



CONSENT CALENDAR
November 28, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Harrison (co-sponsor)

Subject: Designating Open Space Adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border as a Linear City Park Pursuant to BMC 6.42

RECOMMENDATION

Adopt a resolution designating open space adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border (Folger Ave) as linear City park space and formally dedicate this site for permanent recreational use pursuant to Berkeley Municipal Code 6.42.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

Parks and open space are critical for the quality of life of Berkeley residents and visitors. Measure L, the *Berkeley Public Parks and Open Space Preservation Ordinance*, adopted by the City of Berkeley in 1986 and codified as Berkeley Municipal Code (BMC) Section 6.42, designates “census tracts containing less than the master plan provision of two acres of parks and open space per one thousand population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.” The Berkeley City Council recently designated open space adjacent to Old City Hall as a linear park under this provision (see Attachment 3 and Attachment 4).

While Census Tract 4220, comprising Berkeley’s western edge, may technically meet this threshold, a significant portion of West Berkeley’s open space at Aquatic Park and the Marina is literally underwater, with increasing risk of sea level rise due to anthropogenic climate change. The California State Lands Commission reports: “Access to the Berkeley Marina via University Avenue will [be] periodically disrupted during 100-year storm events by 2030 and flooding will increase in frequency near the end of the century.”¹

Moreover, the neighborhood’s population is quickly increasing, as this Census Tract has become the fastest-growing in Berkeley², with a new Specific Area Plan for San Pablo Avenue currently in progress.³ The Ninth St Greenway offers a unique opportunity to

¹ California State Lands Commission. (2021). Modified AB691 Assessment – City of Berkeley.

<https://sleprwordpressstorage.blob.core.windows.net/wordpressdata/2022/08/ab691-summary-berkeley.pdf>

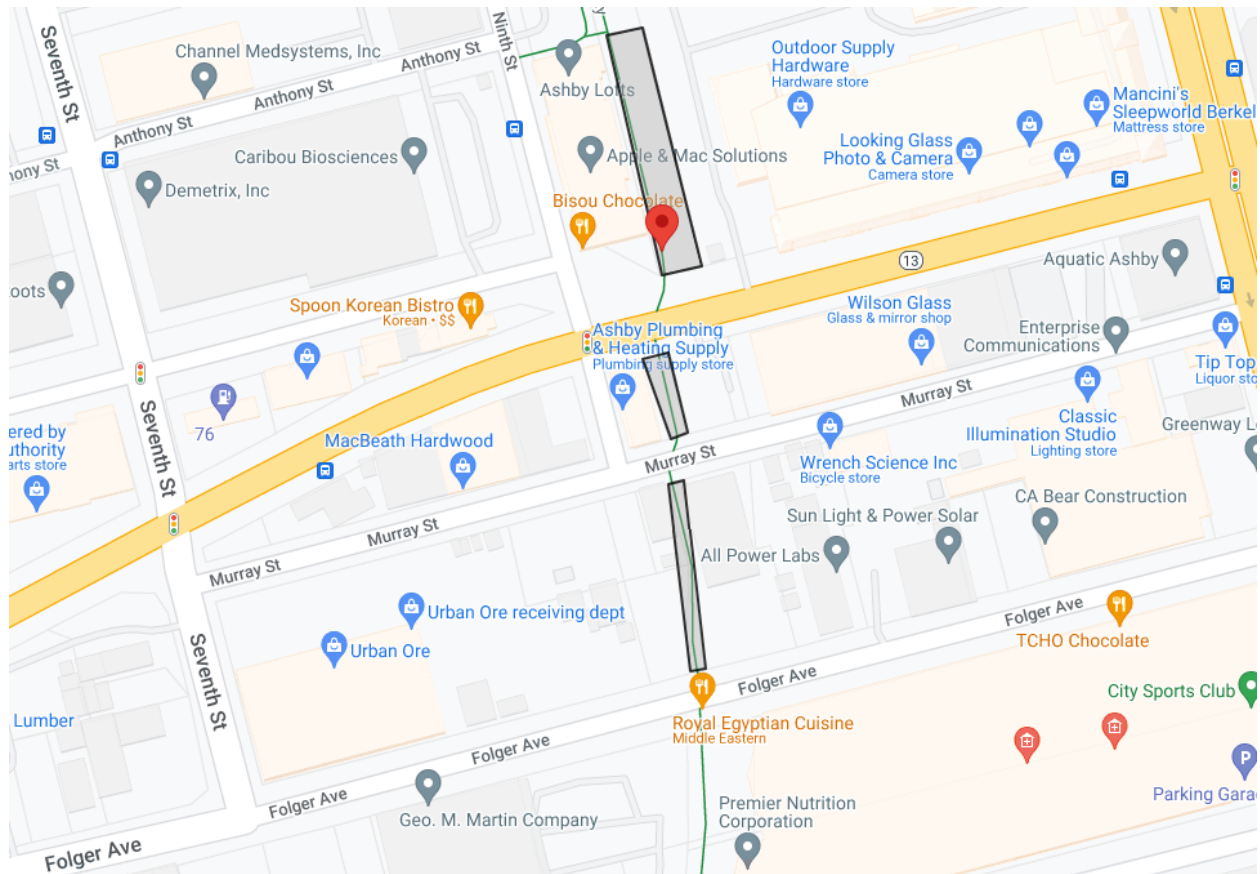
² Markovich, A. (2022). A changing Berkeley: 6 maps show how the past decade has remade the city. *Berkeleyside*. Retrieved Oct. 31, 2023 from <https://www.berkeleyside.org/2022/07/17/berkeley-population-demographics-housing-census-2020-maps>

³ Berkeley City Manager. (2023). Update on San Pablo Avenue Specific Planning Efforts. <https://berkeleyca.gov/sites/default/files/documents/2023-09->

Designating Open Space Adjacent to the Ninth St Greenway as a Linear City Park
Pursuant to BMC 6.42

expand and beautify specifically pedestrian-friendly and ADA accessible open space in West Berkeley.

Pursuant to BMC 6.42, this item would contribute approximately an additional 0.46 acres of Parks and Open space for use by residents and visitors.



BACKGROUND

The Ninth Street Greenway was recently renovated with a new traffic signal at Ashby Avenue, following the City of Berkeley's Bicycle Plan (2017)⁴ and Pedestrian Plan (2020).⁵ Recent and planned improvements to the Ohlone Greenway have also advanced these policy goals. However, the open space adjacent to the Ninth Street Greenway does not currently enjoy the status of a City park, which would confer additional maintenance and protection benefits under Measure L (1986). The landscaping and open space is already maintained by the Public Works Department and neighborhood volunteers.

[01%20Update%20on%20San%20Pablo%20Avenue%20Specific%20Planning%20Efforts%20-%20Off%20Agenda%20Memo.pdf](#)

⁴ Berkeley Bicycle Plan. (2017). <https://berkeleyca.gov/your-government/our-work/adopted-plans/berkeley-bicycle-plan>

⁵ City of Berkeley Pedestrian Plan. (2020). <https://berkeleyca.gov/sites/default/files/2022-01/2020-Pedestrian-Plan.pdf>

Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3, 2002, promulgates three goals that are consistent with this item:⁶

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion.

In the West Berkeley Plan, adopted in 1993, Mitigation 1 to Transportation Impact 4 in the Environmental Impact Report states that the City of Berkeley "will review and incorporate the need for new and/or improved bikeways, sidewalks, pedestrian ways, and pedestrian and bicycle signage in its review of projects and its capital improvement planning."

More recently, the 2017 Bicycle Plan designates Ninth Street as a Class 3E Bicycle Boulevard and the Ninth Street Greenway as a Class 1A Paved Path.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and signage. This area is already owned and maintained by the City of Berkeley, so the fiscal impacts of designating approximately 0.46 acres of open space an official park would likely be marginal.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

The City of Berkeley's Climate Action Plan, first adopted in 2009, includes the following Policy under Sustainable Transportation & Land Use Goal #2, "Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling":

Promote tree planting, landscaping, and the creation of green and open space that is safe and attractive and that helps to restore natural processes

A healthy urban forest has several benefits, including:

- Reducing the energy consumption associated with air conditioning buildings by providing shade

⁶ City of Berkeley General Plan: Open Space and Recreation Element. (2002).
https://berkeleyca.gov/sites/default/files/documents/08_Open%20Space%20and%20Recreation%20Element-FINAL.pdf

- Reducing local ambient temperatures by shading paved and dark colored surfaces like streets and parking lots that absorb and store energy rather than reflecting it
- Intercepting and storing rainwater, thereby reducing water runoff volume
- Improving community quality of life through beautification and by reducing noise pollution and encouraging pedestrian traffic

Trees also provide a GHG reduction benefit through a process called carbon sequestration. A single mature tree can absorb as much as 48 lbs. of carbon dioxide per year. Estimates are that between 660 and 990 million tons of carbon is stored in urban forests nationally.

The Policy also calls for the City to: “Establish standards and guidelines to ensure that ecologically beneficial stormwater quality and retention features and water conservation features are integrated into the design of landscaping features on both public and private land.”

CONTACT PERSON

Councilmember Taplin, District 2, (510) 981-7120

ATTACHMENTS

1. Resolution
2. Berkeley City Council Consent Calendar. (Kesarwani, 2019). Designating Berkeley’s portion of Ohlone Greenway and the West Street Bike Path as linear City parks.
3. Berkeley City Council 2023-09-12 Annotated Agenda
4. Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42 (Harrison, 2023)

RESOLUTION ##,###-N.S.

DESIGNATING THE CITY OF BERKELEY-OWNED OPEN SPACE ADJACENT TO
THE NINTH STREET GREENWAY AS A PUBLIC PARK

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3rd, 2002, the objectives are stated as:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, Measure L, the Berkeley Public Parks and Open Space Preservation Ordinance adopted by the City of Berkeley in 1986 and codified in Berkeley Municipal Code 6.42, defines a Public Park as "City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds"; and

WHEREAS, the above goals and ordinances establish the protection of open space and the establishment of public parks as an important City priority; and

WHEREAS, the open space and land adjacent to the Ninth Street Greenway is already being used and maintained as open space in a manner analogous to the Ohlone Greenway;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to the Ninth Street Greenway designated as an official part of City park land and infrastructure.



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
07/23/2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Rashi Kesarwani
Subject: Designating Berkeley's portion of Ohlone Greenway and the West Street Bike Path as linear City parks.

RECOMMENDATION

Adopt a resolution designating the Berkeley-owned portions of the West Street Bike Path and the Ohlone Greenway as linear City parks and formally dedicate these sites for permanent recreational use.

The City-owned portion of the West Street Bike Path begins adjacent to the basketball courts at Virginia Gardens and travels southward ending at Delaware Street.

The City-owned section of the Ohlone Greenway begins northwest of the North Berkeley BART station at Cedar Street and continues north to the City's border with Albany.¹

FINANCIAL IMPLICATIONS

The City already owns and maintains these properties, so the financial implications would be minimal. One-time minimal use of staff time would be needed to dedicate these areas as parks and add park signage.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley-owned portions of the West Street Bike Path and the Ohlone Greenway are used as recreational areas. Residents use these spaces to gather, rest and relax, play, and exercise, particularly biking and walking. Importantly, these dedicated bike/pedestrian paths already include many park features, such as park benches,

¹ It should be noted that the San Francisco Bay Area Rapid Transit District (BART) is planning North Berkeley Bicycle and Pedestrian Access Improvements that will, among other upgrades, widen the BART-owned portion of the Ohlone Greenway adjacent to the BART side parking lots up to Virginia Gardens. See <https://www.bart.gov/about/planning/north-berkeley-bike> for plan details.

proximity to recreational facilities (including bike-share stations as well as basketball and tennis courts), and art installations.

Because these two paths primarily function as recreational areas, they should be officially dedicated as City parks for the common good of Berkeley residents and visitors. This resolution aligns with our Strategic Plan, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

It should also be noted that the Ohlone Greenway portions in both the cities of Albany² and El Cerrito³ have already been dedicated as linear City parks; establishing a similar designation in Berkeley would create regional consistency for recreational pursuits.

BACKGROUND

In Berkeley's Open Space and Recreational Element of our General Plan, adopted April 3rd, 2002⁴, the objectives are stated as:

The policies and actions of the Open Space and Recreation Element are intended to achieve the following three objectives:

- Preserve, maintain, and repair the city's existing open space and recreational resources and facilities.
- Expand open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements.
- Increase funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion.

This is congruent with Berkeley's adopted Measure "L" – The Berkeley Public Parks and Open Space Preservation Ordinance, passed in 1986. The measure requires "the Berkeley City Council to preserve and maintain the public parks and open space in Berkeley as well as to acquire and maintain public parks and open space in the census tracts and neighborhoods of Berkeley having less than the minimum amount of open space relative to population (2 acres per 1,000) identified in the Berkeley Master Plan of 1977."⁵ These directives regarding parks and open space prioritize recreation as an essential element of civic life, and requires the City to obtain and maintain these amenities for the public good. This council consent item seeks to ensure this directive by officially dedicating these public spaces as City park property for permanent recreational use.

² Ohlone Greenway Park Facility Directory, City of Albany (2019) available at:

<https://www.albanyca.org/Home/Components/FacilityDirectory/FacilityDirectory/104/1607?npage=3>.

³ Ohlone Greenway Facilities, City of El Cerrito (2019) available at: <http://el-cerrito.org/Facilities/Facility/Details/Ohlone-Greenway-16>.

⁴ See: [https://www.cityofberkeley.info/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/GPliteOpen_Space_policies.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/GPliteOpen_Space_policies.pdf).

⁵ Voter Information Pamphlet text of Measure L

ENVIRONMENTAL SUSTAINABILITY

Designating the Berkeley-owned portions of the West Street Bike Path and Ohlone Greenway as linear City parks will enable the City to better maintain these dedicated bike paths as safe and enjoyable alternatives to driving, thereby potentially reducing vehicle miles traveled.

CONTACT PERSONS

Councilmember Rashi Kesarwani Council District 1 510-981-7110

Attachments:

- 1: Resolution
- 2: Voter Information Pamphlet Text of Measure L
- 3: Map indicating proposed area to be designated as City of Berkeley linear parks

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

DESIGNATING THE BERKELEY-OWNED PORTIONS OF THE OHLONE GREENWAY
AND WEST STREET BIKE PATH AS PART OF CITY PARK INFRASTRUCTURE

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3rd, 2002, the objectives are stated as:

- Preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities
- Expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements
- Increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, Berkeley adopted Measure "L" – The Berkeley Public Parks and Open Space Preservation Ordinance – in 1986, which requires "the Berkeley City Council to preserve and maintain the public parks and open space in Berkeley as well as to acquire and maintain public parks and open space in the census tracts and neighborhoods of Berkeley having less than the minimum amount of open space relative to population (2 acres per 1,000) identified in the Berkeley Master Plan of 1977"; and

WHEREAS, these directives regarding parks and open space prioritize recreation as an essential element of civic life, and requires the City to obtain and maintain these amenities for the public good; and

WHEREAS, Berkeley's portions of the West Street Bike Path and the Ohlone Greenway are used as recreational areas; and

WHEREAS, the Ohlone Greenway portions in both the cities of Albany and El Cerrito have already been dedicated as linear City parks.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned portions of the Ohlone Greenway and West Street Bike Path are designated as linear City parks.

CITY OF BERKELEY INITIATIVE ORDINANCE

<p>L MEASURE L: Shall an ordinance be adopted to require voter approval of non-recreational uses of parks or open space and require acquisition of open space controlled or leased by the City if acquisition is the only means of preserving the open space?</p> <p>Financial Implication: Increase in landscape assessment fees; acquisition costs unknown.</p>	YES
	NO

FULL TEXT OF MEASURE L

LET IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide:

THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE: PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.

FINDINGS:

WHEREAS the Berkeley Master Plan of 1977 (hereinafter Master Plan) provides for a minimum standard of two acres of public open space per 1,000 persons and identifies specific Berkeley census tracts as having high population density and high open space demands, and attainment of the minimum standard is jeopardized by continued loss of Public open spaces.

WHEREAS the City of Berkeley is the second most densely populated city in California, undeveloped land is at a high premium in Berkeley, there are significant pressures to convert City owned or controlled open space to permanent or long-term non-park, non-open space uses and there exists a clear and present emergency in that the threatened loss of open space, parks and recreational opportunities in the neighborhoods in Berkeley will cause irreparable damage to the health and welfare of Berkeley residents.

WHEREAS the Berkeley City Council has failed to provide and fund the Master Plan minimum standard of public parks and open space in every Berkeley neighborhood, and in particular in those census tracts having high park and open space requirements.

WHEREAS, specific procedures and directives to the Berkeley City Council are necessary to insure that the Master Plan's minimum park and open space goals are not rendered impossible through the continued loss of public open spaces;

VOTER AUTHORIZATION PROCEDURE

Section 1: That no public parks (hereinafter defined) or public open space (hereinafter defined) owned or controlled or leased by the City of Berkeley or agency thereof, shall be used for any other purpose than public parks and open space, without The Berkeley City Council first having submitted such use to the citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

FUNDING LEVELS TO ALLOW FULL USE

Section 2(a): That wherever public parks and open space currently exist in Berkeley, such use shall continue and be funded at least to allow the maintenance of the present condition and services. (b) That all undedicated or unimproved open space owned or controlled by the City of Berkeley (including land held by the City in trust) shall be retained and funded by the Berkeley City Council to enable public recreational use of those lands. (c) That those census tracts containing less than the Master Plan provision of two acres of parks and open space per 1,000 population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.

Section 3(a): **Public parks** shall be defined as City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds.

Section 3(b) **Public open space** shall be defined as all City of Berkeley parks, public school playgrounds, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreational use or potential use on or after January 1, 1985.

ADOPTION OF THIS ORDINANCE

Section 4(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3)(a).

RETROACTIVITY

Section 5(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority, or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 5(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, or Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

SEVERABILITY

Section 6: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE L

The initiative ordinance would have the following effect:

1. Require that all existing public parks and vacant public land, either formally or informally devoted to recreational use after January 1, 1985, be retained and maintained at their present level of service. This requirement would only apply to land owned or controlled by the City of Berkeley, since the City does not have the authority to regulate land owned by other public entities such as the school district or the University of California. The Berkeley Redevelopment Agency and the Berkeley Housing Authority are independent state agencies and thus would be immune from regulation in this manner.
2. Require prior voter approval if such City of Berkeley public parks or open space are to be used for any other purpose. This measure requires the City to acquire land it does not presently own, if acquisition is the only means to retain the land as open space or public park. As of the date this analysis was prepared, several City parks are owned by others, including: sections of Ohlone Park, leased from Bay Area Rapid Transit District; six school parks owned by the Berkeley Unified School District and maintained, in part, by the City; and Douglas Park on Dwight Way which is owned by the University. The City has plans underway to acquire the remaining section of Ohlone Park.
3. Census tracts that do not meet the Master Plan open space requirements will have priority for the funding, acquisition, development and maintenance of parks and recreational facilities.

Financial Implications

Currently park maintenance is funded by fees through the Landscape Assessment District. Increase in fees will be required to maintain additional land. Costs to acquire land owned by others is unknown at this time, but may be significant.

ARGUMENT IN FAVOR OF MEASURE L

Approval of this citizen's initiative ordinance will allow Berkeley Voters to directly participate in decisions to change the use of Public Parks and Open Space.

Berkeley's parks and public open spaces are highly used and valued by all parts of the community. They help provide for the health, fitness, children's play, entertainment, and recreational needs of all citizens. Decisions to reduce our presently insufficient number of parks belong on the ballot where all citizens can express their opinion with their vote.

This initiative ordinance requires that the voters must approve new uses for city lands held in public trust. It does not limit or prohibit any potential new uses approved by the majority of the voters.

Approval of this ordinance would certify that Berkeley Census tracts that presently contain less public open space than the Master Plan standard of two acres per 1,000 residents be given priority funding in acquisition, development and maintenance of parks/recreational facilities. It will help make distribution of parks more equitable throughout Berkeley. This is a minimal standard, since Berkeley has fewer parks than state and national averages.

The provisions of the Master Plan combined with the approval of Measure Y (1974) park funding, strongly suggests that the Citizens of Berkeley believe that Public Parks and Open Space need expansion. Since there is no indication that Berkeley has changed its opinion, it is all the more appropriate to require voter approval when potential development removes parks and open space called for in the Berkeley Master Plan.

You can help Preserve Berkeley's parks and open space by voting YES on Measure L.

- s/Martha Nicoloff, Co-Author, Neighborhood Preservation Ordinance
- s/Clifford Fred
- s/Dorothy Bryant
- s/Carroll B. Williams, Former Berkeley School Director
- s/John G. Cecil, Chair, Preservation Initiatives Committee

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

The need for parks is a serious issue which should not be the subject of the scare tactics employed by the proponents of Measure L.

City parks are designated in the Master Plan for recreational use. Contrary to implications made by the proponents of this measure, **no one can recall any City plan**—past, present, or future—to **reduce the number of parks** serving Berkeley's recreational needs. Open space, sometimes a vacant lot, on the other hand, is usually held by owners other than the City. They may, or may not, have plans for future use of their property.

The real reason for Measure L is the Housing Authority's plan to build 12 single-family townhouses for low income families on a small portion of School District property at Savo Island (MLK, Jr. Way between Derby and Ward). The remaining piece of land is large enough to accommodate a football field. The neighborhood will still be able to enjoy the use of this open space.

Measure L does more than require a vote for new uses for City lands held in public trust. It requires the City to acquire land. But **where will the money come from?** Given the tremendous federal budget cuts to municipalities and the demands on the City's budget, from what other City services will the trade-off come? And given the pressure of Measure L on the City, property owners would be foolish to negotiate.

If we want additional parks, someone has to pay. And since we will ultimately pay, **we should know the cost before we make such an important decision.**

Don't let the proponents of this measure scare you into believing that our parks will disappear. Quite honestly, they won't.

VOTE NO ON MEASURE L

- s/Wesley E. Hester, Chair, Council Committee on Revenue and Finance
- s/Arlene Irlando, Member, Berkeley Chicano/Latino Network
- s/Maudelle Miller Shirek, Berkeley City Council
- s/Stacy Wilson, Chair, Citizens Budget Review Commission
- s/Carole K. Davis, Former Vice-Mayor

ARGUMENT AGAINST MEASURE L

On its face as a statement of community values, Measure L seems harmless. What could be wrong with wanting additional parks? However, the difference between the outcome of Measure L and the kind of program which can come from a thoughtful parks proposal such as Measure Y (1974) is a budget—a specific amount dedicated to acquiring and maintaining parks and open space.

In 1974 voters passed a park acquisition, renovation and development ordinance: Measure Y. It raised more than \$5 million. As a result, the City was able to create 9 new parks and 8 parks on-school grounds. That measure was a direct result of the recognition that Berkeley was deficient in park space and was able to accomplish what it did because it included a budget.

As a community we are stretched thin in trying to fund a variety of City Services ranging from police services to sidewalk repair. **New parks and additional open space cost money** (if and when the City can get title to the property. In fact, this measure may well prejudice City negotiations with landowners who will use this measure in their bargaining. The proponents of Measure L are irresponsible in offering this proposal without including the means by which to finance it. They have made promises but have not provided any way of keeping them. **The citizens deserve to know how the money will be obtained, and what the price tag will be.**

- s/Hynetha Hewitt, Parks and Recreation Commissioner
- s/Carole Davis, Former Vice-Mayor
- s/Maudelle Shirek, Berkeley City Council
- s/Carole Lewis, Social Services Director
- s/Rich Illgen, President, Planning Commission

REBUTTAL TO ARGUMENT AGAINST MEASURE L

The opponents of Measure L have missed its major provision.

Measure L **prevents the City Council from using the existing public parks and open spaces for any new use without the approval of the community.**

If the **Council wants to remove/develop** existing public parks and open space, **prior voter approval is required.**

At this time, **no law prevents** our elected officials from placing such decisions on the ballot.

Measure L also requires that the **minimal standard for parks already in existence** be observed in **areas that presently have less than their "fair share" of parks** called for in the Berkeley Master Plan of 1977.

We do not agree with the opponents financial argument.

Despite the implications of the opponent's argument, responsibility for implementing and financing the Measure L Plan has not shifted from Council and Staff to individual community members. It should be noted that **determined citizens** who believe in the importance of parks and recreational facilities in everyone's quality of life, have and will continue to assist in the search for sources of new and additional funding.

Measure L ensures the community will be directly involved in decisions to re-use existing Public Parks and Open Space by placing every proposed development plan on the ballot and letting the voters decide between parks and development.

Vote YES on Measure L.

s/Michael Winter, Executive Director, Center for Independent Living
s/Pamela J. Ferguson
s/Gloria A. Belsky
s/John G. Cecil, Chair, Preservation Initiatives Committee
s/Janet M. Maestre

CITY OF BERKELEY INITIATIVE ORDINANCE

M MEASURE M: Shall an ordinance be adopted requiring voter approval for non-educational and/or non-recreational uses of Berkeley Unified School District property? Financial Implications: Unknown.	YES
	NO

FULL TEXT OF MEASURE M

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BERKELEY:

FINDINGS:

WHEREAS the Berkeley City Council and Berkeley Housing Authority have attempted to acquire, develop, use or approve Berkeley Unified School District property for non-educational purposes.

WHEREAS the Berkeley Unified School District (hereinafter School District) has been given a public trust in real property to use for the educational benefit of the Citizens of Berkeley.

WHEREAS the School District has purchased and developed real property with monies received in trust and intended to be expended for the educational benefit of the citizens of Berkeley, which property if lost to the originally intended and dedicated educational and related recreational uses, will be unavailable or irreplaceable when needed for those uses.

WHEREAS there is a potential that use or development of School District property for non-educational uses will ultimately act to the detriment of the Citizens of Berkeley and will violate the wishes of a majority of the Citizens of Berkeley regarding the use of that property.

WHEREAS these actions have been proposed and are being undertaken without the approval of the voters of Berkeley.

WHEREAS there exists a clear and present emergency in that the threatened sale or long-term lease of School District real property and buildings for non-educational or non-recreational use will cause irreparable damage to the health and welfare of Berkeley residents.

BE IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide

VOTER AUTHORIZATION PROCEDURE

Section 1: That should the Berkeley City Council, Housing Authority or any other agency of the City of Berkeley propose to acquire, or approve the use of, School District property (hereinafter defined) for other than educational or existing recreational purposes, and should that approval or use require the purchase, sale or long-term encumbrance (hereinafter defined) of that property, the Berkeley City Council shall first submit that specific proposal, detailing the specific use, transaction sought, and the site involved, after being approved officially by the appropriate City agency and the Berkeley City Council, to the Citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

DEFINITIONS

Section 2(a): **School District property** shall be defined to include the land and buildings which have been used by the Berkeley Unified School District for educational purposes, child-care, recreation or School District support services (including maintenance) at any time since January 1980.

Section 2(b): A **long-term encumbrance** shall include a lease whose term is greater than five years or where options are granted such that the term may be extended beyond five years by option of the lessee. In addition, a long-term encumbrance shall include any mortgage transaction which pledges the property as security.

ADOPTION OF THIS ORDINANCE

Section 3(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3) (a).

RETROACTIVITY

Section 4(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 4(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

SEVERABILITY

Section 5: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE M

The initiative ordinance would have the following effect:

1. Require the City Council to submit to the voters for prior approval any proposal to acquire, encumber or lease for a period longer than five years, or approve the use of property owned by the Berkeley Unified School District, if the property is not intended to be devoted to educational or recreational uses. Under current law, voter approval of such a proposal would be required only if the property was to be used for specified kinds of public housing and the City had exhausted its current voter approved authority to construct such units. The Housing Authority is an independent state agency implementing statewide laws and is not subject to this ordinance. Zoning or other City land use approvals of projects proposed by other private or public persons or entities would not be subject to prior voter approval under current case law.
2. Provide that any actions taken by the City Council or the Berkeley Housing Authority or other City agency after January 1, 1985, which contravene the ordinance in the above respect, are null and void. The Berkeley Housing Authority has entered into a long-term lease with the Berkeley Unified School District

Proposed Area to be Designated as City of Berkeley Park Property:



Ohlone Greenway: _____



**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 12, 2023
6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

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

Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1606796328>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 679 6328**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 6:07 p.m.

Present: Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin.

Absent: None.

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

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

1. Pledge of Allegiance to the Flag
2. Recognition of Yali's Café, Ike's Love and Sandwiches, and Lox Stock & Bagel for offering healthier food and beverage choices

City Manager Comments: None

Public Comment on Non-Agenda Matters: 13 speakers.

Public Comment by Employee Unions (first regular meeting of the month): None

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 13 speakers.

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

Vote: All Ayes.

Recess Items

- 1. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$130,176 for fitness center memberships for City employees for the period July 1, 2023 through June 30, 2024.
Financial Implications: See report
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000
Action: Adopted Resolution No. 71,016–N.S.
- 2. Contract No. 32200058 Amendment: ACI Payments, Inc for Recreation Online Registration System Credit Card Transaction Processing Fees**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager to execute an amendment to Contract No. 32200058 with ACI Payments, Inc (ACI) increasing the contract amount by \$35,000 for a total not to exceed amount of \$185,000.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 71,017–N.S.
- 3. Stipend for Echo Lake Camp Staff**
From: City Manager
Recommendation: Adopt a Resolution approving up to a \$500/week stipend for certain Echo Lake Camp daily-rated staff working in the summer of 2023, starting July 30, 2023.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 71,018–N.S.
- 4. Contract No. 100692-4 Amendment: Serological Research Institute for DNA Testing Services**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to amend Contract No. 100692-4 and any necessary future amendments with Serological Research Institute (SERI) for the Police Department, increasing the contract amount by \$1,000,000 for a total not to exceed amount of \$3,000,000 while the contract expiration will remain June 30, 2025.
Financial Implications: State Proposition 172 Fund - \$1,000,000
Contact: Jennifer Louis, Police, (510) 981-5900
Action: Adopted Resolution No. 71,019–N.S.

Consent Calendar

- 5. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of July 10 (special closed), July 11 (regular), July 18 (special), July 24 (special closed and special) and July 25 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved the minutes as submitted.
- 6. Establish 2024 City Council Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2024, with starting times of 6:00 p.m.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 71,020–N.S.
- 7. Police Accountability Board – Appointment of New Member**
From: City Manager
Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Humbert.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 71,021–N.S.
- 8. Contract: NetFile for Online Campaign Report, Public Financing, and Form 700 Filing and Tracking**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Westcoast Online Information Systems, Inc. dba NetFile for an amount not to exceed \$170,700 for the period October 1, 2023 through September 30, 2028 for online campaign report, public financing, and Form 700 filing, processing, web posting, and tracking.
Financial Implications: General Fund - \$170,700
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 71,022–N.S.

Consent Calendar

- 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 12, 2023**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$9,990,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.
- 10. Contract: Swifthawk LLC for Project Management & Consulting**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Swifthawk, LLC to provide project management and consulting services for the Fire Department from August 7, 2023 to August 31, 2025 in an amount not to exceed \$600,000.
Financial Implications: Measure FF Fund - \$600,000
Contact: David Sprague, Fire, (510) 981-3473
Action: Adopted Resolution No. 71,023–N.S.
- 11. Contract No. 32300094 Amendment: Restoration Family Counseling Center for Counseling, Education and Support**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32300094 for Counseling, Education and Support for the Fire Department (Department); with Restoration Family Counseling Center Inc. (RFCC), increasing the total contract amount from \$80,000 to \$308,000.
Financial Implications: Various Funds - \$228,000
Contact: David Sprague, Fire, (510) 981-3473
Action: Adopted Resolution No. 71,024–N.S.
- 12. Accept Future of Public Health Funds from the State of California**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City manager to submit grant agreements to the State of California, to accept the grants, and to execute any resultant revenue agreements and amendments for the Future of Public Health program for an amount of \$912,213 for each of the following: Fiscal Year 2024, Fiscal Year 2025, and Fiscal Year 2026.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,025–N.S.

Consent Calendar

- 13. Taxi Scrip Redemption Window Cash Drawer Increase**
From: City Manager
Recommendation: Adopt a Resolution authorizing City Manager or her designee to increase the cash drawer amount for the weekly Taxi Scrip Redemption window from \$15,000 to \$20,000.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,026–N.S.
- 14. Contract: The Housing Workshop for Social Housing Models & Market Analysis**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with The Housing Workshop to provide policy model research and market analysis to inform social housing initiatives for the Department of Health, Housing, and Community Services (HHCS) from September 13, 2023 to September 13, 2024 in an amount not to exceed \$175,000.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,027–N.S.
- 15. Expenditure Contract: Persimmony International for Electronic Medi-Cal Administrative Activities and Targeted Case Management Documentation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure agreement, and any amendments or extensions, with Persimmony International for ongoing system maintenance of web-based Medi-Cal Administrative Activities (MAA) time study documentation, and Targeted Case Management (TCM) documentation. The contract will be in an encumbered amount of \$289,011 for the period July 1, 2023 through June 30, 2027.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,028–N.S.
- 16. Contract No. 31900009 Amendment: Building Opportunities for Self-Sufficiency (BOSS) for McKinley House (2111 McKinley Avenue, Berkeley, CA 94703)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900009 with Building Opportunities for Self-Sufficiency (BOSS) through November 1, 2025, adding \$287,712 for a total contract amount of \$945,424, to fund Mental Health clients living at 2111 McKinley Avenue in Berkeley. This will extend the contract by two years.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,029–N.S.

Consent Calendar

- 17. Contract: Sensis, Inc. for Recruitment and Marketing Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Sensis, Inc. for recruitment and marketing services, in an amount not to exceed \$250,000 over two years: \$125,000 in the first year, with an option to renew for a second year for an additional \$125,000.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 71,030–N.S.
- 18. Establish Classification and Salary Range – Lactation Counselor**
From: City Manager
Recommendation: Adopt a Resolution establishing the unrepresented classification of Lactation Counselor with an hourly salary range of \$41.1351 - \$50.0000, and an annual salary range of \$85,561.0080 - \$104,000.00, in order to utilize grant funding to employ an International Board Certified Lactation Consultant (IBCLC) who will oversee the City’s Breastfeeding Peer Counselor Program and provide additional public health services to the City of Berkeley community.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 71,031–N.S.
- 19. Revise Classification and Salary Range – Paramedic**
From: City Manager
Recommendation: Adopt a Resolution revising the classification of Paramedic to an hourly salary range of \$30.00-\$40.00 per hour (currently \$30.00-\$45.00 per hour) to offset unanticipated budgetary impacts due to overtime. This recommendation and proposed Resolution follow Council consideration of this item in Closed Session on July 24, 2023.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 71,032–N.S.

Consent Calendar

20. Memorandum of Understanding: Berkeley Police Association

From: City Manager

Recommendation: Adopt a Resolution 1) approving a successor Memorandum of Understanding (hereafter referred to as “MOU”) with the Berkeley Police Association (hereafter referred to as the “Union”) for a three-year term from July 1, 2023 through June 30, 2026 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary table for Representation Units E and F that implement the salary adjustments reflected in the new MOU and supersede Resolution No. 69,965,-N.S. The terms of the proposed 2023-2026 MOU are within the parameters of authority approved by Council in closed session. The proposals were ratified by the Union following a three-day vote that concluded on August 14, 2023.

Financial Implications: See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 71,033–N.S. as revised in Supplemental Communications Packet #2 from the City Manager.

21. Grant Applications: Bipartisan Infrastructure Law (BIL) and State Funds For Six City Infrastructure Improvement Projects

From: City Manager

Recommendation: Adopt six Resolutions authorizing the City Manager or her designee to submit grant applications to six federal (BIL) and state-funded competitive grant programs for City Infrastructure improvement projects; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted Resolution No. 71,034–N.S. (Berkeley Waterfront University Ave Shoreline), Resolution No. 71,035–N.S. (Interstate 80 and Aquatic Park Lagoon), Resolution No. 71,036–N.S. (West Berkeley and Aquatic Park Lagoon), Resolution No. 71,037–N.S. (Santa Fe Railroad Track to Park), Resolution No. 71,038–N.S. (Martin Luther King, Jr. Youth Services Center), and Resolution No. 71,039–N.S. (South Berkeley Senior Center).

Consent Calendar

- 22. Utility Easement: Bolivar Drive – East Bay Municipal Utility District**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.
Financial Implications: None
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopt first reading of Ordinance No. 7,883–N.S. as revised in Supplemental Communications Packet #2 by the City Manager. Second reading scheduled for October 3, 2023.
- 23. Serving inclement weather needs, RV dwellers, and other vehicle dwellers through the Encampment Mobile Mental Health Wellness Team, as is feasible, within parameters of the state-approved project plan**
From: Homeless Services Panel of Experts
Recommendation: That Council refer to staff to include providing services to meet inclement weather needs of the unhoused and provide services to RV, and other vehicle, dwellers, as is feasible, within the parameters of the state-approved plan.
Financial Implications: See report
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400
Action: Approved recommendation.
- 24. Authorization for an Additional Homeless Services Panel of Experts meeting in October 2023**
From: Homeless Services Panel of Experts
Recommendation: Adopt a Resolution authorizing one additional meeting of the Homeless Services Panel of Experts in October 2023, which would restore one general meeting given that 3 special meetings were otherwise used to address Measure P allocations.
Financial Implications: See report
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400
Action: Adopted Resolution No. 71,040–N.S.
- 25a. Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers**
From: Homeless Services Panel of Experts
Recommendation: That Council refer to staff to include in the community agency allocation funding RFP a question to homeless services providers as to how homeless services providers plan to accommodate clients with literacy and cognitive challenges.
Financial Implications: See report
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400
Action: See action for Item 25b.

Consent Calendar

25b. Companion Report: Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers From: City Manager

Recommendation: Take no action on the Homeless Services Panel of Experts' recommendation, as staff have already included in the community agency allocation funding Request for Proposals (RFP) a question to homeless services providers as to how they plan to accommodate clients with literacy and cognitive challenges.

Financial Implications: See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Action: Approved recommendation in Item 25b.

Council Consent Items

26. Appoint Ayanna Davis to the Berkeley Housing Authority Board

From: Mayor Arreguin (Author)

Recommendation: Adopt a Resolution appointing Ayanna Davis to serve on the Berkeley Housing Authority Board of Commissioners for a four-year term.

Financial Implications: None

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

Action: Adopted Resolution No. 71,041–N.S.

27. Excused Absence for Councilmember Kate Harrison

From: Mayor Arreguin (Author)

Recommendation: Excuse Councilmember Kate Harrison from the September 19, 2023 Council meeting as a result of attending to official business of the City.

Financial Implications: None

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

Action: Approved recommendation.

28. Letter to State Legislators Regarding San Pablo Park Pool Project

From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)

Recommendation: Send a letter to the requesting state budget allocations for capital improvements at San Pablo Park including the Frances Albrier Community Center and San Pablo Park Pool.

Financial Implications: Staff time

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: Vice-Mayor Bartlett added as a co-sponsor. Approved recommendation.

Council Consent Items

29. **51B BRT + University/Shattuck Corridor Mobility Improvements** (*Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee*)

From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Humbert (Co-Sponsor)

Recommendation:

1. Refer to the City Manager commencement of a feasibility analysis and community engagement process to develop options for the implementation of Bus Rapid Transit (BRT) improvements along AC Transit's 51B route; options are to be developed in tandem with internal city departments, including Public Works, Fire, Police Traffic Unit, and Economic Development, and interagency partners, including AC Transit, the Alameda County Transportation Commission, BART, Caltrans, UC Berkeley, and WETA; community engagement is to emphasize students, transportation advocates, transit riders, the disability rights community, the faith community, the senior community, local merchants, the business community, the arts community, and tenants; consultation with AC Transit and UC Berkeley Bear Transit on planning, scoping, and implementation is to begin as soon as possible; staff are encouraged to explore and pursue quick build improvements.
2. Refer \$150,000 to the FY 2024-2025 budget process to increase the budget for the city's ADA Transition Plan capital project to prioritize and implement ADA improvements at the city's intersections, such as curb cuts, auditory functions of crossing signals, bulb-outs, shortening crossing distances, and other safety improvements.
3. Refer \$150,000 to the FY 2025-2026 budget process for consulting costs to conduct corridor studies along University Avenue, from Seawall Drive, to Oxford Street, and along Oxford Street and Fulton Street, from Virginia Street to Durant Avenue, to identify appropriate road safety improvements that advance city-adopted safety, transportation, and climate goals and are continuous with work currently underway on the Addison Bicycle Boulevard, and explore improvements for curb management, i.e. accessible parking (blue curbs), management of curb space for third party delivery service, etc.

Policy Committee Recommendation: To forward the item to Council with a positive recommendation.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: Approved recommendation as recommended by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.

Council Consent Items

- 30. Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts**
From: Councilmember Harrison (Author)
Recommendation: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to help fund art or district branding vinyl window graphics on vacant storefronts in Berkeley Commercial Districts to beautify our Commercial Districts. The fund would be administered by the Downtown Berkeley Association on behalf of all Commercial Districts, and would reimburse property owners for 50% of the entire cost of the project: 1. Artist fee; 2. Costs associated with non-commercial printed material that is ideally non-plastic (may be vinyl if no alternative exists); 3. Installation of non-commercial window graphics
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Approved recommendation.
Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Humbert.
- 31. Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity**
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer to the November 2023 Budget Process \$140,000 to fund staffing, materials, and consultants for a Miyawaki Pocket Forest Pilot Project, including the planting of two pocket forests on City of Berkeley sites, preferably in areas most impacted by poor air quality, and a report to Council on opportunities and funding for a broader Citywide Miyawaki Forest program. Should November 2023 funding not be available, refer to subsequent budget processes for consideration.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
Action: Mayor Arreguin added as a co-sponsor. Approved recommendation including supplemental material in Supplemental Communications Packet #1 from Councilmember Hahn, further amended to include consideration of the Here/There site as a potential pilot site. Supplemental material removes co-sponsor.

Council Action Items

32. Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

From: Councilmember Harrison (Author)

Recommendation: Adopt a resolution designating open space in front of Old City Hall as linear City park space and formally dedicate this site for permanent recreational use pursuant to BMC 6.42.

Financial Implications: See report

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

Action: Moved to Consent Calendar. Adopted Resolution No. 71,042–N.S. with an amended resolved clause as written below and including the Council Report as Exhibit A to the resolution.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to and in front of Old City Hall is designated as an official part of City park land and infrastructure. This includes the land identified in the greyed box on page 2 of the council report, attached hereto as Exhibit A, which is the area between the buildings and right of way excluding the area that is subject to a lease between the County and City of Berkeley.

Information Calendar

33. LPO NOD: 60 Panoramic Way, #LMIN2023-0001

From: City Manager

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

Action: Received and filed.

34. LPO NOD: 1960 San Antonio Avenue/645 Arlington Avenue, #LMSAP2022-0005

From: City Manager

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

Action: Received and filed.

35. LPO NOD: 803 Delaware Street, LMSAP2023-0002

From: City Manager

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

Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 0 speakers.

Adjournment

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

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

Councilmember Hahn absent 8:25 p.m. – 8:27 p.m.

Adjourned at 8:27 p.m.

Communications

Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements

1. Bike East Bay
2. Raul Maldonado

Berkeley Crime

3. Anthony Felli, Regional Vice President, Skates on the Bay (2)
4. Nina Lyons
5. Pamela Michaud
6. Benjamin Stein
7. Peter Radu
8. Colleen McCann
9. Mike Kim
10. Nina Lyons
11. Diana Rossi
12. Peter Horsemann
13. Linda Laskowski
14. Teresa Clarke
15. Melissa Little
16. Rebecca Thomas
17. Ryan Kidd
18. Joshua Bloom
19. Shok Saidmuradov
20. Shannon Holloway
21. Peter Hosemann

Automated License Plate Readers (ALPR)

22. Emily Benner
23. Laura Lake Gediman
24. Alex Merenkov
25. Rosemarie Klems
26. Katie Johnson
27. Isaac Dietz
28. Mary S.
29. Rosa Perez

Communications

Daylight Strawberry Creek/Civic Center Park

- 30. Jessica Hall
- 31. Juliet Lamont and Phil Price
- 32. Diana Bohn
- 33. Jennifer Ware
- 34. Stacie Degeneffe
- 35. Summer Brenner

BART Transit Oriented Development and Parking

- 36. John Hitchen
- 37. Barbara Flasher
- 38. Michai Freeman
- 39. Markus Feyh
- 40. Chris Watters
- 41. Mikayla Fussman
- 42. Nat Kane
- 43. Peter Waller
- 44. Christine Goldin
- 45. Marija Hillis
- 46. Peggy Scott

2720 Hillegass/Willard Clubhouse

- 47. Julie Obbard
- 48. Alex Stec

Housing

- 49. Aimee Baldwin (3)
- 50. Meryl Siegal

Reforest Berkeley

- 51. Glenn Alex
- 52. Ruby Lee
- 53. Mike Vandeman

Shellmound

- 54. Sophia DeWitt, on behalf of East Bay Housing Organizations

Fukushima

- 55. Richard Tamm
- 56. Francine Cavaliere
- 57. Dawn DelMonte (2)
- 58. Sally Nelson
- 59. Bjorn Fox
- 60. Nori Hudson
- 61. Jose Arau
- 62. Juli Dickey

Communications

63. Jose Franklin Arau

3050 College Avenue

64. Janet Miller (2)

Help Shape the Library's Strategic Plan

65. Aimee Reeder

Lawrence Hall Neighborhood Issues

66. Emily Starr

Berkeley's Business Districts

67. Jack Kurzweil

Racial Injustices

68. Aimee Baldwin

Public Works Transportation Division

69. Hamid Mostowfi, Transportation and Infrastructure Commission Co-Secretary

Bio Labs

70. Steve Shmanske

71. Sandina Robbins

People's Park

72. Tobey Wiebe

73. Rod Gutierrez

Here/There Now Fence

74. Mike Kim

75. Nicole Sullivan

Berkeley Police Department Investigation

76. Diana Bohn

77. Mary Behm-Steinberg

78. Janie Schroeder (2)

79. Tobey Wiebe

80. Nathan Mizell

Fire Danger

81. Susan Nunes

82. Councilmember Hahn

Cell Antennas

83. Stephanie Thomas

84. Constance Anderson

Communications

85. Phoebe Thomas Sorgen

Encampment at 8th & Harrison

86. Yesica Prado (3)

87. Peter Radu, Neighborhood Services, City Manager's Office

Appoint Police Chief Louis

88. Marvin Snow

Secondhand Smoke

89. Carol Denney

90. Rebecca Day-Rodriguez, on behalf of Health, Housing & Community Services

Mortgage Relief Program

91. Carole Marasovic

Rental Inspection Program Proposal

92. Christopher La Combe

Virginia/Oxford Intersection

93. Theo Posselt

Fire Inspection Bill

94. Jane Kitchel

Youth Representation on the Environmental and Climate Commission

95. Kristen Anderson

Roots Near Sidewalk and Curb

96. Barry Horwitz

New City Manager

97. Carol Denney

Battery Recycling

98. David Lerman

Conflict of Interest/Trying to Find Children

99. Lavell Young

Golden Gate Horse Racing

100. Jim Renella

Homelessness

101. Eric Friedman

102. Aimee Baldwin

Communications

Cub Scout Requirement

103. Jason Hertenstein

Ohlone Greenway

104. Howard Goldberg (2)

105. Cindi Goldberg

106. Lisa Chow

107. Mary Behm-Steinberg

108. Eric Cheng

New Apartments and Business'

109. Steven Schuyler

Star Alliance

110. Peter Bruce DuMont (2)

Oakland International Airport Public Review

111. Port of Oakland

Fire Ready Fest

112. Berkeley Fire Department (2)

#DiscoveredinBerkeley – Squishy Robots

113. Liz Redman, on behalf of the Office of Economic Development

Current State of the City of Berkeley

114. Assal Sharifi

Jr. Jackets Football Support

115. Eric Friedman

Request for Action – Police Budget, Building Heights, etcetera's

116. Dan.auten@

URL's Only

117. Vivian Warkentin (8)

118. crustyrusty@riseup.net

Supplemental Communications and Reports 1

Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements

119. Raul Maldonado, East Bay YIMBY Lead

120. Kieran Katyal-Tan

121. Chuck Siegel, on behalf of Walk Bike Berkeley

122. 5 similarly-worded form letters

Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity

123. Supplemental material, submitted by Councilmember Hahn

Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

124. Isabelle Gaston

125. Carol Hirth

Supplemental Communications and Reports 2

Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services

126. Elana Auerbach

Item #20: Memorandum of Understanding: Berkeley Police Association

127. Supplemental material, submitted by Human Resources

Item #22: Utility Easement: Bolivar Drive – East Bay Municipal Utility District

128. Revised material, submitted by Parks, Recreation and Waterfront

Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements

129. Eric Johnson

130. Mary Ann Furda

131. Tawny Reynolds

132. Phyllis Orrick

133. Mario Valadez

134. Alfred Twu

135. Lee Bishop

136. 12 similarly-worded form letters

Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

137. Marsha Feinland

138. Paola Laverde

139. Max Ventura

140. Jean Tepperman

141. Erika Shore

142. Marian Wolfe

143. Carole Cool

144. Susana Porte

145. Summer Brenner

146. Gael Alcock

147. Miranda Ewell

148. Jane White

149. Rachel Katz

150. Stephen Most

151. Laura Galligan

152. Cate Leger

- 153. Helga Recke
- 154. William Pettus
- 155. Sally Nelson

Supplemental Communications and Reports 3

Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services

- 156. Elana Auerbach

Item #28: Letter to State Legislators Regarding San Pablo Park Pool Project

- 157. Claudia Kawczynska
- 158. Cameron Woo

Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements

- 159. Melinda Howard-Herrarte, on behalf of the Sierra Club
- 160. Alden Mudge
- 161. Councilmember Humbert
- 162. Maulin Chokshi
- 163. Igor Tregub, on behalf of the Alameda County Democratic Party
- 164. Sean Gibson
- 165. 14 similarly-worded form letters

Item #30: Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts

- 166. Steve Kromer

Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health and Equity

- 167. Daniel Gluesenkamp, on behalf of California Institute for Biodiversity
- 168. Jess Login and students, Malcolm X Elementary School
- 169. Hazel Copithorne
- 170. Lola Leeman
- 171. Ivan Fisher

Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

- 172. Virginia Warheit
- 173. Pamela Drake
- 174. Diana Bohn
- 175. Erin Diehm
- 176. Juliet Lamont and Phil Price
- 177. Harvey Smith
- 178. Janet Levenson
- 179. Deborah Green

Miscellaneous Communications

- 180. Mr. Eid



Kate Harrison
Councilmember, District 4

ACTION CALENDAR
September 12, 2023

To: Honorable Mayor and Members of the City Council
 From: Councilmember Harrison
 Subject: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

RECOMMENDATION

Adopt a resolution designating open space in front of Old City Hall as linear City park space and formally dedicate this site for permanent recreational use pursuant to BMC 6.42.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

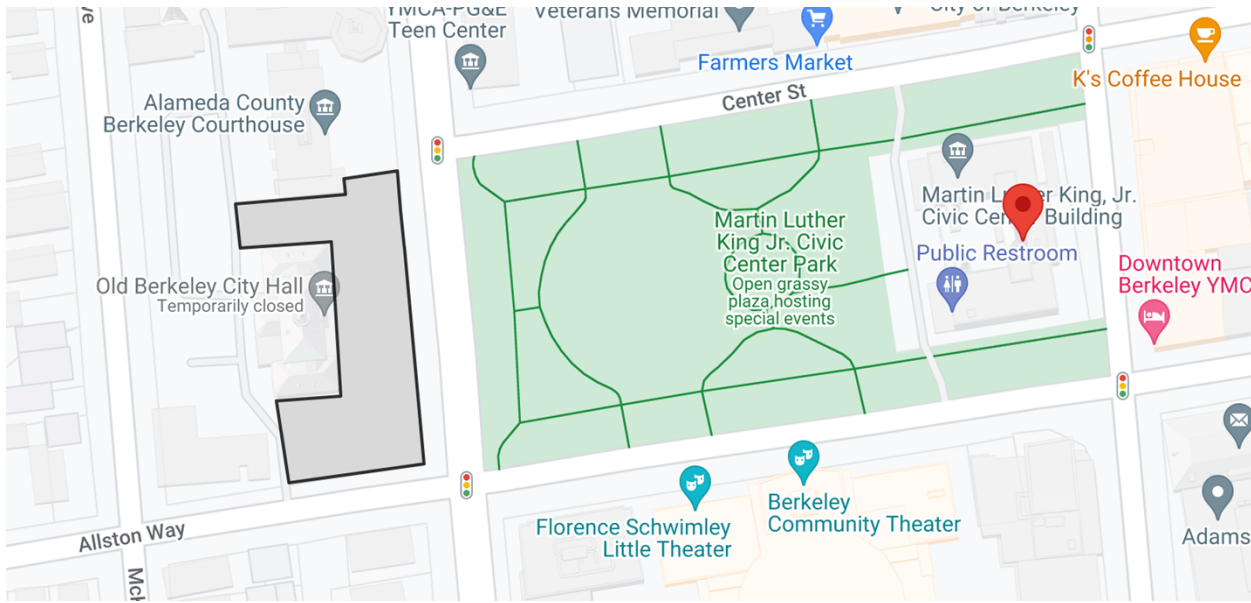
The built environment of Downtown Berkeley lacks an abundance of open space and recreational facilities. Parks and open space are critical for the well-being of residents.

Measure 'L', the *Berkeley Public Parks and Open Space Preservation Ordinance*, adopted by the City of Berkeley in 1986 and codified as Berkeley Municipal Code (BMC) Section 6.42, designates "census tracts containing less than the master plan provision of two acres of parks and open space per one thousand population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities."

The Downtown Census tracts 4229.02 and 4230 with respective populations of 3,033 and 4,676 fall short of this threshold and should be prioritized for additional open space. The only park in Census tract 4229.02 is Civic Center Park with 3.46 acres of open space, nearly half the amount of space recommended by Measure L. Similarly, tract 4230 in Central Berkeley has a mere .63 acres of open space, when according to Measure L it should have approximately just under 10 acres.



Pursuant to BMC 6.42, this item would contribute approximately an additional .68 acres of Parks and Open space for use by residents and visitors to these two Central/Downtown census tracts by converting the open space in front of Old City Hall.



BACKGROUND

The District 4 Council District, where Old City Hall is located, contains nearly 14,082 residents according to the 2020 census but only contains roughly 4.02 acres of open space and park land. This means that, according to Measure L, District 4 has a high priority for funding, acquisition, development, and maintenance of new open space.

The open space and landscaping along the western side of MLK and in front of and to the sides of Old City Hall is currently designated a landscaping associated with civic buildings. The space does not currently enjoy the same status of a City park, which would

confer additional maintenance and protection benefits via the Parks, Recreation & Waterfront Department.

The open space in front of these three public buildings is already often used for variety of civic events and as a lunch spot for residents, workers, and Berkeley High students.

Within Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3, 2002, the objectives are stated as follows and are consistent with the goals of this item:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

In addition, designating this area as an official public park would help achieve the goals ED-2 and OS-1 of the Berkeley Downtown Area Plan, to "maintain a safe and inviting streets, parks and plazas that contribute to the success of businesses and the wellbeing of residents" and "create new public gathering places that support nearby uses and Downtown as a destination."

In 2019, Council previously designated Berkeley's portion of Ohlone Greenway and the West Street Bike Path as linear City parks pursuant to BMC 6.42. It is in the public interest to similarly designate the Berkeley-owned open space and land included in this item as an official part of Berkeley park infrastructure.

FISCAL IMPACTS OF RECOMMENDATION

This area is already owned and maintained by the City of Berkeley so the fiscal impacts of making it an official park would be small. A minimal use of staff time would be required to dedicate the area as a park and add park signage.

ENVIRONMENTAL SUSTAINABILITY

Designating the open space adjacent to and in front of Old City Hall will enable the City to better maintain these dedicated spaces as safe and enjoyable low-carbon and carbon sequestering recreation areas.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

ATTACHMENTS

1. Resolution
2. Voter Information Pamphlet Text of Measure L

RESOLUTION ##,###-N.S.

DESIGNATING THE BERKELEY-OWNED OPEN SPACE ADJACENT TO AND IN FRONT OF OLD CITY HALL AS AN OFFICIAL PART OF CITY PARK INFRASTRUCTURE

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3rd, 2002, the objectives are stated as:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, in Berkeley's Downtown Area Plan, adopted March 20th, 2012, the objectives are stated as:

- maintaining a safe and inviting streets, parks and plazas that contribute to the success of businesses and the wellbeing of residents;
- creating new public gathering places that support nearby uses and Downtown as a destination; and

WHEREAS, Measure L, the *Berkeley Public Parks and Open Space Preservation Ordinance* adopted by the City of Berkeley in 1986 requires the Council "To preserve and maintain the public parks and open space which exist in Berkeley, as well as To acquire and maintain public parks and open space in the census tracts and Neighborhoods of Berkeley having less than the minimum amount of open Space relative to population (2 acres per 1,000)"; and

WHEREAS, District 4 and the census tracts therein adjacent to Old City Hall contains less than 2 acres of public parks and open space per 1,000 residents and therefore has a high priority for funding, acquisition, development, and maintenance of open space; and

WHEREAS, the above goals and ordinances establish the protection of open space and the establishment of public parks as an important City priority; and

WHEREAS, the open space and land along the western side of MLK and in front of Old City Hall are already being used for civic and recreational activities and are comparable to existing Park Space in the adjacent Civic Center Park.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to and in front of Old City Hall is designated as an official part of City park land and infrastructure.

CITY OF BERKELEY INITIATIVE ORDINANCE

<p>L MEASURE L: Shall an ordinance be adopted to require voter approval of non-recreational uses of parks or open space and require acquisition of open space controlled or leased by the City if acquisition is the only means of preserving the open space?</p> <p>Financial Implication: Increase in landscape assessment fees; acquisition costs unknown.</p>	YES
	NO

FULL TEXT OF MEASURE L

LET IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide:

THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE: PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.

FINDINGS:

WHEREAS the Berkeley Master Plan of 1977 (hereinafter Master Plan) provides for a minimum standard of two acres of public open space per 1,000 persons and identifies specific Berkeley census tracts as having high population density and high open space demands, and attainment of the minimum standard is jeopardized by continued loss of Public open spaces.

WHEREAS the City of Berkeley is the second most densely populated city in California, undeveloped land is at a high premium in Berkeley, there are significant pressures to convert City owned or controlled open space to permanent or long-term non-park, non-open space uses and there exists a clear and present emergency in that the threatened loss of open space, parks and recreational opportunities in the neighborhoods in Berkeley will cause irreparable damage to the health and welfare of Berkeley residents.

WHEREAS the Berkeley City Council has failed to provide and fund the Master Plan minimum standard of public parks and open space in every Berkeley neighborhood, and in particular in those census tracts having high park and open space requirements.

WHEREAS, specific procedures and directives to the Berkeley City Council are necessary to insure that the Master Plan's minimum park and open space goals are not rendered impossible through the continued loss of public open spaces;

VOTER AUTHORIZATION PROCEDURE

Section 1: That no public parks (hereinafter defined) or public open space (hereinafter defined) owned or controlled or leased by the City of Berkeley or agency thereof, shall be used for any other purpose than public parks and open space, without The Berkeley City Council first having submitted such use to the citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

FUNDING LEVELS TO ALLOW FULL USE

Section 2(a): That wherever public parks and open space currently exist in Berkeley, such use shall continue and be funded at least to allow the maintenance of the present condition and services. (b) That all undedicated or unimproved open space owned or controlled by the City of Berkeley (including land held by the City in trust) shall be retained and funded by the Berkeley City Council to enable public recreational use of those lands. (c) That those census tracts containing less than the Master Plan provision of two acres of parks and open space per 1,000 population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.

Section 3(a): **Public parks** shall be defined as City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds.

Section 3(b) **Public open space** shall be defined as all City of Berkeley parks, public school playgrounds, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreational use or potential use on or after January 1, 1985.

ADOPTION OF THIS ORDINANCE

Section 4(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3)(a).

RETROACTIVITY

Section 5(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority, or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 5(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, or Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

SEVERABILITY

Section 6: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE L

The initiative ordinance would have the following effect:

1. Require that all existing public parks and vacant public land, either formally or informally devoted to recreational use after January 1, 1985, be retained and maintained at their present level of service. This requirement would only apply to land owned or controlled by the City of Berkeley, since the City does not have the authority to regulate land owned by other public entities such as the school district or the University of California. The Berkeley Redevelopment Agency and the Berkeley Housing Authority are independent state agencies and thus would be immune from regulation in this manner.
2. Require prior voter approval if such City of Berkeley public parks or open space are to be used for any other purpose. This measure requires the City to acquire land it does not presently own, if acquisition is the only means to retain the land as open space or public park. As of the date this analysis was prepared, several City parks are owned by others, including: sections of Ohlone Park, leased from Bay Area Rapid Transit District; six school parks owned by the Berkeley Unified School District and maintained, in part, by the City; and Douglas Park on Dwight Way which is owned by the University. The City has plans underway to acquire the remaining section of Ohlone Park.
3. Census tracts that do not meet the Master Plan open space requirements will have priority for the funding, acquisition, development and maintenance of parks and recreational facilities.

Financial Implications

Currently park maintenance is funded by fees through the Landscape Assessment District. Increase in fees will be required to maintain additional land. Costs to acquire land owned by others is unknown at this time, but may be significant.

ARGUMENT IN FAVOR OF MEASURE L

Approval of this citizen's initiative ordinance will allow Berkeley Voters to directly participate in decisions to change the use of Public Parks and Open Space.

Berkeley's parks and public open spaces are highly used and valued by all parts of the community. They help provide for the health, fitness, children's play, entertainment, and recreational needs of all citizens. Decisions to reduce our presently insufficient number of parks belong on the ballot where all citizens can express their opinion with their vote.

This initiative ordinance requires that the voters must approve new uses for city lands held in public trust. It does not limit or prohibit any potential new uses approved by the majority of the voters.

Approval of this ordinance would certify that Berkeley Census tracts that presently contain less public open space than the Master Plan standard of two acres per 1,000 residents be given priority funding in acquisition, development and maintenance of parks/recreational facilities. It will help make distribution of parks more equitable throughout Berkeley. This is a minimal standard, since Berkeley has fewer parks than state and national averages.

The provisions of the Master Plan combined with the approval of Measure Y (1974) park funding, strongly suggests that the Citizens of Berkeley believe that Public Parks and Open Space need expansion. Since there is no indication that Berkeley has changed its opinion, it is all the more appropriate to require voter approval when potential development removes parks and open space called for in the Berkeley Master Plan.

You can help Preserve Berkeley's parks and open space by voting YES on Measure L.

s/Martha Nicoloff, Co-Author, Neighborhood Preservation Ordinance
s/Clifford Fred
s/Dorothy Bryant
s/Carroll B. Williams, Former Berkeley School Director
s/John G. Cecil, Chair, Preservation Initiatives Committee

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

The need for parks is a serious issue which should not be the subject of the scare tactics employed by the proponents of Measure L.

City parks are designated in the Master Plan for recreational use. Contrary to implications made by the proponents of this measure, **no one can recall any City plan**—past, present, or future—to **reduce the number of parks** serving Berkeley's recreational needs. Open space, sometimes a vacant lot, on the other hand, is usually held by owners other than the City. They may, or may not, have plans for future use of their property.

The real reason for Measure L is the Housing Authority's plan to build 12 single-family townhouses for low income families on a small portion of School District property at Savo Island (MLK, Jr. Way between Derby and Ward). The remaining piece of land is large enough to accommodate a football field. The neighborhood will still be able to enjoy the use of this open space.

Measure L does more than require a vote for new uses for City lands held in public trust. It requires the City to acquire land. But **where will the money come from?** Given the tremendous federal budget cuts to municipalities and the demands on the City's budget, from what other City services will the trade-off come? And given the pressure of Measure L on the City, property owners would be foolish to negotiate.

If we want additional parks, someone has to pay. And since we will ultimately pay, **we should know the cost before we make such an important decision.**

Don't let the proponents of this measure scare you into believing that our parks will disappear. Quite honestly, they won't.

VOTE NO ON MEASURE L

s/Wesley E. Hester, Chair, Council Committee on Revenue and Finance
s/Arlene Irlando, Member, Berkeley Chicano/Latino Network
s/Maudelle Miller Shirek, Berkeley City Council
s/Stacy Wilson, Chair, Citizens Budget Review Commission
s/Carole K. Davis, Former Vice-Mayor

ARGUMENT AGAINST MEASURE L

On its face as a statement of community values, Measure L seems harmless. What could be wrong with wanting additional parks? However, the difference between the outcome of Measure L and the kind of program which can come from a thoughtful parks proposal such as Measure Y (1974) is a budget—a specific amount dedicated to acquiring and maintaining parks and open space.

In 1974 voters passed a park acquisition, renovation and development ordinance: Measure Y. It raised more than \$5 million. As a result, the City was able to create 9 new parks and 8 parks on-school grounds. That measure was a direct result of the recognition that Berkeley was deficient in park space and was able to accomplish what it did because it included a budget.

As a community we are stretched thin in trying to fund a variety of City Services ranging from police services to sidewalk repair. **New parks and additional open space cost money** (if and when the City can get title to the property. In fact, this measure may well prejudice City negotiations with landowners who will use this measure in their bargaining. The proponents of Measure L are irresponsible in offering this proposal without including the means by which to finance it. They have made promises but have not provided any way of keeping them. **The citizens deserve to know how the money will be obtained, and what the price tag will be.**

s/Hynetha Hewitt, Parks and Recreation Commissioner
s/Carole Davis, Former Vice-Mayor
s/Maudelle Shirek, Berkeley City Council
s/Carole Lewis, Social Services Director
s/Rich Illgen, President, Planning Commission

REBUTTAL TO ARGUMENT AGAINST MEASURE L

The opponents of Measure L have missed its major provision.

Measure L **prevents the City Council from using the existing public parks and open spaces for any new use without the approval of the community.**

If the **Council wants to remove/develop** existing public parks and open space, **prior voter approval is required.**

At this time, **no law prevents** our elected officials from placing such decisions on the ballot.

Measure L also requires that the **minimal standard for parks already in existence** be observed in **areas that presently have less than their "fair share" of parks** called for in the Berkeley Master Plan of 1977.

We do not agree with the opponents financial argument.

Despite the implications of the opponent's argument, responsibility for implementing and financing the Measure L Plan has not shifted from Council and Staff to individual community members. It should be noted that **determined citizens** who believe in the importance of parks and recreational facilities in everyone's quality of life, have and will continue to assist in the search for sources of new and additional funding.

Measure L ensures the community will be directly involved in decisions to re-use existing Public Parks and Open Space by placing every proposed development plan on the ballot and letting the voters decide between parks and development.

Vote YES on Measure L.

s/Michael Winter, Executive Director, Center for Independent Living

s/Pamela J. Ferguson

s/Gloria A. Belsky

s/John G. Cecil, Chair, Preservation Initiatives Committee

s/Janet M. Maestre

CITY OF BERKELEY INITIATIVE ORDINANCE

<p>M MEASURE M: Shall an ordinance be adopted requiring voter approval for non-educational and/or non-recreational uses of Berkeley Unified School District property?</p> <p>Financial Implications: Unknown.</p>	YES
	NO

FULL TEXT OF MEASURE M

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BERKELEY:

FINDINGS:

WHEREAS the Berkeley City Council and Berkeley Housing Authority have attempted to acquire, develop, use or approve Berkeley Unified School District property for non-educational purposes.

WHEREAS the Berkeley Unified School District (hereinafter School District) has been given a public trust in real property to use for the educational benefit of the Citizens of Berkeley.

WHEREAS the School District has purchased and developed real property with monies received in trust and intended to be expended for the educational benefit of the citizens of Berkeley, which property if lost to the originally intended and dedicated educational and related recreational uses, will be unavailable or irreplaceable when needed for those uses.

WHEREAS there is a potential that use or development of School District property for non-educational uses will ultimately act to the detriment of the Citizens of Berkeley and will violate the wishes of a majority of the Citizens of Berkeley regarding the use of that property.

WHEREAS these actions have been proposed and are being undertaken without the approval of the voters of Berkeley.

WHEREAS there exists a clear and present emergency in that the threatened sale or long-term lease of School District real property and buildings for non-educational or non-recreational use will cause irreparable damage to the health and welfare of Berkeley residents.

IT IS HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide for the following:

VOTER AUTHORIZATION PROCEDURE

Section 1: That should the Berkeley City Council, Housing Authority or any other agency of the City of Berkeley propose to acquire, or approve the use of, School District property (hereinafter defined) for other than educational or existing recreational purposes, and should that approval or use require the purchase, sale or long-term encumbrance (hereinafter defined) of that property, the Berkeley City Council shall first submit that specific proposal, detailing the specific use, transaction sought, and the site involved, after being approved officially by the appropriate City agency and the Berkeley City Council, to the Citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

DEFINITIONS

Section 2(a): **School District property** shall be defined to include the land and buildings which have been used by the Berkeley Unified School District for educational purposes, child-care, recreation or School District support services (including maintenance) at any time since January 1980.

Section 2(b): A **long-term encumbrance** shall include a lease whose term is greater than five years or where options are granted such that the term may be extended beyond five years by option of the lessee. In addition, a long-term encumbrance shall include any mortgage transaction which pledges the property as security.

ADOPTION OF THIS ORDINANCE

Section 3(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3) (a).

RETROACTIVITY

Section 4(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 4(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

SEVERABILITY

Section 5: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE M

The initiative ordinance would have the following effect:

1. Require the City Council to submit to the voters for prior approval any proposal to acquire, encumber or lease for a period longer than five years, or approve the use of property owned by the Berkeley Unified School District, if the property is not intended to be devoted to educational or recreational uses. Under current law, voter approval of such a proposal would be required only if the property was to be used for specified kinds of public housing and the City had exhausted its current voter approved authority to construct such units. The Housing Authority is an independent state agency implementing statewide laws and is not subject to this ordinance. Zoning or other City land use approvals of projects proposed by other private or public persons or entities would not be subject to prior voter approval under current case law.
2. Provide that any actions taken by the City Council or the Berkeley Housing Authority or other City agency after January 1, 1985, which contravene the ordinance in the above respect, are null and void. The Berkeley Housing Authority has entered into a long-term lease with the Berkeley Unified School District