



Office of the City Manager

ACTION CALENDAR

March 17, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Subject: Ratification of Recommendations Issued by the Director of Emergency Services and the Public Health Officer Regarding Meetings of Legislative Bodies

RECOMMENDATION

Adopt a Resolution ratifying the recommendations issued by the Director of Emergency Services and the Public Health Officer regarding meetings of Berkeley legislative bodies in response to the COVID-19 (Novel Coronavirus) pandemic.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On March 12, 2020 the Director of Emergency Services presented a set of recommendations to the Agenda & Rules Committee regarding the conduct of business by legislative bodies of the City of Berkeley. The recommendations were effective and operationalized on March 12, 2020. These recommendations were developed in accordance with the Health Officer's guidance on mass gatherings (Attachment 2) to mitigate the spread of COVID-19 in the community by suspending meetings of some legislative bodies and utilizing social distancing and technology at meetings that must be held to complete time-sensitive, legally mandated business. The Board of Library Trustees and the Rent Stabilization Board are not subject to these specific recommendations and may develop protocols for their conduct of business.

The Agenda & Rules Committee took the following action regarding the recommendations.

Action: M/S/C (Hahn/Wengraf) to recommend to the City Council to acknowledge the City Manager's authority as the Director of Emergency Services to take specific actions regarding the COVID-19 (Coronavirus) pandemic; endorsing the actions described below; and requesting that the actions taken be presented to the City Council on March 17, 2020 for acknowledgement and ratification.

Vote: Ayes – Wengraf, Hahn, Arreguin; Noes – None; Abstain – None; Absent – None.

The recommendations issued include:

Boards & Commissions

Implementing a 60-day suspension of most commission meetings. Certain commissions with time-sensitive, legally mandated business to complete may hold a meeting if approved by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible. The full list of Commissions is incorporated into the resolution in Attachment 1. The suspension will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020.

City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

City Council

For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 (Attachment 3) related to the Brown Act and the utilization of technology to facilitate participation.

As conditions change and additional measures become warranted, new recommendations may be issued.

This action advances our Strategic Plan goal of creating a resilient, safe, connected, and prepared city.

BACKGROUND

COVID-19 is a respiratory disease which has now spread to the United States. It is mild for most people, but can cause severe illness and result in death for some. Older adults and people with chronic medical conditions, such as heart disease or diabetes, have the greatest risk of becoming severely ill. There is no vaccine and no medications approved to treat COVID-19 at this time.

The City activated the Emergency Operations Center in January 2020 to coordinate response and prepare for a potential outbreak. Public Health staff have been and

continue to work closely with regional, state, and federal officials to protect our community as the City responds to this developing situation.

Berkeley Public Health now has two cases, including oversight of a COVID-19 patient who was brought to a regional hospital from the Grand Princess Cruise Ship. Though we do not have any laboratory-confirmed cases of community spread of COVID-19 in Berkeley or Alameda County, the City is taking proactive measures to limit that occurrence.

COVID-19 spreads from person to person, mainly through coughs and sneezes of infected people or between people who are in close contact.

The most important thing members of the community can do is to practice everyday healthy behaviors that prevent the spread of germs.

- Wash hands often with soap and water for at least 20 seconds.
- Don't touch your face with unwashed hands.
- Use alcohol based hand sanitizer when soap and water aren't available. Look for one with at least 60% alcohol.
- Avoid contact with people who are sick.

These actions don't just protect individuals. They help keep our whole community safe, especially our most vulnerable residents, by slowing the spread of the disease.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects associated with the proposed recommendation.

RATIONALE FOR RECOMMENDATION

This action to ratify the recommendations previously issued by the Director of Emergency Services and the Public Health Officer is being brought forward based on the action taken by the Agenda & Rules Committee on March 12, 2020.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dee Williams-Ridley, City Manager, (510) 981-7000

Attachments:

- 1: Resolution
- 2: Health Officer's Guidance on Mass Gatherings
- 3: Governor's Executive Order #N-25-20

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

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

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NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee
Fair Campaign Practices Commission
Housing Advisory Commission (limited to quasi-judicial activities)
Joint Subcommittee on the Implementation of State Housing Laws
Landmarks Preservation Commission
Open Government Commission
Personnel Board
Planning Commission
Police Review Commission
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

Category B

Animal Care Commission
Cannabis Commission
Civic Arts Commission
Children, Youth, and Recreation Commission
Commission on Aging
Commission on Disability
Commission on Labor
Commission on the Status of Women
Community Environmental Advisory Commission
Community Health Commission
Disaster and Fire Safety Commission
Elmwood Business Improvement District Advisory Board
Energy Commission
Homeless Commission
Homeless Services Panel of Experts
Housing Advisory Commission

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Human Welfare and Community Action Commission
Measure O Bond Oversight Committee
Mental Health Commission
Parks and Waterfront Commission
Peace and Justice Commission
Public Works Commission
Solano Avenue Business Improvement District Advisory Board
Sugar-Sweetened Beverage Product Panel of Experts
Transportation Commission
Youth Commission
Zero Waste Commission
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council

For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

COVID-19 (CORONAVIRUS)

City of Berkeley Health Officer guidance on mass gatherings



MARCH 10, 2020

City of Berkeley Health Officer guidance on mass gatherings

As the City of Berkeley's Health Officer, I urge that people in Berkeley, especially older adults or those with chronic diseases, take steps to limit attendance at mass gatherings in an effort to slow the spread of COVID-19 cases.

I am also recommending that event organizers postpone or cancel non-essential mass gatherings and large community events where large numbers of people are within arm's length of one another. I especially urge cancellation or postponement of mass gatherings intended for older adults and those with chronic health conditions. This does not include typical office environments, stores, school, colleges, or universities.

These measures are for everyone to take, and they help the unprecedented efforts of public health workers to slow the spread.

While I am providing public health guidance for the City of Berkeley, individuals with personal health care questions should contact their provider.

Each of us has a role to play in limiting the spread of COVID-19. That starts with personal hygiene. Understanding how you can limit participation in mass gatherings is the next step.

In Berkeley, we are still relatively early in the spread of COVID-19. I anticipate that more changes will be needed in the weeks and months to come.

Dr. Lisa Hernandez
City of Berkeley Health Officer

Recommendations for high-risk groups

Health Officer Guidance for those in high-risk categories

Stay away from crowded social gatherings as much as possible, such as parades, conferences, sporting events, and concerts where large numbers of people are within arm's length of one another.

Definition of high-risk categories

- People over 60 years-old, with risk escalating with age. Those over age 80 are in the highest risk group.
- Regardless of age, people with underlying health conditions, including cardiovascular disease, severely weakened immune systems, diabetes, cancer, heart disease, or chronic lung diseases like COPD.

See recommendations for organizers on next page. →

COVID-19 (CORONAVIRUS)

City of Berkeley Health Officer guidance on mass gatherings



MARCH 10, 2020

Recommendations for organizers of mass gatherings

Canceling non-essential events

- At this time, we recommend postponing or canceling non-essential mass gatherings and large community events where large numbers of people are within arm's length of one another.
- Cancel or postpone mass gatherings intended for older adults and those with chronic health conditions.
- They do not include typical office environments, stores, school, colleges, or universities.

Non-essential means events or meetings that are not critical for operations of business or entity. At this time, organizations have discretion to determine essential functions.

Factors when considering event cancellation or postponement:

- **Size:** Smaller is better. The risk of getting the virus increases as the size of the crowd increases.
- **Duration:** Shorter is better. The risk of getting the virus increases as the duration of the event increases (e.g., a 2-hour meeting is lower risk than a 2-day conference).
- **Density:** Risk of getting the virus increases in crowded settings. If the venue or setting doesn't enable people to keep social distance (more than arm's length of one another), the risk of spreading the virus increases. People should avoid crowded places where large numbers of people are within arm's length of one another.
- **Geographic reach:** Mixing of people across regions, states, and countries

At events you can't cancel

- Urge anyone who is sick to not attend.
- Encourage those who are at higher risk for serious illness to not attend.
- Try to find ways to give people more physical space so that they aren't in close contact as much as possible.
- Encourage attendees to follow good hygiene, such as:
 - Washing their hands often with soap and water for at least 20 seconds. If soap and water are not available, alcohol-based hand sanitizer can be used.
 - Avoid close contact with other people
 - Avoid touching their eyes, nose, and mouth
 - Covering cough or sneeze into their elbow or with a tissue, which should promptly be disposed.
- Clean surfaces with standard cleaners.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-25-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS state and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved, thereby constituting a force majeure; and

WHEREAS the Department of Public Health is maintaining up-to-date guidance relating to COVID-19, available to the public at <http://cdph.ca.gov/covid19>; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to minimize the spread and mitigate the effects of COVID-19; and

WHEREAS there is a need to secure numerous facilities to accommodate quarantine, isolation, or medical treatment of individuals testing positive for or exposed to COVID-19; and

WHEREAS, many individuals who have developmental disabilities and receive services through regional centers funded by the Department of Developmental Services also have chronic medical conditions that make them more susceptible to serious symptoms of COVID-19, and it is critical that they continue to receive their services while also protecting their own health and the general public health; and

WHEREAS individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources such as shelters and food banks; and

WHEREAS in the interest of public health and safety, it is necessary to exercise my authority under the Emergency Services Act, specifically Government Code section 8572, to ensure adequate facilities exist to address the impacts of COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571 and 8572, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19.
2. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 2627(b)(1) for disability insurance applicants who are unemployed and disabled as a result of the COVID-19, and who are otherwise eligible for disability insurance benefits.
3. For the period that began January 24, 2020 through the duration of this emergency, the Employment Development Department shall have the discretion to waive the one-week waiting period in Unemployment Insurance Code section 1253(d) for unemployment insurance applicants who are unemployed as a result of the COVID-19, and who are otherwise eligible for unemployment insurance benefits.
4. Notwithstanding Health and Safety Code section 1797.172(b), during the course of this emergency, the Director of the Emergency Medical Services Authority shall have the authority to implement additions to local optional scopes of practice without first consulting with a committee of local EMS medical directors named by the EMS Medical Directors Association of California.
5. In order to quickly provide relief from interest and penalties, the provisions of the Revenue and Taxation Code that apply to the taxes and fees administered by the Department of Tax and Fee Administration, requiring the filing of a statement under penalty of perjury setting forth the facts for a claim for relief, are suspended for a period of 60 days after the date of this Order for any individuals or businesses who are unable to file a timely tax return or make a timely payment as a result of complying with a state or local public health official's imposition or recommendation of social distancing measures related to COVID-19.
6. The Franchise Tax Board, the Board of Equalization, the Department of Tax and Fee Administration, and the Office of Tax Appeals shall use their administrative powers where appropriate to provide those individuals and businesses impacted by complying with a state or local public health official's imposition or recommendation of social

distancing measures related to COVID-19 with the extensions for filing, payment, audits, billing, notices, assessments, claims for refund, and relief from subsequent penalties and interest.

7. The Governor's Office of Emergency Services shall ensure adequate state staffing during this emergency. Consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors, are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. The Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers.
8. The California Health and Human Services Agency and the Office of Emergency Services shall identify, and shall otherwise be prepared to make available—including through the execution of any necessary contracts or other agreements and, if necessary, through the exercise of the State's power to commandeer property – hotels and other places of temporary residence, medical facilities, and other facilities that are suitable for use as places of temporary residence or medical facilities as necessary for quarantining, isolating, or treating individuals who test positive for COVID-19 or who have had a high-risk exposure and are thought to be in the incubation period.
9. The certification and licensure requirements of California Code of Regulations, Title 17, section 1079 and Business and Professions Code section 1206.5 are suspended as to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments of section 353 of the Public Health Service Act for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory.
10. To ensure that individuals with developmental disabilities continue to receive the services and supports mandated by their individual program plans threatened by disruptions caused by COVID-19, the Director of the Department of Developmental Services may issue directives waiving any provision or requirement of the Lanterman Developmental Disabilities Services Act, the California Early Intervention Services Act, and the accompanying regulations of Title 17, Division 2 of the California Code of Regulations. A directive may delegate to the regional centers any authority granted to the Department by law where the Director believes such delegation is necessary to ensure services to individuals with developmental disabilities. The Director shall describe the need justifying the waiver granted in each directive and articulate how the waiver is necessary to protect the public health or safety from the threat of COVID-19 or necessary to ensure that services to individuals with developmental disabilities are not disrupted. Any waiver granted by a directive shall expire 30 days from the date of its issuance. The Director may grant one or more 30-day extensions if the waiver continues to be necessary

to protect health or safety or to ensure delivery of services. The Director shall rescind a waiver once it is no longer necessary to protect public health or safety or ensure delivery of services. Any waivers and extensions granted pursuant to this paragraph shall be posted on the Department's website.

11. Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended, on the conditions that:

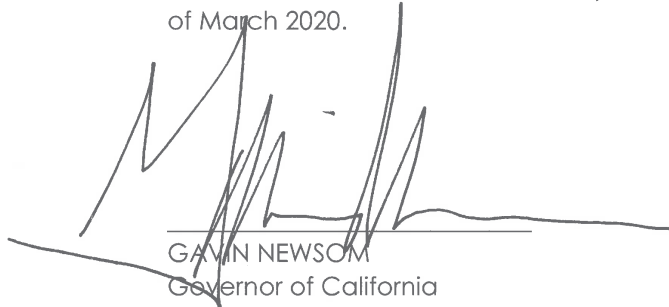
- (i) each state or local body must give advance notice of each public meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) consistent with the notice requirement in paragraph (i), each state or local body must notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting, consistent with the public's rights of access and public comment otherwise provided for by the Bagley-Keene Act and the Brown Act, as applicable (including, but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act).

In addition to the mandatory conditions set forth above, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 12th day of March 2020.



A handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line. The signature is stylized and somewhat messy.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

