC 23E.52.070.F.7), provide guidance or limitations on outdoor lighting, but no general policy exists citywide to prevent excessive light pollution from outdoor lighting.

### BACKGROUND

Berkeley is in the midst of the Pacific Flyway, a major migratory route for birds. The city is also adjacent to San Francisco Bay, one of North America's most ecologically important estuaries and a site of Western Hemispheric importance for shorebirds and waterfowl. Alameda County has recorded 407 species of resident and migratory bird species, including least terns, Ridgway's rails, and a variety of other uniquely local and/or threatened species.

New buildings can be designed to reduce bird deaths from collisions without compromising cost or aesthetics – in fact, many of the compliance methods in the attached ordinance can be incorporated into design or construction with virtually no additional cost or difficulty for architects or engineers, and in some cases facilitate achieving other environmental goals (like improved building energy efficiency).

Several other Bay Area cities have adopted bird safety ordinances, including San Francisco, Oakland, Alameda, and Richmond. The attached proposed ordinance is developed from the City of Alameda's adopted ordinance.

In addition, birds are drawn to light, whether from the moon or artificial lights, and lights affixed to buildings or structures pose a risk that birds may crash into them. A special danger comes from very bright lights, as well as lights aimed upward.

### ENVIRONMENTAL SUSTAINABILITY

Implementing the Bird Safe Berkeley ordinance will ensure new construction does not pose undue hazards to local and migratory birds, thereby reducing human impact and benefiting the environment.

### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed amendment to BMC Title 23C is categorically exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), 15307, and 15308.

### RATIONALE FOR RECOMMENDATION

Berkeley's strategic plan calls for being a global leader in protecting the environment. The bird-safe glazing design standards contained within have been found to be effective at reducing or eliminating bird deaths, and can be implemented with little or no additional costs. The window size threshold for requiring implementation is the most stringent in the nation, and as a result adopting this policy strongly aligns with Berkeley's strategic plan. The dark skies ordinance is straightforward and simple, yet effective at reducing excessive and unwanted light pollution while conserving energy.

ALTERNATIVE ACTIONS CONSIDERED

CEAC considered taking no action on bird safety standards, but concluded that the environmental benefits substantially outweighed the burden imposed. CEAC also considered a less stringent window size requirement (of twenty-four (24) square feet instead of eight (8) square feet), but determined that window size was not a significant factor in either bird safety or cost or ease of compliance.

CEAC considered taking no action on dark skies, but concluded that the environmental benefits outweighed the burden imposed. CEAC also considered a more stringent dark skies ordinance, but concluded it would be unnecessarily difficult to enforce with minimal additional benefits.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Ben Gould, Chairperson, CEAC, 510-725-9176

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE TITLE 23C TO ESTABLISH GENERAL REQUIREMENTS FOR BIRD SAFETY IN BUILDINGS AND EXTERIOR LIGHTING FIXTURES; ADDING CHAPTER 23C.27 AND CHAPTER 23C.28

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code Chapter 23C.27 is added to read as follows:

**Chapter 23C.27  
BIRD SAFETY**

**Sections:**

- 23C.27.010 Purpose**
- 23C.27.020 Applicability**
- 23C.27.030 Exemptions**
- 23C.27.040 Standards**

23C.27.010 Purpose

The purposes of the Bird Safety related regulations contained in this Chapter is to reduce bird mortality from windows or other specific building features known to increase the risk of bird collisions.

23C.27.020 Applicability

The bird-safe building standards apply to the following types of projects when such projects require a building permit:

A. New Construction. New buildings with two (2) or more stories, and one or more façades in which glass constitutes fifty percent (50%) or more of the area of the individual façade. The bird-safe glazing requirement must be met on any window with dimensions of at least two (2) feet by four (4) feet, or an area of eight (8) square feet or more, located on such façade.

B. Window Replacement. On buildings with two (2) or more stories, and one or more facades in which glass constitutes fifty percent (50%) or more of the area of the individual façade, replacement of any window or other rigid transparent material with dimensions of at least two (2) feet by four (4) feet, or an area of eight (8) square feet or more. The requirement does not apply on existing windows that are not proposed to be replaced.



C. New or Replaced Glass Structures. Any structure that has transparent glass walls twenty-four (24) square feet or more in size, including but not limited to freestanding glass walls, wind barriers, skywalks, balconies, greenhouses, and rooftop appurtenances.

#### 23C.27.030 Exemptions

The bird-safe building standards shall not apply to the following:

A. The replacement of existing glass on historic structures. However, the standards shall apply to new exterior additions to historic structures, and new construction on the site of historic structures, that are differentiated from the historic structures, if determined by the Planning Director to be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

B. Glazing on the ground floor of commercial storefronts directly fronting a public street, alley, or sidewalk.

#### 23C.27.040 Standards

A. Bird-Safe Glazing Requirement. At least ninety percent (90%) of the glazing on any building façade or freestanding glass structure shall include features that enable birds to perceive the glass as a solid object. The requirement can be satisfied by using one or more of the following treatments to be determined by the Planning Director as part of an application for a building permit:

1. External screens installed permanently over glass windows such that the windows do not appear reflective.
2. Light-colored blinds or curtains.
3. Opaque glass, translucent glass, or opaque or translucent window film.
4. Paned glass with mullions on the exterior of the glass.
5. Glass covered with patterns (e.g., dots, stripes, images, abstract patterns, lettering). Such patterns may be etched, fritted, stenciled, silk-screened, applied to the glass on films or decals, or another method of permanently incorporating the patterns into or onto the glass. Elements of the patterns must be at least one-eighth (1/8) inch tall and separated no more than two (2) inches vertically, at least one-quarter (1/4) inch wide and separated by no more than four (4) inches horizontally, or both (the "two-by-four rule").
6. Ultraviolet (UV)-pattern reflective glass, laminated glass with a patterned UV-reflective coating, or UV-absorbing and UV-reflecting film that is permanently applied to the glass. Where patterns are used, they shall meet the two-by-four rule.
7. Other glazing treatments providing an equivalent level of bird safety and approved by the Planning Director as part of building plan review.

B. Alternative Glazing Compliance. As an alternative to meeting subsection 4(a), Bird-Safe Glazing Requirement, an applicant may propose building and fenestration designs and/or operational measures that will minimize bird collisions and achieve an equivalent level of bird safety. The applicant shall submit a bird collision reduction plan along with the application for design review or other discretionary permit required for the project. The bird collision reduction plan shall be prepared by a qualified biologist. Design and operational solutions may include but need not be limited to the following techniques, singularly or in combination:

1. Layering and recessing glazed surfaces.
2. Angled or faceted glazing that minimizes reflectivity and transparency.
3. Louvres.
4. Overhangs and awnings.
5. Glass block.
6. Bird netting with openings one (1) square centimeter or smaller.
7. Decorative grilles that allow birds to perceive the grilles, together with the glass behind them, as solid.
8. Glass embedded with photovoltaic cells.
9. Placement of landscaping in such a way as to minimize bird collisions.

Section 2. That the Berkeley Municipal Code Chapter 23C.28 is added to read as follows:

**Chapter 23C.28  
DARK SKIES**

**Sections:**

- 23C.28.010 Purpose**
- 23C.28.020 Applicability**
- 23C.28.030 Exemptions**
- 23C.28.040 Standards**

23C.28.010 Purpose

The purpose of the Dark Skies ordinance is to ensure exterior light fixtures are pointed downwards and turn off whenever possible, minimizing light pollution, sky glow, and hazardous risks to birds, while ensuring adequate illumination for safety, security, and the enjoyment of outdoor areas, including travel on public roads.

23C.28.020 Applicability

The dark skies ordinance applies to any project that requires a building permit or electrical permit for:

A. New exterior lighting, including lighting fixtures attached to buildings, structures, poles, or self-supporting structures; or

B. Additions or replacements of existing exterior light fixtures, including upgrades and replacements of damaged or destroyed fixtures.

#### 23C.28.030 Exemptions

The following types of lighting are exempt from the requirements of this subsection:

A. Emergency lighting. Temporary emergency lighting used by law enforcement or emergency services personnel, a public utility, or in conjunction with any other emergency service.

B. Construction lighting. Temporary lighting used for construction or repair of roadways, utilities, and other public infrastructure.

C. Lighting Required by Building Code or Other Regulations. Lighting for exit signs, stairs, ramps, points of ingress/egress to buildings, and all other illumination required for building codes, OSHA standards, and other permitting requirements imposed by state, or federal agencies.

D. Signs. Signs and sign lighting.

E. Athletic Field Lights. Athletic field lights used within a school campus or public or private park.

F. Neon, Argon, and Krypton. All fixtures illuminated solely by neon, argon, or krypton.

G. Water Features. Lighting used in or for purposes of lighting swimming pools, hot tubs, decorative fountains, and other water features.

H. Flag Lighting. Lighting used to illuminate a properly displayed United States flag and/or State of California flag.

I. Holiday Displays. Seasonal and holiday lighting.

J. Temporary Lighting. Temporary lighting allowed under a permit.

K. Historic Fixtures. Historic lighting fixtures or fixtures that exhibit a historical period appearance, as determined by the Planning Director.

L. Architecture, Historic Structures, and Public Art. Lighting on historic structures, special architectural features, public art, monuments, and other similar objects of

interest shall be exempt if the lamps emit less than one thousand six hundred (1600) lumens per fixture and together draw less than one hundred (100) watts. However, the standards shall apply to new exterior additions to historic structures, and new construction on the site of historic structures, that are differentiated from the historic structures, if determined by the Planning Director to be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

M. Low-Voltage Landscape Lighting. Low-voltage landscape lighting such as that used to illuminate fountains, shrubbery, trees, and walkways, provided that it uses no more than sixty (60) watts and no more than seven hundred and fifty (750) lumens per fixture.

#### 23C.28.040 Standards

To minimize the harmful effects of light pollution, new construction and major renovation projects shall meet the following standards:

- A. Outdoor lighting shall be no brighter than 3000 Kelvin.
- B. Outdoor lighting shall be shielded and directed, with a full cut off fixture of no more than 2.5% of lamp lumens at or above 90°, and no more than 10% of lamp lumens at or above 80°.
- C. Wherever feasible, require motion sensors or timers to prevent unnecessary energy use and light pollution.
- D. Light shows and beams of light are not permitted during spring or fall migration seasons, roughly February 15 to May 31, and August 15 to November 30, respectively.



Transportation Commission

CONSENT CALENDAR

11/12/2019

To: Honorable Mayor and Members of the City Council  
 From: Transportation Commission  
 Submitted by: Donald Lathbury, Chairperson, Transportation Commission  
 Subject: Stop Sign Warrant Policy

RECOMMENDATION

Adopt the attached Berkeley Stop Sign Warrant (Attachment 1) to supplement state law for determining when stop signs may be warranted to protect pedestrians, wheelchair users and/or bicyclists in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

Unknown. (The cost to install a stop sign is approximately \$1,000. However, given that a HAWK signal can cost up to \$200,000, the option to install a stop sign instead could save significant funds.)

CURRENT SITUATION AND ITS EFFECTS

On October 31, 2017, the Berkeley City Council unanimously passed a resolution referring to the Transportation Commission consideration of additional or supplemental stop sign criteria and traffic calming criteria to increase prioritization of the existing and projected needs of bicyclists and pedestrians, in particular the elderly, children, the disabled and other vulnerable non-vehicular populations, as well as the presence of bicycle boulevards, and the difficulty of for bicyclists and pedestrians in crossing particular intersections.

Berkeley needs additional criteria to supplement California state criteria for stop signs for the following reasons:

- A study comparing 44 cities of a similar size in California, found that Berkeley was number one in both pedestrian and bicycle injuries and deaths.<sup>1</sup>
- Berkeley has a higher proportion of pedestrian and bicycle trips than other

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<sup>1</sup> Data from the Transportation Element of Berkeley's General Plan.  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/General\\_Plan\\_-\\_Transportation\\_Element.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Transportation_Element.aspx)

California cities. About 15% of Berkeley's work trips are by walking<sup>2</sup> and almost 6% by bicycling,<sup>3</sup> more than any other California city.

- The state of California's criteria for stop signs are automobile-centric. Their main goal is to facilitate the flow of motorized traffic. They are not adequate for a city like Berkeley, which has a higher rate of pedestrian and bicycle trips than other California cities.
- In 2006, Berkeley voters overwhelmingly passed Measure G, which calls on Berkeley to reduce our greenhouse gas emissions 80% below 2000 levels by 2050. Transportation accounts for more than 50% of Berkeley's greenhouse gas emissions,<sup>4</sup> and one of the most cost-effective ways to meet our climate goals is to promote nonmotorized forms of transportation by using low-cost traffic controls such as stop signs.
- It costs less than \$1,000 to install stop signs to protect an intersection. It costs \$200,000 to install a HAWK Beacon, the other effective method of protecting bicyclists crossing major streets. Though HAWK Beacons are needed at intersections of bikeways with major streets with very high traffic volume, stop signs are a far more cost-effective solution at intersections of major streets with more moderate traffic volumes.
- The state of California has officially eliminated "level of service" analysis for CEQA related traffic studies and replaced it with vehicle miles traveled.<sup>5</sup> California has recognized that speeding traffic has nothing to do with improving the environment. It similarly has nothing to do with improving safety of people walking and bicycling.

## BACKGROUND

During 2017, two middle-school students were seriously injured after being hit by cars while bicycling across Dwight Way on the California Street bicycle boulevard. This intersection is a crossing for a bicycle boulevard and a major route for children bicycling to nearby elementary and middle schools. The City of Berkeley could not install a four-

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<sup>2</sup> Data from "Street Safety in Berkeley"  
<https://www.cityofberkeley.info/StreetSafety.aspx>

<sup>3</sup> American Community Survey

<sup>4</sup> 4 Council Report, December 7, 2017:  
<https://www.dropbox.com/s/rfgmjqtww4t9m6b/2017-12-07%20Worksession%20Agenda%20Packet.pdf?dl=0>

<sup>5</sup> Proposed Updates to CEQA Guidelines, November 2017:  
[http://opr.ca.gov/docs/20171127\\_Comprehensive\\_CEQA\\_Guidelines\\_Package\\_Nov\\_2017.pdf](http://opr.ca.gov/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf)

[Title of Report]

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way stop sign to immediately address known safety issues at this intersection, because the intersection does not meet state criteria for installing stop signs.

ENVIRONMENTAL SUSTAINABILITY

Increasing the safety of pedestrians, wheelchair users and bicyclists makes it more viable for citizens to choose these modes of transportation over driving, helping implement our Climate Action Plan recommended emissions reduction action to: “Accelerate implementation of the City’s Bicycle and Pedestrian Plans and continue efforts to make walking and cycling safe, healthy, and enjoyable alternatives to driving.”

RATIONALE FOR RECOMMENDATION

Transportation Commission at their meeting of Thursday Sep 19, 2019 unanimously voted in favor of adopting the attached Berkeley Stop Sign Warrants.

ALTERNATIVE ACTIONS CONSIDERED

None considered

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission’s Report.

CONTACT PERSON

Farid Javandel, Transportation Manager, 981-7061

Attachments:

- 1: New Policy Guidelines for Multi-way Stop Applications



Department of Public Works  
Transportation Division

## **Policy Guidelines for Multiway Stop Applications**

### **INTRODUCTION:**

Multiway stop control (a.k.a. all-way stops) can be useful as a safety measure if certain traffic conditions exist. Safety concerns associated with multiway stops include pedestrians, bicyclists, and all road users expecting other road users to stop. Multiway stop control is used where the volume of traffic on the intersecting roads is approximately equal.

The City of Berkeley's policy guideline on multiway stop applications is based on the exact language from California Vehicle Code (CVC) <sup>1</sup> and the California Manual on Uniform Traffic Control Devices (MUTCD) <sup>2</sup>.

### **I. General Policy on Traffic Signs**

The California Vehicle Code (CVC) provides that "(a) Except as provided in Section 21374 [relating to directional signs for tourists] only those official traffic control devices that conform to the uniform standards and specifications promulgated by the Department of Transportation shall be placed upon a street or highway..." Hence, the City of Berkeley Public Works Department follows standard professional engineering practices as prescribed in the California Department of Transportation (Caltrans) Manual on Uniform Traffic Control Devices. The Manual has the following provisions, among others, that guide the City's policy and procedures for sign installation:

- A. Excessive use of signs should be avoided.
- B. Signs should be used where warranted by facts and field studies.
- C. No traffic sign or its support shall bear any message that is not essential to traffic control.
- D. Effective traffic control depends not only on appropriate application of devices, but on reasonable enforcement of regulations as well.

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<sup>1</sup> State of California Vehicle Code

<sup>2</sup> 2014 Manual on Uniform Traffic Control Devices, Rev. 4



- E. Data obtained from traffic engineering studies of physical and traffic related factors should be used in determining where signs are necessary.
- F. Care should be taken not to install too many signs. A conservative use of regulatory and warning signs is recommended as these signs, if used to excess, tend to lose their effectiveness.

## II. Legal Authority for Stop Sign Installation

The California Vehicle Code (CVC) includes the following excerpts regarding local authority on stop signs.

- A. *Local Authority, CVC §21351*: Local authorities in their respective jurisdictions shall place and maintain or cause to be placed and maintained such traffic signs, signals and other traffic control devices upon streets and highways as required hereunder, and may place and maintain or cause to be placed and maintained such appropriate signs, signals and other traffic control devices as may be authorized hereunder or as may be necessary properly to indicate and to carry out the provisions of this code or local traffic ordinances or to warn or guide traffic.
- B. *Stop Signs on Local Highways, CVC §21354*: ...a local authority may designate any highway under its jurisdiction as a through highway and may erect stop signs at entrances thereto or may designate any intersection under its exclusive jurisdiction as a stop intersection and erect stop signs at one or more entrances thereto.
- C. *Stop Signs, CVC §21355*: ...The Department of Transportation and local authorities in their respective jurisdictions may erect stop signs at any location so as to control traffic within an intersection.
- D. *Stop Requirements, CVC §22450(b)*. Notwithstanding any other provision of law, a local authority may adopt rules and regulations by ordinance or resolution providing for the placement of a stop sign at any location on a highway under its jurisdiction where the stop sign would enhance traffic safety.

## III. Specific Policy on Stop Signs

The California MUTCD provides the following general policies with respect to the installation of Stop signs, which the Public Works Department will uphold:

- A. Stop signs should not be used for speed control.
- B. Stop signs shall not be erected at any entrance to an intersection when such entrance is controlled by an official traffic control signal, nor at any railroad grade crossing which is controlled by automatic signals, gates, or other train-actuated

control devices except as provided in *CVC §21355, Stop Signs*. The conflicting commands of two types of control devices are confusing.

- C. Portable or part-time Stop signs shall not be used except for emergency purposes.

#### **IV. Multiway Stop Installation Warrants**

The California MUTCD recommends that the decision to install multiway stop control should be based on an engineering study. The Public Works Department will conduct or sponsor an engineering study to determine the appropriateness of multiway stop control based on the warrants described below.

The California MUTCD specifies that any of the following locations (or conditions) may warrant multiway stop sign installation:

- A. Where traffic control signals are warranted and urgently needed, the multiway stop may be an interim measure that can be installed quickly to control traffic while arrangements are being made for the signalization installations.
- B. An accident problem, as indicated by 5 or more reported accidents within a 12-month period of a type susceptible of correction by a multiway stop installation. Such accidents include right- and left-turn collisions as well as right-angle collisions.
- C. Minimum volumes:
  - 1. The total vehicular volume entering the intersection from all approaches must average at least 500 vehicles per hour for any 8 hours of an average day, and
  - 2. The combined vehicular and pedestrian volume from the minor street or highway must average at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the maximum hour, but
  - 3. When the 85<sup>th</sup>-percentile approach speed exceeds 64 km/hr (40 mph), the minimum vehicular volume warrant is 70 percent of the above requirements.

#### **V. Special Conditions**

Based on the optional criteria prescribed by the MUTCD, the Transportation Division may require an engineering study for special situations on a case-by-case basis. In special situations where the multiway stop warrants from Section IV are not satisfied, the Transportation Division may recommend the installation of multiway stop control to protect pedestrians, wheelchair users, and bicyclists for the following specific special conditions,

based on professional engineering judgment and as determined by the Transportation Manager:

- A. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes, such as intersections adjacent to schools, commercial center or park.
- B. The need to control vehicle/bicyclist conflicts where a street that is designated as a bikeway in Berkeley's bicycle plan crosses a major street. Bikeways include all routes shown as part of the bikeway network in Figure 3.1: Existing Bikeway Network or in Figure 5.1: Low Stress Bikeway Network Vision in the Berkeley Bicycle Plan adopted on May 2, 2017.
- C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to safely negotiate the intersection unless conflicting cross traffic is also required to stop.

Four-way stop signs may be installed but will not necessarily be installed at intersections that meet these supplemental criteria. The Transportation Division should compare the effects of stop signs and alternate controls on all forms of transportation, including public transit buses which employ professional drivers, before deciding whether to install it. For example, to protect bicyclists, HAWK Beacons may be more appropriate than stop signs at intersections where bikeways cross major streets with transit or very high traffic volume, to minimize the disruption of traffic flow on those major streets. Likewise, to protect pedestrians, Rectangular Rapid Flashing Beacons (RRFBs) may be more appropriate than stop signs on major streets with transit or very high traffic volumes to minimize the disruption of traffic flow.

If stop signs are allowed under these new criteria, it is not necessary to meet state criteria. Analyses for stop signs in all locations in Berkeley should consider the benefits of proposed stop signs, including safety benefits, and this analysis should be made available to the public before the decision is made.





Office of the Mayor

CONSENT CALENDAR

November 12, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Susan Wengraf

Subject: Support of SB 378 – Reducing Deenergization Events

RECOMMENDATION

Adopt a Resolution in support of SB 378 (Wiener), which would place commonsense regulations on deenergization events such as PG&E's Public Safety Power Shutoffs. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Scott Wiener and Nancy Skinner, and Assemblymember Buffy Wicks.

BACKGROUND

A potent combination of worsening climate conditions and aging electrical utility infrastructure led to the two most devastating fires in California's history. In October 2017, the Tubbs Fire ravaged neighborhoods in Santa Rosa, killing 22 people – the biggest of several fires that impacted the North Bay. In November 2018, the Camp Fire wiped Paradise off the map, killing 85 people. In both these cases, Berkeley and the Bay Area were shrouded under thick smoke, sparking health concerns.

In an attempt to prevent similar fires from happening, Pacific Gas & Electricity (PG&E) developed the Public Safety Power Shutoff (PSPS) policy. This gives PG&E the ability to shut down transmission lines in areas of extreme fire danger when red flag conditions arrive, such as high temperatures, low humidity, and high winds. Doing so eliminates power to potentially hundreds of thousands of customers throughout Northern and Central California.

On Monday, October 7, PG&E announced it would conduct a PSPS event beginning on October 9, impacting up to 800,000 customers, the equivalent of 2.1 million people, making it the largest planned power outage in California's history. The power in Alameda County finally went out around 11pm on Wednesday, October 9. This was 23 hours after the original estimate, meaning places which closed in anticipation of the outage did so in vain on the first day. An estimated 3,500 customers lost power in Berkeley during the event. There are approximately 2.4 people per household in Berkeley, meaning around 8,400 people lost power, or 7% of the city's population. The UC Berkeley Campus and Lab also lost power, affecting tens of thousands of students, faculty, and scientists. The City of Berkeley launched its Emergency Operations Center, involving 123 City employees that worked around the clock to ensure the safety and security of our residents. This included additional first responders and providing

assistance to residents with medical needs that would be impacted by a power outage. Power was restored to Berkeley residents within 24 hours of the start of the PSPS.

The PSPS event of October 9-10 was met with fierce criticism. PG&E announced that people can look up if they would be impacted on their website, only for it to crash due to high traffic. In response, they created a new website, which also crashed at its launch. There was conflicting information on who would be impacted, at what time, and for how long. With 48 hours to prepare, jurisdictions across the state had to scramble to provide support and resolve potential issues. For example, Caltrans had to quickly install generators to prevent a closure of the Caldecott Tunnel. The economic toll of the event is still being calculated, but Governor Newsom has already made calls for PG&E to compensate customers impacted by the event. On October 17, the State Senate announced it will be conducting an investigation into the PSPS event.

Having raised concerns about the impacts of a PSPS that ended up being validated in the October shutdown, State Senator Scott Wiener introduced SB 378 in September, which will place regulations on how and when a PSPS can happen, and placing fees to compensate for the disruption. Specifically, it will:

- Require that the California Public Utilities Commission create a process by which businesses, individuals, and local governments can recover costs accrued during a planned blackout (for example, by damaging equipment turned off too quickly) from the utility within two weeks, and require that utility shareholders – not ratepayers – are responsible for these costs.
- Promote better collection of data on utility equipment in order to assess risk level beforehand, as well as require reporting on the consequences of planned blackouts after the fact.
- Level hourly fees on utilities during planned blackouts, and ensure that customers cannot be billed for transmission, distribution, and other costs during a planned blackout, in addition to a stipulation that a utility cannot profit from a planned blackout (through changing electricity prices and the like).
- Prevent utilities from spending ratepayer funds to oppose formation of new municipal utilities, distributed energy resource initiatives, or any other attempt to offer consumers increased energy choice and more reliable options, similar to prohibitions already in place regarding Community Choice Aggregation (CCA) formation.

Instead of having utility companies cut off the utilities they are supposed to provide to California residents, SB 378 disincentivizes future PSPS events, making future events more surgical. This in turn will incentivize upgrades to our aging infrastructure that will reduce the risk of future wildfires.

### FINANCIAL IMPLICATIONS

A reduction in deenergization events will reduce costs associated with extended power outages.

Support of SB 378

CONSENT CALENDAR  
November 12, 2019

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Text of SB 378

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF SB 378

WHEREAS, a potent combination of worsening climate conditions and aging infrastructure led to the two most devastating fires in California's history in 2017 and 2018, destroying entire neighborhoods and towns; and

WHEREAS, Pacific Gas & Electricity (PG&E) created a Public Safety Power Shutoff (PSPS) policy, enabling them to shut down transmission lines in areas of extreme fire danger when red flag conditions arrive in an attempt to prevent future major wildfires; and

WHEREAS, on October 7, 2019, PG&E announced it will conduct a PSPS on October 9, impacting up to 800,000 customers, or 2.1 million residents, making it the largest planned power outage in California's history; and

WHEREAS, in the buildup to the shutdown, PG&E's website crashed, preventing people from accessing crucial information on how the event would impact them, and their new website to work around that issue also crashed.

WHEREAS, conflicting information on the timing of the event and the number of people that would be impacted added to the confusion and frustration, forcing jurisdictions to scramble to resolve potential issues; and

WHEREAS, in response to the PSPS, the City of Berkeley launched its Emergency Operations Center, with 123 City employees working around the clock to ensure the safety and security of our residents, including additional first responders and providing assistance to residents with medical needs that would be impacted by a power outage.

WHEREAS, 3,500 customers in Berkeley, or about 8,400 residents, ended up being impacted, in addition to UC Berkeley and the Berkeley Labs, affecting tens of thousands of students, faculty, and scientists; and

WHEREAS, to address concerns of the consequences that PSPS events would place on California residents, State Senator Scott Wiener introduced SB 378; and

WHEREAS, SB 378 would do the following:

- require that the California Public Utilities Commission create a process by which businesses, individuals, and local governments can recover costs accrued during a planned blackout (for example, by damaging equipment turned off too quickly) from the utility within two weeks, and require that utility shareholders – not ratepayers – are responsible for these costs;



- promote better collection of data on utility equipment in order to assess risk level beforehand, as well as require reporting on the consequences of planned blackouts after the fact;
- level hourly fees on utilities during planned blackouts, and ensure that customers cannot be billed for transmission, distribution, and other costs during a planned blackout, in addition to a stipulation that a utility cannot profit from a planned blackout (through changing electricity prices and the like);
- prevent utilities from spending ratepayer funds to oppose formation of new municipal utilities, distributed energy resource initiatives, or any other attempt to offer consumers increased energy choice and more reliable options, similar to prohibitions already in place regarding Community Choice Aggregation (CCA) formation; and

WHEREAS, instead of having utility companies cut off the utilities they are supposed to provide to California residents, SB 378 disincentivizes future PSPS events, making future events more surgical; and

WHEREAS, SB 378 will incentivize upgrades to our aging infrastructure that will reduce the risk of future wildfires.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 378.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senators Scott Wiener and Nancy Skinner, and Assemblymember Buffy Wicks.

AMENDED IN SENATE SEPTEMBER 6, 2019

AMENDED IN SENATE MARCH 25, 2019

**SENATE BILL**

**No. 378**

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**Introduced by Senator Wiener**  
(Coauthors: ~~Assembly Members Bonta and Wicks~~)

February 20, 2019

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An act to ~~add Part 8.1 (commencing with Section 15001) to Division 2 of, and to repeal Section 13301 of, the Revenue and Taxation Code, relating to taxation, and calling an election, to take effect immediately. amend Section 707 of, and to add Sections 592, 748, 911.3, and 2111.5 to, the Public Utilities Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 378, as amended, Wiener. ~~Taxation: estate, gift, and generation-skipping transfer taxes. Electrical corporations: deenergization events: procedures: allocation of costs: reports.~~

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Every public utility is required by existing law to furnish such reports as the commission may require.*

*This bill would require an electrical corporation to annually report to the commission, the Office of Emergency Services, the Department of Forestry and Fire Protection, the Independent System Operator, and county governments within its service territory on the age, useful life, and condition of the electrical corporation's equipment, including the date of most recent inspection and maintenance records, with an assessment of the current and future fire and safety risk posed by the equipment, as well as of the economic, environmental, and public safety impacts of deenergization events, as defined.*

SB 378

— 2 —

*Existing law requires the commission to institute a rulemaking proceeding by March 1, 2012, for the purpose of considering and adopting a code of conduct, associated rules, and enforcement procedures, as specified, to govern the conduct of an electrical corporation relative to the consideration, formation, and implementation of community choice aggregation programs and to implement the code of conduct, associated rules, and enforcement procedures by January 1, 2013.*

*This bill would require the commission to institute a rulemaking for the purpose of considering and adopting a code of conduct and enforcement procedures, as specified, to govern the conduct of an electrical corporation relative to the consideration, formation, and implementation of community choice aggregation programs, new or expanded local publicly owned electric utilities, microgrid or distributed resource programs and policies, or other efforts to expand electrical service options available to consumers.*

*Existing law requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the commission for review and approval, as specified. Existing law requires a wildfire mitigation plan of an electrical corporation to include, among other things, protocols for deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communications infrastructure.*

*This bill would, on or before June 1, 2020, require the commission, in consultation with the Department of Consumer Affairs, to establish a procedure for customers, local governments, and others affected by a deenergization event to recover costs accrued during the deenergization event from an electrical corporation within 2 weeks of the end of the event. The bill would require an electrical corporation to create a fund, of an amount to be determined by the commission, for the recovery of costs accrued by customers, local governments, and others during a deenergization event. The bill would require that money be paid into the fund exclusively by the electrical corporation's shareholders, would prohibit expenses paid by the fund from being recovered either directly or indirectly in rates, and would require those expenses be borne exclusively by the shareholders of the electrical corporation. The bill would prohibit an electrical corporation from billing customers for any nonfixed costs during a deenergization event*

*or from charging customers increased amounts after a deenergization event, in order to offset losses accrued during a deenergization event. The bill would require that any profit accrued by an electrical corporation due to a deenergization event be remitted or credited to ratepayers, while any loss be borne by the electrical corporation's shareholders.*

*Existing law establishes an independent Public Advocate's Office within the commission with the goal to obtain the lowest possible rate for service consistent with reliable and safe service levels. Existing law requires the director of the office to annually appear before the appropriate policy committees of the Assembly and the Senate to report on the activities of the office.*

*This bill would require the office to produce an annual report on the economic, environmental, and public safety impacts of deenergization events, using information provided by electrical corporations as well as independent analysis.*

*Existing law provides for the imposition of fines and civil penalties for the violation of the California Constitution, statutes, or an order, decision, or requirement of the commission by a public utility.*

*This bill would provide that an electrical corporation is subject to an unspecified civil penalty for every hour that a deenergization event is in place.*

*Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime, when a penalty has not otherwise been provided.*

*Because the provisions of this bill would be a part of the act and would require action to be taken by the commission to implement its requirements, and because penalties are not provided for certain of the bill's requirements, the bill would impose a state-mandated local program by creating a new crime.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law, as added by an initiative measure that was approved by voters as Proposition 6 at the June 8, 1982, statewide primary election, prohibits the Legislature or a political subdivision of the state from imposing any tax on or by reason of any transfer occurring by reason~~

of death. Existing law imposes a California estate tax, commonly referred to as the “pick up tax,” equal to a certain portion of the maximum allowable amount of credit for state death taxes allowable under applicable federal estate tax law. The Economic Growth and Tax Relief Reconciliation Act of 2001 phased out the allowance of this credit, and, as of 2005, no longer allows a person to claim a credit of this nature under federal law. Therefore, the “pick up tax” is no longer imposed in California.

This bill would propose to the voters a repeal of the above initiative measure prohibiting the imposition of a tax on or by reason of any transfer occurring by reason of death and would propose the imposition of estate, gift, and generation-skipping transfer taxes, in modified conformity with federal law, on and after January 1, 2021. This bill would propose the creation of the Children’s Wealth and Opportunity Building Fund as a special fund in the State Treasury, the requirement that all taxes, interest, penalties, and other amounts collected and paid to the Franchise Tax Board, less payments of refunds, be deposited in the fund, and the continuous appropriation of all moneys deposited in the fund to programs and services that directly address and alleviate socio-economic inequality and build assets among people that have historically lacked them.

Proposition 6 prohibits amendment of the initiative measure by the Legislature unless the amendment is approved by the voters.

This bill would call a special election to be consolidated with the next statewide general election. It would condition the amendment of the initiative upon voter approval and would require the Secretary of State to submit the provisions of the bill that amend the initiative statute to the voters for their approval at the next consolidated statewide election. The bill would permit its provisions to be amended by a bill passed by a majority vote of the membership of both houses of the Legislature unless otherwise required by the California Constitution.

This bill would declare that it is to take effect immediately as an act calling an election.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 592 is added to the Public Utilities Code,
- 2 to read:

1 592. *The commission shall direct an electrical corporation to*  
 2 *submit an annual report to the commission, the Office of*  
 3 *Emergency Services, the Department of Forestry and Fire*  
 4 *Protection, the Independent System Operator, and county*  
 5 *governments within its service territory on the age, useful life, and*  
 6 *condition of the electrical corporation's equipment, including the*  
 7 *date of most recent inspection and maintenance records, with an*  
 8 *assessment of the current and future fire and safety risk posed by*  
 9 *the equipment, as well as of the economic, environmental, and*  
 10 *public safety impacts of deenergization events. For purposes of*  
 11 *this section, "deenergization event" has the same meaning as*  
 12 *defined in Section 748.*

13 SEC. 2. *Section 707 of the Public Utilities Code is amended*  
 14 *to read:*

15 707. (a) ~~Not later than March 1, 2012, the~~ *The commission*  
 16 *shall institute a rulemaking proceeding for the purpose of*  
 17 *considering and adopting a code of conduct, associated rules, and*  
 18 ~~enforcement procedures, procedures~~ *to govern the conduct of the*  
 19 *electrical corporations relative to the consideration, formation, and*  
 20 *implementation of community choice aggregation—programs*  
 21 ~~authorized in Section 366.2.~~ *programs, new or expanded local*  
 22 *publicly owned electric utilities, microgrid or distributed resource*  
 23 *programs and policies, and other efforts to expand electrical*  
 24 *service options available to consumers. The code of conduct,*  
 25 *associated rules, and enforcement procedures, shall do all of the*  
 26 *following:*

27 (1) *Ensure that an electrical corporation does not market against*  
 28 *a community choice aggregation program, a new or expanded*  
 29 *local publicly owned electric utility, microgrid or distributed*  
 30 *resource program or policies, or other efforts to expand electrical*  
 31 *service options available to consumers, except through an*  
 32 *independent marketing division that is funded exclusively by the*  
 33 *electrical corporation's shareholders and that is functionally and*  
 34 *physically separate from the electrical corporation's*  
 35 *ratepayer-funded divisions.*

36 (2) *Limit the electrical corporation's independent marketing*  
 37 *division's use of support services from the electrical corporation's*  
 38 *ratepayer-funded divisions, and ensure that the electrical*  
 39 *corporation's independent marketing division is allocated costs of*  
 40 *any permissible support services from the electrical corporation's*

SB 378

— 6 —

1 ratepayer-funded divisions on a fully allocated embedded cost  
2 basis, providing detailed public reports of such use.

3 (3) Ensure that the electrical corporation's independent  
4 marketing division does not have access to competitively sensitive  
5 information.

6 (4) (A) Incorporate rules that the commission finds to be  
7 necessary or convenient in order to facilitate the development of  
8 community choice aggregation programs, *a new or expanded local*  
9 *publicly owned electric utility, microgrid or distributed resource*  
10 *programs or policies, or other efforts to expand electrical service*  
11 *options available to consumers*, to foster fair competition, and to  
12 protect against cross-subsidization paid by ratepayers.

13 (B) It is the intent of the Legislature that the rules include, in  
14 whole or in part, the rules approved by the commission in Decision  
15 97-12-088 and Decision 08-06-016.

16 (C) This paragraph does not limit the authority of the  
17 commission to adopt rules that it determines are necessary or  
18 convenient in addition to those adopted in Decision 97-12-088 and  
19 Decision 08-06-016 or to modify any rule adopted in those  
20 decisions.

21 (5) Provide for any other matter that the commission determines  
22 to be necessary or advisable to protect a ratepayer's right to be  
23 free from forced speech or to implement that portion of the federal  
24 Public Utility Regulatory Policies Act of 1978 that establishes the  
25 federal standard that no electric utility may recover from any person  
26 other than the shareholders or other owners of the utility, any direct  
27 or indirect expenditure by the electric utility for promotional or  
28 political advertising (16 U.S.C. Sec. 2623(b)(5)).

29 (b) The commission shall ensure that the code of conduct,  
30 associated rules, and enforcement procedures *to govern the conduct*  
31 *of an electrical corporation relative to new or expanded local*  
32 *publicly owned electric utilities, microgrids, distributed resource*  
33 *programs and policies, and other efforts to expand electrical*  
34 *service options available to consumers* are implemented by no  
35 later than ~~January 1, 2013~~. \_\_\_\_.

36 (c) This section does not limit the authority of the commission  
37 to require that any marketing against a community choice  
38 aggregation ~~plan~~ *plan, a new or expanded local publicly owned*  
39 *electric utility, microgrid or distributed resource programs or*  
40 *policies, or other efforts to expand electrical service options*

1 *available to consumers, shall be conducted by an affiliate of the*  
2 *electrical corporation, or to require that marketing against a*  
3 *community choice aggregator not be conducted by a marketing*  
4 *division of the electrical corporation, subject to affiliate transaction*  
5 *rules to be developed by the commission.*

6 *SEC. 3. Section 748 is added to the Public Utilities Code, to*  
7 *read:*

8 *748. (a) For purposes of this section, “deenergization event”*  
9 *means an intentional, temporary termination of electrical service*  
10 *to an area for the purpose of reducing or eliminating the risk of*  
11 *wildfires resulting from the operation of the electrical grid or*  
12 *related facilities.*

13 *(b) On or before June 1, 2020, the commission, in consultation*  
14 *with the Department of Consumer Affairs, shall establish a*  
15 *procedure for customers, local governments, and others affected*  
16 *by a deenergization event to recover costs accrued during the*  
17 *deenergization event from an electrical corporation within two*  
18 *weeks of the end of the event.*

19 *(c) On or before June 1, 2020, the commission shall require an*  
20 *electrical corporation to create a fund, of an amount to be*  
21 *determined by the commission, to fund recovery of costs accrued*  
22 *by customers, local governments, and others during a*  
23 *deenergization event. Moneys shall be paid into the fund exclusively*  
24 *by the electrical corporation’s shareholders, and expenses paid*  
25 *by the fund shall not be recoverable either directly or indirectly*  
26 *in rates and shall be borne exclusively by the shareholders of the*  
27 *electrical corporation.*

28 *(d) An electrical corporation shall not bill customers for any*  
29 *nonfixed costs during a deenergization event, and shall not charge*  
30 *customers increased amounts after a deenergization event in order*  
31 *to offset losses accrued during a deenergization event.*

32 *(e) Beginning on or before June 1, 2020, the commission shall*  
33 *require any profit accrued by an electrical corporation due to a*  
34 *deenergization event to be remitted or credited to ratepayers and*  
35 *any loss to be borne by the electrical corporation’s shareholders.*

36 *SEC. 4. Section 911.3 is added to the Public Utilities Code, to*  
37 *read:*

38 *911.3. The Public Advocate’s Office shall produce an annual*  
39 *report on the economic, environmental, and public safety impacts*  
40 *of deenergization events, using information provided by electrical*



1 corporations as well as independent analysis. For purposes of this  
 2 section, “deenergization event” has the same meaning as defined  
 3 in Section 748.

4 SEC. 5. Section 2111.5 is added to the Public Utilities Code,  
 5 to read:

6 2111.5. An electrical corporation is subject to a penalty of not  
 7 less than \_\_\_\_\_ dollars (\$\_\_\_\_\_) for every hour that a deenergization  
 8 event is in place, multiplied by the sum of the number of full sets  
 9 of 50,000 customers affected plus one for any remainder. For  
 10 purposes of this section, “deenergization event” has the same  
 11 meaning as defined in Section 748.

12 SEC. 6. No reimbursement is required by this act pursuant to  
 13 Section 6 of Article XIII B of the California Constitution because  
 14 the only costs that may be incurred by a local agency or school  
 15 district will be incurred because this act creates a new crime or  
 16 infraction, eliminates a crime or infraction, or changes the penalty  
 17 for a crime or infraction, within the meaning of Section 17556 of  
 18 the Government Code, or changes the definition of a crime within  
 19 the meaning of Section 6 of Article XIII B of the California  
 20 Constitution.

21 SECTION 1. ~~The Legislature finds and declares the following:~~

22 ~~(a) The most significant predictor of the future financial success~~  
 23 ~~of a child is the wealth level of the child’s parents with at least 20~~  
 24 ~~percent, and up to 80 percent, of a person’s wealth being the result~~  
 25 ~~of an intergenerational transfer.~~

26 ~~(b) Throughout history, federal and state governments have~~  
 27 ~~provided “wealth starter kits” for some Americans, giving gifts of~~  
 28 ~~land, education, government-backed mortgages and farm loans, a~~  
 29 ~~social safety net, and business subsidies sometimes exclusively~~  
 30 ~~and usually disproportionately, to White families.~~

31 ~~(c) According to economist Darrick Hamilton, for communities~~  
 32 ~~of color, especially Blacks and Latinos, it has never been easy to~~  
 33 ~~build assets of any type because of low levels of intergenerational~~  
 34 ~~wealth transfers.~~

35 ~~(d) The typical Black or Latino family essentially has no~~  
 36 ~~economic cushion. According to the California Family Economic~~  
 37 ~~Self-Sufficiency Standard, a measure that quantifies the minimum~~  
 38 ~~income necessary to cover all basic expenses, about one-half of~~  
 39 ~~Black and Latino households are barely scraping by and unable to~~

1 meet their most basic financial needs without family or public  
2 support.

3 (e) ~~Given the roles of intergenerational wealth transfer, and past  
4 and present barriers that have kept marginalized families from  
5 building wealth, private action and market forces alone cannot be  
6 expected to address wide-scale racial wealth inequality, and public  
7 sector intervention is needed.~~

8 SEC. 2. ~~It is the intent of the Legislature to address the racial  
9 wealth gap by enacting legislation that would create California  
10 Social Inheritance Accounts to counterbalance the uneven effects  
11 of intergenerational wealth transfer and reverse our state's record  
12 level of inequality.~~

13 SEC. 3. ~~Section 13301 of the Revenue and Taxation Code is  
14 repealed.~~

15 SEC. 4. ~~Part 8.1 (commencing with Section 15001) is added  
16 to Division 2 of the Revenue and Taxation Code, to read:~~

17

18 PART 8.1. ESTATE, GIFT, AND GENERATION-SKIPPING  
19 TRANSFER TAX

20

21 15001. (a) ~~For estates of decedents dying on and after January  
22 1, 2021, a tax is hereby imposed on the transfer of the taxable  
23 estate of every decedent who was a citizen or resident of the United  
24 States and a resident of the State of California.~~

25 (b) ~~The tax imposed by this section shall be an amount equal  
26 to the tax imposed by Chapter 11 of Subtitle B of the Internal  
27 Revenue Code of 1986, as amended, with the following  
28 modifications:~~

29 (1) ~~The basic exclusion amount shall be three million five  
30 hundred thousand dollars (\$3,500,000), which shall not be adjusted  
31 for inflation.~~

32 (2) ~~The taxpayer shall be granted a credit for all taxes paid to  
33 the United States under Chapter 11 of Subtitle B of the Internal  
34 Revenue Code.~~

35 (c) ~~The tax imposed by this section shall be paid by the executor,  
36 and shall be due nine months after the date of death of the decedent.~~

37 15002. (a) ~~For transfers of property by gifts made on and after  
38 January 1, 2021, a tax is hereby imposed for each calendar year  
39 on the transfer of property by gift during the calendar year by any~~

SB 378

— 10 —

1 citizen or resident of the United States who is also a resident of  
2 the State of California.

3 (b) The tax imposed by this section shall be an amount equal  
4 to the tax imposed by Chapter 12 of Subtitle B of the Internal  
5 Revenue Code of 1986, as amended, with the following  
6 modifications:

7 (1) The lifetime exclusion amount shall be three million five  
8 hundred thousand dollars (\$3,500,000), which shall not be adjusted  
9 for inflation.

10 (2) The taxpayer shall be granted a credit for all taxes paid to  
11 the United States under Chapter 12 of Subtitle B of the Internal  
12 Revenue Code.

13 (c) The tax imposed by this section shall be paid by the donor,  
14 and shall be due by the deadline to submit state income tax returns  
15 for the year in which the transfer of property by gift was made.

16 15003. (a) For generation-skipping transfers occurring on and  
17 after January 1, 2021, a tax is hereby imposed on every  
18 generation-skipping transfer within the meaning of Chapter 13 of  
19 Subtitle B of the Internal Revenue Code of 1986, as amended.

20 (b) The tax imposed by this section shall be an amount equal  
21 to the tax imposed by Chapter 13 of Subtitle B of the Internal  
22 Revenue Code of 1986, as amended, with the following  
23 modifications:

24 (1) The basic exclusion amount shall be three million five  
25 hundred thousand dollars (\$3,500,000), which shall not be adjusted  
26 for inflation.

27 (2) The taxpayer shall be granted a credit for all taxes paid to  
28 the United States under Chapter 13 of Subtitle B of the Internal  
29 Revenue Code.

30 (c) The tax imposed by this section shall be paid in accordance  
31 with Section 15002 for a transfer of property by gift and in  
32 accordance with Section 15001 for a transfer of the taxable estate  
33 of a decedent.

34 15004. (a) A taxpayer may elect to extend the time to pay the  
35 tax imposed by this part for any reason and in the same manner  
36 permitted to a similarly situated United States taxpayer under the  
37 Internal Revenue Code of 1986, as amended, but in no case shall  
38 the time extended to pay the tax exceed 14 years from the date the  
39 tax is due.

1 ~~(b) On or before July 1, 2021, the Franchise Tax Board shall~~  
2 ~~develop returns for payment of the taxes imposed under this part.~~

3 ~~(e) Notwithstanding any other provision of law, the penalties~~  
4 ~~set forth in Part 10 (commencing with Section 17001), including~~  
5 ~~any amendments thereto, apply to this part as follows:~~

6 ~~(1) Penalties for failing to file a timely return also apply for~~  
7 ~~failing to file a timely return for the taxes imposed under this part.~~

8 ~~(2) Penalties for failing to timely pay the tax also apply for~~  
9 ~~failing to timely pay the taxes imposed under this part.~~

10 ~~(3) Penalties for filing a false or misleading return apply to filing~~  
11 ~~a false or misleading return for taxes imposed under this part.~~

12 ~~(d) The Franchise Tax Board may promulgate regulations to~~  
13 ~~implement this part.~~

14 ~~15005. (a) The Children's Wealth and Opportunity Building~~  
15 ~~Fund is hereby created as a special fund in the State Treasury. All~~  
16 ~~taxes, interest, penalties, and other amounts collected and paid to~~  
17 ~~the Franchise Tax Board pursuant to this part, less payments of~~  
18 ~~refunds, shall be deposited in the fund.~~

19 ~~(b) Notwithstanding Section 13340 of the Government Code,~~  
20 ~~moneys deposited in the Children's Wealth and Opportunity~~  
21 ~~Building Fund are hereby continuously appropriated, without~~  
22 ~~regard to fiscal years, to programs and services that directly address~~  
23 ~~and alleviate socio-economic inequality and that build assets among~~  
24 ~~people that have historically lacked them.~~

25 ~~15006. This part shall become operative on January 1, 2021.~~

26 ~~SEC. 5. This act may be amended by a bill passed by a majority~~  
27 ~~vote of the membership of both houses of the Legislature, unless~~  
28 ~~otherwise required by the California Constitution.~~

29 ~~SEC. 6. (a) As an amendment of an initiative statute, Sections~~  
30 ~~3 to 5, inclusive, of this act shall become effective only upon~~  
31 ~~approval by the voters at a statewide election.~~

32 ~~(b) A special election is hereby called, to be held throughout~~  
33 ~~the state on the date of the next statewide election, for approval~~  
34 ~~by the voters of Sections 3 to 5, inclusive, of this act. The special~~  
35 ~~election shall be consolidated with the statewide election to be~~  
36 ~~held. The consolidated elections shall be held and conducted in~~  
37 ~~all aspects as if there were only one election, and only one form~~  
38 ~~of ballot shall be used.~~

39 ~~(e) Notwithstanding Section 9040 of the Elections Code, or any~~  
40 ~~other law, the Secretary of State shall, pursuant to subdivision (c)~~

SB 378

— 12 —

- 1 of Section 10 of Article II of the California Constitution, submit
- 2 Sections 3 to 6, inclusive, of this act to the voters for their approval
- 3 at the consolidated statewide election.
- 4 SEC. 7. This act calls an election within the meaning of Article
- 5 IV of the California Constitution and shall go into immediate effect.

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97





Office of the Mayor

CONSENT CALENDAR

November 12, 2019

To: Honorable Members of the City Council

From: Mayor Arreguín

Subject: Budget Referral: BART Station Environmental Planning

RECOMMENDATION

Refer to the budget process \$250,000 for BART station planning. This budget allocation will allow the initiation of environmental review required as part of developing and adopting zoning for the Ashby and North Berkeley BART Stations that is in conformance with Assembly Bill 2923.

BACKGROUND

Based on the requirements of State law, the City is considering determining zoning and site parameters for both the Ashby and North Berkeley BART Stations [see the May 2019 Public Review Draft of the Adeline Corridor Specific Plan; Chapter 2 (2-22) and Policy 3.7 (3-22)<sup>1</sup>, and the North Berkeley BART Development Goals and Objectives<sup>2</sup>], in conformance with AB 2923<sup>3</sup>.

Pursuant to the California Environmental Quality Act (CEQA), environmental review is necessary for zoning changes and the establishment of new zoning. Initiating environmental review early in the process helps the City incorporate environmental concerns and opportunities.

The total cost for environmental review of planning and zoning for the Ashby and North Berkeley Stations will exceed the allocation put forward in this item. City staff is pursuing various funding sources such as state grants. This allocation will allow Staff to move forward with environmental planning while seeking additional sources of funding.

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<sup>1</sup> [Adeline Corridor Specific Plan, Public Review Draft, May 2019](#) [PDF]

<sup>2</sup> [North Berkeley BART Development Goals and Objectives](#)

<sup>3</sup> [Text of AB 2923, Chiu. San Francisco Bay Area Rapid Transit District: transit-oriented development](#)

FINANCIAL IMPLICATIONS

\$250,000

ENVIRONMENTAL SUSTAINABILITY

The large surface parking lots at the Ashby and North Berkeley BART Stations currently prioritize vehicle parking which is not an optimal environmental use of scarce, transit-adjacent land. By re-zoning these sites to allow for housing and improved multimodal access, the City Council is acting on its goals to address the Climate Emergency and reduce greenhouse gas emissions from vehicle miles traveled.

CONTACT

Mayor Jesse Arreguín  
mayor@cityofberkeley.info  
510-981-7100





## Councilmember Ben Bartlett

City of Berkeley, District  
 2180 Milvia Street, 5<sup>th</sup> Floor  
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### CONSENT CALENDAR

November 12, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Ben Bartlett  
 Subject: Additional funding to Enhance Services at the Berkeley Drop-In Center

### RECOMMENDATION

That the Council refers to the November Budget Annual Appropriations Ordinance to fund \$210,000 to enhance services at the Berkeley Drop-In Center, specifically for the installation of a public shower, installation of washer and dryer, renovation of the existing publicly accessible restroom, and additional payee service capacity. This request will provide one-time funding for the renovation of permits and installation of the washer, dryer, and shower.

### CURRENT SITUATION

#### ***Public Sanitation***

The Berkeley Drop-In Center (BDIC) currently has a public restroom accessible from Monday through Friday, 9 AM to 4 PM. As homelessness has increased over the last several years, more publicly accessible restrooms and showers are necessary. Sanitation is a primary need for our unhoused community.

Currently, there is no consistent public shower program in South West Berkeley. The closest program is at Willard Middle School and only operates for only one hour once a day. Installing a shower at BDICr that would be open for 30 hours a week, at a minimum, would significantly address the health and safety needs of unhoused Berkeley residents.

The BDIC is in need of renovations to its publicly accessible restroom. The BDIC will use the allocated dollars to renovate the restroom and install a shower. The restroom/shower would be ADA accessible.

The BDIC will need full-time janitorial and maintenance services for the shower and restroom program. A publicly accessible shower that is available Monday through Friday, 9 AM to 4 PM and Saturdays, 9 AM to 12 PM would require supporting staff to ensure the facility complies with standard health and safety requirements.

The estimated breakdown of direct costs for the publicly accessible restroom/shower:

One-time costs:

- \$100,000 would go to the Redesign, Renovation, and City Permits;

- \$5,000 would be allocated to installing Washer and Dryer units.

Annual Costs:

- \$80,000 would be allocated to pay staff and general maintenance.

### ***Representative Payee Services***

Many Berkeley residents that receive social security benefits are in need of representative payee services. Every week, the BDIC is forced to reject client requests for payee services because BDIC do not have the capacity to hire the appropriately trained staff to address the mental health issues and other challenges of our unhoused community.

The BDIC is requesting an annual allocation of \$25,000 for supporting staff to accommodate the demand for representative payee services in Berkeley.

### **BACKGROUND**

The Berkeley Drop-In Center (BDIC) is a multi-purpose South Berkeley peer-to-peer community center run by and for past and present mental health clients and persons undergoing varying ranges of emotional distress. The BDIC runs several programs to create a safe place for people to meet and socialize, as well as participate in peer to peer activities and support groups. During the calendar year 2017, the number of clients that voluntarily chose to sign in at the front desk, totalled 12,377.

The BDIC provides the following basic services:

1. Daytime drop-in service (mailboxes for people suffering housing insecurity);
2. Housing advocacy and case management;
3. Payee services;
4. Alcohol and other drug counseling;
5. Women's and men's groups;
6. Volunteer/job training;
7. Mail services;
8. And arts and crafts.

With the proposed budget referral, the Council can assist BDIC in enhancing their services for the community.

The BDIC was selected as the recipient of the 2019 City of Berkeley Mental Health's Achievement Award.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS**

There is currently only a single public shower program at Willard Middle School that is open for one hour a day in the South Berkeley area, which has the 3rd highest homeless population in the city.

Payee services in the Berkeley area has diminished substantially over the last few years. Many homeless supportive agencies have either reduced or eliminated payee services.

FISCAL IMPACTS OF RECOMMENDATION

**November Budget Annual Appropriations Ordinance Budget**

\$210,000: \$100,000 would go to the redesign, renovation and the cost of city permits; \$5,000 Washer and Dryer; \$80,000 for supporting staff and general maintenance of shower program; and \$25,000 representative payee services;

RATIONALE FOR RECOMMENDATION

One of the most vital needs of Berkeley's growing unhoused population is sanitation and hygiene. Despite this, Southwest Berkeley lacks any consistent public shower program and the BDIC public sanitation facilities are in need of renovation. The BDIC is the only drop-in center in South Berkeley and has served the City's no-income, very low-income, homeless/mental health community for 30 years. Many of the staff identify as individuals with experience living with mental health challenges; they have been homeless, and/or understand the road to sobriety. By providing the BDIC with funding for a consistent public shower and upgraded public sanitation facilities, the right tools will be placed in the right hands for improving the health of Berkeley's unhoused community. In addition, such funding will ensure clients will receive representative payee services.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of providing funding for a consistent public shower facility and enhanced services at the Berkeley Drop-In Center to improve health and hygiene for Berkeley's unhoused population. The funding will also enhance BDIC's ability to pay for their expenses and have stable money management.

CONTACT PERSON

Councilmember Ben Bartlett  
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Brian Gan

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bgan@cityofberkeley.info





## Councilmember Ben Bartlett

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### CONSENT CALENDAR

November 12, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Ben Bartlett and Mayor Jesse Arreguin  
 Subject: Additional funding for Berkeley Community Gardening Collaborative/Moving South Berkeley Forward

### RECOMMENDATION

That the Council refers to the November Budget Annual Appropriations Ordinance to fund \$10,582.06 to Berkeley Community Gardening Collaborative for a coordinator for the year-long Moving South Berkeley Forward project.

### CURRENT SITUATION

Since 2017, Berkeley Community Gardening Collaborative (BCGC) has been using funds from the Chancellor's Grant to support their program, Moving South Berkeley Forward (MSBF): Youth Farming on the Santa Fe Right of way. Currently, BCGC gives class credits to UC students who are mentors to high school students of the MSBF program to ensure that the participating high school students from low income families are getting paid. To continue this project, the project assistant's position is integral in achieving a green space for South Berkeley residents. The project assistant position will be responsible for recruiting future UC students mentors, securing funding to continue the project, and assisting in bringing public awareness of the project to the South Berkeley Community through coalition building. The proposed sum of \$10,582.06 includes \$8,590.40 for working 7.5 hours per week, benefit expense of \$1,029.66, and fiscal agent of \$962.00.

### BACKGROUND

Founded in 1995, BCGC supports schoolyard gardens and neighborhood gardens on public and private land throughout Berkeley by serving as a liaison with the city.<sup>1</sup> BCDG is committed to assist and protect existing gardens, facilitate the formation of new gardens, and advocate food security initiative in local schools and city.<sup>2</sup>

In 2017, the BCGC partnered with the UC Berkeley Department of Environmental Science, Policy, and Management (under the direction of Professor Celine Pallud) to receive a UC Chancellor's Grant to fund a new project called Moving South Berkeley Forward (MSBF): Youth Farming on the Santa Fe Right-of-Way. The MSBF Project is a year-long youth training program that aims to engage high school students of color from economically disadvantaged families during the school year. The program design

<sup>1</sup> <https://sites.google.com/site/elcerritocommunitygarden/resources/community-gardens/berkeley-community-garden-collabroate>

<sup>2</sup> <https://ecologycenter.org/bcgc/>

involves students doing preparatory work toward developing a farm that will be an urban agriculture training based for you in a portion of the Santa Fe Row. A desired outcome of this student participation is understanding urban environmental science fundamentals through hands-on experience by collecting, testing, and studying soil samples, which will be submitted to a certified EPA lab for complete analysis. Under the mentorship of UC Berkeley undergraduate students, high school age students from Berkeley High School will study urban agriculture, sample soils to locate the soil contamination, and survey South Berkeley neighbors about urban agriculture farming and public greenspace.<sup>3</sup> Through this program, the high school students aim to secure data for the toxic soil contamination and ultimately convert the Santa Fe Right-of-Way into a green space for South Berkeley residents.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

In 1978, the City authorized the acquisition of Santa Fe Right-of-Way. Because of industrial railroad activity, certain parts of the property are known to have elevated levels of arsenic and other heavy metals, which are known hazards to human and environmental health.<sup>4</sup>

In 2017, the BCGC received \$10,000 through UC Chancellor's Grant for MSBF program.<sup>5</sup>

#### FISCAL IMPACTS OF RECOMMENDATION

\$10,582.06.

#### RATIONALE FOR RECOMMENDATION

The MSBF training program prioritizes one of the City's 2020 Vision goals – **Increasing the College and Career Readiness** of at-risk Berkeley youth via hands-on environmental science training and peer mentorship. Each UC Berkeley student mentors are in charge of two participating high school students, guiding them on how to collect empirical data, communicate with the public through environmental activism, and organize community events.

The program's goal also aligns with the City's 2020 Vision of providing equitable opportunities to all young people in Berkeley, especially on closing the gap for African American and Latino/a/x youth. The UC student mentors are from environmental science department and African American or Latino/a/x background, and the selected high school students are low-income students of color as well. Students participating in this year-long program is required to attend school, which meets with the 2020 Vision where "Every student attends school regularly."<sup>6</sup>

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<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/02\\_Feb/Documents/2018-02-13\\_Item\\_03\\_License\\_Agreement\\_Ecology\\_Center.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/02_Feb/Documents/2018-02-13_Item_03_License_Agreement_Ecology_Center.aspx)

<sup>4</sup> Ibid, 2.

<sup>5</sup> [https://chancellor.berkeley.edu/sites/default/files/2017-18\\_ccpf\\_funding\\_descriptions.pdf](https://chancellor.berkeley.edu/sites/default/files/2017-18_ccpf_funding_descriptions.pdf)

<sup>6</sup> <https://www.berkeleyschools.net/wp-content/uploads/2018/10/2018-09-25-Worksession-2020-Vision-Presentation.pdf>

ENVIRONMENTAL SUSTAINABILITY

This project will contribute to the Berkeley Climate Action Plan goal of increasing sustainable urban agriculture and reducing vehicle miles traveled that are associated with the production and distribution of food in local urban communities.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of providing additional funding for Berkeley Community Gardening Collaborative youth program's assistant in order to bring equity in academic achievement of the youth in Berkeley.

Attachments

1. BCGC COB Proposal Adjustments 2020
2. Project Director Range of Work Hours and Month of Work

CONTACT PERSON

|                            |              |
|----------------------------|--------------|
| Councilmember Ben Bartlett | 510-981-7130 |
| James Chang                | 510-981-7131 |
| Bella An                   | 510-981-7131 |

D.1 Program Budget Moving South Berkeley Forward

| Personnel Expenses (from Staff List) | Original Total Proposed Program Budget FY2020 |           |
|--------------------------------------|-----------------------------------------------|-----------|
| Position                             | FTE                                           | Salary    |
| Project Director                     | 19%                                           | 7,000.00  |
| Project Coordinator                  | 45%                                           | 17,000.00 |
| Subtotal Salaries                    |                                               | 24,000.00 |
| Benefits                             |                                               | 3,000.00  |
| Total Personnel Expenses             |                                               | 27,000.00 |
| Direct Program Operating Expenses    |                                               |           |
| Office Supplies                      |                                               | -         |
| Transportation                       |                                               | -         |
| Program Expense                      |                                               | -         |
| Indirect Costs                       |                                               | 4,000.00  |
| Total Operating Expense              |                                               | 4,000.00  |
| Total Expense                        |                                               | 31,000.00 |

D.1 Program Budget BCGC

| Personnel Expenses (from Staff List) | Original Total Proposed Program Budget FY2020 |           |
|--------------------------------------|-----------------------------------------------|-----------|
| Position                             | FTE                                           | Salary    |
| Project Director                     | 46%                                           | 17,050.00 |
| Subtotal Salaries                    |                                               | 17,050.00 |
| Benefits                             |                                               | 2,550.00  |
| Total Personnel Expenses             |                                               | 19,600.00 |
| Direct Program Operating Expenses    |                                               |           |
| Office Supplies                      |                                               | 400.00    |
| Transportation                       |                                               | 3,000.00  |
| Program Expense                      |                                               | 400.00    |
| Rent                                 |                                               | 3,600.00  |
| Indirect Costs                       |                                               | 4,000.00  |
| Total Operating Expense              |                                               | 11,400.00 |
| Total Expense                        |                                               | 31,000.00 |

Sum of 2 Submissions

| Position                          | FTE | Salary    |
|-----------------------------------|-----|-----------|
| Project Director                  | 65% | 24,050.00 |
| Project Coordinator               | 45% | 17,000.00 |
| Subtotal Salaries                 |     | 41,050.00 |
| Benefits                          |     | 5,550.00  |
| Total Personnel Expenses          |     | 46,600.00 |
| Direct Program Operating Expenses |     | -         |
| Office Supplies                   |     | 400.00    |
| Transportation                    |     | 3,000.00  |
| Program Expense                   |     | 400.00    |
| Rent                              |     | 3,600.00  |
| Indirect Costs                    |     | 8,000.00  |
| Total Operating Expense           |     | 15,400.00 |
| Total Expense                     |     | 62,000.00 |

|                                   | Budget Adjustment       |           |            |
|-----------------------------------|-------------------------|-----------|------------|
|                                   | COB Funding FY2020 MSBF |           |            |
| Position                          | FTE                     | Expenses  | Change     |
| Project Director                  | 38%                     | 14,290.96 | 7,290.96   |
| Project Coordinator               | 25%                     | 8,590.40  | (8,409.60) |
| Subtotal Salaries                 |                         | 22,881.36 | (1,118.64) |
| Benefits                          | 18%                     | 4,118.64  | 1,118.64   |
| Total Personnel Expenses          | 63%                     | 27,000.00 | 0.00       |
| Direct Program Operating Expenses |                         |           | -          |
| Office Supplies                   |                         | -         | -          |
| Transportation                    |                         | -         | -          |
| Program Expense                   |                         | -         | -          |
| Indirect Costs                    |                         | 4,000.00  | -          |
| Total Operating Expense           |                         | 4,000.00  | -          |
| Total Expense                     |                         | 31,000.00 | 0.00       |

|                                   | COB Funding FY2020 BCGC |           |            |
|-----------------------------------|-------------------------|-----------|------------|
| Position                          | FTE                     | Expenses  | Change     |
| Project Director                  | 36%                     | 13,728.81 | (3,321.19) |
| Subtotal Salaries                 |                         | 13,728.81 | (3,321.19) |
| Benefits                          | 18%                     | 2,471.19  | (78.81)    |
| Total Personnel Expenses          |                         | 16,200.00 | (3,400.00) |
| Direct Program Operating Expenses |                         |           | -          |
| Office Supplies                   |                         | 400.00    | -          |
| Transportation                    |                         | 2,000.00  | (1,000.00) |
| Program Expense                   |                         | 1,200.00  | 800.00     |
| Rent                              |                         | 7,200.00  | 3,600.00   |
| Indirect Costs                    |                         | 4,000.00  | -          |
| Total Operating Expense           |                         | 14,800.00 | 3,400.00   |
| Total Expense                     |                         | 31,000.00 | (0.00)     |

| Position                          | FTE | Expenses  | Change     |
|-----------------------------------|-----|-----------|------------|
| Project Director                  | 74% | 28,019.77 | 3,969.77   |
| Project Coordinator               | 25% | 8,590.40  | (8,409.60) |
| Subtotal Salaries                 |     | 36,610.17 | (4,439.83) |
| Benefits                          |     | 6,589.83  | 1,039.83   |
| Total Personnel Expenses          |     | 43,200.00 | (3,400.00) |
| Direct Program Operating Expenses |     | -         | -          |
| Office Supplies                   |     | 400.00    | -          |
| Transportation                    |     | 2,000.00  | (1,000.00) |
| Program Expense                   |     | 1,200.00  | 800.00     |
| Rent                              |     | 7,200.00  | 3,600.00   |
| Indirect Costs                    |     | 8,000.00  | -          |
| Total Operating Expense           |     | 18,800.00 | 3,400.00   |
| Total Expense                     |     | 62,000.00 | 0.00       |



Project Director Range of Work Hours and number of Months

Current work schedule is 12 hours p/wk.

Hours Berkeley Community Gardening Collaborative

5.0 Community partner meetings (commission mtg(s), BFPC, LUWG, Ecology Ctr, Berkeley Partners for Parks, Phat Beets...)

3.5 BCG Hand Book (revision) BCGC Steering Committee

3.0 Garden site Events/ resolving neighbor issues, arbiter for conflicts among gardeners, funding

4.0 Community Events-Ala. County mapping project, Parks annual Harvest Festival, Resiliency Festival

Gill Tract Earth Day-Harvest Festival-McGee Earth Day panel, Health Department Round Table.

1.5 Scheduling Compost Deliveries (Truck Rental and sites)

6.0 Compost delivery (Compost Deliveries are once a month)

Hours Moving South Berkeley Forward\*—BCGC Project Director/ MSBF Cal Coordinator

5.5 Saturday Sessions 4hours+ 1.5 hours (snack and supplies)

3.0 Recruiting /presentations

3.0 Researching funding sources

34.5 Total Hours for BCGC and MSBF

\*MSBF is a school year project. This summer I will schedule canvassing some community sites as well as engage in door to door and public events.

BCGC not only serves the community and school site gardens, but has also set the goal of greening the South Berkeley Santa Fe Right Of Way in an effort to effect the health and wellbeing of its citizens. We ask that the requested funding for a coordinator for this project (MSBF) be approved **\$8,590.40**. We ask that the request to increase weekly hours from 12 to 30 and the duration of the work year be extended from 10 to 11 months for the project director at a cost of **\$28,019.77**. BCGC is scheduled to receive **\$11,795.50** in 2020. We are therefore seeking an additional **\$50,105.00**, which will meet our original request for these two projects of \$62,000.00. You will note that the Ecology Center has separated the budget by project first is MSBF; project director at 38% funding and project coordinator at 25%. Below that is BCGC budgeted at 36% for the project director's position. The combined budget at the bottom list **Transportation** (truck rental for compost deliveries) **Office Rental** at **\$7,200.00**, **Office Supplies** at **\$400.00** and **Program Expense** (computer, desk, file cabinet, phone) at **\$1,200.00** and **Indirect Cost** (fiscal agent) **\$8,000** (provides insurance for truck rental, SFROW insurance required by city to work at site) for a total of **\$18,800.00** in Operating Expenses. Tano, please let me know if I can provide you with any additional information on who and how these requested funds will be used.





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kate Harrison  
Subject: Budget Referral: Evaluation and Implementation of Pedestrian and Bicycle Safety Along Oxford Street

RECOMMENDATION

Refer \$75,000 to the FY20 2019 AAO Process for the purpose of assessing, identifying, and implementing improvements to pedestrian and bicycle safety across Oxford Street, particularly between University Avenue and Bancroft Street.

BACKGROUND

Oxford Street connects the University to Downtown Berkeley, and hundreds of pedestrians and cyclists cross it every day. As a four-lane street with a curve at Kittredge Street, drivers approach at high speeds and limited visibility, and there are frequent collisions (see Attachment 2).

Pedestrian safety measures were installed at Addison and Oxford; there have not been collisions involving a pedestrian or cyclist since 2013. Similar measures should be considered for other intersections along this stretch, particularly at Kittredge and/or Allston.

A similar budget referral was passed by the Council in 2017 but not funded (see Attachment 1). Since 2017 the street continues to pose a threat to the safety of pedestrians and cyclists.

FISCAL IMPLICATIONS

\$75,000 from excess equity.

ENVIRONMENTAL SUSTAINABILITY

Protecting the safety of pedestrians and bicyclists is directly in line with the Climate Action Plan and subsequent plans as it has the potential to lower greenhouse gas emissions by encouraging residents to use bicycles and other low-carbon methods of transportation.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

ATTACHMENTS

- 1: Item 32, "Budget Referral: Evaluation and Implementation of Pedestrian Safety Features at Oxford Street and Kittredge Street." May 30, 2017 Berkeley City Council Meeting
- 2: Collision data along Oxford Street. Organized by cross-street, then date. Data gathered from TIMS (Transportation Injury Mapping System).



Councilmember Kate Harrison  
District 4

CONSENT CALENDAR  
May 30, 2017

To: Honorable Mayor and Members of the City

From: Councilmember Harrison

SUBJECT: Budget Referral: Evaluation and Implementation of Pedestrian Safety Features at Oxford Street and Kittredge Street

#### RECOMMENDATION

Refer to the City Manager to assess, identify, fund, and implement improvements to pedestrian safety for the crosswalk across Oxford St. at Kittredge St. Our office requests that the Department evaluate the installation of pedestrian activated beacons, such as those at Oxford and Addison, or a similarly effective improvement for the Oxford and Kittredge intersection.

#### FISCAL IMPACTS OF RECOMMENDATION

Cost of improvements to be determined.

#### ENVIRONMENTAL SUSTAINABILITY

No ecological impact.

#### BACKGROUND

This pedestrian intersection at across Oxford at Kittredge is adjacent to a parking garage, a carwash, an affordable housing development, and a bus stop for the 6 and the F bus lines. At the intersection, Oxford is a four-lane street with limited visibility for drivers, who often approach the crosswalk at high speeds from around a curve. No significant pedestrian safety features currently exist at this crossing.

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CONTACT PERSON  
Kathryn Harrison, Councilmember  
District 4, 510-981-7140

## Collision Data on Oxford/Fulton

## Between University and Durant

(Organized by Intersection, then by date)

Highlights represent collisions involving pedestrians and/or bicyclists.

| Cross Street       | Month, Year    | Kind of Collision                       | How many injured? | How many killed? |
|--------------------|----------------|-----------------------------------------|-------------------|------------------|
| <b>University</b>  | January 2011   | Broadside: 2 cars                       | 4                 | 0                |
|                    | August 2012    | Broadside: 1 car and 1 bicycle          | 1                 | 0                |
|                    | October 2014   | Vehicle-Pedestrian                      | 1                 | 0                |
| <b>Addison</b>     | January 2013   | Vehicle-Pedestrian                      | 1                 | 0                |
|                    | November 2013  | Sideswipe: 2 cars                       | 1                 | 0                |
|                    | April 2016     | Rear End: 2 cars                        | 1                 | 0                |
|                    | June 2017      | Rear End: 2 cars                        | 1                 | 0                |
| <b>Center</b>      | September 2011 | Rear End: 2 cars                        | 1                 | 0                |
|                    | September 2012 | Vehicle-Pedestrian                      | 1                 | 0                |
|                    | July 2013      | Rear End: 1 car and 1 bicycle           | 1                 | 0                |
|                    | September 2015 | Vehicle-Pedestrian                      | 1                 | 0                |
|                    | December 2011  | Sideswipe: 1 car and 1 bicycle          | 1                 | 0                |
| <b>Oxford Lane</b> | April 2015     | Sideswipe: 1 car and 1 bicycle          | 1                 | 0                |
|                    | July 2016      | Vehicle hit a fixed object              | 3                 | 0                |
|                    | January 2011   | Sideswipe: 1 car and 1 bicycle          | 1                 | 0                |
| <b>Allston</b>     | April 2013     | Rear End: 2 cars                        | 1                 | 0                |
|                    | April 2016     | Vehicle hit a fixed object              | 1                 | 0                |
|                    | November 2016  | Vehicle hit a fixed object              | 1                 | 0                |
|                    | September 2017 | Head-on Collision: 2 cars               | 1                 | 0                |
|                    | July 2012      | Rear End: 1 moving car and 1 parked car | 1                 | 0                |
| <b>Kittredge</b>   | December 2012  | Vehicle-Pedestrian                      | 1                 | 0                |
|                    | June 2013      | Sideswipe: 2 cars                       | 1                 | 0                |

|                 |                |                                         |   |   |
|-----------------|----------------|-----------------------------------------|---|---|
|                 | February 2016  | Vehicle hit a fixed object              | 1 | 0 |
| <b>Bancroft</b> | September 2011 | Broadside: 1 car and 1 bicycle          | 1 | 0 |
|                 | July 2012      | Broadside: 1 truck and 1 bicycle        | 0 | 1 |
|                 | October 2013   | Vehicle-Pedestrian                      | 1 | 0 |
|                 | December 2017  | Rear End: 2 cars                        | 1 | 0 |
|                 | July 2017      | Vehicle hit a fixed object              | 1 | 0 |
| <b>Durant</b>   | May 2013       | Broadside: 2 cars                       | 1 | 0 |
|                 | February 2014  | Rear End: 1 moving car and 1 parked car | 1 | 0 |
|                 | August 2014    | Broadside: 2 cars                       | 1 | 0 |
|                 | September 2014 | Broadside: 2 cars                       | 1 | 0 |
|                 | January 2017   | Vehicle-Pedestrian                      | 1 | 0 |
|                 | August 2017    | Vehicle-Pedestrian                      | 1 | 0 |
|                 | September 2017 | Sideswipe: 2 cars                       | 1 | 0 |





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf  
Subject: Wildfire Mitigation Mid-Year Budget Referral

RECOMMENDATION

Refer to the Mid-Year Budget Process an amount of \$550,000 for wildfire mitigation measures, including the removal of fire fuel on City properties and the extension by six additional months of the Fire Captain position to provide wildfire safety planning, Safe Passages implementation, and oversight of mitigation programs and public education.

FINANCIAL IMPLICATIONS

\$550,000

BACKGROUND

Berkeley is considered to be at very high risk of a wildfire. The draft 2019 Hazard Mitigation Plan states, "Berkeley is vulnerable to a wind-driven fire starting along the city's eastern border. The fire risk facing the people and properties in the eastern hills is compounded by the area's mountainous topography, limited water supply, minimal access and egress routes, and location, overlaid upon the Hayward Fault."

On October 12, 2019, the City Council unanimously approved a resolution declaring that wildfire safety and prevention be a top priority.

With adequate resources, the city can take steps to minimize hazards that contribute to the risk of wildfire. Two of the most effective approaches to risk reduction include removing the fuel load and improving the ability of our Fire Department to quickly respond to suppress a fire.

It has been estimated that if a wildfire were to start at the edge of Tilden Park, at our eastern border, under red flag weather conditions, the fire could reach Marin Circle within 30 minutes. Embers, carried by the wind, could ignite houses in the flatlands. The city is at risk of losing many lives and many billions in property. The results would be tragic and catastrophic for all of Berkeley.

In an effort to proactively mitigate the risk of a Wildland Urban-Interface (WUI) fire, during the June 2019 budget process, Council approved an allocation of \$545,000 to the Fire Department for wildfire mitigation measures. Working cooperatively with the Parks dept and the Public Works dept. dead trees and vegetation were removed and thinned from six parks (John Hinkel, Cragmont, Codornices, Remillard, La Loma, and the Rose Garden’s south end); two publicly owned areas off of Wildcat Canyon Road and Ajax Place; and improvements were made to six pathways (Pinnacle Path, Keeler Path, LaLoma Path, West St, Redwood Terrace, and Poppy Path). However, there is more work to be done. Additional dead vegetation and trees were identified that need to be removed and more work is needed to make our paths safe for evacuation.

Approval of this budget referral will allow the temporary Fire Captain position to continue in order to provide coordination of wildfire safety planning, fuel mitigation, inspection programs and public education. That position will end February 2020, if resources are not allocated. It is essential that gap funding be approved so that this position can continue until alternative funding sources are identified. CALFIRE grants and a ballot measure are possible options for future resources.

ENVIRONMENTAL SUSTAINABILITY

Fire prevention is critical for environmental sustainability. In 2018, California wildfires emitted as much carbon dioxide as an entire year's worth of California’s electricity according to a November 30, 2018 press release from the U.S Department of the Interior. To that point, Cap and Trade dollars fund CALFIRE grants.

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160



Energy Commission

ACTION CALENDAR

November 12, 2019

To: Honorable Mayor and Members of the City Council  
 From: Berkeley Energy Commission  
 Submitted by: Ryan Bell, Chairperson, Berkeley Energy Commission  
 Subject: Recommendations for a Fossil Fuel Free Berkeley

RECOMMENDATION

The Berkeley Energy Commission recommends the City Council refer to the City Manager to implement the recommendations listed below as well as additional measures outlined in the attached report to aggressively reduce greenhouse gas (GHG) emissions in the city and the region.

POLICY COMMITTEE RECOMMENDATION

No final action was taken by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee. Item is automatically returning to the Council agenda pursuant to the 120-day time limit for items referred to policy committees.

FISCAL IMPACTS OF RECOMMENDATION

Unknown.

CURRENT SITUATION AND ITS EFFECTS

This report responds to the Fossil Free Berkeley and Climate Emergency referrals from the June 12, 2018 Council meeting sponsored by Council member Davila, Mayor Arreguin and Councilmember Harrison. The Energy Commission has prepared a Fossil Fuel Free Berkeley Report including the following recommendations to achieve the goals outlined by council to address the climate emergency and transition Berkeley away from fossil fuels.

***Four Fast Track Proposals***

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019. This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.
- Develop an updated Climate referendum to put before the voters that includes challenging proposals and why they are necessary. A successful referendum

campaign would provide the platform for massive public education and support Council decision making.

- Lead a regional effort to change the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage, followed by a referendum asking voters to approve raising the natural gas usage tax. Funds raised would be dedicated to de-carbonization efforts.

### ***Summary of Recommendations***

#### **Citywide Transportation**

1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - a. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - b. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
2. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
3. Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.
4. Consider free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.

#### **Residential and Commercial Buildings**

1. Opt all accounts in Berkeley up to 100% renewable EBCE electricity in 2019, with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant action the city can take to reduce GHGs.
2. Expand BESO and include electrification along with energy efficiency. Consider more triggers that require an energy audit, more detailed energy audits, requiring the seller to complete the audit to the buyer, and requiring implementation of some of audit recommendations.
3. Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
4. Funding options for electrification and energy efficiency upgrades:
  - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
  - b. A new, very low interest revolving loan fund.

- c. Strategic relaxation of the Planning Code in exchange for electrification and energy efficiency measures.
5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's permit service center website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

### Regional Action

1. Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to de-carbonization efforts.
2. Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces.
3. Increase regional and support state efforts to expand availability of low global warming potential refrigerant, heat pump space and water heaters for the retrofit markets.
4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can provide the density to support expansion of regional transit.

Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

At the January 23, 2019 meeting, the commission took the following action:

Action: Motion/Second (Weems/Patel) to approve the Fossil Fuel Report with amendments and recommend City Council refer to the City Manager to implement the recommendations in the report to aggressively reduce GHG emissions in the city and the region.

Vote: Ayes –Leger, Bell, Patel, Weems, Paulos, Stromberg; Noes – None; Abstain – None; Absent – Luce, Schlachter.

BACKGROUND

The Fossil Free Berkeley and Climate Emergency resolutions asked the Energy Commission to consider actions “to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley” and to consider several actions the city might take as part of this review.

ENVIRONMENTAL SUSTAINABILITY

These recommendations are intended to accelerate citywide reductions in GHGs.

RATIONALE FOR RECOMMENDATION

While making recommendations for all of the actions the Council requested that the commission consider, the main recommendations for reducing GHG emissions focus on transportation and residential and commercial buildings as they are responsible for 98% of Berkeley’s GHG emissions.

ALTERNATIVE ACTIONS CONSIDERED

None considered.

CITY MANAGER

See Companion Report.

CONTACT PERSON

Billi Romain, Energy Commission Secretary

Attachments:

- 1: Berkeley Energy Commission Recommendations for a fossil fuel free Berkeley.

# Fossil Free Berkeley Report

Berkeley Energy Commission January 23, 2019

## Council Referral

On June 12, the Berkeley City Council passed item 30 “Fossil Free Berkeley” which refers “to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

Establishing a date by which we are committed to being a Fossil Fuel Free City;

Opposing further transportation of oil, gas, and coal;

Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations;

Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city’s vehicle fleet to all electric vehicles;

Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030;

Formally opposing the recent expansion of offshore drilling by the Trump Administration; and

Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.”

On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal” ideally by 2030.

This Report is the Energy Commission’s response to Council’s June 12 referrals.

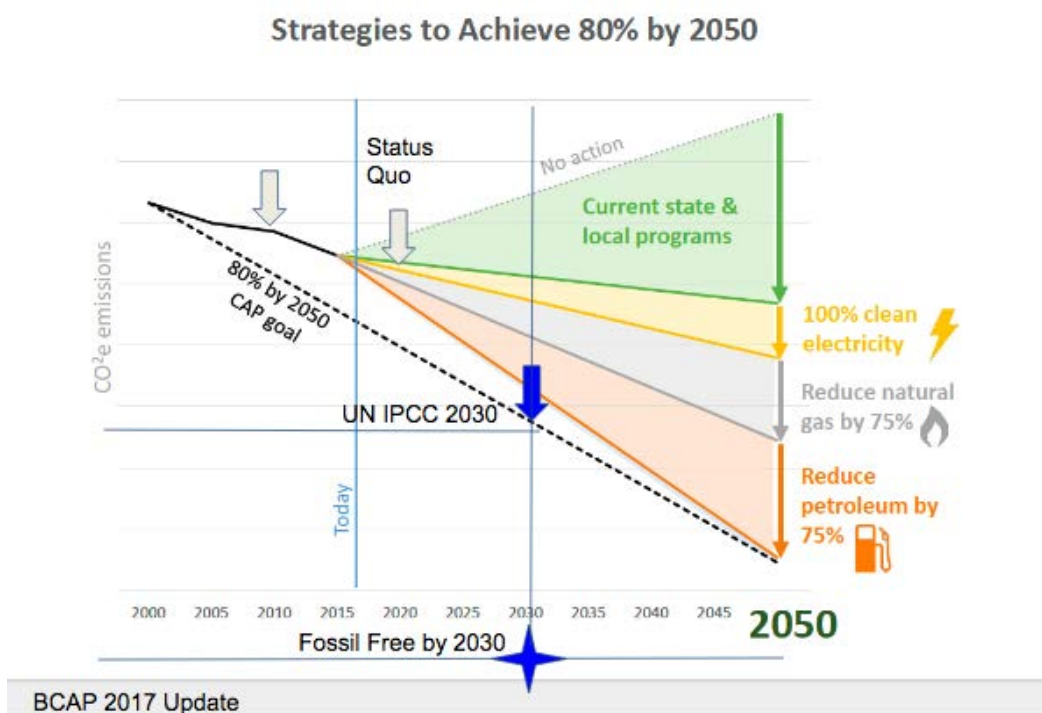
## Executive Summary

The City Council's Climate Emergency Resolution lists record breaking climate related catastrophes and urges 'out of the box' thinking for solutions.

As if intended to support the Council's climate emergency declaration, the UN IPCC issued a heart rattling Special Report ([IPCC-SR15](#), 10/9/2018) noting global temperatures are rising faster than predicted an myriad of cascading effects are happening sooner, and reiterating a worldwide goal to keep warming to no more than 1.5 °C. It asserts Greenhouse pollution must be reduced 45 percent from 2010 levels by 2030 and 100 percent by 2050.

The trajectory of the Berkeley Climate Action Plan's 2020 emission reduction targets, extended to 2030, is roughly in line with the IPCC-SR15 goal. However, according to the city's 2018 [Annual Progress Update](#) Berkeley is significantly behind in achieving the Climate Action Plan 2020 reduction goals, let alone extending that trajectory through 2030 as recommended by IPCC-SR15, or doubling down to become 100% fossil free by 2030 as to be considered in the Fossil Fuel Free Berkeley Resolution Council adopted in June.

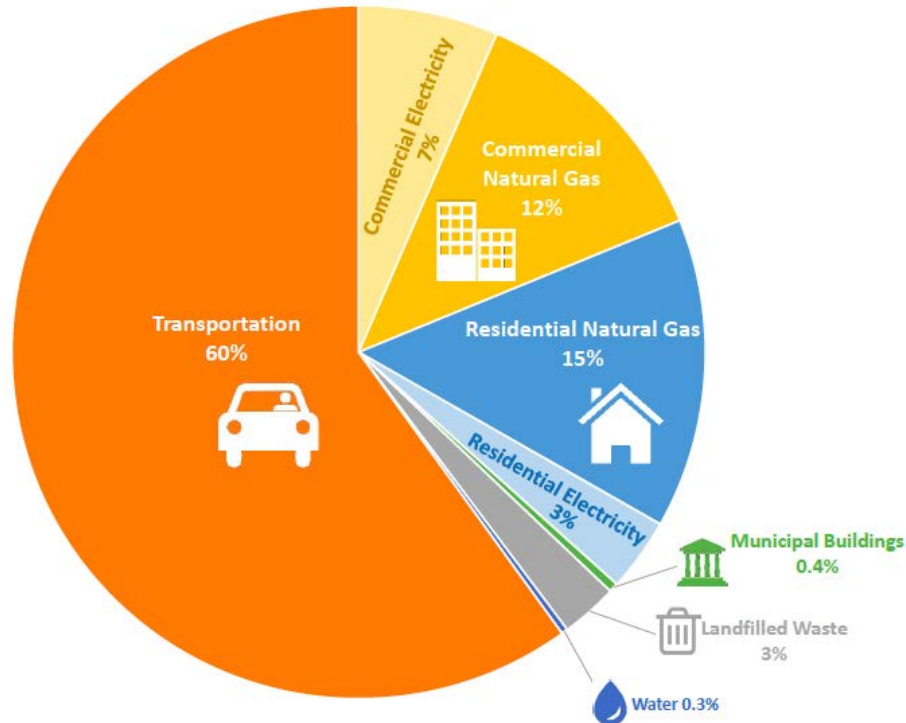
### IPCC and Fossil Free by 2030 goals superimposed on 2017 CAP update





Clearly in order to meet any of these 2030 goals we need a sea change in commitment. Specifically, we must exert the will to honestly accept and meet the challenge we face. The 2018 CAP Update shows where we need to act:

## 2016 Community Emissions



Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

### ***Four Fast Track Proposals***

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019. This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.
- Develop an updated Climate referendum to put before the voters that doesn't soft pedal very challenging proposals and why they are necessary. A successful referendum campaign would provide the platform for massive public education and

support Council decision making. This referendum would be submitted to the voters in November 2020 and would include binding mandates and specific priorities for emissions reductions.

- Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.

## **Summary of Recommendations**

### **Citywide Transportation**

1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - a. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - b. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
4. Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.

### **Residential and Commercial Buildings**

1. Opt all accounts in Berkeley up to 100% renewable EBCE electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant immediate thing the city can do reduce greenhouse gas emissions. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020 because of the impact of positive feedback loops.
2. Expand BESO and include electrification along with energy efficiency. Consider instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in the energy audit.

3. Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
4. Funding options for electrification and energy efficiency upgrades:
  - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
  - b. A new, very low interest revolving loan fund.
  - c. Strategic relaxation of the Planning Code, such as density and/or parking requirements, or accelerated review in exchange for electrification and energy efficiency measures.
5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

### **Regional Action**

1. Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. It is time to look aggressively for the necessary funds and initiate the process. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.
2. Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces. Prohibiting sale of gas powered appliances would support electrification.
3. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pump space and water heaters for the retrofit markets.
4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can be adopted throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional transit.

## Analysis

### I. Establishing a date by which we are committed to being a Fossil Fuel Free City

#### Recommendations

1. Consider a new ballot initiative for updating the Climate Action Plan in order to engage Berkeley residents in the comprehensive and ambitious efforts that will be needed.
2. The City should take aggressive, immediate, and sustained action to achieve the goal of a fossil free Berkeley to the fullest extent possible while simultaneously calling for necessary and immediate complementary emergency actions by other local, regional (e.g. MTC/ABAG, BAAQMD, BayREN) state and federal governmental bodies.

#### Discussion

The Energy Commission believes that the Berkeley Residents who initiated “Fossil Free Berkeley” intend it to apply to the entire city, not just municipal operations. Our comments reflect this point of view.

The two Council items 30 and 49 taken together suggest a goal of 2030 for Berkeley to become fossil free. It should be noted that this is far more ambitious than recommendations by the IPCC and recently adopted state laws<sup>1</sup> which taken together would suggest a goal of 50% reduction of greenhouse gas (GHG) emissions by 2030.

In some ways, Berkeley is better positioned than many cities to take the initiative to make accelerated and meaningful reductions in fossil fuel consumption.

- Unlike many other GHG emissions sectors, techniques for eliminating building GHGs--specifically improving energy efficiency, electrifying remaining energy uses, and using renewably generated electricity--are all commercially available, and can improve comfort and safety and offer property owners economic savings over time. Energy efficiency programs have been around for decades and the city’s unique BESO energy audit program helps property owners prioritize efficiency upgrade spending. Because of recent developments in heat pump technologies making electric heat pump space and water heating more than 3 times as efficient as their gas equivalents and the dramatic

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<sup>1</sup> SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.

AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state’s building stock by 40 percent below 1990 levels by 2030.

SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.

Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

increase of renewables on the electricity grid, all electric homes, even without solar panels, can produce substantially less GHGs than natural gas powered ones.

- Berkeley's size, density, mild and dry climate, and mass transit infrastructure make it ideally suited for an accelerated reduction in transportation related GHGs. The recent commercial introduction of vehicle sharing programs and proliferation of small electric vehicles such as electric bikes, scooters, and tricycles solve two of the main long time challenges to rethinking the transportation picture in Berkeley. They dramatically reduce costs of electric transport and offer small scale power assisted options, particularly for hills residents.

According to the 2017 Bicycle Plan a "2015 survey of Berkeley residents showed 90 percent of Berkeley residents already bicycle or would consider bicycling if the right bikeway facility or roadway conditions were available. That is a larger percentage than any other city that has conducted a similar study, including Portland...."

- Finally, residents voted overwhelming in favor of the Berkeley Climate Action plan in 2006 and are likely to support new targeted programs to accelerate reductions in GHGs.

The challenges to accelerating GHG reductions cannot be overstated. They are technological, political and social. And, the more ambitious the reduction goals the greater the challenges. While Berkeley is better set up to meet a goal of 100% reduction by 2030 than many communities, it is still a very difficult task.

- The vast majority of buildings rely on natural gas for operation. Every one of them will need to be shifted from gas to all electric operation. Every fossil fuel operated vehicle on the roads will need to be eliminated. How do we motivate ourselves to electrify our buildings and give up our fossil fuel vehicles?
- As much as a quarter of Berkeley's past GHG reductions are a result of state programs such as the renewable fuels portfolio standard. To push ahead with an accelerated GHG reduction goal, the city will need to rely on local programs.
- There are real technological hurdles that need to be solved before complete electrification of the California or US economy can occur. It is hoped these problems will be solved by 2030 or much sooner. While they do not prohibit Berkeley from being fossil free by 2030 as an isolated entity, they do drive up the cost for some of the needed technologies, particularly in relationship to vehicles and battery storage. In addition, regional and state governments will be reluctant to set goals without confidence that the technologies are in place to meet them, so Berkeley will likely be out of step with others the more aggressively it pursues accelerated GHG reductions.

Finally, the urgency of the climate crisis requires use of the simplest, cheapest and most available tools at hand to achieve high early results. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020. Because of positive feedback loops, the effects of GHG emissions are amplified. For example warmer, dryer forests burn more which releases more CO<sub>2</sub> which contributes to more forest fires. Establishment of new manufacturing facilities and a city scale power company would take decades. It will be far more effective to work with existing programs such as East Bay Community Choice Energy, BESO, and the Berkeley Bicycle Plan.

## **II. Opposing further transportation of oil, gas, and coal**

### **Recommendations**

1. In order to put the brakes on the transport of refinery feedstock and refined products traveling through Berkeley, call for a plan to responsibly wind down all Bay Area refineries as California demand wanes.
2. Consider a ban on the storage and transport of coal within the City

### **Discussion**

It should be noted that the City of Berkeley has already adopted a more specific position in opposition to transport of oil, gas and coal: joining neighboring communities in September in calling for a ban on coal shipments through East Bay Communities.

Unfortunately, the Federal Government has jurisdiction over rail transport limiting the City's options for preventing travel by rail through Berkeley.

Eliminating transport of fossil fuels would require the shutdown of all Bay Area oil refineries, because their products are trucked to and through Berkeley for cars, trucks, planes and trains operating in the Bay Area. It would also mean that all ground vehicles, including trains would have to be converted to run on 100% carbon-free electricity, and air transport be fueled by bio-fuel or by imported fossil fuels.

Regarding the shutdown of local refineries, Communities for a Better Environment has drafted a California Refinery Study and will soon launch a campaign to responsibly wind down all California refineries by 2035, by requiring annual emission reductions of 5% beginning in 2020. Mayors of Benicia and Richmond, home to the Valero and Chevron refineries, are already making public statements in support of winding down Bay Area refineries. As California electrifies its vehicles, we must ensure refineries are not permitted to maintain or increase refining activities such that fossil fuel exports increase and frontline communities remain subject to the health consequences of this dirty, outdated industrial sector.

## **III. Fully implementing Berkeley Deep Green Building plan, raising the citywide LEED certification requirement above the current LEED Silver,**

## **and applying the same requirements to newly constructed city facilities, and major renovations**

### **Municipal Buildings Recommendations**

1. Immediately convene a citywide departmental summit including Public Works and Planning and Development to establish a timeline and budget for electrifying all city owned buildings and installing solar plus storage at City buildings wherever possible.
2. Review and re-prioritize all funds currently earmarked for capital improvements to facilitate rapid electrification of municipal buildings.
3. Work with East Bay Community Energy to secure grants for solar with storage.
4. Use the 2 x 2 process to coordinate with BUSD in establishing a fossil fuel free goal and providing BUSD with technical and policy assistance to achieve it.
5. Set higher goals for municipal buildings related to indoor air quality, lowered carbon footprint, and all electric as outlined in Berkeley Deep Green Building and Healthy Building Network's HomeFree Spec guidance.<sup>2</sup> In addition to developing expertise that can be shared with Berkeley residents and property owners, these changes would have health, environmental, and economic benefits. The City can decide the standards which municipal buildings must be built or remodeled to. It is our understanding that currently, there is no requirement beyond meeting minimum state building codes.

### **Residential and Commercial Buildings Recommendations**

1. Develop options for expanding the coverage of the current LEED requirements to other areas of the City including mandatory points in certain sections.
2. Strategically relax the Planning Code, such as density and/or parking requirements or accelerated permit review in exchange for electrification and energy efficiency measures.
3. Place moratorium on natural gas cooktops and dryers in new residences or on new gas hook ups if possible.
4. Institute a transfer tax rebate for energy efficiency upgrades and electrification at time of sale.
5. Ensure every plan checker is trained in methods of electrification, and instructed to present that information to property owners at the beginning of the permit application process. In this way, every interaction with property owners becomes an opportunity to educate them on their options for home energy efficiency and

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<sup>2</sup> <https://homefree.healthybuilding.net/reports>

electrification and their importance. Building owners need to understand the importance of reducing energy consumption and electrification and to switch out fossil fuel appliances for electric whenever possible.

6. Expand BESO and shift focus to include electrification along with energy efficiency. To be considered are: instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in energy audit.
7. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. Many architects, builders and homeowners begin the design process online, making key decisions based on information found online. It is critical the City's website offer clear guidance reflecting the urgency of the climate crisis.
8. Work with PG&E to develop a plan for eventually shutting down natural gas service in Berkeley. Priority should be given to areas most vulnerable to the effects of climate change and earthquakes and those where infrastructure has not yet been upgraded to plastic. Funds that would be spent on upgrading gas infrastructure can instead be used for electrifying buildings and under-grounding electrical lines.
9. Consider the development of a long term funding plan such as a very low interest revolving loan fund to assist property owners to decarbonize their buildings.
10. The City should work with the BAAQMD to adopt rules with future effective dates to prohibit sale of gas powered appliances.
11. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pumps space and water heaters for retrofit markets.

## Discussion

The Berkeley Deep Green Building (BDGB) initiative, adopted by the City Council in 2017, outlines best practices for green building including zero net energy and all electric construction, low carbon footprint and low toxicity building materials, and water conservation. City staff has provided a detailed analysis and review of progress in implementation. See the [Energy Commission](#) Agenda from 4-25-18 for copy of this review.

Energy efficiency measures including: low toxic, low carbon footprint insulation, air sealing, and replacing incandescent with LED lights, have long been recognized as important to greenhouse gas reduction. BDGB argues in addition that going all electric is foundational to achieving fossil fuel free goals. Historically energy efficiency standards and incentive programs have been based on the assumption that natural



gas appliances have lower environmental impacts than electric appliances. However, this is no longer the case. The dramatic increase of renewables in supplying electricity and the development of heat pump technologies for space and water heating, which are more than 3 times as efficient as their gas equivalents, have turned this balance around. If the significant fugitive emissions from gas infrastructure and their concomitant climate changing and indoor air quality impacts are added to the equation, the scale definitely tips in favor of all electric buildings.

Natural gas is also a safety issue in Berkeley. The recent gas line explosions around Lawrence Massachusetts are only the most recent in a long line of such incidents. Even though PG&E is working to upgrade existing infrastructure, rising sea levels in West Berkeley and the overdue earthquake on the Hayward fault threaten Berkeley. Electricity infrastructure has its safety issues as well. Money saved on gas infrastructure could be used on improving the safety and reliability of electric power.

One of the stumbling blocks to a fossil free California is energy storage. All electric, energy efficient buildings can be key in addressing this problem by reducing overall energy demand and drawing energy for space and water heating in the middle of the day when it is most abundant and storing it for use in the evening after the sun goes down. As a quarter of all energy used in the home is for water heating, state policymakers and manufacturers are already working on ways to incorporate tanked electric water heaters into energy management programs.

Heat pump space and water heaters are commercially available and can be economical. Recent studies of homes by Rocky Mountain Institute and NRDC<sup>3</sup> have found that all electric construction can be cost effective, especially in new construction where there are significant savings from not installing natural gas plumbing and infrastructure. All electric construction can also be economical in remodels in cases where natural gas equipment is older and needs replacing and where electrification is coupled with solar PV installation.

As the city is largely built out, construction tends to focus on remodels and new construction of high rise apartment buildings. Every effort needs to be made to guide these projects to be all electric. Currently it appears the economics for high rise residential buildings in Berkeley favor electric heating and air conditioning paired with central gas heat for water. Though adding significant cost to construction, some developers will run natural gas to individual units for the perceived increased value of a gas cooktop. It should be noted that building owners who install natural gas heating and appliances now will be left with stranded assets as society is quickly shifting to all electric operation.

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<sup>3</sup> <https://rmi.org/insight/the-economics-of-electrifying-buildings/>  
<https://www.nrdc.org/experts/pierre-delforge/new-report-heating-next-clean-energy-frontier-ca>

The biggest challenge in Berkeley is electrifying existing buildings -- particularly where no work is anticipated or no permit is obtained for the work. This is a major source of greenhouse gases in our city and across the state. Several state level assistance programs can help property owners with improvements. However they generally fall short of amounts needed and currently rebates are not available for switching gas appliances to electric.

California has been a leader in improving energy efficiency and expanding renewable electricity generation. Several state laws from 2018 will continue that effort:

- SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.
- AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state's building stock by 40 percent below 1990 levels by 2030.
- SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.
- Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

While California has been a leader in improving energy efficiency, state laws and regulations have been slow to guide and in some cases act as barriers to the transition to all-electric construction. Many of these barriers are obscure and buried deep in regulatory policy:

- 3 prong test. The 3 prong test is policy established in the early 1990s originally intended to ensure fuel switching did not occur that caused adverse effects on the environment. At the time it generally meant discouraging shifts from natural gas to electric. However the policy assumptions continue to serve the same purpose even as the climate impacts of the two fuels have completely changed places. This policy is the core of why PG&E will not provide energy upgrade rebates when changing gas to electric heat.
- Title 24 assumptions. Title 24 is the shorthand name for the energy efficiency standards of the California Building Code. These are updated every 3 years and currently include several assumptions that favor gas heating and air conditioning over electric.
- Energy rate structure. Retail prices for natural gas do not reflect the GHG emissions of gas compared to electricity, or the grid benefits of flexible electric loads like tanked electric water heaters.

Of these barriers, only the assumptions in title 24 have begun to shift in PG&E territory. The standards that will go into effect in 2020 will no longer penalize use of

heat pump water heaters in low rise residential construction. However many other assumptions within the new standards will continue to support use of natural gas such as the climate benefits of electricity in the TDV and the lack of credit given to tanked electric water heaters for energy storage.

At the regional level, BAAQMD has the authority to regulate air pollution including GHGs. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints. It could prohibit sale of gas powered appliances to support electrification and elimination of GHG emissions.

Working within state level constraints, planning staff have developed and pushed policies that improve the energy efficiency of buildings in Berkeley and encourage a shift to all electric, carbon free operation. Policies they have developed unique to Berkeley include:

- New non-residential construction and additions in the downtown area need to be LEED Gold or equivalent.
- Free advice and consultation on green building design and strategies.
- Building renovation and new construction over 10,000 square feet needs to have an energy analysis and a completed green building checklist.
- Under the BESO program, at time of sale for residences and more frequently for commercial properties, owners must complete an energy audit of the building.

City staff are pursuing many additional efforts:

- Reviewing the BESO program to improve effectiveness. Scope of review to include requiring energy audits sooner for more properties, expanding the triggers that require an audit to include remodeling, more detailed energy audits including electrification, elimination of the option of allowing the buyer to perform the audit, and implementation of some of the upgrades recommended by the energy audits.
- Expanding heat pump water heater availability through collaboration on BayRen's mid-market expansion grant program.
- Pursuing "reach" building codes for the 2020 building codes that give regulatory advantage to all electric construction. The most important priority for this effort is new multi-unit high rise apartment buildings and major remodels.
- Advocating for state level policies that allow building owners to receive energy efficiency rebates when switching fuels.

- Advocating for removal of all biases against electrification within the state building energy codes including Total Daily Value (TDV) and computer modeling assumptions.

Care should be taken that solutions do not create additional problems. Many building materials are coming under increasing scrutiny for their long trail of environmental and health impacts, such as polystyrene and PVC plastics and organo-halogenated materials. Others have such a high global warming footprint, such as certain foam plastic insulations that their use minimizes the GHG reduction benefits of the projects. The refrigerants commonly used in most heat pumps in the U.S.A. also have very high global warm potential. While heat pumps still have dramatic energy saving benefits over other options, phase out of these chemicals under state Air Resources Board programs will improve their GHG benefits.

**IV. Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles**

*See V. for discussion and recommendation concerning 100% renewable energy for municipal vehicles.*

**V. Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.**

*See III. for discussion and recommendation concerning 100% renewable energy for buildings.*

**Municipal Transportation Recommendations**

1. Assess the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric.<sup>4</sup> This assessment would include consideration of: 1) Switching to lower carbon transport options such as electric carts or bicycles where possible and 2) the timing of technology development and commercialization for car batteries.
2. Immediately switch diesel vehicles to run on renewable diesel in the interim until fossil fuel free options are available for the tasks they perform.

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<sup>4</sup> Ref: San Francisco Ordinance 115-17 Administrative Code Section 4.10-1:

c) By December 31, 2022, all light duty vehicles in the City fleet must be Zero Emission Vehicles in compliance with Environment Code Section 404, unless there is a waiver, exemption, or applicable exception. detailed in Environment Code Chapter 4.

## Citywide Transportation Recommendations

*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions to accelerate a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations:*

1. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives. The Council should amend funding priorities to reflect the climate emergency.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Develop and implement a transit plan in support of the Climate Action Plan. The transit plan could include detailed accountability metrics such as required dates for identified new routes, dates for replacement of fossil fueled busses and shuttles with electric busses and shuttles, and smaller intra-neighborhood subsidiary transit (shuttles). The city should explore developing its own shuttle services similar to the Emery Go-Round using EVs as part of the transit plan.
4. Add 3 FTE to the Transportation Division to expedite implementation of the city's bicycle, pedestrian, and BeST plans.
5. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
6. Develop a communication strategy to inform residents of fossil free and lower carbon footprint personal mobility options and the desirability of prioritizing these options.
7. Continue to develop and expand programs that encourage residents to shift to fossil fuel free modes of transport, such as electric bike and scooter sharing, Waterside Workshop, and Safe Routes to School.
8. Work with State authorities to prohibit operation of autonomous vehicles within city limits unless they are electric vehicles.
9. Use the 2x2 process to encourage the BUSD to develop a plan for phasing out fossil fuel vehicles and supporting families to safely get to and from school without cars.
10. Lobby and work collaboratively with public and private transportation providers and the commercial sector to convert all vehicle fleets to electric power.

11. Support state programs that restrict the use of fossil fuel vehicles by ride hailing services such as Uber and Lyft.

## Discussion

One of the greatest challenges we face is how to eliminate emissions from transportation. By far the most promising way to make transportation renewable is with electric vehicles.

The vast majority of fossil fuel powered vehicles operated in the city are owned by individuals and companies and government entities outside of the city simply driving through the city or entering the city for business or pleasure. For the purposes on this report, the fossil fuel free goal will be focused on reducing fossil fueled vehicular traffic on city streets. It should be noted that for Berkeley to be truly fossil free, all ground vehicles, including trains, must be converted to electric power. We recognize the City has no independent way to get Amtrak and freight trains off fossil fuels.

The Commission believes that the goal of 100% emission reduction from vehicles is most likely to happen using batteries. Fuels other than electricity are possible but less likely to be adopted. Biofuels have a limited role because of lack of feedstock availability without associated environmental damage (the food vs. fuel problem).

Electric automobiles are quieter and more economical to operate than gas cars. Although only 2% of new car sales in the United States in 2018 were electric, that represented an 81% increase in sales over 2017. Electric auto sales were about 6% of new cars in California in 2018, and reached 10% in December. Because of their lower operating and maintenance costs, electric cars are competitive in lifetime costs of ownership. Residents of homes without garages (of which there are many in Berkeley), and apartments without charging stations, face a serious challenge to find a place to plug in. We encourage further city action on this.

Another option is hydrogen. To be emission-free the hydrogen has to be produced from renewable electricity or directly from sunlight with a catalyst. The problem is that hydrogen storage is very expensive either as a liquid or as a high pressure gas, both because it is energy intensive and because the container is expensive. Furthermore, the likelihood of leakage is much higher than, say, natural gas and the likelihood of explosive ignition in the presence of oxygen is also much higher than natural gas.

One biofuel that can play a useful role in Berkeley as bridge to electrification is renewable diesel. Renewable diesel though made entirely from vegetable oils is not biodiesel. It is processed to meet the exact performance specifications required for diesel motors. It does not void manufacturer warranties and can be used in any diesel vehicle. The emissions are much cleaner, the carbon footprint is lower and it is cheaper than diesel. While its use should be minimized because of the potential food vs fuel concerns, it can be used immediately in all city diesel vehicles until they can be replaced with fossil fuel free alternatives.

The city already has advocated walking, human powered vehicles, electric vehicles and mass transportation accessibility to all in its 2009 Climate Action Plan. In achieving a fossil fuel free goal, there are important timing issues. Several significant transportation changes are just over the horizon that will dramatically reshape our city street experience including:

- Expanded ride hailing operations such as Uber and Lyft, especially as autonomous vehicle operation is perfected;
- Docked and undocked ride sharing vehicles; and
- Proliferation of varied electric vehicles including electric golf carts, bicycles, tricycles, stand-up scooters, hoverboards, Segways, and wheelchairs.
- Breakthroughs in battery technologies that will dramatically lower the cost and improve performance of electric vehicles.

The city should be careful about engaging in longer term contracts and that decisions be revisited regularly as new technologies mature and the economics change for different transportation modes.

## **VI. Formally opposing the recent expansion of offshore drilling by the Trump Administration**

### **Offshore Drilling Recommendation**

Formally endorse California laws intended to block offshore drilling if it has not done so already.

### **Discussion**

The State legislature has passed and the Governor has signed SB 834 (an act to add Section 6245 to the Public Resources Code, relating to state lands) and SB 1775 (an act to add Section 6245 to the Public Resources Code, relating to state lands). Both Sections are entitled State lands: leasing: oil and gas. These new laws are intended to block the Trump administration's plan to expand offshore oil drilling by prohibiting new leases for new construction of oil and gas-related infrastructure, such as pipelines, within state waters if the federal government authorizes any new offshore oil leases.

## **VII. Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure**

The Council has rightly included the need for regional coordination to address energy supply, housing and transportation. It's safe to say all Bay Area cities are grappling with these issues in one way or another, with significant disparities among them in both priorities and resources. It will take trust, willingness to move away from a

provincial mentality, leadership from MTC/ABAG and BAAQMD and probably some State action to facilitate deep progress in these areas.

## VII.1. Renewable Energy Sources

### Renewable Energy Sources Recommendations

1. Opt up all Berkeley's municipal, commercial and residential accounts to EBCE's<sup>5</sup> 100% Renewable electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program in 2019.
2. Partner with all cities in CCAs to influence state legislators, the Governor, and CPUC Commissioners to develop guiding legislation, policies, and rules that support the continued existence of CCAs.

### Discussion

It is critical to move toward 100% clean energy generation sources as soon as possible in order to fully realize GHG emission reductions through "fuel switching" from combustion to electricity in all spheres. There is long established worldwide consensus that the path to climate stabilization requires, in this order:

1. Deep reductions in energy demand through conservation and efficiency,
2. Conversion to clean electricity generation, and
3. Massive electrification.

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<sup>5</sup> A regional approach to increase reliance on renewable energy sources is possible through our new energy provider: East Bay Community Energy (EBCE). EBCE was initiated under a state law passed in 2002 that allowed government jurisdictions to create agencies (called Community Choice Aggregators or CCAs) to purchase power on their residents' behalf as a way to provide energy options to Californians. As a local government agency, EBCE is not for profit and is entirely devoted to the community. Even before EBCE was providing electricity, it was developing a plan to invest locally in energy development. In July 2018, the Board of EBCE adopted a groundbreaking Local Development Business Plan which spells out strategies for local clean energy, energy efficiency, and energy storage projects specifically to help address the environmental, economic, and social justice needs of the East Bay community.

Once established, a CCA is authorized to automatically enroll all accounts in its jurisdiction in the new energy program. Customers have the option of changing the product they are enrolled in or switching back to PG&E. EBCE currently offers three electricity supply products to its residential, commercial and municipal customers:

- Bright Choice - a mix of electricity generated by fossil fuels, renewable sources and large scale hydro, which the State of California does not classify as renewable. It is offered at a slightly lower in price than electricity from PG&E;
- Brilliant 100 - a mix of renewable energy and large hydropower at the same price as PG&E power; and
- Renewable 100 - 100% renewable energy at a slightly higher price.



Both Berkeley (through BESO and other programs) and California (largely through frequent Energy Code updates) have long standing, successful conservation and efficiency requirements. We are national leaders in this and continue to press forward with program improvements and new initiatives. Now that a 100% renewable option is available from EBCE, Berkeley can immediately convert the entire city to clean electricity generation, and turn its focus to the challenge to ‘electrifying everything.’ Shifting accounts to 100% renewable will reduce community-wide GHG emissions by a whopping 10%.<sup>6</sup>

Under the Climate Emergency Resolution, Council has signaled the intention to act boldly. Berkeley has already fallen significantly behind in achieving its 2050 GHG emission reduction goal as set forth in the 2009 Climate Action Plan.<sup>7</sup> Opting all its EBCE customers to the Renewable 100 plan is the single most impactful and timely action the City can take in 2019, both because of immediate emission reductions, and to avoid GHG emissions from future increases in demand due to electrification. It is critical to do this now because by the end of 2020, EBCE will be required to sign long term contracts for 65% of its supply portfolio. Once these long term contracts are signed, it will be more difficult for EBCE to shift the sources of its power mix. For these reasons, the Energy Commission recommends that Berkeley move to 100% renewable electricity in 2019.

While EBCE energy mix options were being established last spring, the Berkeley City Council, as did most EBCE cities, chose to enroll all residential and commercial accounts in Bright Choice. Berkeley enrolled its municipal accounts in Brilliant 100. The City of Albany enrolled all accounts in Brilliant 100, Hayward enrolled its residential accounts in Brilliant 100, and the City of Piedmont enrolled all accounts in Renewable 100. We note that ten jurisdictions in Los Angeles and Ventura counties served by Clean Power Alliance (CPA, a CCA) were enrolled in Green Power, its 100% renewable product, as the default. These ten jurisdictions cover a third of CPA's one million customers.<sup>8</sup>

CPA, like EBCE, also has a Community Advisory Committee to help prioritize local renewable energy development and job creation, rebates and incentives. For California's progressive cities and counties, enrollment in 100% renewable energy is a climate action whose time has clearly come. Because 35% of EBCE's power purchase agreements are not required to be long term and electrification will increase demand, we anticipate ample opportunities for EBCE to make significant investments in local

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<sup>6</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 5, December 6, 2018

<sup>7</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 14, December 7, 2017

<sup>8</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

energy development. As the local development market matures, there will be rolling opportunities to incorporate locally generated power into long term contracts.

There were initial concerns that new EBCE customers would opt out and go back to PG&E. There were also worries that customers would opt out if enrolled in a cleaner mix of energy generation priced at the same or slightly higher cost than PG&E rates. Both of these fears have been shown to be unfounded for the inner East Bay cities of Alameda County. In fact, among all Alameda County cities in EBCE, only the City of Livermore, at 5.56%, has had an opt out rate greater than 2.07%.<sup>9</sup> Piedmont's experience in making Renewable 100 the default level is instructive. As of December 2018, 6.8% of customers opted down to Brilliant 100 or Bright Choice, and only 2.07% opted out and went back to PG&E. The takeaway is that few customers took any action, and of those who did, the overwhelming majority (77.7%) chose to stay in EBCE.

Concerns have also been raised that opting all customers to the 100% Renewable product would harm low-income customers. The Energy Commission recommends that EBCE follow CPA's lead in which "customers in 100 percent renewable energy communities who are enrolled in CARE, FERA or Medical Baseline will get Green Power at no extra charge."<sup>10</sup> We understand that EBCE is reporting strong net revenues which could be allocated to subsidize CARE customers. Alternatively, non-CARE customers could absorb the additional cost. Furthermore, the value of the non-binding nature of the enrollments is that price sensitive customers can opt down. Unlike an increase in property taxes, nonCARE customers who cannot afford to pay any more for power can simply opt down to the lower priced option.

It has recently come to light that Bright Choice power may in fact have a higher carbon content than electricity provided by PG&E.<sup>11</sup> The City Council has the opportunity right now, while the nascent EBCE is locking in long term contracts for power, to opt all accounts to fossil fuel free power to ensure that joining the CCA does in fact reduce citywide GHGs.

The political landscape for CCAs is fraught with heavy opposition from PG&E and its entrenched allies in State government even as they supply electricity that is cleaner and cheaper than their for-profit counterparts.<sup>12</sup> Berkeley needs to partner with all Bay

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<sup>9</sup> EBCE Enrollment Update, December 5, 2018

<sup>10</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

<sup>11</sup> See comments in: <https://www.berkeleyside.com/2018/12/11/why-does-your-december-electricity-bill-look-different>

<sup>12</sup> [A 2016 UCLA study](#) found that CCAs in California offered 25% more renewable energy compared to the investor-owned utility (IOU) in the same area resulting in an estimated reduction of 600,000 metric tons of CO2 in 2016.

Area cities in CCAs to work with our elected representatives to defeat legislative threats and overcome obstacles at the California Public Utilities Commission. Also, the CCA's themselves need to ensure unity and coordinated responses to initiatives aimed at undermining success.

## VII.2. Affordable Densification of Cities

### Affordable Densification Recommendations

1. Work with MTC/ABAG, BART cities and counties to reframe and expand Transit Oriented Development concepts to conform with internationally used approaches that look beyond infill at already heavily used transit hubs, and prioritize infill housing everywhere developed in concert with expanded transportation strategies and expanded services (educational, recreational, commercial and environmental enhancement).
2. Work with Bay Area cities and counties to develop a regional funding mechanism to subsidize low income and affordable housing in all jurisdictions.
2. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. In addition, support adoption of such transit oriented development throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional.

### Discussion

In order to provide affordable densification we need massive housing construction, housing subsidies and expanded transit opportunities. The high cost of living in the Bay Area includes the high cost of construction. If we want to reduce vehicle miles traveled (VMT) and the unhealthy stress of long commutes we must find ways to subsidize housing for average people, because at the present time people living on average incomes who do not already own homes cannot afford to live in the Bay Area either as renters or homeowners, forcing many into ever longer vehicular commutes. This is something that needs to be addressed by both the region and the state. There is too much disparity in wealth across the region for the problem to be completely solved by individual cities.

A desire for walkable neighborhoods and transit access has contributed to gentrification in Berkeley and San Francisco. This new gentrification is fueled by the migration of young professionals from the suburbs to these two cities in particular because they both have ample neighborhood scale services. Remarkably, the median price paid per square foot of living space is no longer significantly higher in most R-1 zones where access to transit is often limited.<sup>13</sup> This indicates that the hunger for the amenities of a more urban lifestyle is widespread. It's quite possible that there is an

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<sup>13</sup> ([https://www.trulia.com/real\\_estate/Berkeley-California/market-trends/](https://www.trulia.com/real_estate/Berkeley-California/market-trends/))

untapped openness to neighborhood-scale services and transit development in existing suburbs too. This possibility needs to be explored. Any such nascent cultural shifts should be identified and reinforced. The suburbs have already absorbed job growth in the form of large business parks. Likewise, rails to trails conversions have acculturated suburban residents to walking and biking where convenient. Managed thoughtfully, initiatives to increase suburban infill housing coupled with increased transit, active transportation options and some small scale services could be welcome developments.

The push for housing densification in the Bay Area has relied on a concept of transit-oriented development (TOD) defined by MTC as [emphases added]:

“the clustering of homes, jobs, shops and services near *rail stations, ferry terminals or bus stops with high-frequency service*”

defined by BART as:

“mixed-use, higher density development *adjacent to frequent transit.*”

and directed by Berkeley’s General Plan to:

“[e]ncourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in *areas with above-average transit service* such as Downtown Berkeley.”

This perspective pre-supposes that densification is not a serious goal beyond existing heavily used transit corridors, or beyond cities that are already dense. Plan Bay Area forecasts the need for 800,000 new housing units by 2040. It seems doubtful that so much new housing can be built only around existing transit lines. Recent state legislation for infill housing fell victim to this kind of limited thinking.

In other parts of the world, TOD includes community scale planning with new transit service in mind, not just placing new homes near existing heavily used transit. We need to expand the mindset of housing development in the Bay Area to one of transit *coordinated* development (TCD). We need suburban infill housing developed in concert with public transit strategies, and educational, recreational and commercial services. Infill housing and transit alone do not address human needs for social, commercial and fitness activities. Enhancement of ecological surroundings is also important. A comprehensive TCD approach would improve the quality of life in many ways, serve as an attractor to development and significantly reduce GHG emissions.

Note that a substantial amount of new housing units in the suburbs will need to be subsidized for the reasons described above. Affordable and workforce housing is critical for every Bay Area city and county. Plan Bay Area has set forth affordable housing goals for the whole region, but so far every city is failing. Taking a comprehensive TCD approach would make such infill projects more relevant and attractive to existing residents.

One action cities such as Berkeley can take is to change zoning restrictions to eliminate R-1 zoning. Berkeley's General Plan institutionalizes R-1 low density housing:

"These areas are generally characterized by single-family homes. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from one to 10 dwelling units per net acre, not including secondary units, and the *population density will generally not exceed 22 persons per acre.*"[Emphasis added.]

The recent move to allow Accessory Dwelling Units is too restrictive to increase density to the extent needed on the land that is most available. It also preserves privilege, in failing to foster home ownership for additional residents.

Berkeley's R-1 zoning is visually correlated with the legacy of red-lining. Its perpetuation restricts growth in areas with the most open land that could support densification. There is quite a lot of aging housing stock in the Berkeley that needs significant renovation, including in R-1 zones. Under current policies, large houses in R-1 cannot be subdivided to allow for more occupants. As a result when modernized they grow larger and more luxurious, a sort of "deep gentrification." It's well documented, but rarely acknowledged, that such consumption drives GHG emission increases.

If the zoning was changed and subsidies provided, we could see small scale condo development like is happening in areas with higher density zoning, and much lower average household CO2e emissions because all the infill would be natural gas free as well as house more people. We could also reverse gentrification and truly become a city that prioritizes diversity. Increased density in R-1 areas would facilitate increased transit service and car sharing, and reduce congestion in shopping corridors. The fact is, many people actually spend little free time in their homes and gardens, preferring to recreate elsewhere, and even when self or contractually employed, preferring to go to work spaces and coffee shops with other people. Children in R-1 zones don't generally play in their neighborhoods, but are shuttled daily to many activities, increasing VMT. Densifying housing in R-1 areas could eventually prompt further zoning changes along the more major roads already served by public transit leading to infill services and commercial development there as well such as the two small and well used commercial districts in Kensington. The result could very well be both environmentally preferable and lead to an increase in our city-wide happiness quotient. Human happiness is correlated with low economic disparity. Our zoning ordinances should be reviewed to see how they amplify disparity and/or inhibit community happiness and act as a bias toward creating GHGs.

### **VII.3. Low Emissions Public Transportation Infrastructure**

#### **Public Transportation Recommendations**

*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions for accelerating a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations.*

1. Work with AC Transit to convert all public transit to EVs.
2. Work with AC Transit and major employers to expand existing bus service and add all manner of appropriately sized bus and shuttle services, including into the suburbs.
3. Work to create dedicated bus/shuttle-only lanes on all bridges, freeways and major streets.
4. Work to normalize ride sharing.
5. Work with MTC, regional transit providers and the state to augment subsidies such that public transit is affordable for all.
6. Lobby the state to regulate ride hailing services to reduce overall per capita VMT.

### **Discussion**

MTC distributes enormous sums of money and wields huge power over regional transportation decisions but has not seriously addressed how the region can mitigate climate pollutants from transportation. As a start we need to press MTC to set clean transportation goals commensurate with the damage to our climate that dirty transportation has wrought and the urgency to make drastic emission cuts by 2030. The goal setting process must include a planning document showing the path to take, and policy commitment to achieve the goals.

The Bay Area's freeways are already some of the most crowded in the nation. As housing affordability has worsened, more people are commuting farther distances to their Bay Area jobs. According to MTC, time spent in weekly traffic in the Bay Area shot up 80% between 2010 and 2016. All this traffic is increasing transportation emissions, with no end in sight. Clearly there is a need for increased transportation options, and they need to be carbon free. To expand clean public transits as quickly as possible, light rail is not likely to play a large role. EV buses and shuttles can be built and routed in the time frame we need.

Given the number of tech workers (living all over the region, including the suburbs) who now take buses to their jobs, it is clear that old ideas about who will use bus transit is completely obsolete.

Like housing, transportation is an equity issue. All driving services, public or private, should be required to provide a living wage to drivers. Likewise, we cannot expand public transportation services without massive investment to assure affordability for all. This is a wealthy region that can afford such investments. Significant wealth generated

in this region is also sent to Sacramento. We need the state to assist in subsidizing the transition to clean, affordable public transit available to all.

**On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal.”**

### **Carbon Sink Recommendations**

1. Plant more trees.
2. Apply compost (and biochar where possible) to city parks, median strips and generally all planted areas.
3. Support use of low carbon construction materials both in municipal buildings and commercial and residential projects.
4. Support urban farming: for example through recently adopted urban farming policies and also planting suitable edible perennials in public spaces.
5. Support citywide programs, such as the Ecology Center’s farmers market program, that give all residents access to fresh, organic, regionally grown foods.

### **Discussion**

Carbon sequestration is an essential component of comprehensive state, national and global efforts to meet climate change reduction goals. The October 9, 2018 UN IPCC report recommends that at least 1000 gigatons of CO<sub>2</sub> be removed from the atmosphere and sequestered by the end of the century. A wide range of strategies are being looked at to remove and sequester atmospheric carbon. The most promising strategies, biological sequestration, rely on natural processes, including afforestation and carbon farming. The California Air Resources Board is already providing Cap and Trade funds to support and expand these promising approaches to carbon sequestration.

Because of the density of habitation, Berkeley is unlikely to be able to be a carbon sink until annual emissions have been reduced by about 99%. Citywide CO<sub>2</sub> emissions totaled 640,000 metric tons in 2015. With roughly 6 square miles of space not covered with buildings and roads, only a very small fraction of these annual emissions could be offset with biological sequestration.<sup>14</sup>

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<sup>14</sup> Background for Carbon Sink section:

*Carbon sequestering buildings:* While using rapidly renewable materials such as wood, straw and bamboo can sequester carbon in buildings, the amount is quickly offset by the vastly greater energy intensity of metals, plastics and concrete required in taller buildings and

While not having significant climate benefits, carbon sequestering strategies such as afforestation and application of biochar to the soil can have health and resilience benefits for the city residents improving air quality and local sources of food.

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seismically active zones. In Berkeley, the effects of low carbon footprint construction can at best lower the carbon footprint of an individual building, which is important. However, it cannot provide a means to offset carbon emissions in the city generally.

*Biological sequestration in soil:* It is practical to sequester carbon from the atmosphere in two ways, changing farming practices to capture more carbon in soils, and reversing deforestation. (It is also possible to capture CO<sub>2</sub> from the air but because of the low concentration of CO<sub>2</sub> in the air, the cost is prohibitive. Sequestering the captured CO<sub>2</sub> is also expensive, requiring either mineralization or pressurization in a natural cavern (think Aliso Canyon) which is not present in Berkeley.)

Berkeley is 10.5 square miles. If 40% is impervious surfaces, then approximately 6.3 square miles would be available for carbon sequestration.

( [https://en.wikipedia.org/wiki/Impervious\\_surface#Total\\_impervious\\_area](https://en.wikipedia.org/wiki/Impervious_surface#Total_impervious_area) ) If the City and its residents were to implement ambitious carbon building land management practices, the land could optimistically sequester 2 metric tons of CO<sub>2</sub> per acre annually or about 8000 metric tons of CO<sub>2</sub>. ( Soil Carbon Restoration: Can Biology do the Job? by Jack Kittredge, policy director, NOFA/Mass [www.nofamass.org](http://www.nofamass.org) August 14, 2015) This compares to annual emissions of approximately 640,000 metric tons.

*Purchasing carbon offsets:* Carbon offsets cost between \$5.50 and \$29 per ton of CO<sub>2</sub>. Taking the average, it would cost \$1.1 mill to offset 640,000 metric tons or about \$90 per resident. ( <https://www.whatitcosts.com/carbon-offsets-cost-prices/> ) However, purchasing carbon offsets should be discouraged since it transfers money away from Berkeley without addressing our local objective of becoming fossil free.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Support impeachment actions to immediately remove the 45th President of the United States

#### RECOMMENDATION

Adopt a Resolution supporting impeachment efforts to immediately remove the 45th President of the United States

#### BACKGROUND

Since the inauguration of Donald Trump as the 45th President of the United States in January 2017, he and his administration have been mired in violations, scandals, lawsuits, spreading fear and encouraging racism and hate. Within his first two weeks of his term, 55 lawsuits were filed against the President (compared to 14 lawsuits for the last three Presidents combined during the same period).

Leading constitutional scholars and government ethics experts warned Mr. Trump shortly after the November 2016 election that, unless he fully divest his businesses and invest the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office.

On January 25, 2017, President Trump signed an executive order that would cut funding to Sanctuary Cities, including the City of Berkeley, despite the court's ruling in the past that the federal government can only remove funding related to a specific policies, and that the federal government cannot threaten to cut funding in order to coerce action. President Trump has continuously threatened Berkeley with his social media comments.

At the March 28, 2017 Berkeley City Council Meeting, the Council unanimously approved "A Resolution supporting an investigation into the impeachment of President Trump and sending a copy of the Resolution to Congresswoman Barbara Lee", joining several cities nationwide that have passed resolutions supporting an investigation into the impeachment of the President of the United States.

Since Mr. Trump took office, he and his administration and associates has been in violation of the United States Constitution and countless laws. These violations undermine the integrity of the Presidency, corruptly advance the personal wealth of the President, and violate the public trust. According to [RootsAction.org](http://RootsAction.org), an organization launched on inauguration day, Mr. Trump, his administration and associates have engaged in countless violations since January 2017 include but are not limited to:

the articles of impeachment are as follows, as of October 17, 2019:  
Incitement of Violence

Interference With Voting Rights  
Discrimination Based On Religion  
Illegal War  
Illegal Threat of Nuclear War  
Obstruction of Justice  
Politicizing Prosecutions  
Collusion Against the United States with a Foreign Government  
Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria  
Separating Children and Infants from Families  
Illegally Attempting to Influence an Election  
Tax Fraud and Public Misrepresentation  
Assaulting Freedom of the Press  
Supporting a Coup in Venezuela  
Unconstitutional Declaration of Emergency  
Instructing Border Patrol to Violate the Law  
Refusal to Comply With Subpoenas  
Declaration of Emergency Without Basis In Order to Violate the Will of Congress  
Illegal Proliferation of Nuclear Technology  
Illegally Removing the United States from the Intermediate-Range Nuclear Forces Treaty  
Seeking to Use Foreign Governments' Resources Against Political Rivals  
Refusal to Comply with Impeachment Inquiry  
Violation of Constitution on Domestic Emoluments  
Violation of Constitution on Foreign Emoluments  
Incitement of Violence  
Interference With Voting Rights  
Discrimination Based On Religion  
Abuse of Pardon Power  
Obstruction of Justice  
Politicizing Prosecutions  
Collusion Against the United States with a Foreign Government  
Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria  
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Illegal Proliferation of Nuclear Technology  
Illegally Removing the United States from the Intermediate-Range Nuclear Forces Treaty  
Seeking to Use Foreign Governments' Resources Against Political Rivals  
Refusal to Comply with Impeachment Inquiry

#### FISCAL IMPACTS OF RECOMMENDATION

There is no financial impact to adopt this resolution.

#### ENVIRONMENTAL SUSTAINABILITY

The 45th President of the United States has a long record of reversing and destroying years of hard work of legislative measures to protect the environment, immigrant rights, DACA, the list is long and ongoing. Should the impeachment process result in the removal of the 45th President

of the United States, it presents an opportunity to stop further damage to the environment, humanitarian goals and constitutional rights.

CONTACT PERSON

Cheryl Davila  
Councilmember, District 2  
510.981.7120, cdavila@cityofberkeley.info

ATTACHMENTS:

1. Resolution

RESOLUTION NO. ##,###-N.S.

RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA IN SUPPORT OF IMPEACHMENT ACTIONS TO IMMEDIATELY REMOVE THE 45th PRESIDENT OF THE UNITED STATES

WHEREAS, All elected officials nationwide, from City Councilmembers to the President of the United States takes a solemn oath to faithfully execute the duties of the Office to the best of his or her ability, and to preserve, protect and defend the Constitution of the United States; and

WHEREAS, this oath commands all who swear by it to put the interests of the United States before one's own, to protect the liberties the Constitution bestows before protecting oneself, and to faithfully serve the people of the United States without pause for self-preservation; and

WHEREAS, Our democracy is premised on the bedrock principle that no elected official is above the law, not even the President of the United States;

WHEREAS, Article II, Section 4 of die United States Constitution gives the people of the United States, through their duly elected representatives, the right to impeach the President of the United States for Treason, Bribery, or other high Crimes and Misdemeanors; and

WHEREAS, the United States of America, so enshrined in its Constitution, is served by three co-equal branches of government, the Executive, Legislative, and Judiciary, each of which carry checks and balances to protect the nation from tyranny and preserve the gifts of liberty and justice for all its people; and

WHEREAS, Leading constitutional scholars and government ethics experts warned Donald J. Trump shortly after the November 2016 election that, unless he fully divested his businesses and invested the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office.

WHEREAS, on January 20, 2017, Donald Trump took the oath of office and became the 45th President of the United States; and

WHEREAS, from the moment he took office, President Trump was in violation of the Foreign Emoluments Clause and the Domestic Emoluments Clause of the United States Constitution; and

WHEREAS, on January 23, 2017, Citizens for Responsibility and Ethics in Washington filed a lawsuit against President Trump alleging violations of the Emoluments Clause due to his company's international business dealings and failing to fully divest from his company and business interests; and

WHEREAS, President Trump's continual use of blatantly unfounded comments that millions of Americans committed voter fraud threatens to undermine the sanctity of the American democratic process; and

WHEREAS, President Trump has violated the freedom of the press guaranteed under the First Amendment of the United States Constitution by attacking the media, discrediting news groups who have journalistically criticized him as "fake news" and forcefully blocking the press at press conferences; and

WHEREAS, on January 25, 2017, President Trump signed an executive order that would

cut funding to Sanctuary Cities, including the City of Berkeley, despite the court's ruling in the past that the federal government can only remove funding related to a specific policies, and that the federal government cannot threaten to cut funding in order to coerce action; and

WHEREAS, at the March 28, 2017 Berkeley City Council Meeting, the Council unanimously approved "A Resolution supporting an investigation into the impeachment of President President Trump and sending a copy of the Resolution to Congresswoman Barbara Lee", joining several cities nationwide that have passed resolutions supporting an investigation into the impeachment of the President of the United States; and

WHEREAS, on May 9, 2017, President Trump interfered with the investigation of his Presidency by firing James Comey, the Director of the Federal Bureau of Investigation, who was leading one or more investigations that might have incriminated President Trump and/or his close associates.

WHEREAS, on August 26, 2017, President Trump abused the pardon power of the President, pardoned Joseph Arpaio, the former Arizona Sheriff who was convicted of criminal contempt of court for willfully and openly defying a judicial order to cease a practice, which the court found to be unconstitutional, of detaining people, based on their presumed Latino ancestry, without reasonable suspicion that they had committed any crime. In our nation's history no previous president has ever pardoned a public official convicted of criminal contempt of court for willfully disobeying a court order to stop violating individuals' constitutional rights. The pardon under mines separation of powers and due process of law by allowing an official to skirt a judicial mandate without consequences.

WHEREAS, President Trump reportedly informed a United States senator that he would bomb North Korea if it continued testing missiles. Available public evidence suggests that Donald J. Trump does not understand, and/or is unwilling or unable to understand, the risks of the use of nuclear weapons, or of how the North Korean leadership could interpret or misinterpret his verbal threats or movement of military forces as military attacks that lead them to respond with conventional or nuclear attacks on the United States or other nations,

WHEREAS, President Trump's reckless threats of nuclear war against foreign nations, undermining and subverting the essential diplomatic functions and authority of federal agencies, including the United States Department of State, and other conduct that heightens the risk of hostilities involving weapons of mass destruction, grossly and wantonly endanger the peace and security of the United States, its people and people of other nations, with reckless disregard for the risk of death and grievous bodily harm,

WHEREAS, President Trump has issued public statements, including on Twitter, pressuring the U.S. Department of Justice and the Federal Bureau of Investigation to investigate Hillary Clinton, the Democratic Party, and other political adversaries,

WHEREAS, President Trump has issued public comments on other pending criminal and court-martial proceedings, with the evident purpose to direct and influence the prosecution and outcome of specific proceedings, to the detriment of the independence of law enforcement from command influence and in derogation of the right to a fair trial,

WHEREAS, President Trump has directed or endeavored to direct law enforcement, including the Department of Justice and the Federal Bureau of Investigation, to investigate and prosecute political adversaries and others, for improper purposes not justified by any lawful function of his office, thereby eroding the rule of law, undermining the independence of law enforcement from politics, and compromising the constitutional right to due process of law,

WHEREAS, President Trump has repeatedly attacked major U.S. news organizations as “fake news” and “the enemy of the American people,” and abused the power of his office in an effort to retaliate against the independent press, thus undermining the freedom of the press at home and abroad;

WHEREAS, President Trump, through his administration, has cruelly and deliberately imprisoned children who have committed no crime, separately from their parents, in violation of fundamental human rights of both parents and children in contravention of the Constitution, in some cases resulting in permanent separation of children from their parents due to government action, in violation of due process of law and the prohibition against cruel and unusual punishments;

WHEREAS, President Trump stands accused by his own personal attorney of having made and directed payments of “hush money” to prevent two former mistresses from speaking publicly about his extramarital affairs, for the purpose of influencing the 2016 election, and in violation of federal campaign finance law;

WHEREAS, the Logan Act (1 Stat. 613, 18 U.S.C. § 953) is a long-standing law which criminalizes negotiation with foreign governments by private citizens and/or unauthorized persons; and

WHEREAS, a recently released transcript summary of President Trump's phone call with Ukraine President, Volodymyr Zelensky, shows that the President urged Zelensky to investigate former Vice President and current Democratic presidential candidate, Joe Biden and his son, Hunter Biden, who had who sat on the board of a Ukrainian natural gas company; and

WHEREAS, President Trump further indicated on the July 25 call that he would have his personal attorney, Rudy Giuliani, contact President Zelensky regarding the requested investigation, stating, "I will have Mr. Giuliani give you a call and I am also going to have Attorney General Barr call and we will get to the bottom of it. I'm sure you will figure it out"; and

WHEREAS, the House of Representatives, led by Speaker Nancy Pelosi, has opened an impeachment inquiry into the actions of President Donald J. Trump, seeking, among other information, the whistleblower's report; and

WHEREAS, in October 2019, Vice President Mike Pence and President Trump's personal attorney Rudy Giuliani refuses to cooperate with the impeachment inquiry, another evidence of obstruction of justice;

WHEREAS, many members of the House of Representatives, including the Chair of the House Intelligence Committee, Congressman Adam Schiff, have dutifully executed their duty to investigate potential crimes and abuses of power by the President of the United States, revealing a number of grave abuses of power and potentially treasonous conduct by the President and his Administration; and

NOW, THEREFORE, BE IT RESOLVED, Berkeley City Council, hereby supports impeachment actions to immediately remove the 45th President of the United States, and further supports any legislative or administrative action that would advance the impeachment inquiry into President Donald Trump opened by Speaker Nancy Pelosi and the U.S. House of Representatives, and supports the investigation of this President for actions which may amount to Treason, Bribery or high Crimes and Misdemeanors; and

BE IT FURTHER RESOLVED Berkeley City Council directs the City Clerk or designee to submit copies of this resolution to United States House of Representatives: Speaker Nancy Pelosi, as

well as Congresswoman Barbara Lee, Alexandria Ocasio-Cortez, Rashida Tlaib and Ayanna Pressley; and

BE IT FURTHER RESOLVED, Berkeley City Council call upon the United States House of Representatives to support a resolution authorizing and directing the Committee on the Judiciary of said House to investigate whether sufficient grounds exist for the impeachment of Donald Trump, President of the United States, including but not limited to the following violations:

- (1) violating the Foreign Emoluments Clause and Domestic Emoluments Clause of the United States Constitution;
- (2) obstructing justice;
- (3) conspiring with others to: (a) commit crimes against the United States involving the solicitation and intended receipt by the Donald J. Trump campaign of things of value from a foreign government and other foreign nationals; and (b) conceal those violations;
- (4) advocating illegal violence, giving aid and comfort to white supremacists and neo-Nazis, and undermining constitutional protections of equal protection under the law;
- (5) abusing the pardon power;
- (6) Illegal Threat of Nuclear War
- (7) recklessly threatening nuclear war against foreign nations, undermining and subverting the essential diplomatic functions and authority of federal agencies, including the United States Department of State, and engaging in other conduct that grossly and wantonly endangers the peace and security of the United States, its people and people of other nations, by heightening the risk of hostilities involving weapons of mass destruction, with reckless disregard for the risk of death and grievous bodily harm;
- (8) Illegal War
- (9) Obstruction of Justice
- (10) directing or endeavoring to direct law enforcement, including the Department of Justice and the Federal Bureau of Investigation, to investigate and prosecute political adversaries and others, for improper purposes not justified by any lawful function of his office, thereby eroding the rule of law, undermining the independence of law enforcement from politics, and compromising the constitutional right to due process of law;
- (11) undermining the freedom of the press;
- (12) cruelly and unconstitutionally imprisoning children and their families; and
- (13) making and directing illegal payments to influence the 2016 election.
- (14) Incitement of Violence Nationwide
- (15) Interference With Voting Rights
- (16) Discrimination Based On Religion
- (17) Politicizing Prosecutions
- (18) Collusion Against the United States with a Foreign Government
- (19) Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria
- (20) Separating Children and Infants from Families
- (21) Illegally Attempting to Influence an Election
- (22) Tax Fraud and Public Misrepresentation
- (23) Assaulting Freedom of the Press
- (24) Supporting a Coup in Venezuela
- (25) Unconstitutional Declaration of Emergency
- (26) Instructing Border Patrol to Violate the Law
- (27) Refusal to Comply With Subpoenas
- (28) Declaration of Emergency Without Basis In Order to Violate the Will of Congress
- (29) Illegal Proliferation of Nuclear Technology
- (30) Illegally Removing the United States from the Intermediate-Range Nuclear Forces Treaty
- (31) Seeking to Use Foreign Governments' Resources Against Political Rivals
- (32) Refusal to Comply with Impeachment Inquiry

BE IT FURTHER RESOLVED that the Berkeley City Council call upon the California State Assembly and Senate to adopt its own resolution calling upon the United States House of

Representatives to support a resolution authorizing an investigation into whether sufficient grounds exist for the impeachment of Donald J. Trump, President of the United States; and direct the City Clerk or designee to submit copies of this resolution to State Assemblymember Buffy Wicks and State Senator Nancy Skinner;





Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Kate Harrison and Sophie Hahn  
Subject: Healthy Checkout Ordinance

RECOMMENDATION

1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.

POLICY COMMITTEE TRACK

Health, Life Enrichment, Equity and Community

FINANCIAL IMPLICATIONS

1. Implementation of the ordinance would require staff time to educate the approximately 25 stores about what is required of them to comply with the ordinance. The Center for Science in the Public Interest could provide technical assistance including a suggested list of products that meet the criteria of the ordinance. Healthy Berkeley funded programs could also assist with store education and monitoring. Community partners could assist with implementation.
2. Enforcement of the ordinance may be incorporated into the regular inspections of food retailers conducted by the City. Spot checks of items sold in each aisle could monitor compliance.
3. The City-held public meetings for retailers and community residents to share their input will require time from the Commission secretaries.

BACKGROUND

Today's food landscape plays a large role in determining what people purchase and consume. Unhealthy food and beverages are promoted and placed repeatedly throughout retail stores. Cheap, ready-to-eat foods high in salt, saturated fat, and added sugars dominate checkout aisles, where shoppers are more likely to make impulse purchases and where parents struggle with their children over demands to buy treats at the end of a shopping trip.

This ordinance would require all stores over 2,500 square feet in size that sell at least 25 linear feet of food to follow the requirements for Healthy Checkout, as written in the

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ordinance, the specifics of which are to be determined in the policy committee process. This would impact approximately 25 stores in Berkeley, including Safeway, Whole Foods, CVS, Walgreens, Berkeley Bowl, and Monterey Market.

### ***Health Impacts of Sugar and Sodium Consumption and Related Disease Disparities***

Impulse buying at checkout contributes to the high levels of sugar consumption in American diets. There has been much research and media attention<sup>1</sup> about the health impacts of excessive added sugar intake, including elevated risk of tooth decay, heart disease, and Type 2 diabetes.<sup>2</sup> The adverse health effects of added sugar consumption further entrench health disparities, burdening people of color more than white populations. Currently, Type 2 diabetes is on the rise across the country; one in three children and one of two children of color will be diagnosed in their lifetime.<sup>3</sup>

Diets that are high in sodium are linked to high blood pressure, heart disease, and stroke,<sup>4</sup> all of which disproportionately affect African Americans and communities of color.<sup>5</sup>

Berkeley also has health disparities in diet-related disease. In 2014, African American residents were four times more likely than White residents to be diagnosed with diabetes and 14 times more likely to be hospitalized due to its effects.<sup>6</sup> This gap has decreased since 2014, but the disparity continues to exist.<sup>7</sup> Rates of hospitalization for heart disease and high blood pressure are also significantly higher among African-American residents than White and Latino residents.<sup>5</sup>

### ***Checkout Areas of Grocery Stores Contribute to the Problem***

Consumers are trying to make healthier purchases. A 2019 report found that 73 percent of shoppers are concerned about the nutritional content of their food.<sup>89</sup>

Despite consumer desire to select healthier foods, unhealthy foods are prevalent in checkout areas in a wide variety of retail stores. A national study of 8,600 stores – including supermarkets, convenience stores, drug stores, and dollar stores – found that 88 percent display candy at checkout and one-third (34 percent) sell sugar-sweetened beverages.<sup>10</sup> Only 24 percent of stores sell water at checkout, and only 13 percent sell fresh fruits or vegetables at checkout.<sup>8</sup> Almost all supermarkets (91 percent) display candy and 85 percent sell soda and other sugary drinks at checkout.<sup>8</sup>

In 2018, a Berkeley-based youth group assessed a sample of 35 Berkeley stores including Walgreens, Safeway, Trader Joes, Target, Berkeley Bowl, Dollar Tree and others. Data was collected from 16,404 facings, which are the display of a single product on the shelf (not including the items stacked behind it). They found that 69 percent of beverages and 81 percent of foods sold in the checkout area of surveyed stores were considered unhealthy using the [National Alliance for Nutrition and Activity Model Nutrition Standards for Checkout](#).<sup>11</sup>

Research shows that food choices are strongly affected by the environments in which they are made. The aim of placing food and beverages at checkout is to induce

unplanned purchases; thus, unhealthy checkout options undermine consumers' efforts to purchase healthier foods.<sup>12</sup> The placement of snacks near the register increases the likelihood that people purchase those foods.<sup>13</sup> In addition, most of the candy, soda, and chips in checkout aisles are placed at eye-level and within reach of children, undermining parents' efforts to feed their children well.<sup>14</sup>

Three-quarters of parents report that it is hard to shop at grocery stores because unhealthy food is so prevalent.<sup>15</sup> Healthy checkout aisles provide all families more opportunities to say yes to their kids.

### ***Grocery Stores are a Prime Place for Policy Change***

Grocery stores are Americans' top source for food and beverages, providing more than 60 percent of calories.<sup>16</sup> Ninety percent of Supplemental Nutritional Assistance Program (SNAP) dollars are redeemed at supermarkets and grocery stores.<sup>17</sup> Though grocery stores sell a wide range of healthy products, they are also the largest contributor of unhealthy food and beverages to the diet. Seventy percent of the sugary beverages children consume come from food retail.<sup>18</sup>

Sugary drinks are promoted repeatedly throughout stores; appearing in as many as 25 different places in a single grocery store.<sup>19</sup> At checkout, these drinks make up 60% of beverage offerings.<sup>20</sup>

For all these reasons, grocery store checkout lanes are an ideal place to begin changing norms around healthy snacks and drinks.

### ***Strategies to Reduce Sugar Consumption in Berkeley***

In 2014, Berkeley became the first city in the country to tax the distribution of sugar sweetened beverages. In the last five years, the City created the Healthy Berkeley program which supports the Berkeley Unified School District garden education program as well as community programs that educate residents about nutrition and are changing norms around beverage choice.

This ordinance is another effort to create a healthy food environment that would support families by providing them the ability to avoid high-calorie, low-nutrient food and beverages when they do their grocery and other shopping. Individuals and families who want to purchase sugary drinks, candy, chips, and other sweet and salty snacks will be able to find them in their respective aisles in the center of stores. By changing checkout norms, shoppers and their children face less temptation to consume sugary foods and there is less reinforcement of these unhealthy choices.

### ***Berkeley Residents are Demanding Checkout Changes***

In 2018, Berkeley-based youth advocates conducted four focus groups where adults and adolescents unanimously supported removing unhealthy food and beverages from grocery store checkout lanes and requiring stores to have healthy checkout aisles. Participants suggested retailers stock checkout with water, fruit juice, coffee, and tea. They also requested that gum, mints and healthy snacks be available. Using the National Alliance for Nutrition and Activity standards as a guide, this ordinance aims to

create checkout aisles where beverages with no added sugars or artificial sweeteners, such as 100% juice and water are considered healthy beverages, and where healthy snacks are predominantly fruits, nuts, and vegetables.

In order to streamline implementation and enforcement, the proposed Healthy Checkout Ordinance restricts added sugars and sodium for food products sold at checkout.

### ***Healthy Checkout Reduces Impulse Buying of Sugary Snacks and Drinks***

A recent study by the University of Cambridge analyzed purchasing data for common unhealthy checkout foods from 2013-2017 in nine U.K. supermarket chains. They found that consumers purchased 17 percent fewer sweets, chocolate and potato chips. One year later the decline in unhealthy purchases remained steady at 16 percent.<sup>1</sup>

The Healthy Checkout Ordinance will create a level playing field for customers and retailers and support consistent, healthy snacking norms for shoppers and families.

### ***Reducing Unhealthy Food and Beverages Sold at Checkout in Berkeley: Ordinance Elements***

The attached ordinance (Attachment 1):

- limits food and beverage products sold at the checkout area;
- applies to approximately 25 stores in Berkeley that are over 2,500 square feet (see attached) and have more than 25 linear feet of food for sale; and
- allows only beverages with no added sugars and no artificial sweeteners and food items with limited calories, added sugars, and sodium to be sold in the checkout area.

The attached ordinance still has some unanswered questions that will require input from public health advocates, City staff, food retailers, and the policy committee. Those questions are:

- how to define healthy food, and what parameters are most appropriate;
- date of implementation;
- appropriate definition of “checkout area”. The attached draft ordinance includes the definition of “checkout area” as defined in AB 765, but that definition may not appropriately reflect the needs of all large retail stores in Berkeley.

### **RATIONALE FOR RECOMMENDATION**

Requiring the approximately 25 stores to follow the requirements for Healthy Checkout would eliminate the encouragement of unplanned purchases of unhealthy foods and beverages. Such a change would thus contribute to healthy norms and reduce the consumption of sugary drinks and unhealthy foods in the City of Berkeley.

### **ALTERNATIVES CONSIDERED**

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In February 2019, Assemblymember Buffy Wicks introduced AB 765, a bill which would implement Healthy Checkout statewide. However, as the bill has not advanced from committee since April, progress at the state level is not guaranteed.

CONTACT PERSON

Kate Harrison, District 4

ATTACHMENTS:

1: Draft Ordinance

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- <sup>1</sup> Brody, JE. The Downside of Having a Sweet Tooth. *The New York Times*. July 22, 2019. <https://www.nytimes.com/2019/07/22/well/eat/the-downside-of-having-a-sweet-tooth.html>.
- <sup>2</sup> U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2015–2020 Dietary Guidelines for Americans 8th Edition*. Washington, DC; HHS and USDA, 2015.
- <sup>3</sup> *Lancet Diabetes Endocrinol*. 2014 Nov;2(11):867-74. doi: 10.1016/S2213-8587(14)70161-5. Epub 2014 Aug 12.
- <sup>4</sup> <https://www.hsph.harvard.edu/nutritionsource/salt-and-sodium/>
- <sup>5</sup> <https://www.cdc.gov/mmwr/volumes/67/ss/ss6705a1.htm>
- <sup>6</sup> City of Berkeley. *Health Status Report 2014*. Berkeley, CA; 2014.
- <sup>7</sup> City of Berkeley. *Health Status Report 2018*. Berkeley, CA; 2018.
- <sup>8</sup> Food Marketing Institute. *The Power of Health and Well-Being in Food Retail*. Arlington, VA: FMI; 2019.
- <sup>9</sup> International Food Information Council Foundation. *2019 Food & Health Survey*. Washington, D.C.: IFIC; 2019.
- <sup>10</sup> Barker D, Quinn C, Rimkus L, Zenk S, Chaloupka F. *Availability of Healthy Food Products at Check-out Nationwide, 2010-2012*. Chicago, IL: Bridging the Gap Program, Health Policy Center, Institute for Health Research and Policy, University of Illinois at Chicago; 2015.
- <sup>11</sup> The Center for Science in the Public Interest. *Model Nutrition Standards for Checkout*. <https://cspinet.org/protecting-our-health/nutrition/model-nutrition-standards-checkout>.
- <sup>12</sup> Center for Science in the Public Interest. *Temptation at Checkout: The Power of Point-of-Sale Retail Food Marketing*. Washington, D.C.: CSPI; 2015.
- <sup>13</sup> Kerr J, Sallis JF, Bromby E, Glanz K. Assessing Reliability and Validity of the GroPromo Audit Tool for Evaluation of Grocery Store Marketing and Promotional Environments. *J Nutr Educ Behav*. 2012;44(6):597-603. doi:10.1016/j.jneb.2012.04.017.
- <sup>14</sup> Horsley JA, Absalom KA, Akiens EM, Dunk RJ, Ferguson AM. The Proportion of Unhealthy Foodstuffs Children Are Exposed to at the Checkout of Convenience Supermarkets. *Public Health Nutr*. 2014;17(11):2453-2458.
- <sup>15</sup> Caravan ORC International. *Checkout Polling: Online Survey of 1,024 adults*. Princeton, NJ; 2016.
- <sup>16</sup> Mancino L, Guthrie J. *Supermarkets, Schools, and Social Gatherings: Where Supplemental Nutrition Assistance Program and Other U.S. Households Acquire their Foods Correlates with Nutritional Quality*. Washington, DC: U.S. Department of Agriculture Economic Research Center; 2018.
- <sup>17</sup> U.S. Department of Agriculture Food and Nutrition Service. *2015 SNAP Retailer Management Year-End Summary*. Washington, D.C.: USDA; 2015.
- <sup>18</sup> Poti JM, Slining MM, Popkin BM, Kenan WR. Where are kids getting their empty calories? Stores, schools, and fast food restaurants each play an important role in empty calorie intake among US children in 2009-2010. *J Acad Nutr Diet*. 2014;114(6):908-917. doi: 10.1016/j.jand.2013.08.012.
- <sup>19</sup> Cohen DA, Bogart L, Castro G, Rossi AD, Williamson S, Han B. Beverage marketing in retail outlets and The Balance Calories Initiative. *Prev Med*. 2018;115:1-7.
- <sup>20</sup> Fielding-Singh P, Almy J, Wootan MG. *Sugar Overload: Retail Checkout Promotes Obesity*. Washington, DC: Center for Science in the Public Interest, 2014.

ORDINANCE NO. -N.S.

ADDING CHAPTER 9.82 TO THE BERKELEY MUNICIPAL CODE "HEALTHY CHECKOUT"

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code is amended to read as follows:

**9.82.010. Findings and Purpose.**

The City of Berkeley hereby finds and declares as follows:

- A. Diets with an excess of added sugars and sodium are correlated to chronic health issues including diabetes, high blood pressure, and stroke.
- B. Grocery stores are Americans' top source for food and beverages, contributing an average of 60% of caloric intake.
- C. Food choices are strongly affected by the environments in which they are made. The placement of unhealthy snacks near a register increases the likelihood that consumers will purchase those foods and drinks, thus undermining consumer health choices and public health initiatives.
- D. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
- E. This Chapter is consistent with the General Provisions of Environmental Health of the City (Berkeley Municipal Code 11.04).

**9.82.020. Definitions.**

- A. Added Sugars shall mean sugars added during the processing of food and beverages, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, as defined in Section [101.9](#) of Title 21 of the Code of Federal Regulations.
- B. Artificial Sweetener shall mean sweeteners with few to no calories that have a higher intensity of sweetness per gram than sucrose.
- C. Category List shall mean the list of foods and beverages which meet the standards of BMC 9.82.030.
- D. Checkout Area shall mean any area that is accessible to a customer of the Large Retail Store that is
  - i. within **XX** feet of any Register; or
  - ii. in an area in the Large Retail Store which is designated only for

customers to wait in line to make a purchase.

- E. "Register" shall mean a device used for monetary transactions that calculates the sales of goods and displays the amount of sales for the customer.
- F. "Large Retail Store" shall mean a commercial establishment selling goods to the public with a total floor area of 2,500 square feet or more and selling 25 linear feet or more of food.

**9.82.030. Healthy Checkout Areas.**

Each Large Retail Store shall, at all hours during which the Large Retail Store is open to the public, ensure that the only foods and beverages available in all checkout areas meet the standards in Sec 9.82.030 A-B:

- A. Beverages with no added sugars and no artificial sweeteners.
- B. Food items with no more than XX calories, XX grams of added sugars, and XX grams of sodium.

**9.82.040. Enforcement.**

- A. The City is hereby authorized to issue all rules and regulations consistent with this ordinance, including, but not limited to, fees for re-inspection.
- B. Compliance with this Chapter shall be administered by the City during regular inspections of qualifying Large Retail Stores. The City may require a Large Retail Store to provide such information as may be necessary to determine the Large Retail Store's compliance with this Chapter.

**9.82.050. Violation--Penalty.**

- A. A Large Retail Store that violates any provision of this chapter may be subject to administrative citations pursuant to Chapter [1.28](#) of this Code.
- B. This section shall not limit the City from recovering all costs associated with implementing this chapter or investigating complaints pursuant to fee resolution.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

**9.82.060. Effective Date.**

This ordinance and the legal requirements set forth herein shall take effect and be in force XX.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kate Harrison  
Subject: Request for Information: Police Dispatch

RECOMMENDATION

Refer to the City Manager a request for information clarifying:

- 1) when non-emergency phone calls to the police are directed to the Berkeley Police Department and when to the California Highway Patrol or other outside agencies, and
- 2) what staffing or technological changes would be needed to direct more calls to Berkeley dispatch.

BACKGROUND

Berkeley's police dispatch is staffed by 23.5 FTE highly trained civilian dispatchers, who receive both emergency and non-emergency calls.<sup>1</sup> Unfortunately, not all non-emergency calls to the police in Berkeley go to the BPD Communications Center. Based on experience and confirmed by the Chief of Police, some calls made from some cell phones to the non-emergency number are routed to the California Highway Patrol (CHP) dispatch center. Berkeley residents deserve some clarification about to whom they are speaking.

Anecdotally, the CHP dispatch are less effective than BPD dispatch. In one instance from a District 4 constituent, CHP dispatch said that they could not locate her home address in their database and thus could not send anyone. Other constituents report less than polite service. When Berkeley residents call dispatch and have an unpleasant experience, they are less likely to call in the future. BPD dispatch are well trained and talented and under the jurisdiction of the City. It is in the interest of public safety to have as many calls as possible go to BPD. In the meantime, we need some clarity on where calls go, so that the public can better understand the system.

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<sup>1</sup> Item 28, "911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale", May 14<sup>th</sup> 2019 City Council Meeting. The Communications Center is understaffed, as the approved staffing level for 33 FTEs. Many shifts are filled through mandatory overtime.

FISCAL IMPLICATIONS

Some staff time necessary to determine how these calls are forwarded.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR

November 12, 2019

To: Honorable Members of the City Council  
 From: Councilmember Sophie Hahn and Mayor Jesse Arreguín  
 Subject: Budget Referral: Transportation to Support Mobility-Impaired Individuals Experiencing Homelessness who are Engaged in Rehousing and other Services

RECOMMENDATION

Refer to the budget process to allocate funds to provide transportation for mobility-impaired individuals experiencing homelessness who are engaged with rehousing and other services through the STAIR Center, The Hub, or other City of Berkeley-funded homeless services.

Refer to staff to determine needs and establish the best method for providing such transit services. Options include, but are not limited to, helping one or more service providers to purchase or lease wheelchair-accessible vehicle(s), or to repair or retrofit currently owned vehicle(s), providing additional vouchers for existing Paratransit services, providing additional taxi scripts (as recommended by the Homeless Commission), or contracting with a suitable transportation service.

Consistent with the Americans with Disabilities Act (ADA), vehicles purchased, leased, or otherwise procured for these purposes should include the option of/access to a boarding device (e.g. lift or ramp) so that a passenger who uses a wheelchair or mobility device can reach a securement location onboard.

BACKGROUND

Daily life requires access to transportation. Getting to work, appointments, meetings, and social gatherings requires people to be able to move around their communities.

Access to transportation is no less vital for individuals experiencing homelessness. Due in part to a tight housing market, unhoused people need to visit numerous apartments or other dwelling units before securing housing. They also need to access employment and educational opportunities, medical, behavioral health, and legal appointments, Social Security and other benefits offices, food pantries and hot meals, and other services. For those individuals who do not have access to private vehicles, and who may have difficulty using transit buses or BART trains and stations, alternative transportation options are often necessary.

The Pathways STAIR Center, The Hub, and other homeless service providers in Berkeley are successfully housing individuals experiencing homelessness and connecting them to important life-services. Because the STAIR Center is near railroad tracks, which separates it from public transit options, mobility-impaired individuals, who may use walkers or wheelchairs, have difficulty navigating to public transit. In addition, some trips involve more than one mode of transit, further complicating the achievement of important housing, health, and life goals.

Providing access to transportation for wheelchair-bound and other mobility-impaired individuals experiencing homelessness, who are working with service providers in Berkeley, is therefore essential. Private cars and vans, taxicabs, AC Transit buses, and BART trains can play a role in meeting these transportation needs. In addition, Paratransit is available for people who are unable to use regular buses or trains due to a disability or disabling health condition. However, these services may not be currently sufficient to meet transportation needs, and may result in delayed access to housing and services, negatively impacting the City's ability to maximize the opportunity to deliver rehousing and other services overall.

In addition, the Homeless Commission recently passed a resolution recommending to the City Council a similar proposal (attached), which staff should consider simultaneous with this referral.

#### FINANCIAL IMPLICATIONS

Staff to return to Council funding requirements through the Budget Process.

#### ENVIRONMENTAL SUSTAINABILITY

The City should explore vehicle options that are more efficient and less polluting to mitigate greenhouse gas emissions.

#### CONTACT INFORMATION

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

#### ATTACHMENT

Recommendation from Berkeley Homeless Commission: Taxi Scripts to be provided to residents of Pathways/the STAIR Center



Homeless Commission

ACTION CALENDAR

December 3, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chair, Homeless Commission

Subject: Taxi scripts to be provided to residents of Pathways/the STAIR Center

RECOMMENDATION

The Homeless Commission recommends that taxi scripts be provided to persons referred to Pathways/ the STAIR Center and that continued taxi scripts be provided to Pathways/STAIR residents, during their stay, in order to insure safe, accessible transport.

Alternatively, the Commission recommends that transportation arrangements be made with ride share services such as Lyft or Uber, or a public shuttle system coordinated by the City of Berkeley and Alameda County.

FISCAL IMPACTS OF RECOMMENDATION

Staff would have to identify the costs of this recommendation. It should be easy to implement and far less costly than the potential loss of a life from an accident crossing the railroad tracks or injuries to persons walking the distance between the bus routes and Pathways/the STAIR Center.

CURRENT SITUATION AND ITS EFFECTS

The Pathways STAIR Center is located in a remote area of West Berkeley. The two closest bus line stops, the 72 and the 51, stop eight streets and seven streets away, respectively.

Walking to Pathways also requires walking across railroad tracks, challenging for able-bodied persons, particularly in late hours, and even more challenging for persons with disabilities. Pathways has been identified as a low-barrier shelter so that persons residing there can enter and leave at all hours.

BACKGROUND

Approximately fifty persons reside at Pathways/the STAIR Center at any one time. Pathways is currently the primary navigation center for housing unhoused persons. Former and current Pathways residents often describe the challenge of walking from remote bus lines and the dangers of safely crossing the nearby railroad tracks. Many Pathway residents have serious physical disabilities, with and without equipment.

Transportation to and from Pathways is difficult for them. Residents staying at Pathways come and go freely and need to leave the navigation center to conduct everyday business and make appointments. Some return late in the evening.

At our September 11, 2019 regular meeting, the Homeless Commission approved the report, "Taxi scripts to be provided to residents of Pathways/the STAIR Center," with the following motion:

**Action:** M/S/C Hill/ Mulligan to approve the report to Council with the following amendments: (i) add "..., as well as public shuttle system coordinated by the City of Berkeley and Alameda County" to the last sentence under the Recommendation section, and (ii) remove the sentence under the Alternative Actions Considered section, and replace it with "We considered changes to the AC Transit bus routes."

**Vote:** Ayes: Hill, Mulligan, Marasovic, Hirpara, Kealoha-Blake, Hollyman, Behm-Steinberg.  
Noes: None. *Abstain:* None. *Absent:* None.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts as the taxis or ride shares providing transportation services are already operative in Berkeley.

#### RATIONALE FOR RECOMMENDATION

The Homeless Commission believes that persons staying at Pathways, particularly given their disability and aging status, need accessible, safe transportation. Potential injuries or possible deaths from crossing the railroad tracks also need to be avoided.

#### ALTERNATIVE ACTIONS CONSIDERED

We considered changes to the AC Transit bus routes.

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

Brittany Carnegie, HHCS, Community Services Specialist II, (510) 981-5415

**SOPHIE HAHN**

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CONSENT CALENDAR

November 12, 2019

To: Honorable Members of the City Council  
 From: Councilmember Sophie Hahn and Mayor Jesse Arreguín  
 Subject: Budget Referral: Expansion of Homeless Navigation Facilities and Programs

RECOMMENDATION

Pursuant to Measure P Panel of Expert Investment Area Priorities #1 and #2:

- Authorize the establishment of a third sleeping unit at the Berkeley Pathways STAIR Center to increase capacity, and direct staff to explore options to operate and provide services to the expanded population.
- Refer to the budget process to allocate funds to establish a third sleeping unit and additional facilities as needed to increase capacity at the STAIR Center, and to fund operational and programmatic needs.

BACKGROUND

- According to a recent Health, Housing and Community Services Department report to the City Council, the Pathways STAIR Center is our most effective shelter-type facility resulting in 64% of clients exiting to permanent housing versus 9% for all other Berkeley adult shelters.<sup>1</sup>
- The 2019 Alameda County point-in-time count showed that while Berkeley is doing better than most other Alameda County cities that have significant homeless populations, the number of persons experiencing homelessness in Berkeley rose by 14% since 2017.<sup>2</sup>
- With more people needing housing and services, and given the STAIR Center's success re-housing people through its comprehensive Housing First program, adding a third sleeping unit to increase capacity is a sound strategy to accelerate progress in addressing the problem of homelessness in Berkeley.

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Presentations\\_Item\\_37\\_Pres\\_HHCS\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Presentations_Item_37_Pres_HHCS_pdf.aspx); *see also* [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Item\\_37\\_Pathways\\_STAIR\\_Center\\_First\\_Year\\_Data.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Item_37_Pathways_STAIR_Center_First_Year_Data.aspx)

<sup>2</sup> [http://everyonehome.org/wp-content/uploads/2019/07/2019\\_HIRDRReport\\_Alameda\\_FinalDraft\\_8.15.19.pdf](http://everyonehome.org/wp-content/uploads/2019/07/2019_HIRDRReport_Alameda_FinalDraft_8.15.19.pdf)

- The STAIR Center was originally envisioned to have three sleeping units, and space was left on the site for such a third unit. Additional services or facilities may also need to be increased, including bathrooms.
- Establishment of sleeping and other facilities will require one-time, up-front costs which could potentially be paid through private donations. With proof of concept established and excellent performance by the STAIR Center in its first year, the City would be well-positioned to attract donations for startup costs, and should explore this possibility as one means to fund the establishment of new facilities.
- Longer term, operating and programmatic/services costs need to be allocated, leveraging federal, state, county, and other resources, and potentially allocating general funds available due to the passage of Measure P.

#### FINANCIAL IMPLICATIONS

Staff to return to Council funding requirements through the Budget Process.

#### ENVIRONMENTAL SUSTAINABILITY

Providing an opportunity for unhoused individuals to move into the STAIR Center would alleviate pressures on our sidewalks, parks, streets, and other public spaces. The addition of one more unit and other necessary facilities to the existing STAIR Center should have no impacts on environmental sustainability.

#### CONTACT INFORMATION

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

#### ATTACHMENT

Homeless Service Panel of Experts, Recommendations for Allocation of FY 19/20 Measure P Funds





Homeless Services Panel of Experts

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Homeless Services Panel of Experts  
Submitted by: Katharine Gale, Chairperson  
Subject: Recommendations for Allocation of FY19/20 Measure P Funds

RECOMMENDATION

Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.

SUMMARY

The Homeless Services Panel of Experts recommends that the City allocate general funds to a variety of critical activities including permanent housing, shelter, supportive services and other program types to address the current crisis of homelessness in Berkeley. The recommended priority order, percentages, types of activities and subpopulation considerations are included as Attachment 1 to this report.

FISCAL IMPACTS OF RECOMMENDATION

Recommendations covered by this report allocate general fund resources for homeless housing and services in an undetermined amount to be at least commensurate with those raised to date under the transfer tax authorized under Measure P (minus those previously allocated by Council).

CURRENT SITUATION AND ITS EFFECTS

Homeless is increasing in the City of Berkeley and throughout the Bay Area. Between 2017 and 2019 homelessness in Berkeley at a point-in-time has risen by 13%, affecting more than 1,100 people on any given night. Recognizing the need for additional housing and services and for humane measures to address the impacts of homelessness, the Voters of Berkeley passed Measure P in November 2018 which collects a specified transfer tax with the intention to use these additional funds to address homelessness in the City of Berkeley.

Measure P established a Homeless Services Panel of Experts to advise the City Council. The Panel consists of nine members with a deep level of expertise in areas

relevant to homelessness, including persons with extensive professional and/or lived experience with homelessness. The Panel began meeting in May 2019. Katharine Gale and Yesica Prado are the elected chair and vice-chair of the Panel.

Addressing homelessness is a Strategic Plan Priority Project, advancing the City's goal to create affordable housing and supportive services for our most vulnerable community members.

### Process

This report provides the Panel's first recommendations for initial investments from General Funds to increase and improve housing and services to address homelessness in Berkeley. In order to develop these recommendations, the Panel first adopted a Purpose Statement (attached). The Panel reviewed all of the referrals made to us since the Measure's passage in light of our adopted statement. This included the funding requests and referrals included in the January 2019 Measure P Informational report to Council as well as additional referrals, formal and informal, sent to the Panel since that time. We also considered information we were presented by City staff regarding current City of Berkeley investments, local and regional strategies, the 2019 Point-in-Time Count, and the 1,000 Person Plan.

A Mission and Budget Subcommittee of the Panel meet and categorized the referrals we received by areas of investment (permanent housing, shelter, etc.) and proposed initial percentages to each area, as well as a process to determine the final recommendations. The full Panel reviewed the investment areas, added additional activities/program types to the areas, prioritized the program types within each area, and made recommended adjustments to the percentages, resulting in the recommended allocations attached to this report. Our recommendation regarding shelter and temporary accommodations includes the potential to use funds to support sanctioned encampments if approved by a Council policy and we encourage the City to give consideration to this approach.

The Panel also adopted subpopulation priorities within the key investment areas of permanent housing subsidies, and flexible housing subsidies. These include establishing a \$500,000 set-aside for permanent housing subsidies for homeless families with children. This also includes a recommended 20% set-aside for families and transition-age youth in flexible housing subsidies, using the McKinney-Vento (i.e. Berkeley Unified School Districts) definition of homelessness, though not limited to families with school-age children.

As stated above, the actual amount of funding to be allocated has yet to be determined. The agreed upon order of priority and percentages is included as Attachment 1. The Panels' priorities within each area are expressed in the order of activities. We recommend that higher ranked activities be given a greater priority for resources, but we recognize that some activities we have recommended may be funded using other resources at the City's disposal. Activities left out of our table, such as Public Works street cleaning, and general street outreach, were not recommended for funding from Measure P at this time.

#### Objection to Full Funding for Emergency Mental Health Transport

The Panel notes that the amount available for us to allocate was reduced by nearly \$1.5 million in FY19/20 based on commitments recommended previously by the City Manager for City staff and for Mental Health Emergency Transport. We understand that FY19/20 funding is already committed but we wish to express our strong objection to the pre-allocation of \$2.4 million in FY20/21 Measure P-generated funding to fully cover these transportation costs. Measure P was passed by the voters of Berkeley to address the crisis of homelessness; while some people who experience homelessness may require emergency mental health transportation, this service is not limited to people who are homeless and was not budgeted with consideration that most people who will be transported will be people who are housed. In addition, this service does not result in greater housing or shelter for people who are homeless and we believe is not consistent with the purpose of Measure P. ***We recommend the Council refer to the City Manager to produce information regarding the percentage of those transported who are homeless and other potential sources to cover this expense.*** We hope to make recommendations for next year's investments with consideration to this.

#### Next Steps

The HSPE recognizes that it was established not only to make recommendations about investment amounts but also to advise on methods and practices. A companion letter will be sent to Council to accompany this report with additional recommendations and considerations for how to ensure Berkeley's programming is consistent with best practices.

Future work of the Panel will include developing an Action Plan for the coming year, and coordinating with Measure O to plan for future developments. Future work may include recommendations regarding establishing a goal of ending family homelessness or other City-wide goals.

BACKGROUND

Measure P was passed by the voters of Berkeley in 2018. The Homeless Services Panel of Experts began meeting in May of 2019. To guide our work, in August 2019 we have adopted a Statement of Purpose. This Statement is provided as Attachment 2 to this report and is a guide to the recommendations made in this Report.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental costs or opportunities associated with these recommendations; the determination regarding how to invest in shelter expansion activities may require environmental consideration.

RATIONALE FOR RECOMMENDATION

The exact amount of funds that will be generated by Measure P are unknown at this time, and additional State and local funds may become available to the City to cover similar cost areas to address homelessness as those recommended by the Panel. Thus, the Panel is recommending key categories for investment, relative priorities expressed as percentages, and priorities within each of these areas. City staff and Council are encouraged to use these recommendations to determine the specific investments within each area.

ALTERNATIVE ACTIONS CONSIDERED

The HSPE considered various options for allocating resources to families and Transition Age Youth (TAY) including allocating resources based on each population's percentages in the Point in Time (PIT) count, establishing a specific priority for unsheltered families, and adopting a significant percentage of housing resources for families. The HSPE ultimately adopted and recommends a specific set-aside in the first allocation of at least \$500,000 of funding for permanent housing for families and a 20% percent set-aside in flexible subsidies for families and transition age youth.

CITY MANAGER

See Companion Report.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator and Secretary to the Homeless Services Panel of Experts, HHCS, (510) 981-5435.

Attachments:

- 1: Recommendations for First Year Measure P Allocations - By Category and Activity
- 2: Homeless Services Panel of Experts Statement of Purpose

**ATTACHMENT 1:  
Recommendations for General Fund Allocations Associated with Measure P - By  
Category and Activity**

Because the total amount of funding available is unknown, recommendations are based on a percentage of funding to each category. Within investment areas, activities are listed in the order they were prioritized and we generally recommend higher priority be given to these activities over those that are listed further down in higher priority categories. Additional considerations and recommendations include subpopulation priorities and service types considered within each activity.

| Investment Area and Sub-Category Activities listed in Priority Order                                                                                             | Percent | Additional Considerations/ Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1. PERMANENT HOUSING</b></p> <p>Permanent Housing Subsidies and Services</p>                                                                               | 30%     | Establish a minimum set-aside of \$500,000 for homeless families in this category. Transition-age youth should be included in funding for Adults.                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>2. SHELTER &amp; TEMPORARY ACCOMMODATIONS</b></p> <p>1. Expand Shelter Capacity</p> <p>2. Invest in improving existing shelter capacity</p>                | 30%     | <p>1. Adding new sheltering capacity may include the development of dedicated RV parking, use of tiny houses, or other means to increase shelter capacity. If the City should adopt a policy approving sanctioned encampments then this use would also be included. City should ensure there is a focus on meeting needs of any families living on the street.</p> <p>2. Increase services and housing connections in existing shelters so that they are able to function as Navigation Centers.</p> |
| <p><b>3. IMMEDIATE STREET CONDITIONS &amp; HYGIENE</b></p> <p>1. Toilets and Hygiene Stations, including for encampments</p> <p>2. Lockers and Storage Units</p> | 14%     | Note: These funds were not recommended for general clean-up and other Public Works functions and should be spent on activities that directly benefit homeless people.                                                                                                                                                                                                                                                                                                                                |

| Investment Area and Sub-Category Activities listed in Priority Order                                                                                  | Percent     | Additional Considerations/ Recommendations                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4. SUPPORTIVE SERVICES</b><br><br>1. Health Care services<br><br>2. Employment and Income Development Activities<br><br>3. Substance Use Treatment | 14%         | 1. Health care services dedicated to people experiencing homelessness which may include street medicine.<br><br>2. Activities may include job development and support as well as benefits advocacy and other services to improve incomes.<br><br>3. Substance use treatment services dedicated for persons who are experiencing homelessness. |
| <b>5. FLEXIBLE HOUSING SUBSIDIES</b><br><br>Flexible housing subsidies may include prevention, diversion and/or rapid resolution support.             | 10%         | Establish a 20% set-aside for homeless families and transition-age youth, using the McKinney-Vento definition of homelessness.                                                                                                                                                                                                                |
| <b>6. INFRASTRUCTURE</b><br>1. Training ~80%<br><br>2. Evaluation ~20%                                                                                | 2%          | 1. Use resources in this category for training for Berkeley community-based organizations working with people who are homeless.<br><br>2. Use resources in this category to ensure that the experiences of service users are captured and considered in performance evaluation.                                                               |
| <b>TOTAL</b>                                                                                                                                          | <b>100%</b> |                                                                                                                                                                                                                                                                                                                                               |

**ATTACHMENT 2:  
Homeless Services Panel of Experts Mission/Purpose Statement  
(adopted August 14, 2019)**

The Voters of Berkeley passed Measure P to generate additional General Funds to use to address the crisis of homelessness. The Homeless Services Panel of Experts created by the Measure was established to “make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support.”

We understand the current crisis of homelessness requires investments in prevention, health services and permanent housing which we know to be the solution to homelessness, as well as in shelters, supports and other temporary measures that get people immediately out of the elements. We will seek to strike a balance between these needs in our recommendations.

We will consider currently unmet needs, gaps and opportunities, best practices and currently available data on outcomes. We will make recommendations for increased local investment, including program types, target populations and geographic areas as appropriate. We will seek to consider the best use of these investments in the context of other available Federal, State and local funding. In general, we will not make recommendations on the specific agencies to receive funding, nor run our own proposal process, recognizing this as a role for staff and the Council. We will request updates on the performance of Measure P investments and the homeless service system overall, including the experience of service users, and use this information to inform future recommendations and provide oversight.

We recognize that homelessness is a regional issue and requires a regional approach, including recognizing that people from Berkeley may live in other places and remain connected to Berkeley services.

To ensure Measure P funding recommendations further efforts to create more housing for people experiencing homelessness in Berkeley, we will coordinate with the Measure O panel to ensure that very low cost housing is connected to services and operating support so that it can successfully targeted to people who are homeless.

We will meet as needed to fulfill this Mission, and to make recommendations to the City Council at least annually.





| Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                 |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                               |                                                                                                                                                                 |
| Nov. 5                                                                        | <ol style="list-style-type: none"> <li>1. Transfer Station Feasibility Study</li> <li>2. Vision Zero Action Plan</li> </ol>                                     |
| Jan. 14                                                                       | <ol style="list-style-type: none"> <li>1. Civic Center Visioning</li> <li>2. Systems Realignment</li> </ol>                                                     |
| Feb. 4                                                                        | <ol style="list-style-type: none"> <li>1. Discussion of Community Poll (Ballot Measures)</li> <li>2. Adeline Corridor Plan</li> </ol>                           |
| March 17                                                                      | <ol style="list-style-type: none"> <li>1. CIP Update (PRW and Public Works)</li> <li>2. Measure T1 Update</li> </ol>                                            |
| May 5                                                                         | <ol style="list-style-type: none"> <li>1. Budget Update</li> <li>2. Crime Report</li> </ol>                                                                     |
| June 23                                                                       | <ol style="list-style-type: none"> <li>1. Climate Action Plan/Resiliency Update</li> <li>2. Digital Strategic Plan/FUND\$ Replacement/Website Update</li> </ol> |
| July 21                                                                       | <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> </ol>                                                                                                |

| Unscheduled Workshops                                                                                       |
|-------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. Vision 2050</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Update: goBerkeley (RPP)</li> <li>2. BMASP/Berkeley Pier-WETA Ferry (November 2020)</li> </ol> |

|    | <b>City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> <i>(Referred from the July 24, 2018 agenda)</i><br/> <b>From: Housing Advisory Commission</b><br/> <b>Recommendation:</b> That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p><b>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> <i>(Referred from the July 24, 2018 agenda)</i><br/> <b>From: City Manager</b><br/> <b>Recommendation:</b> Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Dee Williams-Ridley, City Manager, 981-7000</p> |
| 2. | <p><b>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance</b> <i>(Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.)</i> <b>March 18, 2019 Action:</b> <i>Item to be agendized at future Agenda and Rules Committee Meeting pending scheduling confirmation from City Manager.</i><br/> <b>From: Councilmember Worthington</b><br/> <b>Recommendation:</b> Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                      |
| 3. | <p><b>36. Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council</b> <i>(Referred from the October 15, 2019 agenda)</i><br/> <b>From: City Manager</b><br/> Contact: Henry Oyekanmi, Finance, 981-7300</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| CITY CLERK DEPARTMENT                                             |                      |                       |                                         |                   |
|-------------------------------------------------------------------|----------------------|-----------------------|-----------------------------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS                  |                      |                       |                                         |                   |
| BEFORE THE CITY COUNCIL                                           |                      |                       |                                         |                   |
| Address                                                           | Board/<br>Commission | Appeal Period<br>Ends | Determination<br>on Appeal<br>Submitted | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                  |                      |                       |                                         |                   |
| 2215 Parker St "0 Parker" (construct duplex)                      | ZAB                  | 10/30/2019            |                                         |                   |
| 2200-2220 Fourth St (classify Wine.com operation)                 | ZAB                  | 10/30/2019            |                                         |                   |
|                                                                   |                      |                       |                                         |                   |
|                                                                   |                      |                       |                                         |                   |
| <b>Public Hearings Scheduled</b>                                  |                      |                       |                                         |                   |
| 2701 Shattuck Ave (construct mixed-use building) (Remanded)       | ZAB                  |                       |                                         | 11/12/2019        |
| 0 Euclid Ave - Berryman Reservoir (denial of 4G telecom facility) | ZAB                  |                       |                                         | TBD               |
|                                                                   |                      |                       |                                         |                   |
|                                                                   |                      |                       |                                         |                   |
| <b>Remanded to ZAB or LPC</b>                                     |                      |                       |                                         |                   |
| 1155-73 Hearst Ave (develop two parcels)                          | ZAB                  |                       |                                         |                   |
| 90-Day Deadline: May 19, 2019                                     |                      |                       |                                         |                   |
|                                                                   |                      |                       |                                         |                   |
|                                                                   |                      |                       |                                         |                   |
| <b>Notes</b>                                                      |                      |                       |                                         |                   |
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|                                                                   |                      |                       |                                         |                   |

Last Updated: 10/22/19



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This version incorporates changes and amendments approved by the Agenda & Rules Committee on September 16, 2019 for approval by the City Council.

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective October 29, 2019

## Table of Contents

|             |                                                                                       |           |
|-------------|---------------------------------------------------------------------------------------|-----------|
| <b>I.</b>   | <b>DUTIES .....</b>                                                                   | <b>4</b>  |
| A.          | Duties of Mayor .....                                                                 | 4         |
| B.          | Duties of Councilmembers .....                                                        | 4         |
| C.          | Motions to be Stated by Chair .....                                                   | 4         |
| D.          | Decorum by Councilmembers .....                                                       | 4         |
| E.          | Voting Disqualification .....                                                         | 4         |
| F.          | Requests for Technical Assistance and/or Reports .....                                | 5         |
| <b>II.</b>  | <b>MEETINGS.....</b>                                                                  | <b>6</b>  |
| A.          | Call to Order - Presiding Officer.....                                                | 6         |
| B.          | Roll Call .....                                                                       | 6         |
| C.          | Quorum Call .....                                                                     | 6         |
| D.          | Council Meeting Conduct of Business .....                                             | 6         |
| E.          | Adjournment .....                                                                     | 7         |
| G.          | City Council Schedule and Recess Periods .....                                        | 7         |
| H.          | Pledge of Allegiance to the Flag .....                                                | 8         |
| I.          | Ad Hoc Subcommittees .....                                                            | 8         |
| <b>III.</b> | <b>AGENDA.....</b>                                                                    | <b>9</b>  |
| A.          | Declaration of Policy .....                                                           | 9         |
| B.          | Definitions.....                                                                      | 9         |
| C.          | Procedure for Bringing Matters Before City Council .....                              | 11        |
| D.          | Packet Preparation and Posting .....                                                  | 14        |
| E.          | Agenda Sequence and Order of Business .....                                           | 16        |
| F.          | Closed Session Documents.....                                                         | 16        |
| G.          | Regulations Governing City Council Policy Committees .....                            | 17        |
| <b>IV.</b>  | <b>CONDUCT OF MEETING .....</b>                                                       | <b>22</b> |
| A.          | Comments from the Public .....                                                        | 22        |
| B.          | Consent Calendar.....                                                                 | 24        |
| C.          | Information Reports Called Up for Discussion .....                                    | 25        |
| D.          | Communications.....                                                                   | 25        |
| E.          | Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance<br>Matters ..... | 25        |
| F.          | Work Sessions.....                                                                    | 26        |
| H.          | Protocol .....                                                                        | 27        |
| <b>V.</b>   | <b>PROCEDURAL MATTERS.....</b>                                                        | <b>28</b> |
| A.          | Persons Authorized to Sit at Tables .....                                             | 28        |
| B.          | Decorum.....                                                                          | 28        |
| C.          | Enforcement of Decorum.....                                                           | 28        |
| D.          | Precedence of Motions.....                                                            | 28        |
| E.          | Roberts Rules of Order.....                                                           | 29        |
| F.          | Rules of Debate.....                                                                  | 29        |
| G.          | Debate Limited .....                                                                  | 30        |
| H.          | Motion to Lay on Table .....                                                          | 30        |
| I.          | Division of Question.....                                                             | 30        |
| J.          | Addressing the Council.....                                                           | 30        |
| K.          | Addressing the Council After Motion Made .....                                        | 31        |

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|            |                                                                           |           |
|------------|---------------------------------------------------------------------------|-----------|
| <b>VI.</b> | <b>FACILITIES .....</b>                                                   | <b>32</b> |
| A.         | Council Chamber Capacity .....                                            | 32        |
| B.         | Alternate Facilities for Council Meetings .....                           | 32        |
| C.         | Signs, Objects, and Symbolic Materials.....                               | 32        |
| D.         | Fire Safety .....                                                         | 32        |
| E.         | Overcrowding .....                                                        | 32        |
|            | <b>APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES .....</b> | <b>33</b> |
|            | <b>APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA</b>   |           |
|            | <b>ITEMS .....</b>                                                        | <b>36</b> |

## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be



decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

## II. MEETINGS

### A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

### B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

### C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

### D. Council Meeting Conduct of Business

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:
  - In the original item as submitted by the Primary Author
  - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
  - By verbal request of the Primary Author at the Agenda & Rules Committee
  - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
  - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the report author that describes the action to be taken on the item, if applicable;

- d) Fiscal impacts of the recommendation;
  - e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j) Person or persons to contact for further information, with telephone number.
  - k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.
  3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.
  4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
  5. "Packet" means the agenda plus all its corresponding duplicated agenda items.
  6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
    - a) A work stoppage or other activity which severely impairs public health, safety, or both;
    - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
  7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
  8. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

## C. Procedure for Bringing Matters Before City Council

### 1. Persons Who Can Place Matters on the Agenda.

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by the Agenda & Rules Committee, which shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a “referred” item must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the Agenda & Rules Committee’s adjournment, the recommendation of the Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendized commission report in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
3. Allow the item to proceed as submitted.

- ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.

- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.



2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**  
The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.
3. **Submission of Agenda Items.**
- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
  - b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
  - c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.  
  
The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.
  - d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.
4. **Submission of Supplemental and Revised Agenda Material.**  
Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:
- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### **5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

### **D. Packet Preparation and Posting**

#### **1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

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

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

## **G. Regulations Governing City Council Policy Committees**

### **1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

#### Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.

### Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

### Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

## **2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

## **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed

- alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
  - e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
  - f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
  - g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### **4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda & Rules Committee on the



next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, 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 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. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Communications**

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. 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.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**H. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. **Persons Authorized to Sit at Tables**

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. **Decorum**

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. **Enforcement of Decorum**

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. **Precedence of Motions**

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and
9. To postpone indefinitely.



These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI.FACILITIES

### A. Council Chamber Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.



## Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

### 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

### 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

### 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**