



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

**MONDAY, AUGUST 26, 2019
2:30 P.M.**

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

AGENDA

Roll Call

Announcement: Brown Act Participation Rules

Public Comment

Review of Agendas

- 1. Approval of Minutes: July 15, 2019**
- 2. Review and Approve Draft Agendas:**
 - a. 9/10/19 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory Of**

Scheduling

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

Referred Items for Review

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

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

From: City Manager

Contact: Mark Numainville, City Clerk

Items for Future Agendas

- **Discussion of items to be added to future agendas**

Adjournment – Next Meeting Monday, September 9, 2019

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

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

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

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

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*



#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on August 22, 2019.

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

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





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

**BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES**

**MONDAY, JULY 15, 2019**

**2:30 P.M.**

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

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**Roll Call:** 2:37 p.m. All present.

**Public Comment:** 3 speakers.

**Minutes for Approval**

**1. Minutes: July 8, 2019**

**Action:** M/S/C (Wengraf/Hahn) to approve the Minutes of 7/8/19.

**Vote:** All Ayes.

**Referred Items for Review**

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

**2. Discussion and Direction Regarding Revisions to the City Council Rules of Procedure and Order**

**From:** City Manager

Contact: Mark Numainville, City Clerk

**Action:** Discussion held. Recommended edits proposed for pages 1-10. Item held over to August 26, 2019.

## Referred Items for Review

### 3. Review of Scope of Work to Develop a Performance Evaluation of the City Manager

**From: City Manager**

Contact: Dee Williams-Ridley, City Manager

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

1. Accept the proposed Scope of Work submitted by the City Manager with modified selection criteria for the consultant as follows: 20% for References, 30% for Costs, and 50% for Public Sector Experience.
2. Recommend that a multi-phased evaluation process be considered to incorporate an informal feedback session on the City Manager's performance that would be facilitated by the consultant; a process will be conducted for developing evaluation criteria for the City Manager's performance evaluation; and the consultant should provide recommendations regarding the depth of content and frequency of the City Manager's performance evaluations.

**Vote:** All Ayes.

## Items for Future Agendas

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

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 4:22 p.m.

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

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Mark Numainville, City Clerk

## Communications

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

**DRAFT AGENDA****BERKELEY CITY COUNCIL MEETING**

**Tuesday, September 10, 2019  
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

**Preliminary Matters****Roll Call:**

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

1. Pledge of Allegiance to the Flag

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## Recess Items

- 1. Recess Item: Reject All Bids and Negotiate in the Open Market for the John Hinkel Park Improvement Project, Specification No. 19-11321-C**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to reject all bids and direct staff to negotiate in the open market for the work associated with the John Hinkel Park Improvement Project, Specification No. 19-11321-C.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

- 2. Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**  
**From: City Manager, City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,673-N.S. amending Berkeley Municipal Code sections 9.80.020 and 9.80.035, and adding sections 9.80.031 and 9.80.032 to prohibit the sale of flavored tobacco products, to require a minimum package size for cigars and little cigars, and to require a minimum price for certain tobacco products sold in the City.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Farimah Brown, City Attorney, (510) 981-6950; Kelly Wallace, Housing and Community Services, (510) 981-5400
- 3. Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Adopt second reading of Ordinance No. 7,674-N.S. amending the Berkeley Elections Reform Act, Berkeley Municipal Code Chapter 2.12, regarding the public financing program.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Emma Soichet, Commission Secretary, (510) 981-6950
- 4. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of July 9, 2019 (special closed and regular), July 16, 2019 (special closed and regular) and July 23, 2019 (special closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 5. Contract No. 9754 Amendment: Konica Minolta Business Solutions, Inc. for Electronic Content Management System and Agenda Management and Workflow System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9754 with Konica Minolta Business Solutions, Inc. for software maintenance, and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by \$175,000 for a total not to exceed amount of \$541,004 to pay for regular annual maintenance costs and version updates, and authorize annual renewals for maintenance services through September 18, 2024.  
**Financial Implications:** General Fund - \$175,000  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Consent Calendar

### 6. 2019 Updated Commissioners' Manual

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the updated 2019 edition of the Commissioners' Manual to include the Council direction to enhance the requirements for the public availability of written materials distributed to the commission after the agenda packet is published, making additional clarifying, non-substantive corrections, and rescinding Resolution No. 68,487-N.S.

**Financial Implications:** None

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

### 7. On-Call Graphic Design Services Contracts

**From: City Manager**

**Recommendation:** Adopt eight Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for on-call graphic design and/or illustration services for a total contract period of three years:

1. Bess Design in an amount not to exceed \$75,000; and
2. Celery Design Collaborative in an amount not to exceed \$75,000; and
3. Finley Digital in an amount not to exceed \$75,000; and
4. Identafire in an amount not to exceed \$75,000; and
5. Kate Saker in an amount not to exceed \$75,000; and
6. lowercase productions in an amount not to exceed \$75,000; and
7. Pushcart Design in an amount not to exceed \$75,000; and
8. Uptown Studios in an amount not to exceed \$75,000.

**Financial Implications:** See report

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

### 8. Resolution Recognizing the Importance of the 2020 Census

**From: City Manager**

**Recommendation:** Adopt a Resolution supporting Census 2020 and encouraging residents of the City of Berkeley to promote and complete the Census to ensure a fair and complete count.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, (510) 981-7000

### 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2019

**From: City Manager**

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** Various Funds - \$12,590,000

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

## Consent Calendar

**10. Purchase Order Agreements: Aramark Uniform Rental and Laundry Service  
From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to piggyback on the City of Fresno's competitively bid contract with Aramark Uniform Services for the provision to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments. Expenditures are projected to amount to \$64,178 in Year 1 (September 1, 2019 through December 31, 2019) and \$198,735 in Year 2 and \$205,134 in Year 3 through January 4, 2022 for a total not to exceed amount of \$468,047 during this 28 month period, subject to the City's annual budget appropriation process.

**Financial Implications:** Various Funds - \$186,530

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

**11. Toshiba Managed Printed Services – Participation in Cooperative Contract:  
Region 4 Education Service Center/Omnia Partners  
From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to piggyback on Region 4 Education Service Center Contract No. R171405 (hereinafter Region 4 Contract) and enter into annual Purchase Order agreements and any amendments with Toshiba Business Solutions Inc. (TBS) for the provision of citywide managed print and copy services. Expenditures are projected to amount to \$267,938 in FY2020, \$275,976 in FY2021, and \$284,255 in FY2022, for a total not to exceed amount of \$828,170 for three (3) years coverage, subject to the City's annual budget appropriation process.

**Financial Implications:** See report

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

**12. Contract No. 010561 Amendment: Alameda County Network of Mental Health  
Clients / Berkeley Drop-In Center (BDIC) to Operate a Secure Storage Program  
From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 010561 with the Alameda County Network of Mental Health Clients / Berkeley Drop-In Center, adding \$50,000 in state Homeless Emergency Aid Program (HEAP) funding for a homeless storage locker program. This addition of \$50,000 will support eligible program-related activities for the period of one year and will increase the total not-to-exceed (NTE) amount of the existing contract to a revised amount of \$85,721.

**Financial Implications:** HEAP Funds - \$50,000

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

## Consent Calendar

- 13. Contract: Alameda County Public Health Department, Office of Dental Health to Provide Dental Services to the Berkeley Unified School District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Alameda County in an amount not to exceed \$159,000 to provide dental services in Berkeley Unified School District for the period of July 1, 2019 through June 30, 2022.  
**Financial Implications:** General Fund - \$53,000  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 14. Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revised Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) to clarify which rehabilitation activities would not require SHPO's review.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 15. Authorization to use Measure E Reserves to Procure Consulting Services for Easy Does It**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to use Measure E reserve funds to procure a consultant and enter into any agreements to provide Easy Does It (EDI) with operational, management, and organizational culture consulting services for an amount not to exceed \$100,000 to ensure initial and sustained implementation of audit findings.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 16. State Minimum Wage Increases: Camps' Classification Salaries State Minimum Wage Increase – July 1, 2019 through June 30, 2022**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving salary increases for certain Unrepresented Camp Classification salaries in Unit X1, for the period July 1, 2019 through December 31, 2020 pursuant to State of California Minimum Wage Order (MW-2019), and amending Resolution No. 68,534-N.S. (Salary).  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800



## Consent Calendar

- 17. Berkeley Minimum Wage Increases: Salary Adjustments in accordance with Berkeley Minimum Wage Ordinance – July 1, 2019 through June 30, 2021**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving salary increases for certain Unrepresented Classification salaries in Unit X1, for the period July 1, 2019 through June 30, 2020 pursuant to Berkeley Minimum Wage Ordinance, adopt future CPI-W increases through June 30, 2021 pursuant to Berkeley Minimum Wage Ordinance B.M.C. 13.99, and amending Resolution No. 68,534-N.S. (Salary).  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 18. Presidio Networked Solutions Group, LLC: Using National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Agreement for Computer Hardware and Software Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority with Presidio Networked Solutions Group, LLC (“Presidio”) for the purchase of networking equipment hardware and software, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning September 10, 2019 to June 30, 2020 for an amount not-to-exceed (NTE) \$200,000.  
**Financial Implications:** See report  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 19. Contract No. 10414A Amendment: Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10414A with Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan, for a total not to exceed \$99,700 and for a total contract value of \$303,960 from September 14, 2016 to June 30, 2021.  
**Financial Implications:** IT Cost Allocation Fund - \$99,700  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 20. Donation: Memorial Bench at Cesar Chavez Park in memory of Robert J. and Charlotte C. Coomber**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Robert J. and Charlotte C. Coomber.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

- 21. Contract: United Site Services of California, Inc. for Portable Toilet Rental and Service**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with United Site Services of California, Inc. in an amount not to exceed \$360,000 for a period of two years, with an option to extend for three 12-month periods for a total amount not to exceed \$900,000 to provide portable toilet services for rental and service of portable toilet units for the period October 1, 2019 through September 30, 2024.  
**Financial Implications:** Various Funds - \$900,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 22. Contract: Rincon Consultants, Inc. for Southside Initial Study and Environmental Impact Report**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Rincon Consultants, Inc. to prepare an Initial Study/Environmental Impact Report (IS/EIR) for Zoning Ordinance changes in the Southside area for an amount not to exceed \$192,000 for a period of 16 months.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 23. Approval of match commitment letter for FEMA Hazard Mitigation Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds for a Hazard Mitigation Grant application for the Retrofit Grants program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program.  
**Financial Implications:** See report.  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 24. Contract: DC Electric Group, for On-Call Electronic Traffic Calming Devices Maintenance Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with DC Electric Group, Inc., for the on-call general maintenance of electronic traffic calming devices for the period October 16, 2019 to June 30, 2024, with an option of up to three one-year extensions, for an amount not-to-exceed \$250,000.  
**Financial Implications:** State Transportation Tax Fund - \$250,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Consent Calendar

- 25. Contract No. 10298 Amendment: C. Overaa & Co. for the Center Street Parking Garage**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10298 with C. Overaa & Co. for the Center Street Parking Garage Project, increasing the contract amount by \$473,835 for a total amount not to exceed \$38,944,818.  
**Financial Implications:** Off Street Parking Fund - \$473,835  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 26. Contract No. 9082C Amendment: Northgate Environmental Management, Inc. for On-Call Environmental Consulting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9082C with Northgate Environmental Management, Inc. for on-call environmental consulting services, increasing the current contract by \$50,000 for a total contract amount not to exceed \$234,500.  
**Financial Implications:** Various Funds - \$50,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 27. Correction to Resolution No. 68,901-N.S. to Authorize Enhanced Fine Tow Zones on UC Berkeley Football Game Days**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution re-establishing new parking restrictions on UC Berkeley football game days, correcting the inadvertent omission of Enhanced Fine tow zones in Resolution No. 68,901-N.S., and rescinding Resolution No. 68,901-N.S.  
**Financial Implications:** None  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 28. Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute an agreement with the East Bay Regional Park District (EBRPD) for Drainage, Slope and Maintenance Access Easements at Tilden Regional Park.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Consent Calendar

**29. Green Infrastructure Plan Adoption**

**From: City Manager**

**Recommendation:** Adopt a Resolution adopting the City of Berkeley Green Infrastructure Plan, July 2019, submit the Plan to the SF Bay Regional Water Quality Control Board, and authorize the City Manager to amend the Green Infrastructure Plan as needed to adjust for changes in technologies, or changes in City priorities.

**Financial Implications:** See report

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

**30. Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements**

**From: Animal Care Commission**

**Recommendation:** In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'

**Financial Implications:** None

Contact: Amelia Funghi, Commission Secretary, (510) 981-6600

**31. Providing Wheelchair Charging Opportunities for Homeless Individuals**

**From: Commission on Disability**

**Recommendation:** Direct appropriate city staff to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Staff is directed to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Request that staff assemble a policy to be reviewed and implemented.

**Financial Implications:** See report

Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300

**32. Calling for State Action on Parking Enforcement Vehicle Emissions**

**From: Community Environmental Advisory Commission**

**Recommendation:** Refer to the City Manager to send the letter attached to the report, calling for the State of California to require 100% all-electric parking enforcement vehicles by 2030 or earlier, to Berkeley's elected State-level representatives and the Chair of the California Air Resources Board.

**Financial Implications:** See report

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

## Consent Calendar

**33. Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan**  
*(Reviewed by the Public Safety Committee)*

**From: Disaster and Fire Safety Commission**

**Recommendation:** We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. This installation should be accompanied by the following: -ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren; - development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods; -staff training and drills on alerting procedures; -development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City; -outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

**Financial Implications:** See report

Contact: Keith May, Commission Secretary, (510) 981-3473

**34. Reinstating October, 2019 Homeless Commission Meeting**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council reinstate the October, 2019 Homeless Commission meeting earlier relinquished in order to hold an additional meeting in February, 2019 to address community funding allocations.

**Financial Implications:** Staff time

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**35. 1281 University Avenue Request for Proposals**

**From: Housing Advisory Commission**

**Recommendation:** Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

**Financial Implications:** See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

## Consent Calendar

- 36. Spring 2019 Bi-Annual Report on Funding for Housing Programs**  
**From: Housing Advisory Commission**  
**Recommendation:** Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.  
**Financial Implications:** See report  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400
- 37. Appointment of Andrea Pritchett to the Mental Health Commission**  
**From: Mental Health Commission**  
**Recommendation:** Adopt a Resolution approving the appointment of Andrea Pritchett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.  
**Financial Implications:** None  
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400
- 38. Resolution: Oppose U.S. Withdrawal from INF Treaty**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a resolution that calls on President Trump to rescind the U.S. notice of withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.  
**Financial Implications:** None  
Contact: Bre Slimick, Commission Secretary, (510) 981-7000

## Council Consent Items

- 39. Support of AB 18 – Firearms Excise Tax**  
**From: Mayor Arreguin and Councilmember Wengraf**  
**Recommendation:** Adopt a Resolution in support of Assembly Bill (AB) 18, which would place a \$25 excise tax on the sale of firearms. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Council Consent Items

- 40. Sierra Club San Francisco Bay Chapter: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Mayor Arreguin**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Mayor Arreguin to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner, a 501(c)(3) tax-deductible non-profit corporation. Funds would be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** Mayor's Discretionary Funds - \$1,000  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 41. Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$250  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 42. Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities on September 30, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Consent Items

- 43. Resolution in Support of Congresswoman Barbara Lee’s Resolution (H. Res. 429): Affirming the Right of All Renters to a Safe, Affordable, and Decent Home**  
**From: Councilmember Harrison**  
**Recommendation:** Adopt a resolution in support of H. Res. 429, a resolution introduced by Congresswoman Barbara Lee. Send a letter of support to Congresswoman Lee.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 44. Letter of Support for HR-3001 (Meng)**  
**From: Councilmember Wengraf**  
**Recommendation:** Send a letter of support for HR-3001, “The Quiet Communities Act of 2019,” to Representative Grace Meng, with copies to Representative Barbara Lee, and Senators Dianne Feinstein and Kamala Harris. HR-3001 will reinstate the Federal Office of Noise Abatement and Control, tasked with developing State and Local noise control programs and carrying out research on airport, airplane and vehicular noise.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 45. Voluntary Time Off on Statewide Election Days for City Employees** *(Reviewed by the Budget and Finance Committee)*  
**From: Councilmembers Robinson, Davila, Hahn, and Droste**  
**Recommendation:** Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*



## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

### **46. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way Affordable Housing**

**From: City Manager**

**Recommendation:**

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended; and
2. Adopt a Resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower"), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

**Financial Implications:** See report

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

### **47. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way HOPE Center**

**From: City Manager**

**Recommendation:**

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended.
2. Adopt a Resolution approving the issuance of bonds by the California Municipal Finance Authority for the benefit of BFHP Hope Center LP, a California limited partnership (the "Borrower"), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

**Financial Implications:** See report

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

## Action Calendar – Public Hearings

- 48. Implement Residential Preferential Parking (RPP) Program on Sections of McGee Street and Rose Street**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25E and 25N by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Action Calendar – Old Business

- 49. Residential Preferential Parking (RPP) Program: Summer 2019 Update**  
*(Continued from July 23, 2019)*  
**From: City Manager**  
**Recommendation:** Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year for Program enhancement and expansion.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 50. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**  
*(Continued from July 23, 2019)*  
**From: Mayor Arreguin and Councilmember Harrison**  
**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.  
First Reading Vote: All Ayes.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Action Calendar – New Business

- 51. Funding for Street Rehabilitation Capital Improvement Program in Berkeley**  
**From: City Manager**  
**Recommendation:** In response to Council comments at the December 11, 2018 Council Meeting, this report provides information on current and future funding sources for street rehabilitation, and staff is requesting feedback on the funding available, including current expenditures, projected expenses, and plans, for the City's current and future Street Rehabilitation Capital Improvement Program (CIP).  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300

## Action Calendar – New Business

### 52a. Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

#### **From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Action Calendar – New Business

**52b. Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless**

**From: City Manager**

**Recommendation:** The Homeless Commission's recommendation to conduct a study on the health conditions, disparities, and mortality rates of Berkeley's homeless population addresses important issues within the City. Staff recommend asking Alameda County to explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.

**Financial Implications:** None

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

**53a. Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that Council direct or refer to the City Manager, as Council sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options:

1. Requiring inclusionary housing over the affordable housing mitigation fee;
2. Requiring an increased number of inclusionary units when the inclusionary option is utilized;
3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option;
4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and
5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Action Calendar – New Business

**53b. Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee**

**From: City Manager**

**Recommendation:** Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.

**Financial Implications:** See report

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

**54a. Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

**54b. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers**

**From: City Manager**

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

**Financial Implications:** See report

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

**55a. Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons**

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that be done either through retaining a consultant to conduct a nexus study to include extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Action Calendar – New Business

**55b. Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons**

**From: City Manager**

**Recommendation:** Refer to the FY20 November budget process the Homeless Commission's recommendation to hire a consultant for a nexus study to include extremely low-income housing in the Adeline Corridor Plan's inclusionary housing requirements.

**Financial Implications:** None

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

**56. Traffic Circle Policy and Program Recommendations**

**From: Traffic Circle Policy Task Force**

**Recommendation:** Adopt a resolution to approve the Traffic Circle Policy as outlined in the report and refer to the traffic engineer for codification.

Refer to the City Manager:

1. Create the Community Common Space Stewardship Program as described below
2. Amend BMC section 16.18.040 to exempt traffic circles from permit requirements and address liability
3. Amend section 16.18.280 to encourage installation of green infrastructure
4. Refer the additional staff and material costs of this program to the budget process.

**Financial Implications:** See report

Contact: Tano Trachtenberg, Commission Secretary, (510) 981-7100

## Council Action Items

**57. Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program** *(Reviewed by the Land Use, Housing & Economic Development Committee)*

**From: Councilmembers Bartlett, Robinson, and Mayor Arreguin**

**Recommendation:** That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley (Qualified Positive Recommendation from the Land Use, Housing & Economic Development Committee).

**Financial Implications:** See report

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

## Council Action Items

58. **Decriminalizing Entheogenic Plants** *(Reviewed by the Public Safety Committee)*  
**From: Councilmembers Robinson and Davila**  
**Recommendation:** Refer to the Community Health Commission for feedback regarding the adoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar – Policy Committee Track Items

59. **Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea**  
**From: Mayor Arreguin and Councilmember Robinson**  
**Recommendation:** Adopt a Resolution approving the reimbursement of travel expenses at up to \$6,000 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's sister city, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations.  
Council approval of this one-time reimbursement is required under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S.) as the policy does not expressly allow reimbursement for international travel relating to city business.  
**Financial Implications:** Mayor and Councilmember Discretionary Funds - \$6,000  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
60. **Waiver of Fees for South Berkeley Plaza and Public Art Pilot Program**  
**From: Councilmember Bartlett**  
**Recommendation:** Adopt a resolution waiving the Minor Encroachment Permit application and permit fees and the Miscellaneous Permit to Construct fees required by Local Artists Berkeley for the installation of their streetside vehicle impact-rated raised planters, demolition, and removal of unkempt planter, beautification, and planting by Parks and Recreations and Waterfronts, and one integrated temporary public art site.  
**Financial Implications:** \$2,021  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
61. **Negotiations to purchase People's Bazaar**  
**From: Councilmember Bartlett**  
**Recommendation:** That the City Council enter into negotiations to purchase People's Bazaar for the purposes of using it as a site for the African American Holistic Resource Center and affordable housing.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

## Action Calendar – Policy Committee Track Items

- 62. Budget Referral: Funding the Pavement of Derby Street Between Telegraph Ave and Shattuck Ave**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council directly refers the paving of Derby St. between Shattuck Ave and Telegraph Ave to the City Manager in order to repair the deteriorating street that serves as a part of major commuter corridor in which both drivers and buses use in their daily commute.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 63. Budget Referral: Funding Repair of Ground Lights at Sacramento Street and Oregon Street**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council directly refers the repair of the ground lights at the intersection of Sacramento and Oregon Street to the City Manager in order to address inadequate traffic control and stopping, and reduce traffic accidents and further safeguard the community.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 64. Budget Referral: Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council directly refers the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton Street to the City Manager in order to address inadequate traffic control and stopping, reduce traffic accidents, and further safeguard the community.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 65. Budget Referral: Funding for Pedestrian Crossing Signal at intersection of Shattuck and Prince**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refer to the City Manager to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130



## Action Calendar – Policy Committee Track Items

- 66. Budget Referral: Funding Streetlight Near South East Corner of Otis Street**  
**From: Councilmember Bartlett**  
**Recommendation:** That the Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 67. Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street**  
**From: Councilmembers Bartlett and Harrison**  
**Recommendation:** Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 68. Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow**  
**From: Councilmember Harrison**  
**Recommendation:**  
1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow.  
2. Refer to Planning Department to draft a resolution establishing appropriate local climatic, geological or topographical findings as required by the California Building Standards Commission.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 69. Resolution Endorsing the United Nations Convention on the Rights of the Child**  
**From: Councilmember Harrison**  
**Recommendation:**  
1. Adopt a resolution endorsing the United Nations Convention on the Rights of the Child.  
2. Send a letter of support to Acting U.S. Ambassador to the United Nations, Jonathan Cohen.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar – Policy Committee Track Items

70. **Game Day Parking - Minor Update to include RPP area K**  
**From: Councilmember Droste and Mayor Arreguin**  
**Recommendation:** Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.  
**Financial Implications:** Staff time and signage  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Information Reports

71. **Referral Response: Lava Mae Mobile Shower and Hygiene Services**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
72. **Recommendations Status: Easy Does It City Grant Funding Audit**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
73. **LPC NOD: 2526 Hawthorne Terrace/#LMIN2019-0002**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
74. **LPC NOD: 1911 Fourth Street/#LMSAP2019-0005**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
75. **Commission on Labor 2020-2021 Work Plan**  
**From: Commission on Labor**  
Contact: Delfina Geiken, Commission Secretary, (510) 981-5400
76. **LPC Annual Report to City Council for the period May 2018 to May 2019**  
**From: Landmarks Preservation Commission**  
Contact: Fatema Crane, Commission Secretary, (510) 981-7400
77. **Parks and Waterfront Commission 2019 Work Plan**  
**From: Parks and Waterfront Commission**  
Contact: Roger Miller, Commission Secretary, (510) 981-6700
78. **Police Review Commission Work Plan for 2019-2020**  
**From: Police Review Commission**  
Contact: Katherine Lee, Commission Secretary, (510) 981-4950

## Information Reports

79. **Update on Assembly Bill 101 and Local Government Planning Support Grants**  
**From: Mayor Arreguin**  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

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Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

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

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Animal Care Commission

Submitted by: Diane Sequoia, Chairperson

Subject: Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements

RECOMMENDATION

In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

There are currently three (3) retail stores in Berkeley selling live animals; East Bay Vivarium (EBV), Your Basic Bird (YBB) and Biofuel Oasis (BfO). All three stores are small independent businesses. EBV has been in business since 1970, YBB is going on 38 years and BfO was founded in 2003. EBV specializes in reptiles, amphibians and invertebrates such as arachnids. YBB specializes in pet birds and also regularly hosts Hopalong rescue cat & kitten adoptions. BfO sells chicks, ducks and honeybees.

Live animal sales at all of the above three stores are overseen and regulated by both federal law (United States Department of Agriculture/Animal Plant Health Inspection Service aka USDA/APHIS) and California state law (health & safety code, fish & game code, etc). Berkeley Animal Care Services is empowered to inspect for code violations and enforce compliance.

In contrast, retail sales of dogs, cats and rabbits in California are subject to 2017's AB 485 (aka the puppy mill ban bill) in addition to the relevant federal and other state laws

BACKGROUND

On November 13th, 2018, the Berkeley City Council referred adoption of an ordinance adding Chapter 9.26 Live Animal Sales Disclosure Requirements to the Animal Care Commission (ACC). The reasons given justifying the need for the proposed new BMC ordinance were two-fold:

- 1) To provide customers with animal sourcing information to enable them to make purchases based on animal welfare concerns.
- 2) To prevent the sale in Berkeley of 'puppy mill' type commercial mass produced/bred animals.

The ACC considered extensive public comment over seven (7) months. Public comment came from the three individuals promoting the proposed new ordinance, three owners from EBV and YBB and members of the non-interested public. Other factors considered were on-going BACS commitments to animal welfare in the community, community outreach, public health and safety and current staffing levels at BACS.

After deliberating, the ACC respectfully recommends that the Berkeley City Council (BCC) not approve the proposed new BMC ordinance Chapter 9.26 Live Animal Sales - Required Disclosures.

Instead, the ACC recommends that the BCC encourage Berkeley retailers of live animals to provide their animal's sourcing information to purchasers by using the appropriate one or two of the following descriptions: 'Captive bred'; 'hobby breeder' or 'licensed breeder', 'rescue', 'wild caught' or 'imported'.

ENVIRONMENTAL SUSTAINABILITY

No change from current situation

RATIONALE FOR RECOMMENDATION

The ACC determined that the proposed new ordinance would not achieve the stated goals, would cause an undue burden in staff time on the retailers in complying with the proposed ordinance and would be unenforceable by BACS at its current staffing levels. The diversion of BACS staff to enforcing the proposed new ordinance would impair public health, safety, animal welfare and would disproportionately impact low income, homeless and other vulnerable groups who rely heavily on assistance from BACS for information and assistance with their pets.

The proposed descriptions will enable customers to make informed purchases based on ecologic impact and animal welfare considerations, while not unduly burdening the stores or BACS in complying with the new requirements.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

City Manager concurs with recommendation.

Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26
Live Animal Sales – Disclosure Requirements

CONSENT CALENDAR
September 10, 2019

CONTACT PERSON

Amelia Funghi, Manager, Animal Care Services, (510) 981-6603



Commission on Disability

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Commission on Disability
 Submitted by: Alex Ghenis, Chairperson, Commission on Disability
 Subject: Providing Wheelchair Charging Opportunities for Homeless Individuals

RECOMMENDATION

Adopt a Resolution directing appropriate City staff to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Staff is directed to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Request that staff assemble a policy to be reviewed and implemented. (Motion to approve item as amended, July 10, 2019, Motion: Walsh, Second, Weiss, Ghenis; aye, Singer: aye, Smith: aye, Abstain: None, LOA: Ramirez, Absent: Leeder)

FISCAL IMPACTS OF RECOMMENDATION

Providing reliable wheelchair charging will almost certainly save the City money overall through reduced costs from emergency personnel, medical services and similar expenses. The money that the City grants to Easy Does It Emergency Services (EDI) for transportation, wheelchair repair, etc. will be able to be better used by EDI and thus better serve its clients, Berkeley's residents with disabilities (whether housed or homeless). The various options for providing reliable wheelchair charging will surely have different fiscal costs and benefits, which may be determined by appropriate city staff.

CURRENT SITUATION AND ITS EFFECTS

There are multiple City and community-based efforts to address the larger situation of homeless individuals such as the Homeless Services Panel of Experts created pursuant to Measure O. This panel and other groups including the Berkeley Commission on Homelessness and Commission on Aging have raised concerns about wheelchair charging and other issues affecting homeless individuals with disabilities.

At least several dozen, and possibly over 100, of Berkeley's homeless individuals use power wheelchairs to navigate their surroundings. When these wheelchairs are charged, their owners can navigate Berkeley to acquire much-needed goods, meals, and services. Proper mobility can also support circulation, skin integrity, etc. by allowing individuals to get out of beds/encampments, sit upright and move around. When wheelchair batteries drain to empty, individuals may become stuck in sidewalks or

crosswalks, requiring assistance from strangers or paid city staff to move them to safety; this can potentially be extremely costly in cases when emergency personnel are required. Batteries must also be regularly charged to continue functioning, so individuals who are unable to charge batteries risk having non-functional wheelchairs. Easy Does It Emergency Services (EDI) – which partly operates using city funds for transportation and wheelchair repair – has committed energy, staff time, transportation services and wheelchair repair resources to maintain functioning wheelchairs for the homeless population, charge them as needed, and sometimes provide transportation to stranded individuals. EDI's costs could be drastically reduced if individuals had proper access to charging stations and could keep their wheelchairs working properly.

Berkeley's homeless residents live in a diverse range of circumstances. Some live in well-managed encampments while some are in unorganized encampments and others live alone. There is also a range of capabilities regarding self-care influenced by health, substance use, personal capacities, etc. These and other factors mean that there may not be a "one-size-fits-all" solution to providing reliable charging, but that does not negate the City's responsibility to seek out a better course-of-action.

Some potential policies may include but are not limited to: keeping wheelchair chargers at homeless shelters and/or other public buildings, ensuring that certain outdoor power outlets are turned on and uncovered, at least at designated times; providing reliable electric power at recognized homeless encampments with wheelchair-using residents; working with city staff, volunteers, or other stakeholders to manage charging "boxes" at designated public outlets; and actively communicating with the homeless community about charging options and locations.

The Commission's recommendation supports the Strategic Plan Priority of championing and demonstrating social and racial equity.

BACKGROUND

In early 2019, the Commission on Disability was approached by multiple homeless and disability advocates concerned about the lack of available options for homeless power-wheelchair-users to charge wheelchair batteries. Public outlets near sidewalks, which used to be a main option for charging wheelchairs, have increasingly been covered up or turned off in recent years. Building owners/operators turn away individuals attempting to use indoor outlets. There are no reliable outlets near encampments, and none have been made available despite multiple requests. Charging "boxes" – which convert outlet AC power into DC power for battery plugs – are not available at homeless shelters or in reliable locations, even though nearly all wheelchairs use the same power converters.

The Commission on Disability held several discussions to explore concerns and opportunities for providing wheelchair charging opportunities for homeless individuals. The Commission did not endorse one specific course-of-action, but rather wishes to request that appropriate city staff prioritize this concern and develop a well-designed strategy to ensure that homeless individuals may charge power wheelchairs.

ENVIRONMENTAL SUSTAINABILITY

Providing wheelchair charging could lead to related environmental benefits. One main benefit is that regularly charging batteries extends their service life and means that fewer batteries must be produced and disposed of, which both have environmental externalities. Secondly, guaranteeing functional power wheelchairs means that fewer individuals will be stranded near encampments, on sidewalks or in crosswalks; this will reduce emissions from fossil-fuel-powered emergency vehicles, wheelchair transportation services, and other services which would otherwise be necessary to bring an individual to safety. Other environmental benefits may exist but are not listed here.

RATIONALE FOR RECOMMENDATION

A significant portion of Berkeley's homeless population has disabilities, including many individuals who use power wheelchairs for mobility. However, there are extremely limited options for people to charge those very power wheelchairs: public power outlets are increasingly disconnected, covered or otherwise unavailable, and there are limited to no viable outlets at homeless encampments. The inability to charge wheelchairs has drastic consequences for individuals' health, mobility, safety and independence; it also presents logistical and fiscal consequences for the City of Berkeley, its medical providers and public safety departments. The current situation presents significant challenges and, arguably, an unrecognized crisis for an already-vulnerable group.

Providing opportunities for homeless individuals to charge power wheelchairs will support their health, independence, safety, and overall well-being at many levels, while saving the city valuable resources. There are several potential options for how to better allow for wheelchair charging including but not limited to: coordinating to turn on outlets at or near encampments with homeless wheelchair-users, providing publicly available wheelchair chargers at designated areas, or keeping chargers at existing homeless shelters or public buildings (e.g. senior centers or libraries).

ALTERNATIVE ACTIONS CONSIDERED

The Commission on Disability considered developing a specific policy but believes that staff are better equipped to research existing conditions and develop concrete policies.

CITY MANAGER

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

CONTACT PERSON

Dominika Bednarska, Disability Services Specialist, Public Works, 510 981-6418

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

WHEELCHAIR CHARGING FOR BERKELEY'S HOMELESS RESIDENTS

WHEREAS, a significant number of homeless individuals in Berkeley have disabilities and use power wheelchairs for independence, health and well-being; and

WHEREAS, there are few to no reliable, accessible locations in Berkeley for homeless individuals to charge power wheelchairs; and

WHEREAS, power wheelchairs must be regularly charged, using a proper power converter, in order to function and for batteries to remain viable; and

WHEREAS, individuals whose wheelchairs run out of power may be unable to access vital areas, goods, and services, and may become stranded, including in the middle of sidewalks or crosswalks, in ways that jeopardize health, safety and well-being; and

WHEREAS, repairing wheelchairs and/or rescuing stranded individuals requires significant resources by emergency personnel and local nonprofits and may endanger their safety; and

WHEREAS, people with disabilities have a human right to health, independence, and mobility, which are often provided by charged and functional power wheelchairs.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager and other appropriate staff research existing conditions of homeless individuals with disabilities using power wheelchairs, available charging options, and potential actions and policies to provide reliable, accessible wheelchair charging for homeless individuals; and

BE IT FURTHER RESOLVED that the City Manager and appropriate staff develop actions and policies to provide reliable, accessible wheelchair charging for homeless individuals and return to City Council with proposed policies for further discussion and approval.



Community Environmental Advisory Commission

02a.32

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Community Environmental Advisory Commission
 Submitted by: Ben Gould, Chairperson, Community Environmental Advisory Commission
 Subject: Calling for State Action on Parking Enforcement Vehicle Emissions

RECOMMENDATION

Refer to the City Manager to send the attached letter, calling for the State of California to require 100% all-electric parking enforcement vehicles by 2030 or earlier, to Berkeley's elected State-level representatives and the Chair of the California Air Resources Board.

FISCAL IMPACTS OF RECOMMENDATION

Negligible time and costs to send letters.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's Strategic Plan sets the goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment. However, Berkeley simultaneously needs to ensure effectiveness of service delivery and use of taxpayer funds.

Currently, Berkeley operates and purchases gasoline-powered parking enforcement vehicles in order to ensure effective service delivery, but has discussed switching to electric options. However, the two all-electric vehicles the City owns have had technical difficulties, and the City lacks adequate charging infrastructure for expanding its electric fleet.

At its June 13, 2019 meeting, the Commission adopted the recommendation which calls for state action on parking enforcement vehicle emissions. *M/S/C* (Gould/Ticconi). Ayes: Simmons, Varnhagen, Ticconi, De Leon, Goldhaber, Gonzales, Gould. Noes: None. Absent: None. Abstained: Hetzel.

BACKGROUND

At the May 14th City Council meeting, Berkeley City Council encountered a dilemma in balancing these two goals when approving the purchase of new parking enforcement vehicles. Most parking enforcement vehicles today are gasoline-powered, and while all-electric options exist, Berkeley has experienced technical difficulties when using them,

and cities lack the infrastructure to support them. In order to ensure effective service delivery, Council approved the purchase of new gas-powered parking enforcement vehicles, but the challenge of needing better all-electric alternatives will persist unless action is taken to support the market.

ENVIRONMENTAL SUSTAINABILITY

Encouraging the State to take action in encouraging electric parking enforcement vehicles will have an indirect positive impact on environmental sustainability.

RATIONALE FOR RECOMMENDATION

The technology exists and creating a market will drive competition, improving reliability, cost, and performance. The IPCC recommends aggressive action by 2030.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

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

CONTACT PERSON

Ben Gould, Chair, Community Environmental Advisory Commission, 510-725-9176

Attachments:

- 1: Letter to State Officials

[Date MM DD, YYYY]

To: Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and California Air Resources Board Chair Mary Nichols

From: Berkeley City Council

RE: Electrification Requirements for Parking Enforcement Vehicles

Dear XX,

The City of Berkeley is calling for action on driving forward the market for all-electric parking enforcement vehicles.

Throughout the State of California, public safety officers use specialized light-duty parking enforcement vehicles to ensure compliance with local parking laws. These vehicles regularly operate in a low-speed, stop-and-go urban environment – a prime setting for electric or hybrid vehicles. However, the existing electric vehicles available on the market have not been found to adequately meet many cities' needs, and cities have not planned or built the infrastructure necessary to accommodate fleets of electric parking enforcement vehicles.

Setting statewide policies and directives around the use of electric parking enforcement vehicles will help cities and manufacturers plan and bring these vehicles into the mainstream, as we have seen from early successes with California's requirement for all new buses to be all-electric by 2029.

The City of Berkeley asks for your support and leadership in executing a similar approach for parking enforcement vehicles, potentially by requiring 100% electric vehicles by 2030 or earlier. The City thanks you for your environmental leadership.

Respectfully,

The Berkeley City Council

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Disaster and Fire Safety Commission
Submitted by: Gradiva Couzin, Chair, Disaster and Fire Safety Commission
Subject: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan

RECOMMENDATION

We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County.

This installation should be accompanied by the following:

- ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren
- development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods
- staff training and drills on alerting procedures
- development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City
- outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

POLICY COMMITTEE RECOMMENDATION

On June 3, 2019, the Public Safety Policy Committee adopted the following action: M/S/C (Wengraf/Robinson) to recommend that the report issued by the Disaster and Fire Safety Commission be submitted to the City Council with a Positive Recommendation. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Exact costs and staff time are to be determined. However, the two estimates below give a ballpark sense of the possible cost of this installation:

- Example 1: The cost of a 23-siren system in Berkeley was estimated at \$801,000 in 2004 (\$1.1 million in 2018 dollars), with an additional \$100,000 (\$132k in 2018 dollars) for public outreach and 0.5 FTE staff member time for 6 months to support the installation process.
- Example 2: A siren proposal in Sonoma County was recently estimated at \$850,000 for design and installation of 20 sirens.

CURRENT SITUATION AND ITS EFFECTS

On March 27, 2019, at the Regular meeting of the Disaster and Fire Safety Commission, the commission passed a motion to recommend that the City immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. M/S: Flasher, Degenkolb; Vote: 8 Ayes: Degenkolb, Flasher, Simmons, Stein, Bailey, Couzin, Grimes, Dean; 0 Noes; 0 Absent; 0 Abstain.

Berkeley faces a serious threat from a wildland-urban interface (WUI) fire that has increased for many reasons, including the growth of fuel that is happening as a result of recent rains. Based on recent experiences in the 2017 North Bay fires and the 2018 Camp Fire, it is clear that a wildfire in Berkeley would spread very quickly, expanding at many miles per hour and requiring a rapid evacuation of a large number of residents. This is especially likely in the designated Hazardous Fire Zones in the hills, but an intense and fast-moving fire threatens the entire City of Berkeley, including the flats.

Significant efforts are underway to address this increasing threat, including City staff's creation of a draft Wildfire Evacuation Plan and other wildfire safety efforts.

The City of Berkeley currently has several available alerting options that it can use in a wildfire emergency (see Attachment A) but does not have a citywide system of emergency sirens.

Recent wildfires in Northern and Southern California have shown that existing alerting systems and processes have not been sufficient. These wildfires have had tragic outcomes, with a disproportionate number of deaths of seniors and people with disabilities. Some of these locations have since initiated plans to install outdoor public warning systems (sirens).

BACKGROUND

Berkeley has considered using sirens for many years. In 2004, the City commissioned a study exploring installing emergency sirens, which included testing sirens and designing a possible layout of sirens.

In November, 2004, Bill Greulich, Emergency Services Manager at the time, recommended against installation of fixed sirens. He instead recommended exploring mobile sirens or weather radios. See Attachment B, "Alerting and warning system project update and recommendations for further action." However, in the 15 years since that discussion, neither of the suggested alternatives (mobile sirens and mass distribution of weather radios) has materialized.

Since that time, wildfires have become an increasing hazard in California due to the effects of climate change, including: increased frequency and severity of drought, tree mortality, bark beetle infestation, warmer spring and summer temperatures, and longer and more intense dry seasons. California experienced the deadliest and most destructive wildfires in its history in 2017 and 2018.¹ Fires are bigger, faster, and more intense; firefighters in the 2018 Camp Fire reported that they had never seen a fire move so quickly.² The length of wildfire season has expanded to be nearly year-round.³ With the continuing effects of climate change, scientists suggest that fires will continue to be a worsening threat.⁴

Also, in the years since the 2004 decision, smartphone technology has emerged, and while this has been an important addition to alerting options, it has not fully met the alerting needs or expectations of the public. A California Office of Emergency Services (Cal OES) Assessment Report on the Sonoma County wildfires of October 2017⁵ concluded that public expectations for local government alert and warning services are higher than what is currently being offered. People expect to be adequately alerted, even if they have never taken any action to “opt-in” for warnings.

At this time, the City is reviewing and re-evaluating all of its emergency notification options following the 2017 and 2018 wildfires. Berkeley Fire Department has been considering the idea of installing sirens for at least a year, since January 2018.

ENVIRONMENTAL SUSTAINABILITY

Installing sirens will have an environmental impact due to the construction and maintenance required. They also create noise pollution that can be highly annoying for residents. Poles can be wood, concrete or steel. Sirens can be AC or battery-powered with solar-powered battery back-up as an option.

RATIONALE FOR RECOMMENDATION

The tragedies of the 2018 Camp Fire and the 2017 North Bay fires show the extreme danger that fast-moving wildfire events pose for both residents and responders. The objective of this Commission is to assist policy makers, responders, and residents in achieving the ultimate goal of a smooth-running, extremely fast, safe and effective evacuation with no loss of life.

Currently, Berkeley has several systems available to alert residents of an emergency. See Attachment A, “Alerting Systems Available for Berkeley Emergencies (February 2019)”.

Each of Berkeley’s currently-available alert systems will reach some but not all residents, and most of these systems are only available to people who have opted-in before an emergency, or

¹ <http://www.fire.ca.gov/downloads/45-Day%20Report-FINAL.pdf>

² <https://www.nationalgeographic.com/environment/2018/11/how-california-fire-catastrophe-unfolded/>

³ <https://www.nature.com/articles/ncomms8537>

⁴ <https://www.theguardian.com/environment/2018/aug/07/california-wildfires-megafires-future-climate-change>

⁵ <https://sonomacounty.ca.gov/Public-Safety/Emergency-Notification-for-Sonoma-Complex-Fires-2017/>

who are actively seeking information about an emergency – not people who are simply going about their lives.

As an additional concern, failure rates can be high with any one system. In Sonoma County in the 2017 North Bay fires, only 51% of the 290,000 emergency alert calls reached a human or answering machine⁶. Camp Fire failure rates for alerts reportedly ranged from 25% to 94%.⁷

Due to various failures and limitations of emergency alerting, many survivors after the 2017 North Bay fires and the 2018 Camp Fire were left wondering why they did not receive any alert at all. These experiences and tragic outcomes strengthen the importance of redundancy through multiple alert methods.

A modern outdoor siren system, designed to blanket all of Berkeley in sound, would provide an additional layer of coverage where other systems may fail. Sirens can also provide redundancy if other communication channels are disabled due to power outage or cell tower disruption.

Here are several questions and answers about this siren recommendation:

When will sirens be activated? Currently, City staff determine what type of alerts to send out based on the level of danger, how localized the danger is, and how imminent the danger is. Sirens should be incorporated into a holistic plan for warnings and alerts so that they have the best chance of filling any gaps to alert people when there is a serious or life-threatening hazard, including wildfires, chemical spills, or other hazards.

Modern sirens allow for multiple tones, so they can be used for more than one message. In addition to wildfire and other hazard alerting, sirens could potentially be integrated with future earthquake early warning systems, which is already done in Mexico City, to provide a warning before earthquake shaking hits.⁸

This recommendation does not specify the exact criteria for determining when to activate a siren alert; the option of activating sirens should be incorporated into the City's alerting protocol based on the best professional judgement of City staff, and in accordance with appropriate state or federal guidelines.

Any alert or warning technology is only as good as the planning, training, and situational awareness that allows responders to use it well. We recommend that activation criteria and procedures be fully and clearly documented in writing, trained, and tested by City staff on a regular basis:

- Criteria for activating alerts
- Who is authorized to decide to activate an alert

⁶ <https://abc7news.com/sonoma-county-tests-emergency-phone-calls-in-wake-of-north-bay-fires/4208459/>

⁷ <https://www.mercurynews.com/2018/12/16/camp-fire-created-a-black-hole-of-communication/>

⁸ <https://eos.org/features/lessons-from-mexicos-earthquake-early-warning-system>

- Content of alerts (message template), as applicable
- Technical operation of the alerting system

Will people hear them indoors? Outdoor public warning systems are generally considered to be for alerting people who are outdoors, not indoors. However, “practical experience and the results of tests by the Federal Emergency Management Agency (FEMA) and others have shown that siren sounds are quite effective for alerting large populations—including those indoors”⁹

According to a 2006 FEMA technical bulletin, despite the limitations in sound getting inside buildings, “an outdoor [public alert system] can reasonably be expected to alert *some* people inside buildings” and “a properly designed outdoor [public alert system] may also awaken sleeping members of the public in residential areas.”¹⁰ This bulletin reports that the likelihood of a person being awakened from sleep by an outdoor siren ranges from 17% - 52%, depending on the person’s age and the loudness of the sirens.

Consistent with this research, past events also show that sirens are often heard indoors. For example, in the deadly 2011 Joplin, MO tornado, sirens “could generally be heard indoors” although unfortunately many residents did not take action based on the sirens¹¹. Recent siren malfunctions in 2017 and 2018 (in Dallas and Memphis) resulted in a large number of complaints about people being awakened or kept awake by the sirens.¹² And many West Berkeley residents can attest to being awakened from sleep by Bayer plant sirens.

Clearly, the City can’t rely on sirens to alert everyone who is indoors, especially if people are asleep. Sirens may only reach half or a quarter of this population; because of this, sirens should be just one layer in multiple alerting methods that are used. The most effective emergency alerting combines multiple methods, both outdoor and indoor.¹³

We recommend that the selection of tones and frequencies be made to maximize the chance of the siren being audible indoors, as described here: “lower frequency components should be included for better coverage, including components between 225 Hz and 355 Hz for transmission through windows (Mahn 2013).”¹⁴

Will they be confusing? An ongoing public information campaign is an important part of any outdoor public warning system, so that people know what action to take when they hear a siren. Additionally, siren testing should be designed to help the public be aware of sirens and their

⁹ <https://asa.scitation.org/doi/10.1121/1.2024832>

¹⁰ https://www.midstatecomm.com/PDF/FEMA_guide.pdf

¹¹ <https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf>

¹² <http://www.wmcactionnews5.com/2018/11/01/tornado-sirens-falsely-sound-nd-straight-morning/>,

<https://www.nytimes.com/2017/04/08/us/dallas-emergency-sirens-hacking.html>

¹³ https://www.researchgate.net/profile/John_Sorensen7/publication/327226171_Rogers_and_Sorensen_1988_Diffusion_of_Emerg_Warn/links/5b816d40299bf1d5a7270825/Rogers-and-Sorensen-1988-Diffusion-of-Emerg-Warn.pdf

¹⁴ <https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf>

meaning. Testing should take place at the same time of day and week (e.g. at noon on Tuesdays) to avoid any confusion, and silent testing should be used when possible.

Here are examples of siren testing programs in locations near Berkeley:

- San Francisco, which has had a siren system in place for many years, tests their system every Tuesday at noon using a single tone for 15 seconds. In an actual emergency, the sound will cycle repeatedly for 5 minutes.¹⁵
- Oakland and UC Berkeley test on the first Wednesday of every month at the same time, using a slow wail for 90 seconds. This is explained to the public as not only testing the system, but “enhancing public awareness” so that if something different from the usual day, time, or tone is heard, the public should turn on radios, computers, phones or TV for more information. Three different tones are used in case of an actual emergency: A 3-minute slight wail means shelter in place, a slow wail means a tsunami, and a fast wail means a fire.¹⁶
- Richmond, which is on the Contra Costa County system, tests on the first Wednesday of every month at 11:00 am for less than 3 minutes, and every Wednesday at 11:00 am using a barely audible sound (known as a “growl test”)¹⁷. There are also two systems in place controlled by the Chevron Refinery.

The typical action that people should take when they hear an emergency siren is to seek more information through other channels, which may include the radio or internet, in order to learn what they need to do next. It’s very important that people get a consistent message from all of these channels, so planning for that output should be included in the holistic alerting plan.

Here are two examples of this process not working well:

- In the 2011 Joplin, MO tornado, sirens prompted people to look for more information, but they got conflicting information from different sources, which led to public confusion and is considered a major contributor to why people didn’t take action and get to safety.¹⁸
- Another example of poorly-managed public information for outdoor public warnings is the Bayer plant in West Berkeley. Bayer alarms occasionally go off and are concerning to neighbors, but there is minimal information available online, and Bayer doesn’t answer a support line after hours.

City of Berkeley would need to do a better job and provide extensive support and education, not only when the system is installed but also on an ongoing basis afterwards, and every time the sirens are activated.

Are they accessible and ADA compliant? A negative feature of sirens is that, like other audible alerts, they are not accessible to people who are deaf or hard of hearing.

¹⁵ <https://sfdem.org/tuesday-noon-siren>

¹⁶ <http://www2.oaklandnet.com/oakca1/groups/fire/documents/webcontent/oak063278.pdf>

¹⁷ <https://www.ci.richmond.ca.us/331/Community-Warning-System>

¹⁸ <https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf>

Berkeley's emergency alerting must use a combination of notification methods that can reach all residents. The public outreach campaign should include a very extensive program to reach all disabled residents and encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with strobe light or vibration options as an alternative to siren alerting for people who are deaf or hard of hearing.

We believe that despite this limitation, sirens could help deaf and hard of hearing residents. In emergencies, many people learn about the danger from a neighbor, not directly from official alerts. This is described in the 2018 Camp Fire:

"Some learned about the looming wildfire from neighbors knocking on their doors. Or frantic cellphone calls from friends. Others just looked out their windows and saw the smoke and flames, or heard the chaos of neighbors hustling up children and pets and scrambling to get out.

Matthew White was sound asleep when the fire began raging around his home in Paradise, Calif., the morning of Nov. 8. But somehow he heard his cellphone ring.

It was a friend of his shouting on the other end of the line: "Get the hell up and get the hell out! Paradise is on fire!" ".¹⁹

The way this helps is analogous to the concept of "herd immunity" or "community immunity" that helps explain how vaccines make communities safer: blanketing the area with a siren will allow a larger percentage of people to get informed and to inform neighbors, and this will improve the level of protection for all, including vulnerable neighbors who may not hear the sirens.

Will they work in a power outage? Outdoor warning sirens can have backup batteries, which can be recharged using solar panels to ensure that they will work during a power outage. They can be controlled by a radio signal from a safe location.²⁰ Sirens may burn down in a fire, but they will at least be able to provide warning until the fire reaches their location.

What other communities in California have sirens? Many communities near Berkeley have sirens, including the City of Oakland and UC Berkeley as well as Contra Costa County, as noted above. Oakland's sirens were installed as a result of the 1991 Tunnel fire. Lake County installed sirens following the deadly Valley Fire in 2015. Sonoma County is considering installing sirens following the deadly North Bay fires of 2017 Mill Valley is exploring the use of mobile sirens. Berkeley now has the opportunity to install sirens before, rather than after, a disaster occurs.

Will people take them seriously? The decision-making process for people to decide to take action in an emergency is complicated and varies from person to person. *Studies show that*

¹⁹ <https://www.nytimes.com/2018/11/21/us/paradise-fires-emergency-alerts.html>

²⁰ https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR_0315-508.pdf

*people look for confirmation from more than one source before they take action.*²¹ Sirens can reinforce other messages about imminent danger.

Although conventional wisdom may worry about a “cry wolf” or “warning fatigue” effect from too many warnings, research about these effects is mixed.²² Ensuring the credibility of the sirens and avoiding a “cry wolf” effect should be considered when choosing a siren system and testing plan.

Can’t the city go door-to-door instead? If there is a fire moving at the scale and speed of recent California wildfires, responders will not have enough time to alert a large portion of the population by going door-to-door. The City will be balancing its resources between fighting the fire, clearing the roads, and knocking on doors. According to Berkeley’s draft Evacuation Plan:

“Community members should not expect door-to-door notifications or assistance from emergency responders during evacuation.”

What is the best siren system? This recommendation does not specify a specific siren brand or system. A 2015 FEMA survey of available siren systems²³ shows that there are many features that can be varied in different systems, including:

- Price
- Number and location of sirens
- Static or mobile sirens
- Materials (concrete, wood, or metal poles)
- Type of sounds (wailing, beeping, voice)
- Power backup
- Methods of activation (in-person, radio, wired, wireless)
- Testing options (low-volume and silent testing)

We recommend that Berkeley select a system that provides the most cost-effective solution to meet the goals described in this recommendation: providing reliable coverage for the maximum number of Berkeley households possible, while offering enough flexibility of controls so that sirens can be effectively integrated into a complete alerting protocol.

ALTERNATIVE ACTIONS CONSIDERED

Several interrelated recommendations were made to City Council in 2017 and 2018 addressing fire safety and community disaster preparedness. These recommendations included many possible actions covering a broad range of preparedness and hazard mitigation activities. Progress is already being made on some of these priorities.

²¹ <https://www.osti.gov/servlets/purl/6137387>

²² <https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf>

²³ https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR_0315-508.pdf

Sirens should be part of a suite of emergency alerting options; other options could also be enhanced in addition to this one:

- Berkeley could forgo installing sirens, and focus on improving existing protocols to get the maximum effectiveness from the existing suite of alerting tools, particularly Wireless Emergency Alerts (WEA, also used for Amber Alerts). A new set of guidelines for WEA and Emergency Alert System (EAS) alerting is expected from Cal OES in July 2019, and Berkeley will be required to comply with those guidelines within six months. We look forward to Berkeley's continued improvement of these protocols.
- Mass distribution of NOAA weather radios has been discussed as an alternative to sirens. However, the cost to distribute weather radios to every household in Berkeley would reach \$1+ million, and each radio would need to be programmed to receive appropriate alerts. It would also be challenging to ensure proper maintenance and testing of the radios over time. However, a limited distribution to residents who are deaf and hard of hearing should be considered as an accessible supplement to sirens.
- Relying on police and fire vehicle apparatus (bullhorns or sirens) is another option. However, these have a limited audible range²⁴ and would not be able to alert large portions of the city at once. There may also be physical obstacles that could limit the ability of vehicles to reach all the areas that need alerting. It should not be forgotten that such systems may have a substantial role to play in an early warning system specifically designed to evacuate seniors and people with disabilities.

CITY MANAGER

The City Manager appreciates the research and work put into this report by the Disaster and Fire Safety Commission. A siren alerting system could be a valuable tool for use in the City's overall emergency notification system. Given the number of modern options for sirens, the high cost in purchase and replacement of such a system, and the additional FTE that would be necessary to install and maintain the system, the Fire Department is researching options and alternatives. The City Manager refers this to the budget process for consideration of funding sources and prioritization with the overall needs of the City.

CONTACT PERSON

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-5508

Attachments:

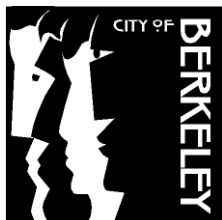
- 1: Attachment A: Alerting Systems Available for Berkeley
- 2: Attachment B: Memorandum: Alerting and Warning System Project Update, November 2004

²⁴ <https://www.fireapparatusmagazine.com/articles/print/volume-22/issue-4/features/siren-limitation-training.html>

ATTACHMENT A
Alerting Systems Available for Berkeley Emergencies (February 2019)

Alerting system	Requires Opt-in?	Description	Reaches these people	Will not reach these people
Systems to alert people who are not actively seeking information:				
WEA (Wireless Emergency Alert)	Does not require opt-in	An Amber Alert-style message with a loud squawking sound, vibration, and brief text message on cell phones.	Anyone with a cell phone that is powered on. Reaches all phones in an area, including residents and visitors passing through.	Anyone without a cell phone or with their cell phone in airplane mode or fully turned off. It is also possible for people to opt out of WEA alerts.
AC Alert (Alameda County Alert)	Requires opt-in except landlines	Sends emergency messages by landline phone, email and cell phone.	Houses with a landline, plus people who have opted in for cell phone or email messages. Reaches people based on their residence address, not their current location.	Anyone without a landline, unless they have opted in. Only 5-10% of Berkeley residents have opted in to this system. ¹
Emergency Alert System	n/a	National public warning system that broadcasts on TV, radio, cable, and satellite TV. Also broadcasts to weather radios.	Anyone who is watching or listening to broadcast TV or radio in a specified area.	Anyone not watching or listening to a live TV or radio broadcast at the time of the emergency. Streaming (Netflix, Hulu etc.) do not show EAS messages.
Nixle	Requires opt-in	Sends messages by email and cell phone and on the web. Often used for lower-urgency messages.	Anyone who has signed up to get messages.	Anyone who has not signed up.
Information that people can actively seek in an emergency, but won't receive passively:				
City Website, Twitter, Facebook, Nextdoor	n/a	The City plans to post emergency messaging on the City website and social media.	People who are actively seeking information, able to access the internet, and know where to look for City information.	Anyone not actively seeking information online, or not able to access the internet.
1610 AM Radio	n/a	The City plans to output emergency messages on 1610 AM radio.	People who are actively seeking information, have a radio, and know to go to 1610 AM.	Anyone not actively seeking information online, or who does not have a radio. Also, 1610 AM radio does not reach all of Berkeley.

¹ Estimate based on data from Berkeley Office of Emergency Services, 3/29/2019.



Department of Fire and Emergency Services
Office of Emergency Services Division
William Greulich, Manager

MEMORANDUM

Date: November 5, 2004

To: Phil Kamlarz, City Manager

Cc: Lisa Caronna, Deputy City Manager
Arrietta Chakos, Chief of Staff
Reginald Garcia, Fire Chief
Roy Meisner, Police Chief

From: Bill Greulich, Emergency Services Manager

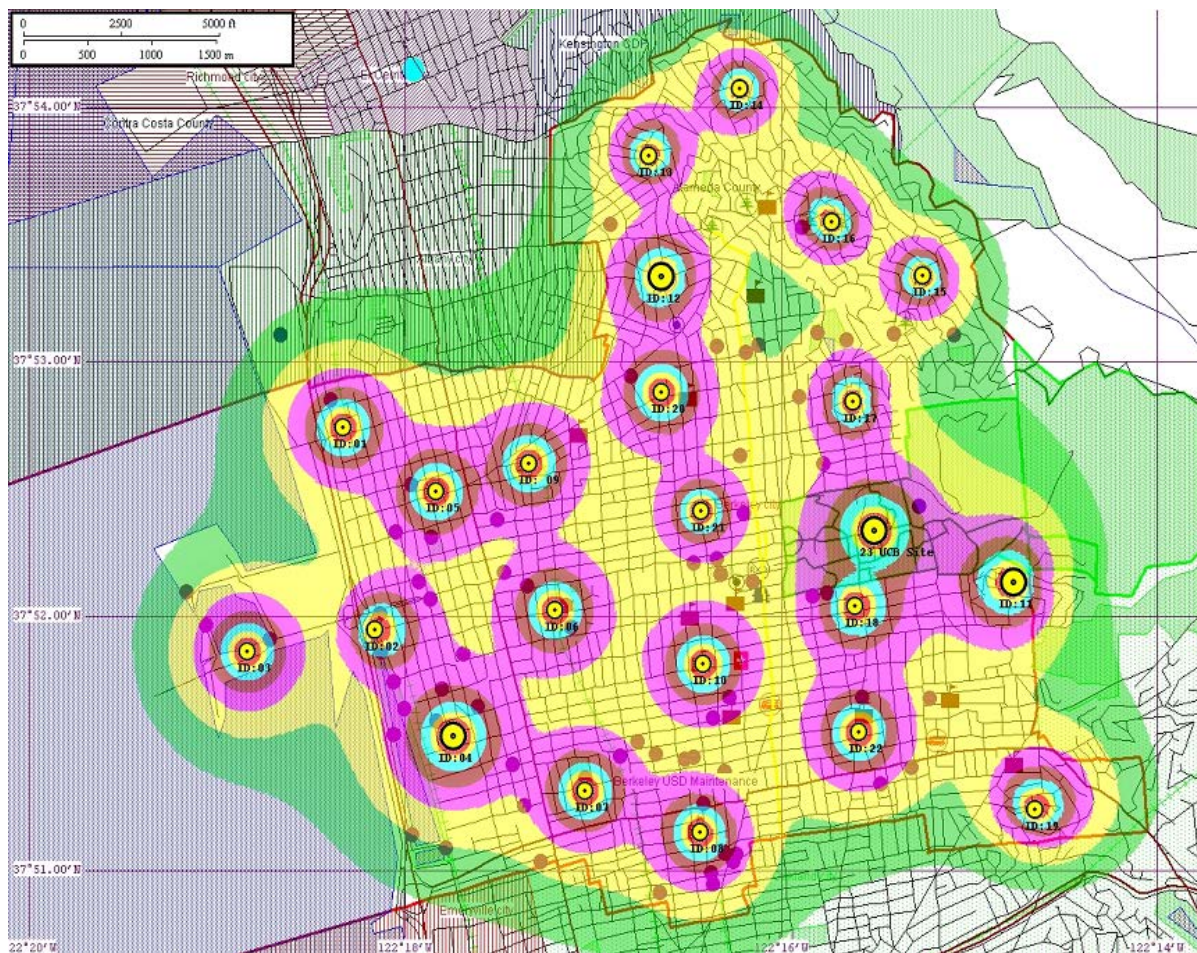
Alerting and warning system project update and recommendations for further action

As discussed in our quarterly meeting of May 28th, here is a summary of work completed to date and my recommendations for further action.

The first phase of the project as outlined in my memorandum of October 14, 2003, "Berkeley Outdoor Warning System (Siren) Project Recommendation" has been completed. Hormann America, Inc. of Martinez, CA in partnership with ProComm Marketing was awarded the contract under IF-9046-04 for \$9,250. Hormann and ProComm designed, installed and continue to support Contra Costa County and the City of Oakland Alerting and Warning Systems (AWS).

Based on criteria derived from the FEMA "*Outdoor Warning Systems Guide*", Civil Preparedness Guideline 1-17, Hormann produced a design requiring the placement of 23 sirens (19 @ 118 dB and 4 @ 121 dB). This design was field verified at four Berkeley locations.

Here are my recommendations.



Sound intensities are shown as contours, the outermost is 70 – 75 dB.

Recommendations –

1. Discontinue the implementation of a citywide siren system. Implementation of a citywide siren system is of limited emergency value, may be detrimental to the health of the community, and exhibits poor cost benefit characteristics.

Cost considerations –

The non-recurring capital estimate is based on City funding of 21 sirens totaling **\$801,000**. This is in alignment with the cost to the City of Oakland of \$1.03 million for 27 units. There would be recurring costs associated with power and maintenance.

The initial public education campaign is estimated at **\$100,000**. There would be recurring costs associated with public education.

Cost estimates for the permitting process are difficult. It is likely that significant staff time would be required to complete an EIR and the other associated work. It is estimated that **0.5 FTE** of City staff would be necessary over a six-month period to accomplish this.

Public and Environmental Health Consequences -

The FEMA “*Outdoor Warning Systems Guide*” has guided the design of siren systems nationwide since May of 1980. Recent work has challenged some of the fundamental assumptions on which the guide was based. The current conclusion is that 123 dB sources will likely be considered “highly annoying” by a noticeable segment of the population.

The FEMA guide also proposed the public would accept loud warning devices regardless of their perceived annoyance because of the potentially life saving value. This belief however, does not accurately reflect the possibility that a 118 or 121 dB sound could in fact contribute to public hearing loss, especially to those who are most sensitive, such as children or the frail. While the guide makes a valid point in light of a life-threatening emergency, it does not accommodate the need to activate the sirens regularly to familiarize the public with their existence. A perceived reduction in quality of life is likely in those members of the community who view the siren testing as “highly annoying”. This phenomenon was demonstrated during the field-testing of Phase I.

City Environmental Health staff has concluded that the sirens would qualify for the emergency use exemption of the City Noise Ordinance. It is also their conclusion that preparation of an Environmental Impact Report (EIR) would be necessary.

Siren System Efficacy -

Sirens target only the community members capable of hearing the warning or alerting tone. Many factors contribute to limiting the number of people who are able to recognize the alert or warning. These include hearing impairments, being inside a building at home, school or work, in an automobile, or in a higher noise environment, i.e. listening to music or operating a power tool.

Hearing a siren sounding is not enough in and of itself. In order to be effective the public must know the system exists before it is used, how to recognize an alert, warning, or test, and what subsequent actions are expected or necessary.

2. Continue to work with Toxics Management and the two private facilities covered by the California Accidental Release Prevention Program (CalARP).

Hazardous materials and the related use of such materials in an act of terror are the best matches to a citywide siren system. In fact, the “East Bay Corridor of Safety” community direction of “Shelter, Shut and Listen” comes from the Contra Costa County alerting and warning system which is focused on and funded by local chemical manufacturing companies. Two facilities in Berkeley possess hazardous materials in quantities requiring implementation of State accidental release prevention programs. Sirens would benefit the community in the event of a release of material from either of these facilities.

3. Continue to work with UCB and the “Corridor of Safety” concerning their siren programs.

UCB has a limited outdoor warning and alerting system in place. Neighboring communities, in particular the City of Oakland, have sirens that may also impact Berkeley when activated.

These agencies have not currently produced a complete, integrated set of procedures and protocols for system activation. It is recommended that staff continue to work with UCB and the “Corridor of Safety” on the creation of protocols for the activation of their systems.

4. Investigate alternative alerting and warning technologies – mobile siren.

Berkeley has a history with these systems and has experienced their lack of utility in public safety programs and their long-term resource burden. However, the potential use of a small number of deployable or mobile sirens with voice capability may be valuable. Mobile sirens could be pre-deployed or brought to areas of high risk as needed, such as placement in the Hills during fire season. Addition of a voice capability could expand their utility as a potential public address tool. While they would be more costly on a unit basis, the city would not need to purchase a large number, and a basic capability in outdoor warning might be had at a more affordable cost.

5. Investigate alternative alerting and warning technologies – weather radio.

Currently, only two Federal programs exist to alert and warn the public, the commercial radio and television based Emergency Alerting System (EAS), and the National Weather Service (NWS) weather radio program. The City of Berkeley has the ability to utilize the EAS; it is recommended the City investigate the weather radio program. The program is very simple. Radios are available which turn themselves on when a NWS alert signal is received. Community members are not burdened by having to listen all the time to the warning station. The NWS signal is broadcast from a tower in San Francisco or on Mt. Diablo. Several key findings are:

- The radios can be placed anywhere, including in schools, and with members of vulnerable populations.
- The alert would be citywide; all radios in the reach of the Diablo or SF tower would be activated.
- The radios are affordable at approximately \$30 each.
- The radios do not have any obvious adverse health impact and can be acquired with visual aids for the hearing impaired.
- Significant Federal support for this program exists.

It is recommended that staff investigate the possibilities of utilizing the NWS system.



Homeless Commission

02a.34

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Homeless Commission
 Submitted by: Carole Marasovic, Chair, Homeless Commission
 Subject: Reinstating October, 2019 Homeless Commission Meeting

RECOMMENDATION

The Homeless Commission recommends that Council reinstate the October, 2019 Homeless Commission meeting earlier relinquished in order to hold an additional meeting in February, 2019 to address community funding allocations.

SUMMARY

The Homeless Commission scheduled an additional meeting on February 27, 2019 to evaluate community agency funding recommendations. In order to do so, a regular scheduled meeting had to be relinquished. The Commission decided to relinquish the regularly scheduled October, 2019 meeting so that it could complete its funding recommendations.

Apart from funding recommendations, the Homeless Commission makes policy recommendations. In order to continue its work, the Commission needs to reinstate the regularly scheduled October, 2019 Commission meeting.

FISCAL IMPACT of RECOMMENDATION:

The Homeless Commission meets at New City Hall at 2180 Milvia and thus, does not incur any rental charges for meetings. The only fiscal impacts are staff time for its meeting and the minor stipends issued to one or two commissioners.

CURRENT SITUATION and its EFFECTS

Without reinstating the October, 2019 meeting, the Commission will lose a meeting during a six month period when there are already two meetings not scheduled (August, 2019 and December, 2019). That will prevent work from being addressed timely.

BACKGROUND

The Homeless Commission voted to reinstate its October meeting on June 12, 2019:

Action: M/S/C Marasovic/Hill to recommend that Council reinstate the October meeting of the Homeless Commission.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan

Noes: None. Abstain: None. Absent: Hirpara (excused).

Action: M/S/C Marasovic/Hill that the report requesting an additional October Homeless Commission meeting be submitted to Council as written.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan
Noes: None. Abstain: None. Absent: Hirpara (excused).

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts.

RATIONALE for RECOMMENDATION

The Homeless Commission meets ten times per year. An additional 2019 meeting was required for community agency funding recommendations, an intensive process, traditionally made for two years. In 2019, the recommendations were made for four years.

Due to the ten meeting a year restriction, the Commission needs to return to Council to reinstate its October, 2019 meeting.

ALTERNATIVE ACTIONS CONSIDERED

The Commission did not see any viable alternative to conducting its work other than reinstating the October, 2019 Homeless Commission meeting.

CITY MANAGER

The City Manager takes no position on this recommendation.

CONTACT PERSON

Peter Radu, Secretary, Homeless Commission, (510) 981-5435.



Housing Advisory Commission

02a.35

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission
 Subject: 1281 University Avenue Request for Proposals

RECOMMENDATION

Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

FISCAL IMPACTS OF RECOMMENDATION

This site is already owned by the City and is currently vacant. Housing staff time will be required to issue, review, and select a qualified development group. This group may apply to the City for additional funding.

CURRENT SITUATION AND ITS EFFECTS

At its May 2, 2019 meeting, the Housing Advisory Commission took the following action:

Action: M/S/C (Tregub/Lewis) to recommend issuing a Request for Proposals for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

Vote: Ayes: Johnson, Lewis, Lord, Tregub, and Wright. Noes: Sargent, Sharenko and Wolfe. Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

BACKGROUND

On March 28, 2017, Council directed staff to develop an RFP to “create small residential units, with appropriate on-site common spaces and services, affordable to extremely low-income persons, with incomes below 30% of Area Median Income (AMI)” at the City-owned site at 1281 University Avenue. On February 8, 2018, the City released an RFP seeking proposals to acquire and develop the site as housing for people with

extremely low-incomes with a preference for homeless services. The RFP also met City and State requirements, including the Surplus Lands Act (AB 2135).

The parcel at 1281 University Avenue is vacant lot consisting of approximately 3,600 sq ft and is adjacent to the Berkeley Way Mini-Park. City records indicate that while the park and lot are on a single legal parcel, the lot has never been included in the park and is therefore not subject to park rules. Staff is concurrently coordinating the subdivision of the University Avenue-facing parcel from the Berkeley Way Mini-Park. Subdividing the parcel is necessary for the sale of the non-park portion.

The site previously hosted the Kenney Cottage, a historic house that has been designated as a Berkeley Structure of Merit since 2003. The cottage was relocated in August 2018 at the direction of the City Council to facilitate the development of the parcel in coordination with the RFP for development proposals.

The City received two proposals in response to the RFP:

- *OpenDoor Group's University Avenue Co-Living*

OpenDoor proposed a "co-living" model that provides small, private bedrooms and baths with shared kitchen and living space. Their development model emphasizes shared communal spaces and activities. Their proposal featured 28 units (two studios and 26 co-living bedrooms), with seven units (25%) set aside for 50% AMI.

- *Resources for Community Development's (RCD) UA Permanent Supportive Housing*

RCD proposed a residential development specifically targeting the homeless, with 16 studios targeting 20-30% AMI and providing on-site homeless services.

On July 11, 2018, the Housing Advisory Commission (HAC) adopted a 1281 University RFP subcommittee's recommendation to select RCD's proposal with specific reservations. The subcommittee considered the RFP, Surplus Lands Act, the proposals, and staff's technical analysis as part of their analysis for the HAC.

On September 25, 2018, the City Council authorized to staff to negotiate and enter in a Memorandum of Understanding (MOU) with RCD based on the HAC's recommendation. Staff drafted an MOU as a starting point for negotiations with RCD. In December 2018, RCD informed the City they did not believe the financial resources needed for the proposed project would be available in a timely way, and formally withdrew from the negotiation process. When asked by staff in April 2019, OpenDoor informed the City they are no longer interested in having their proposal considered for the site. Therefore, the City no longer has proposals to consider from the RFP.

At the April 4, 2019 meeting, the HAC appointed a subcommittee to develop a recommendation to Council for the future use of 1281 University Avenue. The subcommittee met on April 19, 2019 to create a recommendation that was presented to the HAC at its May 2, 2019 meeting. The major change to the subcommittee's recommendation was to recommend that the Council also consider nontraditional living arrangements, including interim use of the site for housing purposes

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City had already issued an RFP for this site and received two proposals, both of which have been withdrawn. This is a very small site and so only a limited number of traditional housing units can be built. This complicates planning and financing units for the site and may take several years before units could be completed. Since the City has many unhoused homeless individuals and households, the HAC also recommends that the City consider other approaches to house the homeless more quickly. Building tiny homes is one option to consider.

ALTERNATIVE ACTIONS CONSIDERED

The HAC recognizes that there are limited options for this site if it is to be developed in residential use. By issuing an RFP that includes interim uses, it is possible to identify other organizations that could recommend creative options for the City's consideration.

CITY MANAGER

The City Manager concurs with the content of this report and the recommendation to reissue an RFP with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households. The RFP previously developed and issued by the City was very similar to what the HAC recommends and it could be re-purposed. Given that the City already issued this RFP once, a second attempt may not yield different responses. Housing staff time will be required to manage the RFP process and work with the selected developer.

The City can consider housing opportunities prioritizing the homeless or nontraditional arrangements. With the HAC's recommendation, Council would determine whether to award a disposition and development agreement to any applicant. Staff recommend that project milestones such as securing required permits and assembling necessary financing be part of such an agreement and required prior to the sale of the property.

Staff issued a report on nontraditional living arrangements including tiny homes in October 2016 noting research and amendments to the City's zoning and housing/building codes would be needed to allow permanent tiny homes on public property such as 1281 University Avenue. This would be noted in the RFP to ensure

transparency for any firm with plans to submit a proposal for nontraditional housing models.

If Council refers finding an interim use for the site to staff, this referral would need to be prioritized within the Council referral system to enable the staff time and resources for this type of project.

CONTACT PERSON

Mike Uberti, Acting Commission Secretary, HHCS, (510) 981-5114



Housing Advisory Commission

02a.36

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission
 Subject: Spring 2019 Bi-Annual Report on Funding for Housing Programs

RECOMMENDATION

Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

SUMMARY

This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs. In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

FISCAL IMPACTS OF RECOMMENDATION

The funds to pay for these recommendations come from a special Business License tax that is charged on properties consisting of five or more units. It is estimated that the revenues will total approximately \$5 million during the upcoming fiscal year. Staff time is included within the administrative costs listed in the summary table of proposed allocations.

CURRENT SITUATION AND ITS EFFECTS

At the May 2, 2019 meeting, the HAC took the following vote to adopt the Bi-Annual Housing Policy Report Subcommittee recommendations to Council, as amended by Commissioner Johnson, to Council to allocate \$5 million in General Fund revenue as follows:

Small Sites/Community Land Trusts	\$1,000,000
Housing Trust Fund	\$2,500,000
Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
Anti-Displacement	\$900,000
Administrative Costs	\$350,000
Total (2019)	\$5,000,000

M/S/C (Wright/Tregub):

Ayes: Johnson, Lewis, Sargent, Sharenko, Tregub, Wolfe and Wright. Noes: Lord.
Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

BACKGROUND

Ballot Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on “how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.” This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report, since the City does not know at this time the locations of the housing units to be assisted.

RATIONALE FOR RECOMMENDATION

The actions recommended by the HAC are consistent with Berkeley’s existing housing programs and policies. Recommended expenditures support existing programs and potential new programs to be explored, such as alternative forms of housing ownership.

ALTERNATIVE ACTIONS CONSIDERED

Another option for the City to consider would be to deposit all U1 General Fund Revenues into the City’s Housing Trust Fund (HTF). However since one of the uses of

U1 General Fund Revenues is to protect Berkeley residents from homelessness, the HAC decided not to deposit all the funds into the HTF in order to provide revenues for anti-displacement activities. In addition, U1 General Fund Revenues are, by definition, more discretionary than other funds deposited into the HTF. This will allow the City to assist innovated programs needed given the housing affordability crisis.

CITY MANAGER

The City Manager recommends referring these recommendations to a Council Policy Committee for further discussion.

The City Council has already authorized General Fund revenue received pursuant to Measure U1 for the following projects:

- \$150,000 to the Berkeley Unified School District as a planning grant for educator housing;
- \$368,000 for Resources for Community Development predevelopment loan application for its proposed development at 2001 Ashby Avenue;
- \$900,000 for anti-displacement activities each year for FY20 and FY21; and
- \$100,000 capacity building for housing cooperatives each year for FY20 and FY21.

At the time of the writing Resources for Community Development has applied for an additional \$1.2M for a predevelopment loan for its proposed development at 2001 Ashby Avenue.

CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS, (510) 981-5114

Attachments:

- 1: Spring 2019 Revised Draft Bi-Annual Report
- 2: Housing Revenues and Expenditures
- 3: Future Program Recommendations in Development by the HAC
- 4: Funding Summary Table as of May 2, 2019

To: Members of the Housing Advisory Commission

From: Xavier Johnson, Chairperson, Housing Advisory Commission

Subject: Spring 2019 Revised Draft Bi-Annual Report

Date: April 25, 2019

RECOMMENDATION

In keeping with the Housing Advisory Commission’s (HAC) annual/biannual obligation to “make recommendations...to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness,” this Report recommends the City of Berkeley allocate \$5 million in general fund revenue as follows:

● Small Sites/Community Land Trusts	\$1,000,000
● Housing Trust Fund	\$2,500,000
● Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
● Anti-Displacement	\$900,000
● Administrative Costs	\$350,000
<u>Total (2019)</u>	<u>\$5,000,000</u>

Further information on how the City of Berkeley should establish programs to increase the supply of affordable housing and protect Berkeley residents from homelessness will follow in future reports to the Berkeley City Council.

SUMMARY

The City of Berkeley (City) is currently experiencing a major shortfall in funding for affordable housing for its residents, and many existing residents find that they are unable to keep up with rising rents and may face displacement from their current homes. The purpose of U1, a ballot measure that passed by a majority of Berkeley’s residents in November 2016 was to increase funding for these two vitals areas (increasing the supply of affordable housing and preventing displacement). However, since these funds are part of the General Fund, the City actually has the option of spending them on non-housing related expenditures.

Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on “how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.” This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts,

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Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

FISCAL IMPACTS OF RECOMMENDATION

This report recommends the allocation of \$5 million dollars in General Fund revenue. It is acknowledged that the City has already, in some cases temporarily and in other cases indefinitely, committed various sources of revenue to various projects. To truly be able to maximize the allocation and effectiveness of resources this recommendation suggests the City will have to take into account all available funding sources and commitments made by the City; this will ensure there are no more additional unfunded commitments moving forward.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley continues to be in the midst of a major housing crisis. U1 directed the Housing Advisory Commission to look at all possible avenues and strategies the City can take to increase the supply of affordable housing and protect Berkeley residents from homelessness.

BACKGROUND

This report provides the following information:

1. *History*
The history of Measure U1, as well as the previous reports the Housing Advisory Commission has issued.
2. *Current Funding for Affordable Housing and Prevention of Displacement:*
An approximate summary of expenditures and allocations for affordable housing and prevention of homelessness. While this list is subject to constant change, and the number of sources grows, this list offers some context and background on some of the many resources currently available to the City.

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3. *Recommendations for 2019 Expenditures*

Recommendations for future expenditures for housing as well as potential programs and ideas, will be more thoroughly explored and evaluated by the Housing Advisory Commission as part of its regular business.

4. *Potential Future Recommendations under Consideration by the Housing Advisory Commission*

As part of our 2018 Work Plan, the HAC came up with numerous ideas for programs and funding that it is currently evaluating and reviewing. While the HAC is beginning to start the 2019 process, we thought it was important to review the ideas that are still in the works and under review.

1. *History*

Measure U1, which was passed in November 2016, authorized an increase in the Business License Tax charged on properties that consist of five or more residential units. In addition and separately, Measure U1 provided that the HAC will make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. After the measure passed, it was incorporated into Berkeley's Municipal Code. The HAC was required under measure U1 to provide a report to the City Council and specified that HAC make annual or bi-annual recommendations to the Council. The HAC has chosen to set as its timeline April and October as reporting dates for each year.

In its first annual report to the City Council in 2018, the HAC recommended funding at these levels for the following uses:

● Anti-Displacement	\$550,000
● Small Sites Program	\$1,000,000
● Housing Trust Fund	\$2,000,000
● Reserve for pipeline housing programs	\$400,000
● Administrative Costs	<u>\$50,000</u>
 Total	 \$4,000,000

This report is the second report to the City Council and is the first Bi-Annual Report for 2019. It provides information to the City Council to assist the Council in its decision-making regarding the allocation of funds to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

Attachment 1: Spring 2019 Revised Draft Bi-Annual Report**2. Current Funding for Affordable Housing and Prevention of Displacement**

The City of Berkeley has a number of sources of funding available to expand the supply of affordable housing and prevent homelessness. The subcommittee decided it would be good to understand the overall level of funds designated for affordable housing and homelessness prevention. First, Table 1 provides information on the most recent commitments from General Fund revenue

Secondly, working with staff, the subcommittee obtained information on housing related expenditure and allocations from several local sources including General Funds, In-Lieu and Housing Mitigation Fees, and federal sources, such as HOME and CDBG. This information is summarized in Table 2 and more information on actual expenditures is presented in Attachment 1.¹ Finally Attachment 3 provides information on committed expenditures.

Table 1: Allocations²

	Allocation
COMMITTED EXPENDITURES	
<i>Anti-Displacement</i>	
FY 2018	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
FY 2019 EXPENDITURES	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
<i>STAFF AND ADMIN. FY 2018</i>	
Staff Position	\$150,757
Other Administrative Costs	\$199,243

¹ Note: The total HOME funds listed in Table 2 do not include funding for public services projects, planning and administration, public facilities, and all ESG, since these uses do not fall directly under the policy framework for U1. ESG is primarily used to help those who are already homeless.

²As of February 2019. Also, Table 1 does not include expenditures from ESG or City's matching funds for ESG. See tables in Attachment 1
Source: City Staff

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Subtotal	\$350,000
<i>HOUSING</i>	
Future Small Sites Program Activities - HHCS	\$950,000
Organizational Capacity Building (BACLT)	\$50,000
Subtotal	\$1,000,000
TOTAL: COMMITTED AND ASSIGNED	\$2,650,000

Table 2: FY 2018-19 Committed and Reserved Funds for Housing

<i>Committed Housing Trust Funds</i>	<i>CDBG</i>	<i>Home</i>	<i>Local Funds (1)</i>	<i>Total</i>
Bridge/Berkeley Food & Housing			\$3,967,548	\$3,967,548
1638 Stuart St (BACLT Small Sites)			\$50,000	\$50,000
SAHA (Oxford Street)			\$25,000	\$25,000
SAHA/Grayson Apartments	\$876,000	\$1,020,827	\$598,173	\$2,495,000
Subtotal				\$6,537,548
<i>Development - Reserved</i>				
Bridge/Berkeley Food & Housing(2)				\$23,500,000
BACLT Small Sites			\$950,000	\$950,000
SAHA (2)				\$6,000,000
Subtotal				\$30,450,000
Total HOME Projects				\$813,509
Community Allocations for Housing Development and Rehab.				\$451,662
<i>Prevention of Displacement</i>				
FY 2018			\$650,000	\$650,000
FY 2019			\$650,000	\$650,000
Subtotal				\$1,300,000

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<i>Staffing and Administration</i>				
Subtotal				\$350,000
TOTAL FUNDS COMMITTED AND RESERVED				\$39,902,719

- 1) Local funding sources include Housing Trust Funds, U1 and additional General Funds.
- 2) No sources indicated.

Finally, the City passed Measure O in Fall 2018. This measure authorized the City to issue up to \$135 million in bonds to be paid for by an increase in the property tax for 36 years. These bonds can be used "to fund housing for "low-, very low-, low-, median, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations," according to ballot language. These bonds have not yet been issued, so the future financial resources from this bond measure are not included in this report.3.

Recommendations for 2019 Expenditures

Table 3 provides the Housing Advisory Commission's funding recommendations for 2019 designed to increase the supply of affordable housing and protect Berkeley residents from homelessness. It should be noted that there is some overlap. For example, funding for a small sites program could be provided by the Housing Trust Fund, and a small sites program could also be based on a land trust model. In addition, this is not intended to be an exhaustive list of the City's expenditures for increasing the supply of affordable housing or for protecting residents from homelessness.

Table 3: 2019 Funding Recommendations

		% of Committed Funds
Anti-Displacement	\$900,000	18%
Administrative Costs	\$350,000	7%
Small Sites/Community Land Trusts	\$1,000,000	20%
Housing Trust Fund	\$2,500,000	50%
Development of New Housing Programs (Housing Co-Ops)	\$250,000	5%
Total (2019)	\$5,000,000	100%

Attachment 1: Spring 2019 Revised Draft Bi-Annual Report*4. Potential Future Recommendations under Consideration by the Housing Advisory Commission*

As part of the 2018 work plan, the Housing Advisory Commission identified numerous potential programs, which it is in the process of evaluating and designing. Moving forward, the HAC may put some of these ideas forward to the City Council. The current nine members of the Housing Commission responded to a poll regarding some of the strategies/programs included in the most recent Work Plan.³ Table 4 presents poll results. The poll required a “yes” or “no” vote.

- The strategies supported by all commissioners included funds for the Housing Trust Fund and Community Land Trusts.
- Those strategies supported by almost all of the Commissioners included anti-displacement services, expansion of the small sites program, and group equity/zero equity co-ops.
- Finally, home sharing and supportive mental health services received support from less than two-thirds of the Commissioners, but still a majority of the members.⁴

Since a majority of Commissioners supported all these activities/strategies, they represent a good starting point for recommendations on how 2019/20 housing funds could be allocated. With the exception of home sharing and supportive mental health services, three-quarters of the commissioners supported the other strategies listed in Table 4.

³ A more detailed description of these Work Plan recommendations can be found at [https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE(2).pdf)

⁴According to two commissioners who provided comments, mental health services are outside the auspices of the HAC and Housing Division. Another member indicated that they need more information in order to assess support for these services. Additional comments included in the poll results are included in Attachment 2.

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Table 4: Commissioner Poll Results

Activities/Strategies	Percent Supporting
East Bay Community Law Center to help tenants who are at-risk of displacement (1)	88%
Supportive Mental Health Services to assist Residents who have housing remain housed (1)	63%
Expand Supply of Affordable Housing (Small Sites Program)	89%
Housing Trust Fund (for leveraging of new construction)	100%
ADU Development	78%
Tenant Option to Purchase	78%
Group Equity and Zero Equity Co-ops (1)	88%
Community Land Trusts	100%
Home Sharing	56%

(1) The percentage of HAC members supporting these three issues is based on responses from eight out of nine members of the HAC. One of the members did not vote on these three strategies, because the member indicated more information was needed to provide input.

Attachment 2: Housing Revenues and Expenditures

**Table 1.1:
February 2019 U1 Revenues**

FY 2018 Revenues	\$5,161,615
FY 2019 YTD Revenues	\$865,451
Total	\$6,027,066

Source: City of Berkeley

Table 1.2: February 2019 Committed Expenditures Preventing Homelessness

Use	Anti-Displacement FY18	Anti-Displacement FY19
Eviction Defense - Rent Board	\$300,000	\$300,000
Retention - East Bay Community Law Center - HHCS	\$250,000	\$250,000
Rapid Rehousing - HHCS	\$100,000	\$100,000
Total	\$650,000	\$650,000

Source: City of Berkeley

Table 1.3: February 2019 Committed Expenditures Increasing Housing Supply

Future Small Sites Program Activities – HHCS (not yet provided)	\$950,000
Organizational Capacity Building (BACLT Contract)	\$50,000
Sub-Total	\$1,000,000

Source: City of Berkeley

Table 1.4: Staff and Administrative Costs Funded by the General Fund

Finance Development Spec II Position - FY18	\$150,757
Other Administrative Costs - Fin FY18	\$199,243
Sub-total	\$350,000

Table 1.5: HOME Projects Allocations FY 2018-2019

HOME Admin.	\$81,351
CHDO Operating Funds	\$28,115
Housing Trust Fund	\$704,043
Subtotal HOME Projects FY 2018-2019	\$813,509

Source: City of Berkeley Annual Action Plan. (Does not include all funding)

Attachment 3: Future Program Recommendations in Development by the HAC

Additional comments written on the Commissioner's Poll include the following:

- Small Sites Program - Perhaps use funds for organizational/program development minor support rather than support for purchasing sites at this time. Developers that have experience in affordable housing development should only be considered given the financial risks of this type of development and the complexities of small scattered-site developments.
- Tenant Option to Purchase - This is good for apartment buildings that contain fewer than 20 units. This approach could be combined with the institutional structure of Community Land Trusts. CLTs are an important model that can be used to support these types of ownership structures.
- Group Equity and Zero Equity Co-ops - It is possible that those most interested in co-ops would be UC Berkeley students. Is this the City of Berkeley's priority given the transient nature of university students?
- Home Sharing - Assistance to a service organization like HIP Housing is a good idea, but this strategy is a service and not affordable housing development of new units. Also, the City should be very careful with supporting this type of service given potential for abuse by tenants and/or landlords.

Attachment 4: Summary Table as of May 2, 2019

	CDBG 2018-19	HOME 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
Committed-New Affordable Housing								
Bridge/Berkeley Food & Housing Project			\$3,967,548				\$23,500,000	\$27,467,548
SAHA (Oxford Street)			\$25,000					\$25,000
SAHA (Grayson Apartments)	\$876,000	\$1,020,827	\$598,173					\$2,495,000
SAHA (Oxford Street)							\$6,000,000	
Subtotal-New Affordable Housing	\$876,000	\$1,020,827	\$4,590,721				\$29,500,000	\$35,987,548
Committed-Preservation								
BACLT Small Sites Program (1638 Stuart St.)					\$950,000			\$950,000
BACLT Small Sites Capacity Building					\$50,000			\$50,000
Housing Development & Rehabilitation	\$380,613			\$56,230	\$14,819			\$451,662
Subtotal-Preservation	\$380,613			\$56,230	\$1,014,819			\$1,451,662
Home Projects Allocations (FY 2018-2019)								
Administration		\$81,351						\$81,351
CHDO Operating Funds		\$28,115						\$28,115
Housing Trust Fund			\$704,043					\$704,043
Subtotal Home Projects		\$109,466	\$704,043					\$813,509
Committed-Anti-Displacement								
Eviction Defense-Rent Board					\$300,000	\$300,000		\$600,000
East Bay Community Law Center					\$250,000	\$250,000		\$500,000
Rapid Re-Housing					\$100,000	\$100,000		\$200,000
Subtotal – Anti- Displacement					\$650,000	\$650,000		\$1,300,000
Administrative Overhead								
Finance Development Specialist II						\$150,757		
Other Administrative Costs						\$199,243		
Subtotal-Administrative Overhead						\$350,000		\$350,000

	CDBG 2018-19	Home 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
Total Funds Committed and Reserved	\$1,256,613	\$1,130,293	\$5,294,764	\$56,230	\$1,664,819	\$1,000,000	\$29,500,000	\$39,902,719



Mental Health Commission

02a.37

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Mental Health Commission
Submitted by: boona cheema, Chairperson, Mental Health Commission
Subject: Appointment of Andrea Pritchett to the Mental Health Commission

RECOMMENDATION

Adopt a Resolution approving the appointment of Andrea Pritchett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Mental Health Commission is authorized to be composed of thirteen members. However, there are presently seven vacancies on the Commission. These vacancies impair the Commission's ability to adequately review and evaluate the community's mental health needs, resources, and programs.

Approval of the recommended action will fill a vacancy, and allow the Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute at least fifty percent or seven of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership. Two members shall be residents of the City of Albany with at least one of these seats filled by a direct consumer or family member.

Currently, the Mental Health Commission consists of the following: two Berkeley Special Public Interest Commissioners; two Berkeley General Public Interest Commissioners; one Albany General Public Interest Commissioner; and one Mayoral appointee.

At its June 27, 2019 meeting, the Mental Health Commission interviewed Andrea Pritchett who is a teacher with the Berkeley Unified School District (BUSD), a board member of the Berkeley Flea Market, and a police accountability advocate. Ms. Pritchett is interested in serving on the Commission to help improve the delivery of mental health services to people who are poor, homeless or underserved. She has worked with diverse populations and homeless and marginalized individuals for approximately 40 years and has experience working with individuals who are managing mental illness and other disabilities. The secretary has determined that Ms. Pritchett is eligible for a General Public Interest seat on the Mental Health Commission.

On June 27, 2019 the Mental Health Commission passed the following motion:

M/S/C (Kealoha-Blake, Heda) Move that the Berkeley City Council appoint Andrea Pritchett to the Mental Health Commission in a general public interest seat.

Ayes: cheema; Castro; Fine; Heda; Kealoha-Blake; Noes: None. Abstentions: None.
Absent: Davila.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Approval of the recommended action will allow the Mental Health Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

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

CONTACT PERSON

Jamie Works-Wright, Commission Secretary, (510) 981-7721

Attachments:

1: Resolution

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

APPOINTMENT OF ANDREA PRITCHETT TO THE MENTAL HEALTH COMMISSION
AS A REPRESENTATIVE OF THE GENERAL PUBLIC INTEREST

WHEREAS, membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (or designee), six special public interest appointments, two appointments of residents of Albany (one of which shall be a representative of the special public interest category), and four general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, the Mental Health Commission, at its June 27, 2019 meeting recommended the appointment of Andrea Pritchett to the Mental Health Commission.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council appoints Andrea Pritchett to the Mental Health Commission, as representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.



[Commission Name]

02a.38

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Berkeley Peace and Justice Commission
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission
 Subject: Resolution: Oppose U.S. Withdrawal from INF Treaty

RECOMMENDATION

Adopt a resolution that calls on President Trump to rescind the U.S. notice of withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

The INF Treaty between the U.S. and the Soviet Union was ratified by the U.S. Senate on May 27, 1988. It banned the two nations' land-based intermediate-range ballistic missiles, cruise missiles, and missile launchers with ranges between 310 and 3,420 miles. This Treaty resulted in the destruction within three years of 2,692 United States and Soviet short-, medium-, and intermediate-range missiles.

On February 1, 2019, Secretary of State Michael R. Pompeo announced that the U.S. would withdraw from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) in 6 months, in accordance with Article 15 of the treaty.

The Russian Federation (Russia), successor state to the Soviet Union, subsequently made a similar announcement with respect to Russia's withdrawal.

The terms of the Treaty do not provide for withdrawal except for extraordinary events related to the subject matter of the Treaty that jeopardize the supreme interests of one side. The Russian missile deployment that the U.S. claims violates the treaty terms does not constitute such an extraordinary event. Instead, the treaty provides in Article 15 that issues of compliance (a material breach of the treaty provisions) are brought before a Special Verification Commission for resolution, and other avenues for resolution are also provided.

M/S/C: Maran/Meola

Ayes: Askary, al-Bazian, Bohn, Gussman, Lippman, Maran, Meola, Morizawa, Pierce, Pancoast

Noes: None

Abstain: None

Absent: Chen

Excused: Rodriguez, Tregub

BACKGROUND

At its regular meeting on April 8, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley call on President Trump to rescind the U.S. notice of withdrawal from the INF Treaty, call on Congress to oppose U.S. notice of withdrawal, and on Rep. Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

The U.S. abrogation of the Treaty has caused concern domestically and internationally. The Chairs of the House of Representatives Committees on Foreign Affairs and Armed Services stated that instead of crafting a plan to hold Russia accountable and pressure it into compliance, the Trump administration has offered President Putin an easy way out of the treaty and has played right into his hands. Similarly, European members of NATO urged the United States "to try to bring Russia back into compliance with the treaty rather than quit it, seeking to avoid a split in the alliance that Moscow could exploit." Mikhail Gorbachev, who co-signed the Treaty with President Reagan, warned that "a new arms race has been announced."

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has repeatedly stated a policy priority to eliminate nuclear weapons and end the threat of nuclear war.

The Peace and Justice Commission mandate states that the Commission shall perform the following function:

“Advise the Berkeley City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money now spent on war and preparation of war is spent on fulfilling human needs and the promotion of peace.”

The Nuclear Free Berkeley Act states that “The nuclear arms race poses an intolerable threat to humanity....Since the Nuremberg principles hold individuals accountable for crimes against humanity, and since nuclear weapons cannot be used without indiscriminately killing civilians and violating accepted international rules of war, then nuclear weapons are illegal, and should be prohibited in the City. We will not remain silent while policies of global death and destruction are carried out in our name.”

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER'S COMMENTS

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

CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, City Manager's Office (510) 981-7018

Attachments:

1: Resolution: Oppose US withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF)

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

OPPOSE US WITHDRAWAL FROM THE INTERMEDIATE-RANGE NUCLEAR
FORCES TREATY (INF)

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, On February 1, 2019, Secretary of State Michael R. Pompeo announced that the U.S. would withdraw from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) in 6 months, in accordance with Article 15 of the treaty (1);¹ and

WHEREAS, The Russian Federation (Russia) subsequently made a similar announcement with respect to Russia's withdrawal; and

WHEREAS, Article 15, paragraph 1, stating that the INF Treaty is of "unlimited duration" is followed by Paragraph 2, thus: "Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to withdraw to the other Party six months prior to withdrawal from this Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests;"² and

WHEREAS, the Russian missile deployment that the U.S. claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes U.S. "supreme interests;" and

WHEREAS, the U.S. deployment of anti-missile missile launchers that Russia claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes Russian "supreme interests;" and

WHEREAS, nowhere in the INF Treaty is it accepted that one party to the treaty may withdraw on the grounds that they have reason to believe the other party is in material breach of the treaty provisions; the treaty provides instead in Article 15 that issues of compliance are brought before a Special Verification Commission; and

WHEREAS, in addition to the Special Verification Commission, the U.S. and Russia may call upon third-party technical and legal experts to assist in resolution of the dispute; request the UN Security Council pursuant to Article 36 of the UN Charter to recommend a procedure for resolution of the dispute; or refer the matter by special agreement to the International Court of Justice.³

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley calls on President Trump to rescind the US notice of withdrawal from the INF Treaty, and to confirm that the United States will continue to comply with the said Treaty until such time as extraordinary events related to the subject matter of this Treaty have demonstrably jeopardized the supreme interests of the United States.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Congress to oppose U.S. withdrawal from the INF Treaty and to support resolution of the dispute through the treaty's Special Verification Commission and other international procedures as needed.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Representative Barbara Lee to support H.R. 1249, the "INF Treaty Compliance Act of 2019," which would prohibit funds being made available for any missile prohibited by the INF Treaty.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to President Donald Trump, Secretary of State Michael R. Pompeo, Senators Dianne Feinstein and Kamala Harris, and Representative Barbara Lee.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to Vladimir Putin, President of the Russian Federation, with a formal request that he, likewise, rescind the Russian notice of withdrawal from the INF Treaty and commit to fully complying with the terms of this Treaty.

¹ "U.S. Intent to Withdraw from the INF Treaty, Mike Pompeo," <https://www.state.gov/u-s-intent-to-withdraw-from-the-inf-treaty-february-2-2019/>

² "Intermediate-Range Nuclear Forces (INF) Treaty," <https://www.acq.osd.mil/tc/inf/INFtext.htm>

³ "Russia, U.S. clash over INF arms treaty at United Nations," Reuters, October 26, 2018, <https://www.reuters.com/article/us-usa-nuclear-russia-un/russia-u-s-clash-over-inf-arms-treaty-at-united-nations-idUSKCN1N02FI>

Also:

"Trump stokes debate about new Cold War arms race," HILL.TV, October 27, 2018, <https://thehill.com/policy/defense/413383-trump-stokes-debate-about-new-cold-war-arms-race>



Office of the Mayor

02a.39

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council
 From: Mayor Jesse Arreguín and Vice Mayor Susan Wengraf
 Subject: Support of AB 18 – Firearms Excise Tax

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill (AB) 18, which would place a \$25 excise tax on the sale of firearms. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.

BACKGROUND

As of August 18, 2019, there have been 257 mass shootings this year in the United States of America, thirty-three (33) of these have taken place in California. A mass shooting is defined as a single incident in which there are four or more injuries. Mass shootings have become so common in America that foreign countries have issued travel alerts to the United States because of the potential safety risk. In 2017, there were almost 40,000 gun deaths in America, including 3,184 in California.

AB 18, introduced by Assemblymember Marc Levine, would place a \$25 excise tax on the sale of all handguns, shotguns, and semiautomatic rifles. While the bill had previously stalled in committee in May – usually a sign that a bill has died for the year – recent mass shootings, including the tragic Gilroy Garlic Festival shooting, has created a new sense of urgency in moving forward with reviving the bill. A new amendment will also be introduced placing a yet to be determined amount excise tax on the sale of ammunition. Revenue generated from this bill would go towards the California Violence Intervention and Prevention Grant Program (CaVIP). CaVIP supports violence intervention and prevention activities, with preference given to cities and regions that have been disproportionately affected by violence.

The Berkeley City Council has a long history of supporting gun safety legislation. In recent years, the Council has supported state and federal bills in support of expanding background checks, a ban on assault rifles and high capacity magazines, and improving research towards gun violence. Locally, the Council has recently approved an ordinance for safe and secure storage of firearms.

FINANCIAL IMPLICATIONS

None.

Support of AB 18

CONSENT CALENDAR
September 10, 2019

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Text of AB 18

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

IN SUPPORT OF ASSEMBLY BILL 18

WHEREAS, as of August 18, 2019, there have been 257 mass shootings (a single incident in which there are four or more injuries) this year, including 33 in California; and

WHEREAS, in 2017, there were almost 40,000 gun deaths in America, including 3,184 in California; and

WHEREAS, recent mass shootings, such as in Gilroy, El Paso, and Dayton, have reinvigorated the debate over gun safety, placing focus on governments at all levels to move forward on legislation that can help reduce the number of shootings; and

WHEREAS, Assembly Bill 18, introduced by Assemblymember Marc Levine, would place a \$25 excise tax on the sale of all handguns, shotguns, and semiautomatic rifles, in addition to an excise tax on ammunition; and

WHEREAS, revenue generated from this bill would go towards the California Violence Intervention and Prevention Grant Program (CalVIP), which supports violence intervention and prevention activities, with preference given to cities and regions that have been disproportionately affected by violence; and

WHEREAS, the Berkeley City Council has a long history of supporting gun safety legislation, including state and federal bills aimed at reducing the number of shootings and gun violence such as extended background checks and bans of assault rifles and high capacity magazines.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports Assembly Bill 18.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.

AMENDED IN ASSEMBLY APRIL 24, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 18

**Introduced by Assembly Members Levine, Bonta, and Nazarian
(Coauthors: Assembly Members Bloom, Chiu, Gipson, Limón,
McCarty, and Ting)**

December 3, 2018

An act to add Title 10.2 (commencing with Section 14130) to Part 4 of the Penal Code, and to add Part 16 (commencing with Section 36001) to Division 2 of the Revenue and Taxation Code, relating to firearms, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Levine. Firearms: excise tax.

(1) Existing law establishes the Board of State and Community Corrections. Existing law charges the board with providing the statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems.

The existing Budget Act of 2018, establishes the California Violence Intervention and Prevention (CalVIP) Grant Program, administered by the Board of State and Community Corrections, to award competitive grants for the purpose of violence intervention and prevention.

This bill would codify the establishment of the California Violence Intervention and Prevention Grant Program and the authority and duties

AB 18

— 2 —

of the board in administering the program, including the selection criteria for grants and reporting requirements to the Legislature.

(2) Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an excise tax on a retailer in the amount of \$25 per firearm on the sale in this state of a handgun or semiautomatic rifle or shotgun sold as new, as provided. The tax would be collected by the state pursuant to the Fee Collection Procedures Law. This bill would require that the revenues collected be deposited in the CalVIP Firearm Tax Fund, which the bill would create. The moneys in that fund would be continuously appropriated to the Board of State and Community Corrections to provide CalVIP grants.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

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

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Firearms sold by gun dealers contribute to unacceptably high
- 4 rates of gun violence in communities across California. Dealers
- 5 are the leading source of firearms trafficked to illegal markets,
- 6 often through straw purchases as well as preventable losses or
- 7 thefts. Data from the federal Bureau of Alcohol, Tobacco, Firearms
- 8 and Explosives (ATF) indicates that from 2016 to 2018 alone,
- 9 licensed dealers in California reported losing track of nearly 1,200

1 firearms from their inventories. The true number of these misplaced
2 firearms, including unreported losses, is likely substantially higher.

3 (b) Federal law broadly immunizes firearm dealers from civil
4 liability for a wide range of conduct that contributes to death,
5 injury, and other social harms in our state. Essentially no other
6 industry enjoys such a sweeping degree of immunity from civil
7 claims that may incentivize safe and responsible commercial
8 activity. Dealers may also frequently evade other forms of
9 accountability for behaviors that threaten public health and safety.
10 According to a 2013 report by the United States Department of
11 Justice Inspector General, for instance, 38 percent to 53 percent
12 of dealers inspected by ATF from 2004 to 2011 were found to be
13 operating in violation of federal laws “that ban sales to prohibited
14 persons and require inventory and sales to be tracked.” Very few
15 faced any substantial civil or criminal consequences.

16 (c) Gun dealers’ products impose enormous fiscal burdens on
17 California’s taxpayers, including an estimated \$1.4 billion each
18 year for direct public expenditures such as law enforcement, courts,
19 and health care costs in response to firearm deaths and injuries in
20 our state. This estimate does not include other major expenses,
21 such as crime victim compensation, substantially diminished tax
22 revenue due to lost income, depreciated property values, and
23 reduced business activity associated with gun deaths and injuries
24 in California.

25 (d) In recent years, gun sales have been booming in California.
26 The California Department of Justice processed between 880,000
27 and 1.33 million dealer records of sale per year between 2015 and
28 2017, up from 344,000 to 375,000 from 2005 to 2007, just one
29 decade earlier.

30 (e) At the same time, large spikes in gun violence at the national
31 level have also impacted our state. From 2014 to 2017, gun murder
32 rates rose by 16 percent in California, even as there was no such
33 increase among non-gun homicides.

34 (f) The excise tax on firearm retailers proposed in this bill is
35 analogous to the Federal Aid in Wildlife Restoration Act,
36 commonly called the Pittman-Robertson Act, which imposes a 10
37 to 11 percent federal tax on the sale of guns and ammunition by
38 manufacturers, producers, and importers. Revenues from the
39 Pittman-Robertson tax, which has been described as a “legislative
40 model” by the National Rifle Association, fund wildlife

1 conservation efforts that remediate the effects firearms have on
2 wildlife populations through game hunting.

3 (g) The purpose of this act is to similarly place a reasonable tax
4 on the firearm industry's activities in order to fund programs to
5 remediate the devastating effects firearms cause many families
6 and communities across our state. This act is not intended to
7 penalize firearm sellers or otherwise discourage lawful firearm
8 sales and commerce whatsoever, but is intended to fairly generate
9 revenue to fund CalVIP programs that are targeted and effective
10 at mitigating the harms that firearms too often cause.

11 (h) The CalVIP grant program funds evidence-based violence
12 reduction initiatives that alleviate the societal harms caused by
13 firearms in communities that are disproportionately impacted by
14 gun violence.

15 SEC. 2. Title 10.2 (commencing with Section 14130) is added
16 to Part 4 of the Penal Code, to read:

17

18 TITLE 10.2. CALIFORNIA VIOLENCE INTERVENTION
19 AND PREVENTION GRANT PROGRAM

20

21 14130. This title shall be known, and may be cited, as the Break
22 the Cycle of Violence Act.

23 14131. (a) The California Violence Intervention and Prevention
24 Grant Program (CalVIP) is hereby created to be administered by
25 the Board of State and Community Corrections.

26 (b) The purpose of CalVIP is to improve public health and safety
27 by supporting effective violence reduction initiatives in
28 communities that are disproportionately impacted by violence,
29 particularly group-member involved homicides, shootings, and
30 aggravated assaults.

31 (c) CalVIP grants shall be used to support, expand, and replicate
32 evidence-based violence reduction initiatives, including, without
33 limitation, hospital-based violence intervention programs,
34 evidence-based street outreach programs, and focused deterrence
35 strategies, that seek to interrupt cycles of violence and retaliation
36 in order to reduce the incidence of homicides, shootings, and
37 aggravated assaults. These initiatives shall be primarily focused
38 on providing violence intervention services to the small segment
39 of the population that is identified as having the highest risk of
40 perpetrating or being victimized by violence in the near future.

1 (d) CalVIP grants shall be made on a competitive basis to cities
2 that are disproportionately impacted by violence, and to
3 community-based organizations that serve the residents of those
4 cities.

5 (e) For purposes of this section, a city is disproportionately
6 impacted by violence if any of the following are true:

7 (1) The city experienced 20 or more homicides per calendar
8 year during two or more of the three calendar years immediately
9 preceding the grant application.

10 (2) The city experienced 10 or more homicides per calendar
11 year and had a homicide rate that was at least 50 percent higher
12 than the statewide homicide rate during two or more of the three
13 calendar years immediately preceding the grant application.

14 (3) An applicant otherwise demonstrates a unique and
15 compelling need for additional resources to address the impact of
16 homicides, shootings, and aggravated assaults in the applicant's
17 community.

18 (f) An applicant for a CalVIP grant shall submit a proposal, in
19 a form prescribed by the board, which shall include, but not be
20 limited to, all of the following:

21 (1) Clearly defined and measurable objectives for the grant.

22 (2) A statement describing how the applicant proposes to use
23 the grant to implement an evidence-based violence reduction
24 initiative in accordance with this section.

25 (3) A statement describing how the applicant proposes to use
26 the grant to enhance coordination of existing violence prevention
27 and intervention programs and minimize duplication of services.

28 (4) Evidence indicating that the proposed violence reduction
29 initiative would likely reduce the incidence of homicides,
30 shootings, and aggravated assaults.

31 (g) In awarding CalVIP grants, the board shall give preference
32 to applicants whose grant proposals demonstrate the greatest
33 likelihood of reducing the incidence of homicides, shootings, and
34 aggravated assaults in the applicant's community, without
35 contributing to mass incarceration.

36 (h) The amount of funds awarded to an applicant shall be
37 commensurate with the scope of the applicant's proposal and the
38 applicant's demonstrated need for additional resources to address
39 violence in the applicant's community.

1 (i) Each grantee shall commit a cash or in-kind contribution
2 equivalent to the amount of the grant awarded under this section.
3 The board may waive this requirement for good cause.

4 (j) Each city that receives a CalVIP grant shall distribute no less
5 than 50 percent of the grant funds to one or more of any of the
6 following types of entities:

- 7 (1) Community-based organizations.
- 8 (2) Public agencies or departments, other than law enforcement
9 agencies or departments, that are primarily dedicated to community
10 safety or violence prevention.

11 (k) The board shall form a grant selection advisory committee
12 including, without limitation, persons who have been impacted by
13 violence, formerly incarcerated persons, and persons with direct
14 experience in implementing evidence-based violence reduction
15 initiatives, including initiatives that incorporate public health and
16 community-based approaches.

17 (l) The board may use up to 5 percent of the funds appropriated
18 for CalVIP each year for the costs of administering the program
19 including, without limitation, the employment of personnel,
20 providing technical assistance to grantees, and evaluation of
21 violence reduction initiatives supported by CalVIP.

22 (m) Each grantee shall report to the board, in a form and at
23 intervals prescribed by the board, their progress in achieving the
24 grant objectives.

25 (n) The board shall, by no later than April 1, 2024, and every
26 third year thereafter, prepare and submit a report to the Legislature
27 in compliance with Section 9795 of the Government Code
28 regarding the impact of the violence prevention initiatives
29 supported by CalVIP.

30 (o) The board shall make evaluations of the grant program
31 available to the public.

32 *14132. There is hereby established in the State Treasury the*
33 *CalVIP Firearm Tax Fund to receive moneys pursuant to Section*
34 *36041 of the Revenue and Taxation Code. Notwithstanding Section*
35 *13340 of the Government Code, all moneys in the CalVIP Firearm*
36 *Tax Fund are continuously appropriated without regard to fiscal*
37 *years to the Board of State and Community Corrections for the*
38 *purpose of funding grants in accordance with this title.*

39 SEC. 3. Part 16 (commencing with Section 36001) is added to
40 Division 2 of the Revenue and Taxation Code, to read:

PART 16. FIREARM TAX LAW

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

36001. This part shall be known, and may be cited, as the Firearm Tax Law.

36002. For purposes of this part:

(a) "Antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898. This includes any matchlock, flintlock, percussion cap, or similar type of ignition system, or any replica thereof, whether actually manufactured before or after the year 1898, or any firearm manufactured in or before 1898 that uses fixed ammunition no longer manufactured in the United States and not readily available in the ordinary channels of commercial trade.

(b) "Department" means the California Department of Tax and Fee Administration.

(c) "Firearm" means any handgun, semiautomatic shotgun, or semiautomatic rifle. "Firearm" does not include an antique firearm.

~~(d) "Firearm dealer" means a person described in Section 26700 of the Penal Code.~~

~~(e)~~

(d) "Handgun" means any pistol, revolver, or firearm capable of being concealed upon the person.

~~(f)~~

(e) "Law enforcement agency" means any department or agency of the state or of any county, city, or other political subdivision thereof that employs any peace officer that is authorized to carry a firearm while on duty, or any department or agency of the federal government or a federally recognized Indian tribe with jurisdiction that has tribal land in California, that employs any police officer or criminal investigator authorized to carry a firearm while on duty.

~~(g)~~

(f) "Peace officer" means any person described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code that is authorized to carry a firearm on duty, or any police officer or criminal investigator employed by the federal government or a federally recognized Indian tribe with jurisdiction that has

1 tribal land in California, that is authorized to carry a firearm while
2 on duty.

3 ~~(h)~~

4 (g) “Retailer” means any person that is engaged in the business
5 of making retail sales of goods, including firearms, to the general
6 public.

7 ~~(i)~~

8 (h) “Semiautomatic” refers to a firearm that uses the energy of
9 the explosive in a fixed cartridge to extract a fired cartridge and
10 chamber a fresh cartridge with each single pull of the trigger.
11 “Semiautomatic” does not include a pump, bolt, or lever action
12 shotgun or rifle.

13 ~~(j)~~

14 (i) “Sold as new” refers to a firearm sold by a retailer that has
15 not previously been purchased for any purpose other than for resale.

16

17 CHAPTER 2. IMPOSITION OF TAX

18

19 36011. On and after January 1, 2020, an excise tax is hereby
20 imposed on every retailer upon the sale in this state of a firearm
21 sold as new at the rate of twenty-five dollars (\$25) per firearm.

22

23 CHAPTER 3. EXEMPTIONS

24

25 36021. There are exempted from the taxes imposed by this
26 part, the sale of any firearm purchased by any peace officer or by
27 any law enforcement agency employing that peace officer, for use
28 in the normal course of employment.

29

30 CHAPTER 4. COLLECTION AND ADMINISTRATION

31

32 36031. The department shall administer and collect the taxes
33 imposed by this part pursuant to the Fee Collection Procedures
34 Law (Part 30 (commencing with Section 55001)). For purposes
35 of this part, the references in the Fee Collection Procedures Law
36 to “fee” shall include the taxes imposed by this part and references
37 to “feepayer” shall mean any person liable for the payment of the
38 taxes imposed under this part and collected pursuant to that law.

1 36032. The taxes imposed by this part are due and payable to
2 the department quarterly on or before the last day of the month
3 next succeeding each quarterly period of three months.

4 36033. On or before the last day of the month following each
5 quarterly period, a return for the preceding quarterly period shall
6 be filed with the department.

7
8
9

CHAPTER 5. DISPOSITION OF PROCEEDS

10 36041. All amounts required to be paid pursuant to Section
11 36011 shall be paid to the department in the form of remittances
12 payable to the department, and those revenues, net of refunds and
13 costs of administration, shall be deposited in the CalVIP Firearm
14 Tax Fund, established pursuant to Section ~~14131~~ 14132 of the
15 Penal Code.

16 SEC. 4. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

O



Office of the Mayor

02a.40

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council
 From: Mayor Jesse Arreguín
 Subject: Sierra Club San Francisco Bay Chapter: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Mayor Arreguín to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner, a 501(c)(3) tax-deductible non-profit corporation. Funds would be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguín and any other Councilmembers who would like to contribute.

BACKGROUND

The Sierra Club San Francisco (SF) Bay Chapter, a 501(c)(3) tax-deductible non-profit corporation is seeking funds to support ongoing work to protect our environment and fight the growing climate emergency.

The Sierra Club SF Bay Chapter is hosting their annual David Brower Dinner on September 21, 2019 at the Delancey Street Town Hall in San Francisco. The theme of this year's event is "Explore, Enjoy and Protect" the Bay Area environment.

At the Brower Dinner, the Sierra Club is honoring a number of community leaders, and is recognizing the Berkeley Oxford Elementary School Room 22 with their Youth Award. This class made headlines for converting their class room to a zero-waste class. Recently their teacher Jackie Omania was honored by the U.S. EPA for her work to promote environmental literacy and action. These students were taught the consequences of waste on our environment and were inspired by their teacher to practice zero waste in their classroom, ultimately resulting in reducing their entire waste to a mason jar. These students also turned the knowledge they gained into political action, advocating for the passage of Berkeley's groundbreaking Single Use Disposable Foodware Ordinance. Their leadership on this environmental issue reflects a growing trend of younger generations stepping forward to address climate change.

The Sierra Club SF Bay Chapter is requesting that the Mayor and Council sponsor the 2019 David Brower Dinner at the Partner Level (\$1,000). This contribution would support the Club's ongoing environmental work and would contribute to the cost of

tickets for the students from Oxford Elementary so they attend the event to receive their award.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$1,000 is available from Mayor Arreguín's Council Office Budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY

Approval of this relinquishment will support the ongoing work of the Sierra Club to protect our environment and fight the growing threat of climate change and also the students of Berkeley Oxford Elementary School, Room 22. Funds raised at the annual David Brower Dinner fund the Club's staff and advocacy agenda for environmental and coastline protection, fighting climate change, promoting renewable energy and decarbonization, and climate resiliency.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution
- 2: Email from Sierra Club

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR THE
SIERRA CLUB SF BAY CHAPTER

WHEREAS, the Sierra Club SF Bay Chapter, the regional chapter of the national Sierra Club, is a non-profit tax-exempt corporation focused on environmental protection and advocacy in the broader Bay Area region; and

WHEREAS, the Sierra Club SF Bay Chapter is seeking funding to support their ongoing work to protect our environment and fight the growing climate emergency; and

WHEREAS, the Sierra Club SF Bay Chapter is hosting their 2019 David Brower Dinner on Saturday, September 21, 2019; and

WHEREAS, funds raised at the annual David Brower Dinner support the Club's staff and advocacy agenda for environmental and coastline protection, fighting climate change, promoting renewable energy and decarbonization, and climate resiliency; and

WHEREAS, the Sierra Club is honoring a number of community leaders, and is recognizing the Berkeley Oxford Elementary School Room 22 with their Youth Award. This class made headlines for converting their class room to a "zero-waste class"; and

WHEREAS, these students were taught the consequences of waste on our environment and were inspired by their teacher to practice zero waste in their classroom, ultimately resulting in reducing their entire waste to a mason jar; and

WHEREAS, these students also turned the knowledge they gained into political action, advocating for the passage of Berkeley's groundbreaking Single Use Disposable Foodware Ordinance; and

WHEREAS, approval of this relinquishment will support the ongoing work of the Sierra Club to protect our environment and fight the growing threat of climate change, and advance the goals and policies of the Berkeley Climate Action Plan, Climate Emergency Declaration, and Fossil Fuel Free Berkeley Resolution; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from discretionary funds up to \$1,000 per office shall be granted to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner.

Greetings,

I am writing to follow up on my call a moment ago. As I mentioned, the S.F. Bay Chapter of the Sierra Club is requesting that all Berkeley City Council-members, the Mayor, and Vice-Mayor sponsor our annual [David Brower Dinner](#) at the [Partner level](#) or higher and donate your extra seats to Oxford Elementary Room 22.

Oxford Elementary Room 22 is being [honored](#) at this year's Dinner for their [Heirs to Our Oceans Club](#). As you know, the class initiated projects to protect oceans from plastic waste.

Of course the Berkeley City council made a bold choice in [adopting the ordinance](#) to significantly reduce plastic waste. This ordinance was supported by Oxford Elementary students who had already implemented a Zero Waste program in their school which they touted as proof that the City of Berkeley could implement similar policies.

I am particularly excited about the youth in this year's program because we are seeing youth take a leadership role in environmental advocacy around the world. They are truly fighting for their future. In light of the litigation *Juliana v. United States* as well as the advocacy of youth such as Greta Thunberg, the role of youth is essential for the fight to protect the environment and public health for future generations.

Our goal this year is to have enough members of the Berkeley City Council to sponsor and donate tickets so that we can have at least 10 seats allocated to the students and faculty of Oxford Elementary. This will allow us to provide them a full table where they can sit together when they receive their award.

We believe that it would be a great gesture for you to help make this happen and encourage your colleagues to do the same. This will be a wonderful gesture supporting the students while also reaffirming your commitment to protect the environment and public health.

You can find the sponsorship levels here:

<https://www.sierraclub.org/sites/www.sierraclub.org/files/sce-authors/u1054/2019DavidBrowerDinnerSponsorshipLevels-updated.pdf>

You can find out more about the David Brower Dinner here:

<https://www.sierraclub.org/san-francisco-bay/davidbrowerdinner2019>

I look forward to your sponsorship.

Thank you very much!

Sincerely,



Steven DeCaprio
[he/him]
Development Associate
Sierra Club, San Francisco Bay Chapter
2530 San Pablo Ave, Suite I
Berkeley, CA 94702
(510) 848-0800 ext. 302

<https://www.sierraclub.org/san-francisco-bay>

02a.41



Cheryl Davila

Councilmember
District 2

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Cheryl Davila
Subject: Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$100 to this awards program honoring this organization which is perennially supportive of our local youth. The funds raised at this event are used through their High Hopes Scholarship program to make assistance grants toward college expenses. This is just one among many ways Berkeley Community Fund enables Berkeley youth to succeed in college as it works to provide them with opportunities to develop their talents and be a positive force in our community.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

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

ATTACHMENTS:

1. Resolution.
2. <https://berkfund.org/event/2019-annual-gala/>

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Berkeley Community Fund, a community-serving non-profit is seeking donations of support in the amount of \$250 for the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019; and

WHEREAS, Berkeley Community Fund provides broad support to college students that demonstrates to other similarly situated youth that they can also overcome obstacles to achieving their academic success and realizing life goals;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Berkeley Community Fund Annual Gala and Benefit.

2019 Annual Gala

[View this email in your browser](#)

BERKELEY COMMUNITY FUND

Advancing the futures of Berkeley youth



Dear Cheryl,

This year we're thrilled to be honoring **Frances Dinkelspiel, Lance Knobel, and Tracey Taylor**—the founders of [Berkeleyside](#)—with the **2019 Wheeler Award**. It will be a fabulous evening that includes a cocktail reception, an elegant dinner, award presentation, and music.

The Berkeleyside founders are **driven by a desire to make an impact in their local community—much like the Berkeley Community Fund High Hopes and Promise scholars**. Thanks to the Berkeleyside team, well-respected reporters cover city council and school board meetings, public safety issues, local elections, and the changing landscape of our city. Our Annual Gala will honor them for the impact they have made over the last decade, and raise funds for the scholars who will make an impact in the next decade.

We hope you will join us in honoring Frances, Lance, and Tracey on Saturday, September 28, 2019 at the UC Berkeley Pauley Ballroom.

[Buy Tickets / Sponsor a Table](#)

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Shop on [AmazonSmile](#) and support our High Hopes and Promise scholarship programs. [AmazonSmile](#) is a website operated by Amazon with the same products, prices, and shopping features as Amazon.com. The difference is that when you shop on [AmazonSmile](#), the AmazonSmile Foundation will donate 0.5% of the purchase price of eligible products to the charitable organization of your choice. To get started, select “Berkeley Community Fund” as your charity of choice.

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Cheryl Davila

Councilmember
District 2

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities on September 30, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$250 to the September 30, 2019, fundraising event of this organization which has served the Berkeley community since 1971, with programs that focus on academic success, health and well-being, and economic self-sufficiency of our local youth. The funds raised at this event are used to provide services to approximately 1200 youth and their families per year through a variety of activities.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact. \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

CONTACT PERSON

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

ATTACHMENT:

1. Resolution.
2. Berkeley Youth Alternatives Sponsor Application Packet.

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Berkeley Youth Alternatives, a community-serving non-profit is seeking donations of support in the amount of \$250 for the 1st Golf Tournament on September 30, 2019; and

WHEREAS, Berkeley Youth Alternatives provides broad support to Berkeley youth and their families to achieve academic success, sound health and well-being, and economic self-sufficiency;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Berkeley Youth Alternatives 1st Golf Tournament.

Berkeley Youth Alternatives

Invest in our children, Invest in our future!



July 10, 2019

To whom it may concern:

As a member of the East Bay community, Berkeley Youth Alternatives (BYA) is seeking your support to make our **1st Golf Tournament on September 30, 2019** a success.

BYA has served the Berkeley community since 1971, with programs that focus on academic success, health and well-being, and economic self-sufficiency for children, youth, and young adults ages 6-24. BYA serves approximately 1,200 youth and their families per year through a variety of activities.

As a supporter, you will be recognized according to the level of sponsorship. You will also be recognized in the Golf Tournament brochure, in the Berkeley Times as well as at the annual Crab Feed on February 27, 2020.

Sincerely,

Niculia Williams
Executive Director
510-845-9010 ext 204
nwilliams@byaonline.org

1255 Allston Way
Berkeley, CA 94702
510-845-9010
Fax 510-849-1421
www.byaonline.org

Niculia Williams
Executive Director

Kevin D. Williams, JD, MPH
Associate Director

Board of Directors

G. Anthony Freeman
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Pamela Harrison

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Daniel Richardson

Courtney Riley

Judy Shaw

Mary Wainwright

Robert Walker

Administration
EXT 201

Afterschool Center
EXT 217

Career Development
EXT 219

Counseling
EXT 203

Urban Garden
EXT 254

Health Programs
EXT 255

Sports
EXT 231



BYA FACT SHEET

- The Mission of BYA is to help youth and their families address issues and problems via *Prevention* -- reaching youth before their problems become crises, and *Intervention* -- providing support services to youth who are entangled in the juvenile justice system. BYA helps build capacity within individuals to reach their innate potential.
- BYA was **founded in 1969** and **incorporated in 1971** as a Runaway Youth House as part of a national network to work with homeless, runaway, and street youth.
- Since 1971, BYA has grown and now offers programs that focus on **academic success, health and well-being, and economic self-sufficiency** for children, youth, and young adults ages 6-24. BYA serves approximately **1200 youth** and their families per year through a variety of programs.
- With funds from the California Youth Authority, the City of Berkeley, and private funders, BYA completed a **\$1.7 million renovation** of 25,000 sq.ft. of bakery space. The space features a Commercial Kitchen, 4 classrooms, a multipurpose room, and a gym.
- Over 35 young people ages 6-14 are enrolled in the Afterschool Center which provides **academic assistance**, individual counseling, **mentoring**, sports and fitness, and **health/nutrition** education, chess, Capoeira, Zumba, and **case management**.
- BYA's **Computer Lab** was originally made possible by the Golden State Warriors. It features 10 computers that enable youth and young adults to complete vocational training, search for jobs, find housing, and complete college applications.
- BYA hosts a **Summer Day Camp**. The camp offers up to 60 children and youth with basketball instruction, outdoor games, mentoring, nutrition education, computer games, swimming, and field trips.
- BYA's Environmental Training Center provides youth with educational support and jobs afterschool and in the summer in fields such as **gardening** and **environmental justice**.
- Under contract with the Alameda County Behavioral Health Care Services Agency, the Contra Costa County Mental Health Services Plan, the Alameda County Probation Department, and the City of Berkeley, BYA's Counseling Center provides professional **mental health** services to individuals and families throughout Alameda County and Contra Costa County.
- BYA annually places up to 35 youth in paid **summer jobs** with support from the Alameda County Workforce Development Board, Clif Bar Family Foundation, Kaiser Permanente East Bay Community Benefit Program, and private employers.
- BYA Health and Wellness program trains youth as **peer advocates** and community educators to encourage them to pursue careers in **public health**.
- Every year, over 200 individuals from UC Berkeley, Cal-State East Bay, and surrounding universities, and the private sector **volunteer** in BYA programs.
- Since 1990, Niculia "Nikki" Williams, a member of the Alameda County Women's Hall of Fame, has served as BYA's Executive Director.

BYA's Core Areas

Academic Success

Afterschool Center serves youth ages 6-14 to improve their literacy and numeracy skills. We offer tutoring, arts and recreation, computer training, mentoring, and more!



Youth and Family Opportunity HUB focuses on expanding health and wellness services and strengthening the linkages between community-based organizations and local schools.



Economic Self-Sufficiency

Career Development and Prevention Center (CDC) provides employment readiness services to youth ages 14-24 in Berkeley, Alameda County, and Contra Costa County.



CDC prepares youth to enter the workforce equipped with skills to successfully transition from adolescence into adulthood through workshops, career training programs, and job fairs.



Health & Well-Being

Counseling Center provides culturally competent therapy and case management services to youth and families.

Environmental Training Center (ETC) maintains our Community Garden and Orchard programs.



SPARK Health offers youth-centered health programs, group circles, workshops, and annual health fairs.

Sports & Fitness help youth learn teamwork, self-confidence, and discipline.





Programs & Services

- ◆ **Extended Care Programs: HUB Afterschool Center & Summer Jam Program for Ages 6-14**
- ◆ **Youth and Family Opportunity HUB for Ages 6-24 + Families**
- ◆ **Career Development & Prevention Center (CDC) for Ages 14-24**
- ◆ **Environmental Training Center (ETC) for Ages 14-24**
- ◆ **Sports & Fitness for Ages 5-18 + Families**
- ◆ **Counseling Center for Ages 6-24 + Families**

*Serving Youth & Families
For Over 45 Years*



Berkeley Youth Alternatives (BYA) is a community-based nonprofit organization serving Berkeley and the Bay Area since 1971.

Our **holistic** services utilize a continuum-of-care approach that emphasizes three core areas:

- ⇒ **Academic Success**
- ⇒ **Economic Self-Sufficiency**
- ⇒ **Health & Well-Being**

- ◆ We provide a secure and nurturing environment for **youth** and **families** to address issues and problems via *prevention* and *intervention*.
- ◆ We **build capacity** within individuals to reach their innate **potential**.

Berkeley Youth Alternatives



1255 Allston Way
Berkeley, CA 94702
(510) 845-9010
www.byayonline.org

 [BYAbayarea](https://www.facebook.com/BYAbayarea)  [BYAMedia](https://twitter.com/BYAMedia)

 [BYAjobs](https://www.instagram.com/BYAjobs)

*Invest in Our Children,
Invest in Our Future!*

Berkeley Youth Alternatives Golf Tournament

Supporting Education and Sports Activities

Monday, September 30, 2019

Hiddenbrooke Golf Club
1095 Hiddenbrooke Parkway, Vallejo, CA 94591

DEADLINE TO REGISTER: August 20, 2019

10:30am Registration
11:00am Back Patio BBQ
12:30pm Shotgun Start
5:30pm Open Bar
6:00 Dinner Buffet

**Space is limited!
Sign-up today!**

For more information, please contact:
Nikki Williams 510-845-9010 ext. 204
nwilliams@byaonline.org
Or the Business Office 510-845-9010 ext. 201



✂ Detach this portion and return with your payment ✂ Detach this portion and return with your payment ✂

Name	Sponsorship Levels	Name of Foursome
<hr/>	<input type="checkbox"/> Platinum \$5000	<hr/>
Address	<input type="checkbox"/> Gold \$3000	Player One
<hr/>	<input type="checkbox"/> Silver \$1000	<hr/>
City	<input type="checkbox"/> Foursome \$800	Player Two
<hr/>	<input type="checkbox"/> Individual Golfer \$200	<hr/>
State Zip	More ways to participate	Player Three
<hr/>	Margarita, Beer, Lunch, Long Drive, Networking, Hole Sponsor, and etc.	<hr/>
Phone		Player Four
<hr/>		<hr/>
Email		
<hr/>		

Please make checks payable to Berkeley Youth Alternatives
Attn: BYA Golf Tournament ♦ 1255 Allston Way, Berkeley, Ca. 94702
You can register and pay via credit card at www.byaonline.org

Berkeley Youth Alternatives

Invest in our children, Invest in our future!



Sponsor: _____

Contact Person: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Platinum \$5000

Gold \$3000

Margarita \$1500

Silver \$1000

Recognition includes:

Company name will be listed in:
**BYA's Golf Tournament Brochure,
BYA's Annual Crab Feed Brochure
and The Berkeley Times**

Make Checks Payable To: Berkeley Youth Alternatives

Check Number: _____ Check Amount: _____ Date: _____

Additional Notes: _____

Donor's Signature: _____

Sponsorships **NOT** turned in before **August 28th, 2019** may **NOT** receive recognition

Thank you for your contribution!

For your records, BYA's Tax Identification # is: 94-1711728

Phone:
(510)-845-9010 ext.204

Email:
nwilliams@byaonline.org

Event Location:
Hiddenbrooke Golf Club
1095 Hiddenbrooke
Parkway
Vallejo, CA 94591

Mail to:
1255 Allston Way
Berkeley, CA 94702

Sponsorship

Platinum \$5,000

- 2 Foursomes with Carts
- 8 Complimentary Game Cards (\$160 value)
- Tee Sign w/ Company Name & Logo
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 8 Lunches and 8 Dinners

Gold \$3,000

- 1 Foursome with Carts
- 4 Complimentary Game Cards (\$80 value)
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Silver \$1,000

- 1 Foursome with Carts
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Foursome \$800

- 1 Foursome with Carts
- 4 Lunches and 4 Dinners

Beer Sponsor \$700

- Signage & Recognition Throughout the Event
- Includes 1 Dinner



More ways to participate...

Margarita Sponsor \$1,500

- Signage & Recognition Throughout the Event
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Lunch Sponsor \$1,500

- Signage & Recognition Throughout the Event
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Long Drive Sponsor \$250

- Signage & Recognition Throughout the Event
- Includes 1 Dinner

Networking Hole Sponsor \$250

- A Company Rep may Promote Your Business on the Course and Interact with Players
- Includes 1 Dinner

Hole Sponsor \$250

- Your Company Name on a Sign Displayed on the Course During the Tournament
- Includes 1 Dinner

Raffle Prizes

- Recognition at the Event

Dinner Guest \$40

- Join the Golfers for Dinner, Fun, Networking, Awards and After Golf Activities



Berkeley Youth Alternatives Golf Tournament

Supporting Education and Sports Activities

Monday, September 30, 2019

Hiddenbrooke Golf Club

1095 Hiddenbrooke Parkway, Vallejo, CA 94591



02a.43

Kate Harrison
Councilmember District 4

CONSENT CALENDAR
September 10th, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Kate Harrison
Subject: Resolution in Support of Congresswoman Barbara Lee's Resolution (H. Res. 429): Affirming the Right of All Renters to a Safe, Affordable, and Decent Home.

RECOMMENDATION

Adopt a resolution in support of H. Res. 429, a resolution introduced by Congresswoman Barbara Lee. Send a letter of support to Congresswoman Lee.

BACKGROUND

The Department of Housing and Urban Development's nationwide survey found that 552,830 individuals were homeless on a single night in 2018.¹ In the city of Berkeley itself, there are 1,200 homeless individuals.² Additionally, there were 2.3 million evictions in 2016 alone, according to National Public Radio.³

The underlying cause of this epidemic is rising housing costs. The Brookings Institute finds in 2018 that housing prices are triple the annual household income in median U.S neighborhoods. In fact, while income levels have remained the same for roughly the last decade, housing prices have exponentially increased with median asking rents increasing by 70 percent.⁴

Additionally, these high rates of eviction disproportionately affect low income residents and minority populations. In a study conducted by Harvard University which looked at

¹ "State of Homelessness in America"
<https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report/>

² "Homelessness in Berkeley: The Fact Sheet"
<https://www.berkeleyside.com/2016/06/29/homelessness-in-berkeley-the-fact-sheet>

³ "First Ever Evictions Database Shows: 'We're in the Middle of a Housing Crisis'"
<https://www.npr.org/2018/04/12/601783346/first-ever-evictions-database-shows-were-in-the-middle-of-a-housing-crisis>

⁴ "Housing in the U.S. is too expensive, too cheap, and just right. It just depends on where you live"
<https://www.brookings.edu/research/housing-in-the-u-s-is-too-expensive-too-cheap-and-just-right-it-depends-on-where-you-live/>

over 300,000 evictions across the United States between 2004 and 2014, 80 percent of those evicted were people of color.⁵

Congresswoman Lee's H. Res. 429, first introduced in 2017 as H. Con. Res. 74, and reintroduced in 2019, supports significant federal funding in housing resources, supports renters' rights, and reaffirms housing as a basic human right. In 2018, Berkeley City Council unanimously approved a resolution supporting H. Con. Res. 74, and it is reaffirming its support for H. Res. 429 in the new legislative cycle.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

- 1: Resolution
- 2: Letter
- 3: Previous Council Resolution Supporting H. Con Res. 74

⁵ "Discrimination in Evictions: Empirical Evidence and Legal Challenges"
https://scholar.harvard.edu/files/mdesmond/files/greenberg_et_al_.pdf

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

RESOLUTION IN SUPPORT OF H. RES. 429: AFFIRMING THE RIGHT OF ALL
RENTERS TO A SAFE, AFFORDABLE, AND DECENT HOME

WHEREAS, roughly 2.3 million people were evicted from their homes in 2016; and

WHEREAS, median rent prices have increased by 70 percent in the past decade; and

WHEREAS, people of color are more likely to get evicted from a home; and

WHEREAS, The Department of Housing and Urban Development's nationwide survey found that roughly 500,000 individuals experience homelessness on a given night; and

WHEREAS, Congresswoman Barbara Lee's resolution supports significant federal funding in housing resources, including affordable housing, supports renters' rights, and reaffirms housing as a basic human right;

NOW, THEREFORE BE IT RESOLVED that the City of Berkeley urges Congress to pass and the President to sign into law H. Res. 429; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to Congresswoman Barbara Lee.

The Honorable Barbara Lee
2470 Rayburn House
Office Building
Washington, DC 20515

Re: Support from Berkeley City Council for H. Res. 429: Affirming the Right of All Renters to a Safe, Affordable, and Decent Home

Dear Congresswoman Lee,

We, the Berkeley City Council, wish to express our support for H. Res. 429, which supports the bolstering of housing resources and affordable housing and affirms that everyone has a right to decent, affordable housing.

The HUD's nationwide survey found that 552,830 individuals were homeless on a single night in 2018. In our city of Berkeley, there are 1,200 homeless individuals. Additionally, there were 2.3 million evictions in 2016 alone, according to National Public Radio. This crisis is driven by rising housing costs. The Brookings Institute finds in 2018 that housing prices are triple the annual household income in median U.S. neighborhoods. In fact, while income levels have remained the same for roughly the last decade, housing prices have exponentially increased, with median asking rents increasing by 70 percent.

Low income and minority populations are disproportionately affected. A Harvard University study examining over 300,000 evictions across the U.S. between 2004 and 2014 found 80 percent of those evicted were people of color.

H. Res. 429 addresses these problems by supporting significant federal funding in housing resources, supporting renters' rights, and reaffirming housing as a basic human right. The Council supports H. Res. 429 and believes it is crucial towards making housing more affordable for everyone.

Thank you for your leadership on affordable housing.
Sincerely,

Berkeley City Council
Mayor Arreguin,
Councilmembers



Attachment
Not Received

This attachment has not been received from the submitting office.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley, City Council's Web site:
<http://www.cityofberkeley.info/citycouncil/>



Susan Wengraf
Councilmember District 6

02a.44

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Susan Wengraf
Subject: Letter of Support for HR-3001 (Meng)

RECOMMENDATION

Send a letter of support for HR-3001, "The Quiet Communities Act of 2019," to Representative Grace Meng, with copies to Representative Barbara Lee, and Senators Dianne Feinstein and Kamala Harris.

HR-3001 will reinstate the Federal Office of Noise Abatement and Control, tasked with developing State and Local noise control programs and carrying out research on airport, airplane and vehicular noise.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

Approximately ten million Americans are afflicted with hearing loss at least partially due to noise exposure damage. Noise from aircraft, vehicular traffic, and a variety of other sources is a constant source of torment for millions of Americans. Chronic exposure to noise has been linked to increased risk of cardiovascular disorders, learning deficits in children, stress, and diminished quality of life.

Berkeley is directly impacted by the FAA's new NexGen program which eliminates dispersed flight patterns from our airports and replaces them with concentrated paths flying over just a few neighborhoods. Since the passage of NextGen, aircraft have been directed to fly over homes in Berkeley as they take off or land at both Oakland and San Francisco airports.

As population growth and air and vehicular traffic continue to increase, noise pollution is likely to become an even greater problem in the future. The health and welfare of our residents demands that the Environmental Protection Agency, the lead Federal agency for the protection of public health and welfare, once again assume a role in combating noise pollution.

BACKGROUND

The Federal Government terminated all funding for the Office of Noise Abatement in 1982. This bill would reestablish that Office, to the tune of \$21M annually through 2024, giving the Noise Control Act of 1972 teeth again.

The Office of Noise Abatement would promote effective noise control program development; carry out national noise control research; carry out an environmental assessment program to identify trends in noise and effective noise abatement actions; and develop educational and training material and programs to support incentives for compliance rather than penalties. The Office of Noise Abatement would also examine the FAA's noise threshold, and the effectiveness of noise abatement programs at airports around the Nation.

ENVIRONMENTAL SUSTAINABILITY

HR-3001 will reduce noise pollution.

CONTACT PERSON

Councilmember Susan Wengraf

District 6

510-981-7160

Attachments:

- 1: Letter of Support
- 2: HR-3001

September 10, 2019

The Honorable Grace Meng
House of Representatives
2209 Rayburn HOB
Washington, DC 20515

**RE: HR-3001 (Meng) “Quiet Communities Act of 2019”
Support from the Berkeley City Council**

Dear Representative Meng,

The City Council of the City of Berkeley officially expresses our support on HR-3001 (Meng), the Quiet Communities Act of 2019.

Since the Federal Government terminated all funding for the Office of Noise Abatement in 1982, noise control programs, research and enforcement have not been as strong as needed.

In the City of Berkeley, and neighboring Albany, Oakland, Emeryville and Alameda, residents are suffering from NextGen flight paths condensing air traffic over their homes, often at elevations below requirements. They live with sleep disturbances, increased stress and a reduction in quality of life. Chronic exposure to noise has also been linked to increased risk of cardiovascular disorders and learning deficits in children.

As population growth and air and vehicular traffic continue to increase, noise pollution is likely to become an even greater problem in the future. The health and welfare of our residents demands that the Environmental Protection Agency, the lead Federal agency for the protection of public health and welfare, once again assume a role in combating noise pollution.

The Council thanks you for your leadership on this important policy topic.

Sincerely,

Berkeley City Council

CC: Representative Barbara Lee
Senator Dianne Feinstein
Senator Kamala Harris

116TH
CONGRESS

1ST SESSION

H. R. 3001

To reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2019

Ms. MENG (for herself, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Ms. NORTON,

Ms. MOORE, Mr. ROUDA, Ms. LEE of California, Mr. LYNCH, Ms. SPEIER, Mr. SUOZZI, Mr. GALLEGRO, Mr. LIPINSKI, Ms. BROWNLEY of

California, Miss RICE of New York, Mr. RUPPERSBERGER, Mr. CASE, Mr. FITZPATRICK, Mr. RASKIN, Mrs. LOWEY, Ms. JAYAPAL, Mr. SAR- BANES, Mr. BEYER, Mr. SHERMAN, Mr. PETERS, Mr. TED LIEU of Cali-

fornia, Ms. JUDY CHU of California, Ms. CLARKE of New York, Mr. BROWN of Maryland, Ms. CLARK of Massachusetts, and Mr. ESPAILLAT) introduced the following bill; which was referred to the Committee on En- ergy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

2

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Quiet Communities
3 Act of 2019”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that:

6 (1) Approximately 28,000,000 Americans are
7 afflicted with some hearing loss and it has been esti-
8 mated that 10,000,000 of these impairments are at
9 least partially attributable to damage from exposure
10 to noise.

11 (2) For millions of Americans, noise from air-
12 craft, vehicular traffic, and a variety of other
13 sources is a constant source of torment. Millions of
14 Americans are exposed to noise levels that can lead
15 to sleep loss, psychological and physiological damage,
16 and work disruption.

17 (3) Chronic exposure to noise has been linked
18 to increased risk of cardiovascular disorders, learn-
19 ing deficits in children, stress, and diminished qual-
20 ity of life.

21 (4) Excessive noise leading to sleep deprivation
22 and task interruptions can result in untold costs on
23 society in diminished worker productivity.

24 (5) Pursuant to authorities granted under the
25 Clean Air Act of 1970, the Noise Control Act of
26 1972, and the Quiet Communities Act of 1978, the

•HR 3001 IH

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1 Environmental Protection Agency established an Of-
2 fice of Noise Abatement and Control. Its responsibil-
3 ities included promulgating noise emission stand-
4 ards, requiring product labeling, facilitating the de-
5 velopment of low emission products, coordinating
6 Federal noise reduction programs, assisting State
7 and local abatement efforts, and promoting noise
8 education and research. However, funding for the
9 Office of Noise Abatement and Control was termi-
10 nated in 1982 and no funds have been provided
11 since.

12 (6) Because the Environmental Protection
13 Agency remains legally responsible for enforcing reg-
14 ulations issued under the Noise Control Act of 1972
15 even though funding for these activities were termi-
16 nated, and because the Noise Control Act of 1972
17 prohibits State and local governments from regu-
18 lating noise sources in many situations, noise abate-
19 ment programs across the country lie dormant.

20 (7) As population growth and air and vehicular
21 traffic continue to increase, noise pollution is likely
22 to become an even greater problem in the future.
23 The health and welfare of our citizens demands that

24 the Environmental Protection Agency, the lead Fed-
25 eral agency for the protection of public health and

•HR 3001 IH

4

1 welfare, once again assume a role in combating noise
2 pollution.

3 **SEC. 3. REESTABLISHMENT OF OFFICE OF NOISE ABATE-**
4 **MENT AND CONTROL.**

5 (a) REESTABLISHMENT.—The Administrator of the
6 Environmental Protection Agency shall reestablish within
7 the Environmental Protection Agency an Office of Noise
8 Abatement and Control.

9 (b) DUTIES.—The responsibilities of the Office in-
10 clude the following:

11 (1) To promote the development of effective
12 State and local noise control programs by providing
13 States with technical assistance and grants to de-
14 velop the programs, including the purchase of equip-
15 ment for local communities.

16 (2) To carry out a national noise control re-
17 search program to assess the impacts of noise from
18 varied noise sources on mental and physical health.

19 (3) To carry out a national noise environmental
20 assessment program to identify trends in noise expo-
21 sure and response, ambient levels, and compliance

22 data and to determine the effectiveness of noise
23 abatement actions, including actions for areas
24 around major transportation facilities (such as high-
25 ways, railroad facilities, and airports).

•HR 3001 IH

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1 (4) To develop and disseminate information and
2 educational materials to the public on the mental
3 and physical effects of noise and the most effective
4 means for noise control through the use of materials
5 for school curricula, volunteer organizations, radio
6 and television programs, publications, and other
7 means.

8 (5) To develop educational and training mate-
9 rials and programs, including national and regional
10 workshops, to support State and local noise abate-
11 ment and control programs.

12 (6) To establish regional technical assistance
13 centers which use the capabilities of university and
14 private organizations to assist State and local noise
15 control programs.

16 (7) To undertake an assessment of the effec-
17 tiveness of the Noise Control Act of 1972.

18 (c) PREFERRED APPROACHES.—In carrying out its
19 duties under this section, the Office shall emphasize noise

20 abatement approaches that rely on local and State activi-
21 ties, market incentives, and coordination with other public
22 and private agencies.

23 (d) STUDY.—

24 (1) IN GENERAL.—Using funds made available
25 to the Office, the Administrator shall carry out a

•HR 3001 IH

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1 study of airport noise. The Administrator shall carry
2 out the study by entering into contracts or other
3 agreements with independent scientists with exper-
4 tise in noise measurements, noise effects, and noise
5 abatement techniques to conduct the study.

6 (2) CONTENTS.—The study shall examine the
7 selection of noise measurement methodologies by the
8 Federal Aviation Administration, the threshold of
9 noise at which health impacts are felt, and the effec-
10 tiveness of noise abatement programs at airports
11 around the Nation.

12 (3) REPORT.—Not later than 24 months after
13 the date of enactment of this Act, the Administrator
14 shall transmit to Congress a report on the results of
15 the study, together with specific recommendations
16 on new measures that can be implemented to miti-
17 gate the impact of aircraft noise on surrounding

18 communities.

19 **SEC. 4. GRANTS UNDER QUIET COMMUNITIES PROGRAM.**

20 Section 14(c)(1) of the Noise Control Act of 1972
21 (42 U.S.C. 4913(c)(1)) is amended—

22 (1) by striking “and” at the end of subpara-
23 graph (C); and

24 (2) by adding at the end the following:

•HR 3001 IH

7

•HR 3001 IH

1 “(E) establishing and implementing train-
2 ing programs on use of noise abatement equip-
3 ment; and

4 “(F) implementing noise abatement
5 plans;”.

6 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated for each of
8 fiscal years 2020 through 2024 \$21,000,000 for activities
9 of the Office of Noise Abatement and Control reestab-
10 lished under section 3.

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CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

02a.45

CONSENT CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rigel Robinson, Cheryl Davila, Sophie Hahn, and Lori Droste

Subject: Voluntary Time Off on Statewide Election Days for City Employees

RECOMMENDATION

Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.

POLICY COMMITTEE RECOMMENDATION

On July 11, 2019, the Budget and Finance Committee adopted the following action: M/S/C (Droste/Davila) to send the item to the full Council with a Positive Recommendation. Vote: All Ayes.

BACKGROUND

Under current election law, Election Day occurs on the Tuesday after the first Monday in November of each even-numbered year, with the corresponding Primary Day occurring on the Tuesday after the first Monday of March. Special Statewide Elections may generally be held on any Tuesday that is not after a State holiday, with the corresponding Special Primary Election generally occurring on the 9th Tuesday preceding the Special Election.¹ Special, Primary, and General Statewide Elections are not on the list of Federal, State, or City holidays. Since Statewide Elections fall on weekdays, getting to the polls can be difficult for people who have to attend school or work. The City of Berkeley has endorsed California Assembly Bill 177, which would make Election Day a State holiday. Sandusky, a small city in Ohio, recently made national headlines by switching Columbus Day (Indigenous People's Day in Berkeley) and Election Day as local holidays. Taking similar steps in Berkeley would make voting easier and more accessible for many City employees, and would reinforce the City's commitment to the importance of democracy.

In order to facilitate expanding voter participation and civic engagement, the City should designate any Statewide Election, including Primary and Special Statewide Elections, as VTO days. A VTO day already occurs in both March and November; this could be moved to the respective Primary and General Election Day, or an additional day could

1

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=ELEC&division=10.&title=&part=6.&chapter=1.&article=

be added. Likewise with Special Elections; a VTO day could be moved to correspond with the election or an additional VTO day could be added.

Staff should begin any necessary meetings with union representation allowing enough time for the proposed changes to come into effect for the 2020 primary election on March 3, 2020.

State law requires that all employees be given up to 2 hours of paid leave time on Election Day to vote.² Making Election Day a VTO would not eliminate this option for employees. Those who choose to work on Election Day would still be able to take up to two hours of paid time to vote.

The topic of coordinating policy on holidays between the City of Berkeley and Berkeley Unified School District should also be referred to the 2x2 Committee for discussion. These discussions should occur separately from the City's process of designating Election Day and Primary Day as VTO days, and should include consideration of the future designation of Election Day as a paid holiday.

FINANCIAL IMPLICATIONS

Analysis from the Budget Office has estimated that each VTO day will save approximately \$31,142.³ If a VTO day is moved from a Friday to a Tuesday, the City may realize lower savings because fewer employees may elect to take a Tuesday off than a Friday. Therefore, there could be a likelihood of a slight decrease in the \$31,142 of current savings.

If an additional VTO day is added to cover the Tuesday of an Election Day, potential immediate savings are as high as the estimated and aforementioned \$31,142. This figure may be reduced, as previously discussed, if fewer employees opt to take off a Tuesday compared to a Friday. Further, VTO days generate the need for overtime in some departments, as work not done on VTO days must still be completed. Even with these considerations, an additional VTO day will still result in savings.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Rachel Alpert, Intern

² http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=ELEC§ionNum=14000.

³ http://www.ci.berkeley.ca.us/Clerk/City_Council/2019/06_June/Documents/2019-06-25_Item_43_Voluntary_Time_Off_Program_for_FY_2020.aspx



Homeless Commission

02a.52a

ACTION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chair, Homeless Commission

Subject: Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

RECOMMENDATION

The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council

where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

SUMMARY

Persons who are homeless whether in shelters, in vehicles, on the streets or in other locations not intended for human habitation are more prone to having serious medical conditions. In recent years, there has been a significant number of deaths among homeless persons in Berkeley. A study, such as that recommended, would provide information to document and improve health conditions of the homeless and would mitigate future mortality rates among the homeless.

FISCAL IMPACT of RECOMMENDATION:

Staff would have to identify the cost of this proposal.

CURRENT SITUATION and its EFFECTS

Recently, a significant number of homeless persons living in shelters, on the streets, in vehicles, or locations not intended for human habitation in Berkeley have died. Many of Berkeley's homeless have visible medical conditions; others may very well have conditions less visible that are going untreated.

BACKGROUND

On June 12, 2019, the Homeless Commission recommended as follows:

Action: M/S/C Hill/ Marasovic That Council direct that the City Division of Public Health conduct a study, gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years. Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified. A comparative analysis with the general population

shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified.

All personal information shall be redacted so as to comply with federal, state and local laws as to the study of both health conditions and mortality rates of the homeless.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview, shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission and the public, to weigh in on recommendations following the release of the data/study.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan
Noes: None. Abstain: None. Absent: Hirpara (excused).

Action: M/S/C Hill/Marasovic to submit the report as amended and to authorize the Chair to present on behalf of the Commission on the report.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic
Noes: None. Abstain: None. Absent: Hirpara (excused), Mulligan.

ENVIRONMENTAL SUSTAINABILITY

There can only be positive environmental impacts from a better quality of health conditions and mortality rates among the homeless.

RATIONALE for RECOMMENDATION

The homeless are part of the Berkeley community in great numbers. The visible medical conditions of many and the recent mortality rates merit attention to compiling data and making recommendations on improving their health conditions and mitigating mortality rates. Before implementing any new programs or making generalized recommendations, data must be compiled.

ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission considered doing nothing and believed that that was not acceptable.

CITY MANAGER

See companion report.

CONTACT PERSON

Peter Radu, Commission Secretary, HHCS, (510) 981-5435.



Homeless Commission

02a.53a

ACTION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chair, Homeless Commission

Subject: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

RECOMMENDATION

The Homeless Commission recommends that Council direct or refer to the City Manager, as Council sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options:

1. Requiring inclusionary housing over the affordable housing mitigation fee;
2. Requiring an increased number of inclusionary units when the inclusionary option is utilized;
3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option;
4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and
5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

SUMMARY

In order to address the economic housing crisis in Berkeley increasing the numbers of persons forced into homelessness, all housing options must be considered. The need for increased inclusionary housing is one of those options.

FISCAL IMPACT of RECOMMENDATION:

The analysis will reflect the financial considerations involved in each option. The cost of the growing homeless population is enormous to the City of Berkeley and its citizens. Decreasing homelessness by providing affordable housing to the persons most in need will, in the long term, increase the financial benefit to the City of Berkeley.

CURRENT SITUATION AND ITS EFFECTS

On April 10, 2019, the Homeless Commission voted to recommend to Council that Council direct the City Manager to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options: 1. Requiring inclusionary housing over the affordable housing mitigation fee; 2. Requiring an increased number of inclusionary units when the inclusionary option is utilized; 3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option; 4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and 5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to extremely-low income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

Action: M/S/C Marasovic/Hill that the Homeless Commission recommends that Council direct or refer to the City Manager, as it sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options: 1. Requiring inclusionary housing over the affordable housing mitigation fee; 2. Requiring an increased number of inclusionary units when the inclusionary option is utilized; 3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option; 4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and 5. Strengthening the ordinance for inclusionary units to mitigate homelessness by ensuring access of units for extremely low-income persons.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid. and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

Vote: Ayes: Hill, Kealoha-Blake, Marasovic.

Noes: None. *Abstain:* None. *Leave of Absence:* Behm-Steinberg, Hirpara.

BACKGROUND

City housing staff has identified that almost 2,000 persons experience homelessness in Berkeley in recent years. There is a shortage of affordable housing in Berkeley that has resulted in increased numbers of persons facing an economic crisis leading to homelessness.

ENVIRONMENTAL SUSTAINABILITY

For those Berkeley residents who complain about unsheltered residents as aesthetically unappealing, there will be an increased environmentally pleasing presence with unsheltered persons currently experiencing homelessness now housed. For those unsheltered persons, there will be an increased quality of life with housing including a positive environmental impact.

RATIONALE FOR RECOMMENDATION

All options to create permanent housing must be explored with particular attention to extremely low-income and very low-income persons who are the most economically challenged in locating affordable housing in Berkeley. Berkeley's inclusionary housing ordinance, BMC 23C.12, and Berkeley's affordable housing mitigation fee ordinance, BMC 22.20.065, require reevaluation to increase the affordable housing supply as to those most economically challenged.

ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission discusses all options to decreasing the economic housing crisis. Reevaluation of the inclusionary housing ordinance is only a partial solution but all solutions must be considered to decrease the numbers of persons experiencing homelessness.

CITY MANAGER

See companion report

CONTACT PERSON

Peter Radu, Secretary to the Homeless Commission, (510) 981-5435



Homeless Commission

02a.54a

ACTION CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Homeless Commission
Submitted by: Carole Marasovic, Chair, Homeless Commission
Subject: Utilization of City-Owned Property at 1281 University Avenue to House up to 8- 10 RV Dwellers

RECOMMENDATION

The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

SUMMARY

Currently, the City-owned property at 1281 University Avenue is going unused. This property could accommodate up to 8-10 RVs.

FISCAL IMPACT of RECOMMENDATION:

There would be costs associated with possibly leveling/paving the lot, a curb cut and otherwise, making it suitable to hold up to 8-10 vehicles. There would be costs associated with providing sanitation facilities and trash pick-up.

CURRENT SITUATION and its EFFECTS

Council is in the process of establishing a RV ban for vehicles during the hours of 2:00 a.m.-5:00 a.m. based on complaints from the community as to the RVs growing presence. Many RV dwellers rely on their RV as affordable housing for themselves at a time that traditional housing costs are skyrocketing in Berkeley.

City staff report that they have been unable to identify a location for RVs. Meanwhile, other Bay Area cities also have RV bans so that there is no place for RV dwellers to go from 2:00 a.m.-5:00 a.m.

Many of the RV dwellers have strong ties to the Berkeley community so that displacement would have a severe impact on them. That displacement includes RV dwellers who have jobs in Berkeley, attend school in Berkeley and have children in

Berkeley schools. The most critical need is to keep these persons from being displaced while City staff continue to investigate other potential locations for RVs.

1281 University Avenue is a City-owned site for which a RFP earlier was issued for affordable housing. No nonprofit developers applied.

Thus, at its May 2, 2019 meeting, the Housing Advisory Commission voted as follows: "to recommend to Council a new RFP for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes."

Consistent with the Housing Advisory Commission's recommendation that this property be used to serve unhoused or homeless individuals including nontraditional living arrangements, the Homeless Commission recommends that this lot be used to house up to 8-10 RV dwellers with strong ties to Berkeley who would otherwise be displaced if a location identified for RVs was not provided to them.

BACKGROUND

The Homeless Commission passed the following motion on June 12, 2019:

Action: M/S/C Hill/Marasovic that the Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house on an interim basis up to 8-10 RV dwellers, or as many as the property would safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools; and to submit the report as amended and authorize the Chair to present on behalf of the Commission on this report.

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

ENVIRONMENTAL SUSTAINABILITY

There will be a need for managing sanitation and trash pick-up.

RATIONALE for RECOMMENDATION

Without this recommendation and no other location having been identified for RVs, RV dwellers will not have a place to go in Berkeley. Individuals with strong ties to Berkeley such as jobs and schools in Berkeley including families with children in Berkeley schools will suffer disruption and damage to their lives. Those dwellers with the strongest ties to Berkeley will be screened, and selected by, the City to live at this location, insuring that those with the strongest community ties are served.

Utilization of 1281 University Avenue for RV Parking

ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission had earlier recommended identifying a location for RVs. City staff has been unable to identify such a location.

CITY MANAGER

See companion report.

CONTACT PERSON

Peter Radu, Commission Secretary, HHCS, (510) 981-5435.



Homeless Commission

ACTION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chairperson, Homeless Commission

Subject: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons

RECOMMENDATION

The Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that be done either through retaining a consultant to conduct a nexus study to include extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

SUMMARY

The Adeline Corridor Plan is a major development plan undertaken by the City for South Berkeley. The project completion date is projected at 20 years. The current projection of new housing to be developed in the Adeline Corridor is 1,450 units. Of those 1,450 units, 600-900 units are expected to be developed as public affordable housing on the Ashby BART parking lot. The remaining one third to over one half is anticipated to be private housing development.

The Adeline Corridor Plan provides for at least 50% of housing as income-restricted housing and affordable to a range of low-income and highest needs households. In addition, the Adeline Corridor Plan includes in its objectives that it will continue to implement the 2018 strategic update to the Alameda County Everyone Home Plan and the 1000 Person Plan.

Current inclusionary requirements for private housing allow private developers more flexibility within existing affordability requirements. The inclusionary percentage is set so that 10% of the units are at 80% AMI or below (low-income) and the other 10% are at 50% AMI (very low income). Private developers cannot submit alternative housing plans that provide other affordability.

There is no current provision for extremely low-income households to have a set-aside in private housing within current City requirements. Doing so would require a new nexus study.

FISCAL IMPACTS OF RECOMMENDATION

There is a substantial cost to conducting a nexus study as the City generally retains a consultant to do so.

CURRENT SITUATION AND ITS EFFECTS

Berkeley has a serious affordable housing crisis. The most greatly impacted are at the lowest income levels which has produced a growing number of homeless persons. The 2017 Homeless Count for Berkeley generated a count of 972 people.

2019's Berkeley-specific count has not yet been released but Alameda County, as a whole, shows an increase of 43% in homelessness. It has been estimated that almost 2,000 people per year experience homelessness in Berkeley. There is no end in sight unless Berkeley plans ahead to provide for economic diversity in its housing.

BACKGROUND

On July 10, 2019, the Homeless Commission voted to recommend as follows:

Action: M/S/C Marasovic/ Kealoha-Blake that the Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that that be done either through retaining a consultant to conduct a nexus study to include a set-aside for extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

Vote: Ayes: Hill, Mulligan, Marasovic, Hirpara, Kealoha-Blake.

Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

ENVIRONMENTAL SUSTAINABILITY

Environmental impacts are noted under the Adeline Corridor Plan.

RATIONALE FOR RECOMMENDATION

The growing number of homeless persons must be addressed. While a plan that has a 20 year completion date cannot possibly meet the requirements of the Alameda County Everyone Home Plan and the 1000 Person Plan requiring imminent housing, it can continue to define the community as economically diverse and progressively provide needed housing for all economic statuses.

The Adeline Corridor Plan's commitment to provide for income-restricted housing affordable to a range of low-income and highest needs households is an abstract

commitment without a set-aside for extremely low-income households. A set-aside for only public housing in the Ashby BART parking lot can potentially lead to low-income segregated housing while surrounding private housing is inaccessible to those persons in the extremely low-income category including not only the homeless but also the working poor and retired seniors some of whom may have become homeless or whom are in danger of becoming homeless.

Furthermore, the non-specificity of the income-restricted category in the plan allows it to exclude extremely low-income persons. Such non-specificity, lacking a set-aside for extremely low-income persons, could result in exclusion from even the public housing component. Set-asides for extremely low-income households in both public and private housing should be required.

Under the current nexus study, an expansion to require an extremely low-income set-aside cannot be done in the private component. If discretionary, it is unlikely that incentives will be successful at encouraging developers to provide housing for extremely low-income households. Thus, a new nexus study is required.

ALTERNATIVE ACTIONS CONSIDERED

Incentives to developers were considered but it was questionable that left to the discretion of the developer that they would be successful. The cost of a nexus study with one having been conducted four years ago was considered. However, with Berkeley now thriving in development more than ever previously and with the economic and time investment already placed towards the Adeline Corridor Plan, it seemed that the cost of a nexus study was merited.

CITY MANAGER

See Companion Report.

CONTACT PERSON

Peter Radu, Homeless Commission Secretary, HHCS, (510) 981-5435.



Traffic Circle Policy Task Force

02a.56

ACTION CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Traffic Circle Policy Task Force
 Submitted By: Diane Ross-Leech, Chairperson, Traffic Circle Policy
 Subject: Traffic Circle Policy and Program Recommendations

RECOMMENDATIONS

Adopt a resolution to approve the Traffic Circle Policy as outlined below and refer to the traffic engineer for codification.

Refer to the City Manager:

1. Create the Community Common Space Stewardship Program as described below
2. Amend BMC section 16.18.040 to exempt traffic circles from permit requirements and address liability
3. Amend section 16.18.280 to encourage installation of green infrastructure
4. Refer the additional staff and material costs of this program to the budget process.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's traffic circle policy is being revised with the assistance of the Traffic Circle Policy Task Force, which was established by the Mayor of Berkeley on February 26, 2019 (Attachment 2). The Task Force is composed of interested community members from geographically diverse parts of the city, including Berkeley Partners for Parks, who maintain neighborhood traffic circles. The Task Force was charged with evaluating the current traffic circle vegetation policy, recommending appropriate characteristics for allowed plantings, recommending a policy that ensures sight lines for visibility, and working with the community to update the policy to ensure pedestrian, bicycle and vehicle safety, as well as beautification of traffic circles.

Neighborhood traffic circles are islands in the middle of intersections whose primary purpose is to calm and slow traffic. In contrast, larger circles such as the Marin circle, are designed to facilitate traffic flow and efficiency. They have been shown to reduce the speed of travel as well as reduce the number of collisions involving vehicles, pedestrians, and bicycles at these intersections. A major benefit of traffic circles is that vehicles do not need to cut directly in front of oncoming traffic to make a left turn. This tends to eliminate broadside hits, which are often the deadliest intersection crashes.

Berkeley has 62 neighborhood traffic circles, removing a half acre of asphalt. Low plantings and central trees are usual and customary practice for neighborhood traffic circles in cities throughout the country. These cities policies recommend, encourage and support the inclusion in traffic circles of well-maintained trees and vegetation for their benefits to traffic calming, making traffic circles more visible and contributing to beautification, neighborhood character, and other benefits urban greening provides. Berkeley has numerous policies and plans that support traffic circles for traffic calming and other environmental and community benefits. Traffic circle trees and low vegetation are also recommended in national guidance by the Federal Highway Association and the National Association of Transportation Officials.

In the last five years there has been at least two serious accidents involving cars and pedestrians at traffic circle intersections. In a lawsuit against the City of Berkeley in one case, the plaintiff alleged traffic circle vegetation obstructed the view of an approaching driver and contributed to the collision with a pedestrian. These accidents are the major reason the Task Force was established and addressing safety concerns is the primary purpose.

At the meeting of July 31, 2019, the Traffic Circle Policy Task Force took the following actions: M/S/C (Huang/Alfsen) to approve the traffic circle policy as amended during the meeting and send to the City Council. Ayes- Diehm, Finacom, Huang, Krieger, Liu, Ross-Leech, Steere, Hughes, Wood. Noes - None. Abstain - None. Absent: Franklin, Grossinger; And M/S/C (Huang/Krieger) to approve the summary report as amended during the meeting and send to the City Council. Ayes- Diehm, Finacom, Huang, Krieger, Liu, Ross-Leech, Steere, Hughes, Wood. Noes - None. Abstain-None. Absent: Franklin, Grossinger

BACKGROUND AND RATIONALE FOR RECOMMENDATIONS

A. Traffic Circle Task Force Process

The Mayor's office hosted two community meetings on May 15 and May 29, 2019 where all interested community members were invited to participate and learn about the proposed Traffic Circle Policy Task Force, responsibilities, goals, deadlines and how to apply to the Task Force.

The Traffic Circle Policy Task Force held meetings on June 19 and July 10, 2019 where members of the public, in addition to the Traffic Circle Commissioners, had the opportunity to make public comments and participate in the general discussion.

At its first official meeting, the Traffic Circle Policy Task Force invited the city's Traffic Engineer, Hamid Mostowfi, to address questions from the Task Force Commissioners. The Traffic Engineer's primary concern with traffic circles is maintaining sight lines for

visibility. With this background and the charge set out by the City Council and the Mayor, the Task Force set up three subcommittees to gather additional information and research about traffic circles in other cities around the country.

The Vegetation Subcommittee examined the policies and characteristics of traffic circles in cities around the U. S. and Canada, reviewing various standards for traffic circle vegetation in national guidance documents and in published policies of other cities and through interviews with traffic safety experts. In addition, the Vegetation Subcommittee interviewed traffic engineers, landscape architects and traffic circle administrators from a number of cities to understand perspectives on traffic circle landscaping. The Subcommittee found that landscaped plantings with trees are standard practice for neighborhood traffic circles in numerous cities across the country and are also recommended in the major national guidelines for traffic safety and urban design. Specifications for the height and clearance of vegetation are generally recommended for low landscaping and trees that provide clear sight lines (see Attachment 3 for additional details).

The Operation and Maintenance Subcommittee focused its research on successful community volunteer programs in other cities that Berkeley could replicate, such as Oakland's "Adopt a Spot" initiative. The subcommittee relied on previous research prepared by Berkeley Partners for Parks titled "Expanded Berkeley Partners for Parks Proposal to City of Berkeley Regarding Strengthening Volunteer Engagement by Establishing Citywide *Adopt a Spot* Program," (see Attachment 6). The Subcommittee further reviewed websites from various cities, including Oakland, to view program documents. All of the community volunteer programs have a more formal structure for their programs and volunteers than Berkeley. Typical elements include: a volunteer job description used for recruiting purposes; volunteer application or agreement with a minimum term; maintenance rules and guidelines; planting guidelines; and safety rules and guidelines all on the city's websites with easy to use on-line applications and approvals (see Attachment 4 for additional details).

The Policy Alignment Issues Subcommittee reviewed all of the City of Berkeley's applicable plans, policies and programs found on the city's website, as well as some state and regional plans and policies, to determine how the proposed traffic circle policy and actions would intersect. The Subcommittee found overwhelming support and alignment among these documents. In particular, the Berkeley Bicycle Plan recommends additional traffic calming improvements along the Bicycle Boulevard network by adding 42 new traffic circles by 2035 (see Attachment 5 for additional details).

The Subcommittees comprehensive reports are Attachments 3, 4, and 5.

Other San Francisco Bay Area and North American cities and expert analysts beyond Berkeley have identified trees as a welcome and useful component of traffic circles,

particularly because they help slow traffic and identify for drivers the presence of a circle from a distance. The Urban Street Design Guide, a manual developed by the National Association of City Transportation Officials (an association of over 71 major North American Cities and 10 transit agencies) notes the value of trees and other vegetation not only for beautification, but also for their contribution to traffic calming.

Whether community volunteers are experts or novices, everyone needs common sense guidelines for safely maintaining the traffic circles. Most of the cities that support volunteer programs have all of the documents on the city's website. These guidelines and best practices will be important to help ensure compliance with overall vegetation traffic calming measures over time, as plants grow and obscure sightlines and as volunteers turn over.

With limited time, the Task Force prioritized the development of a vegetation policy and a maintenance program. However the following categories represent a good starting point for some of the guidelines that will be needed to support the Traffic Circle Policy and Program.

Guidelines and Best Practices:

- General conduct, safety, tools, watering
- Managing sightlines and vegetation
- General layout/design for traffic circles
- Plant maintenance, pruning, weeding, new planting and tree replacement and/or removal
- Integrated Vegetation Management and Pest Control
- Garbage and Debris Removal
- Decorations, boulders, bird feeders, miscellaneous
- Coordinating with Public Works,
- Self-Certification of Compliance with Best Practices
- On-line Arc-GIS/Google Maps traffic circles GIS database

The Traffic Circle Task Force will continue to work to develop some recommended guidelines for many of these categories, relying on best practices and community knowledge and collaboration.

B. Review of Existing Plans, Policies and Programs

The City of Berkeley General Plan directly addresses landscaped traffic circles and encourages their construction for traffic calming.

The 2009 City of Berkeley Climate Action Plan identifies traffic circles as essential to slow or reduce automobile traffic and make walking and bicycling safer. Traffic circles are recognized traffic calming measures on a local street with a complementary benefit of sequestering carbon from trees and plantings.

The Berkeley Pedestrian Master Plan strongly supports the traffic calming benefits and safety improvements provided by traffic circles.

The Berkeley Bicycle Plan supports traffic calming from various measures, including additional traffic circles along major Bicycle Boulevards to slow traffic and improve safety.

The “Vision Zero” Policy initiative is intended to create a transportation system with no fatalities or serious injuries involving road traffic – traffic circles are a component of the plan.

There are additional City of Berkeley plans and policies that support traffic circles, and more detail can be found in Attachment 5.

C. Traffic Circle Policy

PURPOSE

The purpose of this new policy is to identify the appropriate design, vegetation and operation characteristics of traffic circles that provide both traffic calming and other benefits while maintaining pedestrian safety.

As proposed and documented in numerous City of Berkeley plans, programs and policies, the primary purpose of neighborhood traffic circles is for traffic calming. This purpose is important to highlight so that both additional safety measures and traffic circle elements support this. Most cities around the country and in California advocate for traffic calming measures to include vegetation and trees in traffic circle design.

EXISTING TREES

Berkeley has a variety of existing trees in its traffic circles. Most have attained a size where they do not have any substantial small branching or leaf canopy below 8 feet, preserving the needed sight line window, and others are growing rapidly towards that expectation. These include California Live Oaks, Dawn Redwoods, California Buckeyes, palms of various species, Strawberry Trees, and Red Bud. These trees should be “grandfathered”, after review of individual specimens to ensure they are healthy, conform to sight line maintenance guidelines, and pass safety inspection from the City’s Arborist, where the inspection only addresses the health of the tree¹.

¹ Designated historic resources are regulated by the Landmarks Preservation Ordinance, and may have features that do not conform to these policies. In case of conflict, the Landmarks Ordinance prevails.

VEGETATION

Regularly maintained vegetation in traffic circles supports Berkeley's neighborhood quality of life and contributes to traffic calming. The City should encourage circle plantings that are durable, diverse, attractive and planted and maintained by community volunteers. Planted circles should improve storm water retention and are strongly encouraged to use native or other plant species that do not require pesticides or herbicides to maintain them. The Task Force does not support a species list of approved plants, which would be costly and difficult to administer. Instead, the City should permit a broad range of plantings that conform to general criteria – suggested palettes with plant lists provided, (see Attachment 3).

SIGHTLINES

Visual sight lines – the unobstructed view of the driver² stopped before entering the near crosswalk to the corners of the opposite crosswalk – should guide all vegetation selection and maintenance criteria. Based on the City of Berkeley's Traffic Engineer's opinion, as well as information from Task Force research, low vegetation should be maintained at a maximum height of 2.5 feet from the top of the traffic circle curb and a mature tree canopy should be pruned and trimmed up to and maintained at 7-8 feet height above the curb. Young trees and/or flowers extending above the maximum height, such as hollyhocks and agapanthus, shall be permitted while in bud and bloom if total vegetation and signage obstructs less than 25% of the sight triangle³.

GUIDELINES

Neighborhood communities and traffic circle volunteers care a great deal for their circle plantings and should be provided an opportunity to bring their trees and vegetation into conformance with the sight line maintenance guidelines within 30 days following notice of adoption or, in the future, of non-compliance. The City Arborist may provide guidance on how best to prune vegetation and trees to accomplish the sight lines or to suggest alternative plantings whose growth patterns would naturally conform.

The City supports community volunteer contributions in a safe and reasonable manner and to find ways of recognizing and acknowledging their efforts. Community volunteers, who are giving a considerable amount of free time to maintain the City's open spaces, including traffic circles are encouraged to follow guidelines developed by the Community Common Space Stewardship Program.

² By national standards it is assumed that drivers' eyes are at three and a half feet.

³ Sight lines are defined as that horizontal plane (called the sight triangle), form the view of the driver stopped before entering the crosswalk to the corners of the opposite intersection, from 2.5ft above the top of the traffic circle curb line to the height of 8 feet.

Summary of Policy Recommendations:

- The primary purpose of neighborhood traffic circles is for traffic calming.
- Trees should not only be allowed, but encouraged in traffic circles in conformance with sight line maintenance guidelines and pruning maintenance guidelines.
- All existing trees will be “grandfathered”, after review of individual specimens to ensure they are healthy, conform to sight line maintenance guidelines, and pass safety inspection from the City’s Arborist, where the inspection only addresses the health of the tree.
- Vegetation will be allowed in traffic circles that conform to sight line maintenance guidelines.
- Traffic circle volunteers will be provided an opportunity to bring trees and vegetation into conformance with the sight line maintenance guidelines within 30 days following notice ⁴of non-compliance, before the City undertakes maintenance to bring the circle into the 3.5’-8’ sightline compliance.
- The City should develop and implement consistent traffic circle signing and speed limit standards for the Program which will be implemented within no more than 5 years.

D. Community Common Space Stewardship Program

Berkeley City leaders have expressed their willingness to work with the community and develop a real partnership by creating and supporting the establishment of the Traffic Circle Policy Task Force. A formal partnership needs a shared commitment and written guidelines, structure, budget and resources to deliver the benefits to both the City and the community. There are many existing community-based partnership programs in the San Francisco Bay Area as well as around the country.

The Traffic Circle Policy Task Force recommends that the Public Works Department formalize and create the Community Common Space Stewardship Program (Stewardship Program) to support the management of neighborhood traffic calming through traffic circles. The Stewardship Program will establish a partnership with a clear set of guidelines for community volunteers who adopt and maintain traffic circles, provide guidance for selecting plants and trees, address safety concerns, as well as define responsibilities between City and community volunteers. It is recommended that the Stewardship Program be integrated into the “Adopt a Spot Initiative,” which the City Council approved on April 23, 2019 (Item #33), and that the City Council refer it to the Traffic Circle Task Force for the purpose of development, outlining criteria and environmental benefits, program costs and staffing.

⁴ Notice of non-compliance is a standard vegetation maintenance enforcement procedure. It is recommended that the notice via the Stewardship Program.

Berkeley has many engaged community members who volunteer their time and resources to maintain traffic circles. There is no formal mechanism for the City to engage these volunteers or to recruit new ones. The City of Oakland's "Adopt a Spot" is a long-standing and successful model that has also served as a template for similar programs in Livermore and Richmond, and is fortunately being considered as a template for the City of Berkeley's Program.

Community volunteers and neighborhoods have been the main stays of the traffic circles – generously giving their time and money to pay for plants, water and maintenance over the last two decades that traffic circles have been in existence. The City can establish and operate a successful partnership program with community volunteers to provide coordination and guidance on safety and technical issues, hosting work days, developing discount programs, and supporting overall compliance.

The goals of the Community Common Space Stewardship Program include:

- To ensure community engagement and partnership in complying with the Traffic Circle Policy
- Maximizing traffic calming benefits of traffic circles
- Help beautify Berkeley - *Greenery in and along streets makes Berkeley a more beautiful city and is critical to Berkeley's livability and success as a place*
- Encourage joint activities by neighbors and friends for the betterment of Berkeley
- Maintain sightline visibility to protect pedestrians and bicyclists
- Capture and infiltrate rainfall
- Reduce noise pollution through the use of vegetation and trees
- Provide habitat for native birds and butterflies
- Increase carbon sequestration
- Help cool the urban environment
- Expand the network of neighborhood traffic circles to underserved areas

In order to establish and operate a successful partnership program, staff resources are required. Staffing could be provided through the City or through an existing non-profit entity that would be contracted for staff resources (at this point it's not clear if this would be a full-time position or could be part time after the program is set up).

A Traffic Circle Community Engagement Coordinator would report to Public Works and be responsible for coordinating with all existing traffic circle volunteers, recruiting new volunteers, act as a liaison between community volunteers and City staff, coordinate between Public Works, Parks and Recreation and Planning Departments as well as

third-party utilities, and develop and maintain an on-line tool for tracking traffic circle compliance and administration. The Coordinator would also be responsible for developing an annual budget, hosting annual work days, provide assistance with technical issues, and develop a plant discount program, free mulch delivery, tool and safety equipment lending library, seeking additional outside funding and a green infrastructure mini-grants program with matching funds and/or in-kind support.

The Coordinator and City leaders should explore consolidating all resources and responsibilities for traffic calming measures (traffic circles, bulb-outs, traffic diverter replacement/conversions and parklets) as well as supporting the Berkeley Bicycle Plan under the Community Common Space Stewardship Program. The core goal of this position should be nurturing and supporting a Citywide and expanding program of traffic circles that are both beautiful and safe and that make use of community volunteer resources, while also coordinating City staff resources and interests as they apply.

It should be noted that this position could also be defined to coordinate City staff and volunteer stewardship resources (through friends of parks and creeks groups) and efforts associated with maintaining and enhancing city parks, creeks, and open spaces. In this case, additional staff capacity would likely be required.

All of the community volunteer programs that the Traffic Circle Policy Task Force reviewed have a more formal structure for their programs and volunteers. Typical elements include: a volunteer job description used for recruiting purposes, volunteer application or agreement with a minimum term, maintenance rules and guidelines, planting guidelines, and safety rules and guidelines. Public Works should borrow from the best programs, specifically Oakland's "Adopt a Spot," to develop the documents needed to support the program. All Program documents should be maintained on the City's website with easy to use on-line applications and approvals.

This proposed Program and its recommendations are designed in part to reduce City liability and risk from traffic circles. By the same token, the City should be willing to extend protection from liability to neighborhood volunteers who maintain traffic circles and are in compliance with the Program. The advice of the City Attorney and specialized legal experts on municipal volunteer programs should be sought in formalizing this two-way arrangement.

Communication Plan

The Traffic Circle Policy Task Force's report and recommendations and the City's approval and adoption is only the first step to implementation. Any changes to the status quo will be new and possibly startling to the community. A thoughtful and robust communication plan should be developed and implemented within a set time period in concert with rolling out the new policy and program. Particular attention should be paid

to the initial effort to bring existing circles into compliance. Based on a recent photo survey, there are many traffic circles that have vegetation that will not easily be brought into compliance. For example, some circles have large cacti that cannot be “pruned” to achieve the sightline requirements. The city should consider organizing a large work day to support the removal of non-compliant existing plants and provide support to community members in planting new, better suited vegetation.

The Task Force Commissioners should be given a prominent role to assist the City with explaining the Program through open houses, newsletters, press, social media and neighborhood meetings. This process may also be used to ensure current traffic circle volunteers are identified and new ones recruited.

Incentives for Recruiting Volunteers

Public Works should strive to be seen as an ally and support for the community volunteers with expertise and resources to support them and the Program. Public Works and the Community Engagement Coordinator should investigate incentives to help recruit additional community volunteers, especially in under-represented neighborhoods of the city. These incentives could include: a plant discount program, free mulch delivery, tool and safety equipment lending library, green infrastructure mini-grants program with matching funds and/or in-kind support.

On-line GIS Tool

Public Works and the Community Engagement Coordinator should develop and implement an on-line GIS tool to map all traffic circles and monitor overall compliance with the sight line maintenance guidelines, operation and maintenance guidelines and plant palette guidance.

Advisory Board

The Task Force recommends that Public Works establish an advisory board comprised of leaders within Public Works, Parks, Recreation and Waterfront, and Planning Departments and a representative group of relevant Commission representatives and community volunteers to meet periodically to review the Programs progress. Note, we are not suggesting a new commission.

Annual Compliance Report

Public Works and the Community Engagement Coordinator should produce an annual report to the Berkeley City Manager, City Council, and the public on overall progress and compliance.

Additional Traffic Circle Safety Improvements

The City should inventory all existing traffic circle intersections and develop and implement consistent traffic circle signing and speed limit standards. Effective and safe traffic circles don't end at the curb line. The City should work towards other holistic street improvements and modifications to continue to improve safety at traffic circle intersections. Pedestrians, bicyclists and motor vehicle drivers should be able to expect consistency in City traffic circles operations. It could often be this uncertainty – the driver, bicyclist or pedestrian who doesn't realize they've come to a two-way, not four-way stop sign circle intersection – that increases hazards, not the existence or character of the traffic circle itself or its vegetation.

ENVIRONMENTAL SUSTAINABILITY

The Task Force found overwhelming support and alignment for the recommended action and the city's existing environmental sustainability plans, programs and policies.

Promoting additional tree planting and native drought tolerant vegetation in existing neighborhood traffic circles directly supports the Berkeley Climate Action Plan to restore natural processes, provide habitat for birds and insects, reduce ambient temperatures by shading, intercepting and storing rainwater, improving community quality of life through beautification and by reducing noise pollution and encouraging pedestrian traffic. Increasing the number of neighborhood traffic circles and planting them with trees will help fulfill the stated goals to maximize tree plantings, sequester carbon and protect biodiversity.

Half an acre of forest land can absorb three tons of carbon dioxide annually and produce two tons of oxygen. Berkeley's 62 existing traffic circles cover about half an acre of land, all of it converted from asphalt. The City's Hazard Mitigation Plan and Climate Action Plan recommend more tree plantings in Berkeley to help fight climate change and reduce the "heat island effect" in lower elevation neighborhoods. Tree plantings are also an economic and social equity issue. City mapping shows that tree cover is much higher in the Berkeley Hills than it is in the Flatlands.

The recommended action is consistent with Berkeley's history of neighborhood partnership for creating and caretaking traffic circles, as is common in many other cities, and with the goal of increasing green space and tree canopy in neighborhoods with less access to parks and open space.

The recommended action enables neighborhood traffic circles to contribute to the support of native biodiversity within the City, through the habitat contributed by native plants and trees. The Task Force provides several plant palettes of native plant assemblages designed to maximize biodiversity as well as other valuable services such as pollinator support, water conservation, runoff reduction, and carbon sequestration.

ALTERNATIVE ACTIONS CONSIDERED

No Action Alternative isn't viable because it doesn't address traffic safety concerns or provide clarity to the volunteers currently maintaining the existing traffic circles. There's confusion by the volunteer community about what the rules are for traffic circles, who is responsible for what and if trees in circles are allowed.

No Trees Alternative is not recommended because it is contrary to standard practice by many California and national cities, as well as Berkeley plans and policies. There are 37 existing traffic circles that have trees that are maintained by volunteers. The community has already expressed significant concern when the City proposed in the summer of 2018 to remove all trees and other large vegetation in existing traffic circles.

No Volunteers Alternative is not recommended because it goes against the spirit of how the City governs. The City has partnered with its citizens on their stewardship of the traffic circles for almost two decades. It is in the City's interest to formalize and support community involvement to maintain the traffic circles.

Administrative Department Move Alternative – to move traffic circle administration from Public Works to Parks, Recreation and Waterfront Department - is not recommended because the Public Works Department is responsible for construction and maintenance of all streets and the right-of-way. The Public Works Department has oversight and approval responsibility for traffic circles including construction, maintenance (in coordination with local community groups), and vegetation.

FISCAL IMPACTS OF RECOMMENDATION

The recommended action to develop a formal Stewardship Program with one full time staff in the Public Works Department represents a new cost to the City. The cost will be the salary and overhead for a full time Community Engagement Coordinator position and the costs to administer the program, including setting up an on-line GIS web-based tool, developing the community volunteer program, finalizing operation and maintenance guidelines, finalizing planting palette guidance, developing a self-certification process, and setting up discount and mini-grant programs. It should be recognized that in the long term, the Stewardship Program/Adopt a Spot will, in fact, be a net cost savings for the City for the maintenance and planting "services" rendered by volunteers that would otherwise have to be performed by City staff or contractors. Having this program would also be advantageous for the City whenever it pursues project grants, as a source of in-kind/match funding.

In the long term, through efficiencies and "normalizing" the work of the program, these start-up costs are anticipated to decrease.

The overall total costs to the City should substantially decrease due to the program reducing injuries and lawsuits, minimizing the safety risks and uncertainty associated with the existing traffic circles. The benefits to establishing a formal, staffed program should greatly outweigh these costs.

CONTACT PERSON

Tano Trachtenberg, Legislative Aide, Office of Mayor Arreguín, 510-981-7100

Attachments:

1. Resolution to Adopt Traffic Circle Policy
2. February 26, 2019 Berkeley City Council Item
3. July 19, 2019 Vegetation Subcommittee Report
4. July 19, 2019 Operation and Maintenance Subcommittee Report
5. July 19, 2018 Policy Alignment Issues Subcommittee Report
6. Expanded Berkeley Partners for Parks Proposal

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

Traffic Circle Policy

WHEREAS, Berkeley has 62 neighborhood traffic circles, that constitute a half-acre of permeable green space that would otherwise be filled with asphalt; and

WHEREAS, Traffic circles have been shown to reduce the speed of travel as well as reduce the number of collisions involving vehicles, pedestrians, and bicycles at these intersections; and

WHEREAS, Across the country, traffic circles with well-maintained low plantings and central trees are widely encouraged due to their benefits to traffic calming, making circles more visible and their contribution to beautification, neighborhood character, urban greening; and

WHEREAS, The Urban Street Design Guide, a manual developed by the National Association of City Transportation Officials (an association of over 71 major North American Cities and 10 transit agencies) notes the value of trees and other vegetation not only for beautification, but for their contribution to traffic; and

WHEREAS, Other San Francisco Bay Area and North American cities and expert analysts beyond Berkeley have identified trees as a welcome and useful component of traffic circles, particularly because they help slow traffic and identify for drivers the presence of a circle from a distance; and

WHEREAS, Berkeley has numerous policies and plans that support traffic circles for traffic calming and other environmental and community benefits such as the Climate Action Plan, General Plan, Pedestrian Plan and Bicycle Plan; and

WHEREAS, The City Council established the Traffic Circle Task Force on February 26, 2019 with the charge of evaluating the current traffic circle vegetation policy, recommending appropriate characteristics for allowed plantings, and a policy that ensures sight lines for visibility, pedestrian, bicycle and vehicle safety, as well as beautification of the circles.

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council adopts the Traffic Circle Policy in Exhibit A.

Exhibits:

A: Traffic Circle Policy

Exhibit A

Traffic Circle Policy

PURPOSE

The purpose of this new policy is to identify the appropriate design, vegetation and operation characteristics of traffic circles that provide both traffic calming and other benefits while maintaining pedestrian safety.

As proposed and documented in numerous City of Berkeley plans, programs and policies, the primary purpose of neighborhood traffic circles is for traffic calming. This purpose is important to highlight so that both additional safety measures and traffic circle elements support this. Most cities around the country and in California advocate for traffic calming measures to include vegetation and trees in traffic circle design.

EXISTING TREES

Berkeley has a variety of existing trees in its traffic circles. Most have attained a size where they do not have any substantial small branching or leaf canopy below 8 feet, preserving the needed sight line window, and others are growing rapidly towards that expectation. These include California Live Oaks, Dawn Redwoods, California Buckeyes, palms of various species, Strawberry Trees, and Red Bud. These trees should be “grandfathered”, after review of individual specimens to ensure they are healthy, conform with sight line maintenance guidelines, and pass safety inspection from the City’s Arborist, where the inspection only addresses the health of the tree⁵.

VEGETATION

Regularly maintained vegetation in traffic circles supports Berkeley’s neighborhood quality of life and contributes to traffic calming. The City should encourage circle plantings that are durable, diverse, attractive and planted and maintained by community volunteers. Planted circles should improve storm water retention and are strongly encouraged to use native or other plant species that do not require pesticides or herbicides to maintain them. The Task Force does not support a species list of approved plants, which would be costly and difficult to administer. Instead, the City should permit a broad range of plantings that conform to general criteria – suggested palettes with plant lists provided, (see Attachment 2).

⁵ Designated historic resources are regulated by the Landmarks Preservation Ordinance, and may have features that do not conform to these policies. In case of conflict, the Landmarks Ordinance prevails.

SIGHTLINES

Visual sight lines – the unobstructed view of the driver⁶ stopped before entering the near crosswalk to the corners of the opposite crosswalk – should guide all vegetation selection and maintenance criteria. Based on the City of Berkeley’s Traffic Engineer’s opinion, as well as information from Task Force research, low vegetation should be maintained at a maximum height of 2.5 feet from the top of the traffic circle curb and a mature tree canopy should be pruned and trimmed up to and maintained at 7-8 feet height above the curb. Young trees and/or flowers extending above the maximum height, such as hollyhocks and agapanthus, shall be permitted while in bud and bloom if total vegetation and signage obstructs less than 25% of the sight triangle⁷.

GUIDELINES

Neighborhood communities and traffic circle volunteers care a great deal for their circle plantings and should be provided an opportunity to bring their trees and vegetation into conformance with the sight line maintenance guidelines within 30 days following notice of adoption or, in the future, of non-compliance. The City Arborist may provide guidance on how best to prune vegetation and trees to accomplish the sight lines or to suggest alternative plantings whose growth patterns would naturally conform.

The City supports community volunteer contributions in a safe and reasonable manner and to find ways of recognizing and acknowledging their efforts. Community volunteers, who are giving a considerable amount of free time to maintain the City’s open spaces, including traffic circles are encouraged to follow guidelines developed by the Community Common Space Stewardship Program.

Summary of Policy Recommendations:

- The primary purpose of neighborhood traffic circles is for traffic calming.
- Trees should not only be allowed, but encouraged in traffic circles in conformance with sight line maintenance guidelines and pruning maintenance guidelines.
- All existing trees will be “grandfathered”, after review of individual specimens to ensure they are healthy, conform with sight line maintenance guidelines, and pass safety inspection from the City’s Arborist, where the inspection only addresses the health of the tree.
- Vegetation will be allowed in traffic circles that conform to sight line maintenance guidelines.

⁶ By national standards it is assumed that drivers’ eyes are at three and a half feet.

⁷ Sight lines are defined as that horizontal plane (called the sight triangle), form the view of the driver stopped before entering the crosswalk to the corners of the opposite intersection, from 2.5ft above the top of the traffic circle curb line to the height of 8 feet.

- Traffic circle volunteers will be provided an opportunity to bring trees and vegetation into conformance with the sight line maintenance guidelines within 30 days following notice ⁸of non-compliance, before the City undertakes maintenance to bring the circle into the 3.5'-8' sightline compliance.
- The City should develop and implement consistent traffic circle signing and speed limit standards for the Program which will be implemented within no more than 5 years.

⁸ Notice of non-compliance is a standard vegetation maintenance enforcement procedure. It is recommended that the notice via the Stewardship Program.



Office of the Mayor

12

CONSENT CALENDAR

February 26, 2019

To: Members of the City Council

From: Mayor Jesse Arreguin, and Councilmembers Ben Bartlett, Lori Droste and Sophie Hahn

Subject: Establishment of Traffic Circle Policy Task Force

RECOMMENDATION

Establish a Traffic Circle Policy Task Force comprised of representatives from neighborhoods currently maintaining traffic circles. Members will be appointed by the Mayor and chosen from geographically diverse parts of the city, including one representative from Berkeley Partners for Parks. Staff participating will be appointed by the City Manager.

The charge of this Task Force is to:

1. Evaluate the City's current traffic circle vegetation policy for consideration by the City Council and Traffic Engineer;
2. Find a solution, through active participation and engagement with the community, that respects:
 - Environmental Policy
 - Habitat
 - Safety and Performance Standards
 - Existing and future liability issues that address sight lines; and
3. Deliver a policy to City Council for adoption prior to August 9, 2019.
4. Conduct a community-led process to update that policy to ensure pedestrian/bicycle/vehicle safety and community efforts to beautify traffic circles.

Task Force activities may include, but are not limited to:

- Recommend appropriate characteristics and parameters for allowed plantings based on input from the community and city staff;
- Recommend a policy that ensures lines of sight and other important safety considerations;
- Work with City staff to conduct a survey of current traffic circles and their vegetation;
- Conduct a survey of neighborhood associations, neighborhood captains, community and community groups such as Berkeley Partners for Parks to determine which traffic circles are being maintained by community members;
- Examine the City of Oakland's 'Adopt a Spot' initiative to encourage community involvement in the maintenance of public spaces by loaning tools, supplies, and technical assistance to committed members of the community;
- Host a presentation from City staff to better understand concerns with the current traffic circle policy and any safety concerns that should be taken into consideration;
- Recommend a clear set of guidelines/criteria to allow for community maintenance of traffic circles, with input from city staff;

RESUBMITTAL – CONSENT CALENDAR, February 26, 2019
Traffic Circle Policy Task Force

- Outline the appropriate community outreach strategy and process to share the updated policy for managing vegetation in traffic circles;
- Recommend a replanting strategy, with emphasis on drought-resistant plants.

BACKGROUND

In the summer of 2018 in response to a legal settlement agreement, the Public Works Department provided notice to all neighbors responsible for the maintenance of traffic circle vegetation, informing them that the City would be removing trees and other large vegetation that obscures line of sight and poses a safety risk.

This communication elicited significant concern from the community. Residents responded by asking for more outreach and engagement of neighborhood traffic circle volunteers, particularly regarding decisions on the removal of vegetation or updates to policy. The current Traffic Circle Planting and Maintenance policy, last updated in 2012, prohibits vegetation over two feet in height and/or six inches in diameter, yet there are many trees that exceed these limit in traffic circles. There is a need to update this policy to reflect current conditions and to ensure ongoing maintenance that improves safety at these intersections.

On August 8, 2018, the Mayor, Councilmembers and City staff held a public meeting where many of the traffic circle volunteers attended along with Berkeley Partners for Parks. A major takeaway was a strong desire by many for a more formal process to engage neighborhood volunteers and other stakeholders in updating the current Traffic Circle policy.

On September 25, 2018, the City Council unanimously referred to the Parks and Transportation Commissions to create a city/community task force on Traffic Circle vegetation maintenance. Since the Council's referral, the Parks Commission was informed that they do not have the authority to establish a Task Force, and that Council action is required.

A stakeholder task force would be the most strategic, effective, and appropriate approach to respond to the community's substantial interest in, and continuing care for, the circles. The City has partnered with its citizens on their stewardship for almost two decades. Now is the ideal time to revisit, enhance and formalize that partnership, support community involvement and work together to address important safety concerns. To help meet the spirit and desired follow up of the August 8th community meeting, it is important for community members to have representatives actively participating in and contributing to discussions about the traffic circles.

FINANCIAL IMPLICATIONS

Costs associated with staffing the Traffic Circle Task Force, hosting community meetings and developing a new Traffic Circle Planting Policy.

ENVIRONMENTAL SUSTAINABILITY

Supports the City's Climate Emergency Declaration, the City's Climate Action Plan and commitment to Vision Zero.

CONTACT PERSON

Mayor Jesse Arreguin (510) 981-7100

Traffic Circle Task Force Vegetation Subcommittee Report

July 22, 2019

Members: Robin Grossinger (chair) Yolanda Huang, Erin Diehm, Sally Hughes, Andy Liu, and Diana Wood

Summary

Low plantings and central trees are usual and customary practice for neighborhood traffic circles in cities throughout the US. Cities recommend, encourage, and support the inclusion in circles of well-maintained trees and vegetation for their benefits to traffic calming, making circles more visible at night, and contribution to beautification, neighborhood character, and all the other benefits urban greening provides, from carbon sequestration and urban cooling to access to nature and biodiversity. Traffic circle trees and low vegetation are also recommended in national guidance documents by the Federal Highway Association and the National Association of City Transportation Officials.

Establishing a practical, well-founded policy for trees and low vegetation in Berkeley's traffic circles, as proposed here, is consistent with other City policies and helps support some of their stated goals. For example:

- **2019 Local Hazard Mitigation Plan (First Draft).** Trees in traffic circles contribute to a dense tree canopy that helps mitigate projected extreme heat events, reduce the heat island effect, and address inequity.¹ *[Add image of Tree Canopy Map]*
- **2009 City of Berkeley Climate Action Plan.** Increasing the number of traffic calming circles and planting them with trees will help fulfill the stated goals to maximize tree plantings, sequester carbon, and protect biodiversity.²

¹ Extreme heat events are a “newly-introduced hazard of concern for the 2019 LHMP.” (ES-10) The report notes that by “2100, most of the Bay Area will average six heat waves per year, each an average of ten days”. (ES-7) Projections indicate that “the number of extreme heat days... will increase exponentially: by 2099 the City of Berkeley is expected to average 18 days per year with temperatures over 88.3 degrees F.” (ES-8). In the face of these threats the Plan recognizes the positive impact of trees, stating “a dense tree canopy can result in fewer heat related emergencies” (B-154) It also acknowledges a stark inequity in our tree cover: the densest tree canopy is in the hills of east Berkeley while “west and south Berkeley have the least [tree canopy]”. (see Map below) Interestingly, west and south Berkeley contain the most traffic circles, and many of them include trees. Retaining and expanding tree cover in traffic circles can provide a valuable way to address both this inequity and future extreme heat events.
Source: *City of Berkeley 2019 Local Hazard Mitigation Plan (First Draft)*

² “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.” (p. 31) Trees also improve quality of life through beautification.

- **2017 Berkeley Bicycle Plan (Appendix F).** The design guide for a typical Traffic Calming Circle includes a tree in the center, which can help contribute to the stated goals of calming and safety. *[Add image of Design Guide]*³

Given the limited size of available curb cut-outs along most streets, the larger unpaved spaces available in neighborhood traffic circles represent valuable locations for the healthy, larger trees that provide greater climate adaptation and mitigation functions.

The proposed traffic circle vegetation policy is also consistent with Berkeley's history of neighborhood partnership for creating and caretaking circles, as is common in many other cities, and with the goal of increasing green space and tree canopy in neighborhoods with less access to parks and open space.

The proposed policy enables neighborhood traffic circles to contribute to the support of native biodiversity within the city, through the habitat contributed by native plants and trees. This policy provides several plant palettes of native plant assemblages designed to maximize biodiversity (Re-Oaking Palette, Native Wildflower Palette), as well as other valuable services such as pollinator support, water conservation, runoff reduction, and carbon sequestration.

Existing policies for maintenance of traffic circle vegetation, ascertained by this subcommittee, are generally consistent across municipalities throughout the United States and are the basis for recommended policy below.

This report comprises several sections. In addition to the proposed policy (Chapter 1), we review the history of traffic circles, traffic calming, and tree policy in Berkeley (Chapter 2), and we summarize policy precedents and provide examples from other cities (3). We also provide Suggested Planting Palettes for traffic circles, which offer a set of appropriate plants and trees on the themes of native oak communities, bees/pollinators, and native wildflowers, to enable residents to develop drought-tolerant circle landscaping that supports local biodiversity and resilience.

³ As long as they are maintained to preserve sightlines, circles are a valuable tool in traffic calming on Bicycle Boulevards. They are especially effective when placed on concurrent intersection locations, helping to lessen the open feel of the road which reduces vehicle speeds. The Design Specifications drawing of a sample traffic circles includes a "Broad canopy tree", the placement of which depends on location of underground utilities. Source: [2017 City of Berkeley Bicycle Facility Design Toolbox](#) (Appendix F)

Policy

Definition

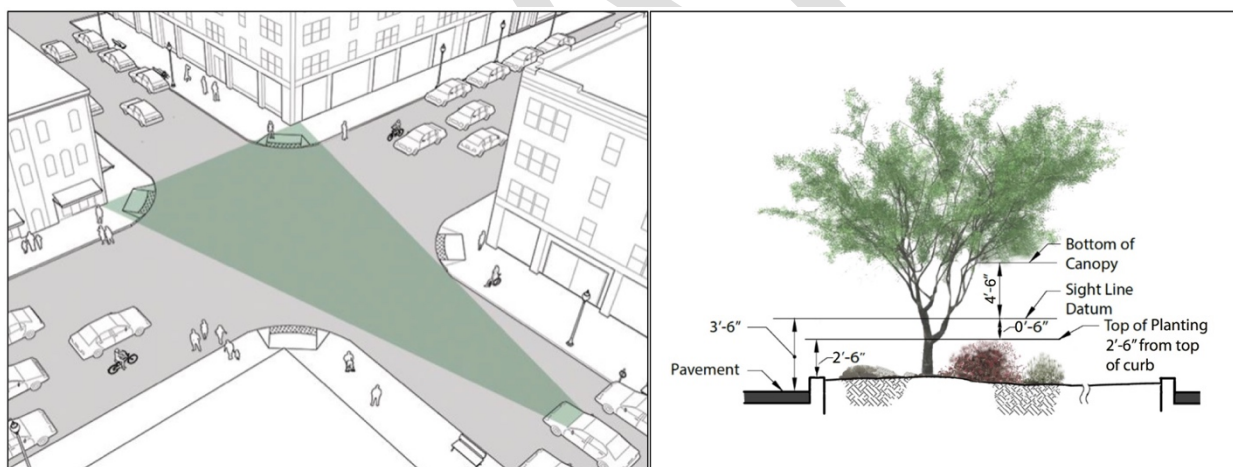
Traffic Calming Circles are those circles in residential neighborhoods, where the objective for installing the circle was to reduce, discourage and slow traffic. In Berkeley, these circles are generally 20 feet in diameter or smaller.

Proposed Policy

Traffic circle plantings and trees shall be designed and maintained to provide clear sight lines for drivers, as described below.

Sight Triangle Definition

1. Sight lines are defined as that horizontal plane (called the “sight triangle”), from the view of the driver stopped before entering the crosswalk to the corners of the opposite intersection, from 2.5 ft above the top of the traffic circle curb to the height of 8 feet.



Illustrations of sight triangle and sight line heights

Sources: (left) [Urban Street Design Guide](#) *Visibility/Sight Distance* (NACTO 2013); (right; the original has been modified to reflect sight line recommendations for Berkeley) [Sight Distance Triangles](#) (Cochise County AZ)

- a. All trees on existing circles at the time this policy is adopted shall be maintained even if the triangle contains multiple trees. However, the overall vegetation of the triangle shall not obstruct more than 25% of the sight triangle.
2. Trees more than 5 inches in diameter and 16 feet in height shall be maintained so that no foliage obstructs the sight triangle.
 3. Trees smaller than 5 inches in diameter and less than 16 feet in height shall be permitted to maintain foliage within the sight triangle if less than 25% of

the sight triangle is obstructed, considering total vegetation and signage within the sight triangle.

4. Tree limbs that extend beyond the curb line of the traffic circle, and are less than 14 feet above the curb line may be removed or pruned so that branches and canopies are 14 feet above the curb line in the area beyond the traffic circle where vehicles travel.
5. Tree pruning must adhere to American National Institute Safety Standards and International Institute of Arboriculture's Best Management Practices.
6. Traffic circle plantings and maintenance, as outlined in the best practices guidelines as periodically updated by the Parks and Waterfront Commission, are recommended.
7. Sight triangles shall be maintained so that no more than 25% of the sight triangle is obstructed from the vantage point of a driver stopped before a crosswalk bordering the traffic circle.

History of Traffic Circles

Overview

Islands or elevated protrusions in intersections have long been used for different purposes. They are popular in Europe, the United States and Canada.⁴ Nomenclature is inconsistent. They are called roundabouts, traffic circles, rotaries, and mini-roundabouts and differ in purpose. The primary difference is circle size, intersection size,⁵ traffic volume, and speed.

Some circles are used to facilitate traffic, particularly large circles in arterial intersections with high-volume traffic, so traffic can enter into an intersection at speeds between 25-45 mph, often without traffic signs or signals.⁶ These circles range from 100 to 300 feet in diameter and have daily traffic ranging from 10,000 to 14,000 vehicles.⁷ Berkeley has two of this type, Marin Circle and Channing Circle, both situated in heavily trafficked intersections.

⁴ *Roundabouts Spreading Like Kudzu Across South Carolina*
https://www.postandcourier.com/news/roundabouts-spreading-like-kudzu-across-south-carolina-despite-some-opposition/article_06dc6030-3a4b-11e7-9dc8-93f0f4f8b236.html

⁵ Some call our traffic circles Mini-Roundabout. <https://nacto.org/publication/urban-street-design-guide/intersections/minor-intersections/mini-roundabout/>

⁶ *Exploring Roundabouts*, Sheri Park, PhD., PTP, Kimberly Musey, James Press and John McFadden, PhD., P.E. PTP, June 2015, www.ite.org

⁷ *Exploring Roundabouts*, supra.at p. 2

Traffic Circles in Berkeley

The majority of Berkeley's traffic circles are small, generally 20 feet in diameter, in comparison to what traffic engineers term roundabouts. Berkeley's circles are traffic calming devices designed to discourage, limit and slow traffic on residential streets with light auto traffic. The majority of Berkeley's traffic circles originated to mitigate the impact on residential neighborhoods of commuter and development traffic diverting traffic from major arteries onto residential neighborhood streets.

History - Evolution of Traffic Calming and Traffic Circles in Berkeley

In Berkeley, the tradition of viewing streets as more than just traffic arteries goes back to the 19th Century. Berkeley's very first street design was done by famed landscape architect Frederick Law Olmsted for the private College of California in the 1860s. Olmsted wrote that streets in the neighborhood he was commissioned to design—the Berkeley Property Tract, along what is now Piedmont Avenue north of Dwight Way and east of College Avenue—should provide “good outgoings” embowered and calmed with overhanging trees. He divided the main street with landscaping and followed the natural topography, and included a large landscaped circle at the central intersection.

Thus, more than a century and a half ago, **in the 1860s, Berkeley installed its first traffic circle** Channing Circle.

Later, in the 1890s, as development began to proliferate along uniform grids of streets, a group of North Berkeley women formed the Hillside Club to advocate for urban planning. In the words of Berkeley historian Charles Wollenberg, “The club was dedicated to a new kind of urban development that would respect rather than destroy the natural environment. (They) fought any attempt to cut down the region's trees. A club pamphlet said, ‘The few native trees that have survived centuries should be jealously preserved...Bend the road, divide the lots, place the houses to accommodate them!’” (page 78/79, Berkeley: A City in History, Wallenberg).

Many of the pleasant winding streets and most picturesque neighborhoods of Berkeley are the result. Annie Maybeck, one of the founders of the Hillside Club, put the Club's words into vigorous practice, successfully leading a protest that saved an old California Live Oak tree growing in the middle of Le Roy Avenue. The City agreed not to cut down the tree, leaving it on an informal island in the middle of the street. Decades later it was designated a City Landmark (when it eventually died, in 1985, the City planted a replacement oak in the same spot).

Early in the 20th century, East Bay civic leaders hired noted urban planner Werner Hegemann to advise on the development of Berkeley and Oakland, including streets. His 1915 report advocated for narrowing residential streets to 24 feet of pavement and landscaping them with “shapely and uniform avenue trees and planting the parkways between to shrubs or grass and flowers”. He also noted that residential property values were improved by “creation of small parks at street intersections and the use of shrubs or great masses of brilliant geraniums.” (page 104, Hegemann report)

Berkeley did not end up narrowing the pavement of its streets, but during the Great Depression chose to use much Federal money to plant a reported 16,000 ornamental street trees along residential blocks from 1935 to 1937. By 1944—seventy five years ago—Berkeley civic leader, businessman, and poet Lester Hink could rhapsodize about his town as a “city of hillside, homes and gardens gay. Sentineled by myriad traceried trees...”

After World War II as automobile use began to overcrowd the streets of Berkeley and communities all across the country, city traffic engineers began to concentrate on plans to speed vehicles, often at the expense of neighborhood livability.

This led to the 1950s/60s creation of one-way streets and dedicated turning lanes through some of Berkeley’s residential and commercial neighborhoods. Some streets were widened and others converted into two- or three-lane, one-way, thoroughfares. The State of California similarly planned a grid of freeways. One was to connect Highway 13 as a freeway following--and replacing--Tunnel Road and Ashby Avenue all the way across south Berkeley to US I-80.

Transportation engineers then largely believed that the primary role of streets, was to move large amounts of traffic quickly and efficiently and they planned and advised cities accordingly.

In contrast, Berkeley, whose original design contemplated walkable neighborhoods, each with its own shopping district and elementary school, disputed the primacy of vehicles and responded with successful grassroots efforts.

In the 1960s, due to community protest, the Ashby freeway plans were shelved, and Berkeley also voted to become the only city that paid to entirely underground BART, helping to preserve surviving adjoining neighborhoods.

Traffic Barriers

More than 20 traffic circles were first installed along California's bicycle boulevard, in central Berkeley and in Le Conte. Six traffic circles were installed on Addison and Allston between MLK and California to mitigate the documented danger and increased traffic from construction of the Public Safety Building on MLK and Addison. (community oral history) The City then had a list of trees and plants approved for plantings, paid for the initial plantings as part of its mitigation and neighbors contracted to plant and maintain the circles.

The City formally adopted a Traffic Calming Policy and Program in 2003, updated in 2009 for annual installations for traffic circles citywide with a \$50,000 annual City installation construction budget^{12, 13} The City allocated no funds for traffic circles planting or maintenance.

By 2008, Berkeley had removed most of the speed bumps and installed 50 traffic circles, all in residential areas, mainly bordered by major arterial streets. The City's goal was that traffic circles were to "slow down" traffic and encourage drivers to stay on major arterial roads by making the residential streets less efficient to traverse. The City built and installed the traffic circles, but their planting and maintenance was left to circle neighbors due to City budget restraints. (community oral history)

Today there are 60 traffic calming circles, 37 of which contain trees.¹⁴ District 5 and 6 have only 1 traffic circle each. District 8 has 3 traffic circles. District 1 has 5 traffic circles. District 4 has 6. The largest numbers are in districts with major arteries, San Pablo, Sacramento, Shattuck, Telegraph, University, and Martin Luther King. District 2 has 13 and 6 more along the border with District 3. District 3 has 15, not including the 6 along the border with District 2, and 5 along its border with district 7. So District 3 is impacted by enough traffic to warrant 26 traffic calming circles, almost half the total number in the entire city. District 7 has the 5 traffic circles along its border with District 3. The two districts most impacted by traffic and who have the largest number of traffic circles are District 2 and District 3, south and west Berkeley. In the City, South Berkeley

¹² See records of City Transportation Commission and Transportation Division files.

¹³ These circles and others in Berkeley were typically planted and landscaped by neighbors with the City's blessing. Karl Rhee, who led the Le Conte effort, recalls:
 "In 1998 the LeConte Neighborhood Assn. received complaints that traffic on Ellsworth Street was frequently speeding[,... realized that it was wider than our other residential streets and had no parking strips nor street trees.The City Forestry Dept. donated and planted the two Dawn Redwood trees at Stuart & Parker.[I inserted as footnote, seems to be a little repetitive to have in the body]
 Three circles were installed on Ellsworth, then several years later 5 additional circles were installed on Fulton. By this time plans were already in place to put traffic circles though out Berkeley and the City began offering grants to pay for plantings (including trees)". (Karl Rhee, email to Mayor Arreguin, Dec. 6 2918).

¹⁴ Map is in the appendix

has the lowest ratio of open space to population, and Districts 4, 2 and 3, in 94703 and 94702, are two of the densest zip codes.¹⁵

Traffic circles, the latest effort to maintain livability with ever-increasing traffic volumes, have been partly successful. Many areas remain unsafely burdened by excessive injury, vehicle volumes and speeds. The City has for many decades recognized the value of trees - as nature and as environmental screens. Now with many densely walked areas, it is critical that they not be increasingly polluted and dangerous.

History - Berkeley Community Relations to Trees

The City of Berkeley in the last half century has experienced numerous community issues due to threats and damage to trees. Some examples: after a church removed a large, heritage oak on Virginia Street, the City passed the Oak Moratorium Ordinance (BMC 6.52.010), requiring permits for removing any live oak more than 18” in circumference at 4” from the ground. When the Central Library Plaza was redesigned and the lone tree was cut down, a protester chained herself to the stump overnight in protest. (community oral history) Dozens of trees were added to Shattuck Ave islands to settle the dispute.

In 2000, a “redesign” by landscape architects who had designed Palo Alto’s downtown, proposed that all existing trees from Dwight to University be removed and replanted for uniformity. Public outrage resulted in the redesign being rescinded. (community oral history)

The most famous tree sit-in protest and the longest on record--December 2006 through September 2008--protested the University of California’s felling of a grove of 75-year-old oaks in rebuilding its football stadium.¹⁶ Despite the neighborhood-negotiated use permit condition that Redwood trees were to be preserved in the “TuneUp Masters” University Avenue housing redevelopment, trees were not preserved, damaged in construction, forcing removal - yet the project continues. In central Berkeley, some 17 fully mature trees (the majority redwood) have been removed despite use permit conditions which the City often fails to enforce or create. Recently, the community raised concern over damage to redwoods during construction of the West Branch Public Library and housing construction on University Avenue.¹⁷

¹⁵ <http://www.zipatlas.com/us/ca/berkeley/zip-code-comparison/population-density.htm>

¹⁶ https://en.wikipedia.org/wiki/University_of_California,_Berkeley_oak_grove_controversy

¹⁷ <https://www.berkeleyside.com/2018/08/28/berkeley-disciplines-developer-after-redwood-trees-chopped-down>

Tree Preservation

Tree preservation ordinances exist across the United States, acknowledging the value and contribution of trees, particularly in urban environments, and the need to encourage and protect them.¹⁸ Here are a few Bay Area examples: The City of Pleasanton has thirty-year-old heritage tree ordinance, certified arborists on staff, and a mandate that all tree pruning comply with International Society of Arboriculture standards. The stated goal of El Cerrito's tree committee is to ensure a "healthy growing forest" (Resolution 2007-96). The City of Oakland requires city review and permits for removing all private and public trees, and encourages citizens to nominate trees for Oakland "Big Tree Registry". UC Berkeley even maintains a slide show of heritage trees on campus, stating "there's no place on campus that is not soothed and improved by trees."¹⁹ The university also offers periodic campus tours, often over-subscribed, of its prize trees.

We live in a manmade epoch of already devastating climate change as evidenced by unprecedented heatwaves, powerful storms, and destructive fires. Scientific research unequivocally shows that human activity is altering natural earth systems, to the detriment of all living organisms. In November, 2018, the United Nations Intergovernmental Panel on Climate Change (IPCC) recommended planting 1 billion hectares of forests as one important way to combat global warming. In the July 2019 edition of *Science*, Swiss scientists determined that such extensive tree planting is feasible and could remove 200 gigatonne of carbon from the air.²⁰

Driver Patterns

In interviews with community members, testimony during public comment at subcommittee meetings, and from direct observation at traffic circles, the subcommittee observed that drivers generally negotiate traffic circles following a pattern. Drivers usually approach and enter the traffic circle cautiously. However, once the driver enters the traffic circle and negotiates half of the right turn, the driver speeds up to exit the circle, usually just before reaching the crosswalk 180 degrees across from where the driver entered the circle.

Speed & Sight Triangles

The National Association of City Traffic Officials (nacto.org) recommends that instead of removing a tree in a sight triangle, traffic speeds be reduced and other traffic calming

¹⁸ <https://www.charlestontreeexperts.com/tree-removal-guidelines/>

¹⁹ <https://www.berkeley.edu/news/multimedia/2004/01/trees.html>

²⁰ <https://science.sciencemag.org/content/365/6448/76>

devices considered.²¹ For this reason, the vegetation subcommittee recommends that speeds in traffic circles be reduced to 15 miles per hour.

Precedents

The Vegetation Subcommittee examined the policies and characteristics of traffic circles in cities around the US and Canada. We reviewed the various standards for traffic circle vegetation in national guidance documents in the published policies of other cities, and through interviews with traffic safety experts.

In addition, to capture an “on-the-ground” perspective we used the street-view feature in Google Maps to view neighborhood traffic circles in several cities, to gain an understanding of plantings and general layout. See the Section: “Photo Album of Traffic Circles...” (below) for a subset of photos captured. We found that landscaped plantings with trees are usual and customary practice for neighborhood traffic circles in numerous cities across the United States and are also recommended in the major national guidelines for traffic safety and urban design.

Trees are in fact recommended for their benefits to traffic calming, by making circles more visible at night, cueing drivers to slow at a greater distance.²² Well-maintained trees and low plantings are also valued by many cities for their diverse community benefits, including beautification, neighborhood character, ecosystem services such as carbon storage and cooling, and local biodiversity. These city and national documents routinely feature pictures of neighborhood traffic circles with landscaping and a central tree.

Specifications for the height and clearance of vegetation are fairly standard, generally recommending low landscaping maintained at 2 to 3 feet height (in one case 5 feet), and trees with mature branches maintained at a minimum of 8-14 feet above the ground. Responsibility for maintenance varies between the neighboring communities and city departments. Several examples follow.

²¹ “Fixed objects, such as trees, buildings, signs, and street furniture, deemed to inhibit the visibility of a given intersection and create safety concerns, should not be removed without the prior consideration of alternative safety- mitigation measures, including a reduction in traffic speeds, an increase in visibility through curb extensions or geometric design, or the addition of supplementary warning signs.” **Source:** [Urban Street Design Guide](#). Visibility/Sight Distance (NACTO 2013)

²² [Roundabouts: An Informational Guide](#) (NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM/Transportation Research Board 2010, Research sponsored by the American Association of State Highway and Transportation Officials in cooperation with the Federal Highway Administration)

Policy Statements from Specific Cities Supporting Trees in Circles

- **Palo Alto**

The City of Palo Alto’s Comprehensive Plan recognizes the value of traffic circles for reducing collisions and **“offer[ing] opportunities for added landscaping and tree planting.”** The 2012 Transportation Plan **“calls for greater use of traffic circles, particularly along bicycle boulevards.”**

Source: *Palo Alto Comprehensive Plan [Transportation Element](#)* (Palo Alto City Council 2017)

- **San Francisco**

The City of San Francisco recommends that “[T]raffic calming circles **should be landscaped with trees or plantings. Shrubs and grasses should be planted up to 3 feet tall and trees should be appropriately pruned.**” In fact, the City specifies a recommended number of trees in relation to circle size: “In traffic calming circles with a diameter of less than 15 feet, **one tree should be planted in the center.** On a traffic calming circle with a diameter greater than 15 feet, **more than 1 tree** should be planted and should be equally spaced around the circle.”

San Francisco’s *Green Connections Design Guide* recognizes the value of landscaped traffic circles, noting that “Traffic circles visually reduce the scale of wide intersections and break up the monotony of the street grid. **When they include landscaping, they can beautify and enliven the streetscape.**” In fact, the City’s SF Better Streets website features a picture of a neighborhood circle landscaped with native pollinator plants and a central tree, similar to some of Berkeley’s circles.

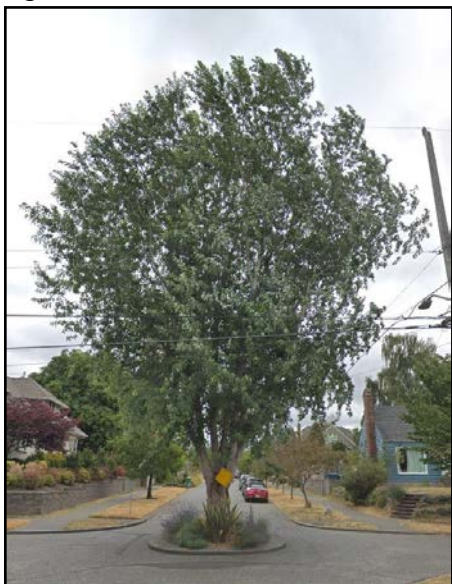


Sources: *SFBetterStreets: A guide to making street improvements in San Francisco* (City and County of San Francisco 2015); *SF Green Connections Plan* (City and County of San Francisco 2014)

- **Seattle**

The City of Seattle is a recognized leader in making streets safer for bicycles and pedestrians. As part of this effort the city supports and celebrates their community-planted traffic circles. In fact, Seattle’s DOT maintains a Traffic Circle Flickr page featuring attractive or charismatic circles with trees. Contacted for information, Seattle shared a photo of a circle with a mature tree, as shown below.

Seattle policy allows trees in traffic circles with an inner diameter of at least 8 feet, with city approval: “ **All Traffic Circle trees must be approved by SDOT Urban Forestry prior to planting.**” The city relies on maintenance by the community but reserves the right to maintain if this is not successful.



Seattle Traffic Circle with mature tree

- **Missoula**

The City of Missoula incorporates trees and substantial landscaping into their traffic circles. Referring to traffic circles, medians, and chicanes, the Missoula Parks and Recreation Design Manual (2018) states that “Landscaping in these areas consist of trees, woody and herbaceous shrubs, grasses, woody and herbaceous perennial-type ground covers, drought tolerant grass.” (19)

Missoula also encourages growing traffic circle plants to 5 feet in height to assist with traffic calming: “...**Where median and traffic circle plants are used for specifically**

for traffic calming, the selected plants may grow to a height of 60” above the top of the curb.” (23)

The City also prioritizes the benefits of landscaping to neighborhood health and local biodiversity. It is the first certified “Community Habitat” City in Montana, **based on its endeavor to provide habitat for animals, especially birds and insects.** The Design Manual states: “When designing public landscape, greenway and park facilities, the landscape architect must consider costs of construction and maintenance in relation to the **benefit derived by the community.** Proper design and effective use of the built environment can lead to **a happy and healthy community, as well as plant and animal diversity within the community.**” (14)

Source: [Missoula Parks and Recreation Design Manual 2018 Edition](#) (Prepared by City of Missoula Parks and Recreation)

- **Tucson**

The City of Tucson has developed a guidance document to assist neighborhoods in obtaining traffic circles because they “have been shown to be very effective in reducing the speed of vehicles traveling on residential streets . . . and for beautification” of residential streets. This document was produced by the Department of Transportation Traffic Engineering Division. The City encourages trees and provides specific, practical guidance for visibility:

“Sight visibility around the traffic circle must not be blocked with large dense shrubs. Shrubs should be set back accordingly so that mature growth will not extend past the curb edge. Tree selection and setback should be such that the mature tree branches do not extend into the travel lane below the 14’ level around the traffic circle.”

Source: [Traffic Circles: Facts About Controlling Traffic in our Neighborhoods](#) (City of Tucson Traffic Engineering Division nd)

National Guidance Documents:

- [Urban Street Design Guide](#) (NACTO 2013)

This widely-cited manual was developed by the National Association of City Transportation Officials (NACTO), an association of [71 major North American cities and 10 transit agencies](#), whose mission is “to build cities as places for people, with safe,

sustainable, accessible and equitable transportation choices that support a strong economy and vibrant quality of life.” The Guide notes the value of trees and other vegetation not only for beautification but for their contribution to traffic calming: “Mini roundabouts and neighborhood traffic circles¹ lower speeds at minor intersection crossings... **Shrubs or trees in the roundabout further the traffic calming effect and beautify the street**, but need to be properly maintained so they do not hinder visibility.”

The guidance diagram for the “mini roundabouts” section highlights a traffic circle with landscaping and a central tree (see below).



Note tree in center of mini-roundabout

Source: [Urban Street Design Guide](#) (NACTO 2013)

- [Traffic Calming ePrimer](#) (USDOT Federal Highway Association 2017)

The U.S. Department of Transportation/Federal Highway Administration’s Office of Safety Programs provides an extensive Toolbox of Individual Traffic Calming Measures, including neighborhood traffic circles. In the section on traffic circles, they emphasize that these features are more effective as traffic calming devices when landscaped, including the use of trees:

“A traffic circle can simply be a painted area, but it is **most effective when it is defined by a raised curb and landscaped** to further reduce the open feel of a street. **A traffic circle can be landscaped with ground cover, flowers, and street trees.**”

The illustrative photo of a landscaped traffic circle provided in this FHA Traffic Calming guide includes a central tree (see below).



Source: [Traffic Calming ePrimer - Module 3](#) (U.S. Department of Transportation/Federal Highway Administration)

Phone Interviews with Cities with Traffic Circles:

We also interviewed traffic engineers, landscape architects, and traffic circle administrators from a number of cities to understand their perspectives on landscaping of traffic circles. These cities include Augusta (Maine), Austin (Texas), Boulder (Colorado), Chapel Hill (North Carolina), Columbus (Ohio), Minneapolis (Minnesota), Missoula (Montana), Pasadena (California), Portland (Oregon), San Francisco (California), Savannah (Georgia), Seattle (Washington), Tucson (Arizona), Vancouver (British Columbia), Williamsport (Pennsylvania), Washington D.C., and Winooski (Vermont).

We found that the vast majority of the cities contacted not only allow but encourage trees and vegetation to be planted in traffic circles, provided the plantings conform to city policy regarding stipulated sightlines and planting policy. Policies vary, but the great majority require:

- vegetation to be no taller than 2-3 feet,
- tree limbs to be no lower than 8 feet,
- boughs and canopy extending over the street to be no lower than 14 feet above pavement

Table of Findings on Traffic Circles in Other Cities

The table below summarizes key pieces of information related to traffic circle vegetation policy from our research. This information was found online (e.g. city websites) or captured during phone interviews, including any material shared afterwards. For each city, it tracks the maximum allowed height of vegetation and pruning specifications for trees (“limbing up”). If trees are allowed but pruning specifications weren’t captured, the cell is noted with “Allowed”. If no details were captured the cell is marked with a hyphen, “—”.

#	City	Plant Ht	Trees*	Notes
1	Missoula MT	60in ^W	Allowed ^W	Robust Adopt-a-Circle program that promotes adoption and maintenance of circles, including a clickable Google Map. Striving to become 1st city in MT to be National Wildlife Federation certified “Community Habitat”.
2	Tucson AZ	36in ^P	14ft ^O (if extends beyond edge of circle)	200+ circles. Neighbors decide signage (STOP or YIELD). Biggest issue is watering, not sightlines.
3	San Francisco CA	36in ^O	Allowed ^O	Robust SF Better Streets Program. Multiple trees allowed: <15’ dia. 1 tree >15’ dia. 2+ trees
4	Boulder CO	30in ^W	8ft ^W	Sight line specs from Municipal Code 9-9-7 for Sight Triangles
5	Pasadena CA	30in ^E (from street)	7ft ^E	No yield control, Stop signs at each corner.
6	Seattle WA	24in ^W	Allowed ^P	First circles in 1970s, now 1,200+. Approx 5 new per year. Possible funding from “Your Voice, Your Choice” budgeting initiative.
7	Austin TX	24in ^{W,P}	14ft ^P	Focus on native vegetation
8	Vancouver Canada	24in ^{O, E}	--	Robust Green Streets Program that promotes adoption and maintenance of circles, includes a list of recommended plants.
9	Columbus OH	--	Allowed ^P	1998 Planting Guidelines - more than half of all recommended are trees
10	Portland OR	--	--	“Trees placed in Traffic Circles break uninterrupted views of long straight street sections and help to focus driver attention on their local surroundings.” ^W Only deciduous trees allowed (for limbing up), no evergreens.
11	Arlington VA	--	14ft ^O (if extends beyond edge of circle)	For Neighborhood Traffic Circles the desirable maximum entry design speed is 15mph. Traffic circles may be planted with appropriate landscape and central islands greater than 12ft in diameter may be planted with a tree.

Key of superscripts:

— = No information collected

* = Sightline clearances (or "limbing up") not captured for all locations. If no specs captured, noted as "Allowed". If sightline clearance was captured, the allowance is by default for inside curbline, exceptions noted as "if extend beyond edge of circle"
P = Information from phone interview
O = Information found online, usually city's webpage
E = Information from an email
W = Information from written document

Sources:

(Missoula) [Adopt-a-Circle webpage](#), [Parks & Rec Design Manual](#), [Google Map of Circles](#); (Tucson) [TDOT Traffic Circles Webpage](#), [Traffic Circles Fact Sheet Brochure](#); (SF) [San Francisco Better Streets Program](#); (Boulder) [Boulder Municipal Code 9-9-7](#); (Seattle) [SDOT Traffic Circles](#); (Vancouver) [Green Streets Program](#), [Recommended plant list](#); (Arlington) [Roundabouts/Traffic Circles Guidelines](#)

Photo Album of Traffic Circles in Selected U.S. Cities

The Subcommittee on Plantings and Vegetation opted to gain a contemporary on-the-ground perspective of traffic circles by sampling cities throughout the United States and Canada. We knew from our initial research that many cities promote circles as effective traffic calming devices and that trees are not only allowed but encouraged. The next logical step was to get a street-level view, to compare and contrast the circles in other cities with those in Berkeley.

The images below represent a sampling of images. Some were captured in the winter months when deciduous trees are without foliage. In others, the trees are small and still becoming established, apparently planted recently as part of traffic calming efforts. Better than words can convey, they offer a clear, visual understanding of how other cities approach this valuable traffic calming device.

Seattle WA



Boulder CO



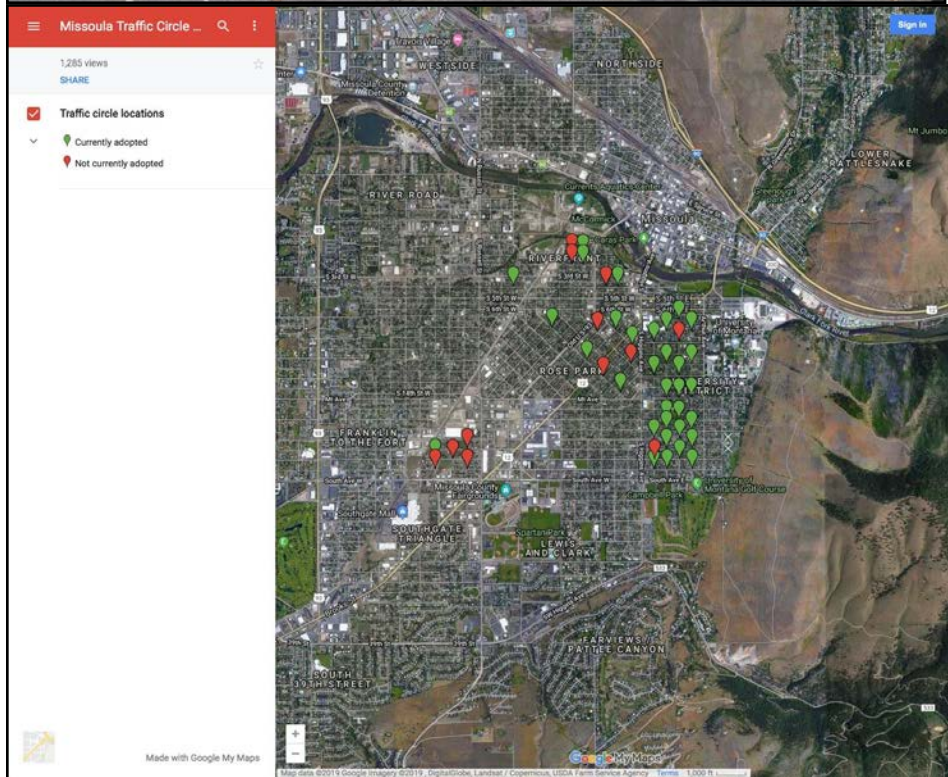
Vancouver BC



Tucson AZ



Missoula MT



Map of Missoula's Adopt-a-Circle program. Illustrating adopted circles and those which are available to be adopted.

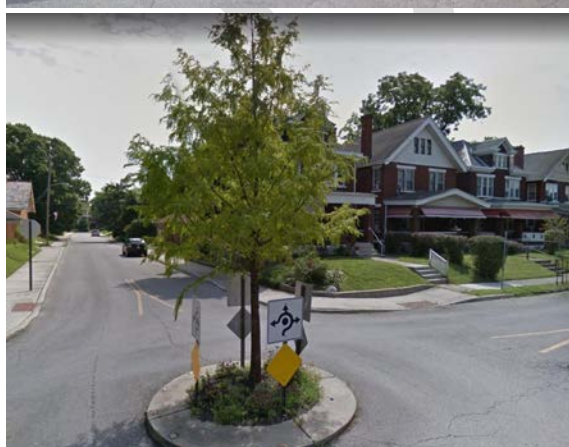
Source: [Missoula's Traffic Circle Locations](#)

DRAFT

Arlington VA



Columbus OH



Austin TX



Portland OR



Appendix

NOTE: Final order of Appendices to be determined

A. NACTO Recommendations on Sight Triangles and Speed

The following illustrations are taken from the NACTO (National Association of City Transportation Officials) guide for design streets and emphasize the importance of lowering speeds to promote safety. The task force concurs, especially in residential areas with heavy bicycle and pedestrian traffic. Speed kills. Reducing speed saves lives. For example, lowering the speed of a vehicle just 5-10 mph can reduce the crash risk by up to 10%, while simultaneously decreasing the risk of fatality by 3%. From the table below, reducing speed from 25 mph to 15 mph reduces the Crash Risk from 15% to 5% and Fatality Risk from 5% to 2%.

SPEED (MPH)	STOPPING DISTANCE (FT) [*]	CRASH RISK (%) [†]	FATALITY RISK (%) [†]
10-15	25	5	2
20-25	40	15	5
30-35	75	55	45
40+	118	90	85

* Stopping Distance includes perception, reaction, and braking times.
† Source: Traditional Neighborhood Development: Street Design Guidelines (1999), ITE Transportation Planning Council Committee 5P-B.

Driving Speed Fatality Risk Chart.

Source: [Urban Street Design Guide](#). Design Speed. (NACTO 2013)

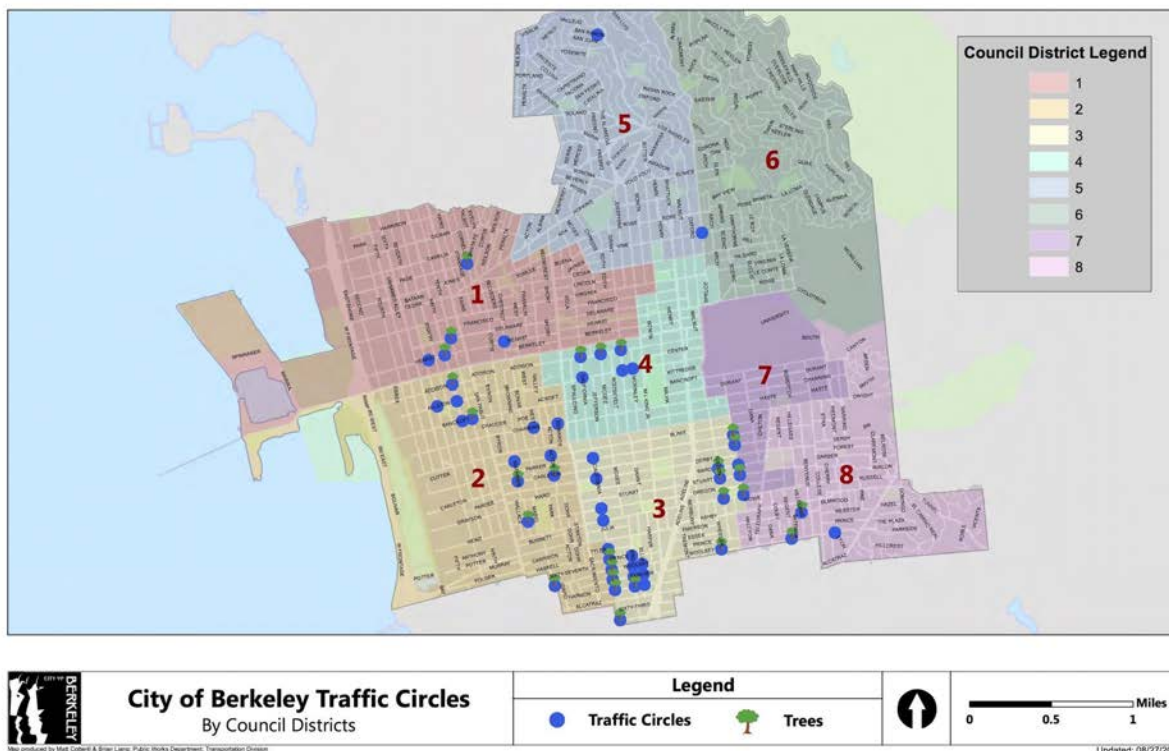
Slower speeds also enhance a driver's field of vision, which is paramount for promoting safety. See illustration below comparing the peripheral view corridor of a vehicle traveling at 10-15 mph (top image) vs. 20-25 mph (2nd image from the top). At slower speeds the field of vision is broader.

10-15 MPH Driver's peripheral vision Stopping distance Crash risk	
20-25 MPH Driver's peripheral vision Stopping distance Crash risk	
30-35 MPH Driver's peripheral vision Stopping distance Crash risk	
40+ MPH Driver's peripheral vision Stopping distance Crash risk	 <small>As a driver's speed increases, his peripheral vision narrows severely.²</small>

Driver's peripheral vision at different speeds.

Source: [Urban Street Design Guide](#). Design Speed. (NACTO 2013)

B. Map of Traffic Circles in Berkeley



C. General Vegetation Guidelines

Planted traffic circles accord with Berkeley's environmental and sustainability values and, when regularly maintained, add to urban beauty and neighborhood quality of life. Circles should have a minimum of hardscape and a maximum of low growing plantings.

The following principles are suggested for guiding the planting of traffic circles.

1. The City should encourage circle plantings that are durable, diverse, and attractive. Planted circles also reduce hardscape and runoff and improve ground water retention. Plantings are strongly encouraged that provide habitat for native bees and other pollinators, butterflies and other insects, and birds, and that do not require pesticides or herbicides to maintain. Use of native plant species is encouraged.

2. Circle plantings can and should reflect the individuality and diversity of Berkeley in the same way that our buildings, people, cultures, public spaces, neighborhoods and activities are diverse. There is no need for all circles to look, or be planted, the same, although within specific neighborhoods or along individual streets circle designs might be coordinated.

3. We do not recommend a species list of approved plants. Developing and maintaining a species list will be costly, controversial, and difficult and expensive to administer. Instead, the City should permit a broad range of plantings that conform to general criteria. To aid residents who seek additional guidance, several planting lists (or “palettes”) are provided.
4. One criteria is height. Non-tree plantings should not be allowed to grow taller than 2 1/2 feet (30") in height above the circle curb, in accord with national and regional standards. An exception should be made for seasonal flower stalks that may extend above this height.
5. The City may maintain a limited list of plants that are not recommended for circles because of very specific detrimental impacts, for example, poison ivy.
6. Trees in circles are welcome as a way to reduce the heat island effect, provide habitat and shade, and sequester carbon. Species selection should be coordinated with the City Forester.
7. Mature trees should have no substantial foliage below about eight feet above the pavement. Sapling trees will clearly have some foliage between two and eight feet, but species should not be used that grow extremely wide when low and young. When Circle tree plantings are young they may also be selectively pruned to encourage growth to a taller height.

C-1. Tree Guidelines

Tree plantings in Berkeley’s parks, along Berkeley’s streets, and in traffic circles have clear and substantial benefits and value. Trees sequester carbon which helps fight climate change, remove carbon dioxide and other greenhouse gases from the air, reduce urban heat, help create and retain soil, reduce stormwater runoff and promote groundwater recharge, and create habitat for birds, animals, and insects. They also provide beauty, shade, a stately presence in the public landscape and a marker of the changing seasons, particularly in highly urbanized areas where mature trees are rare in private gardens and/or on public streets.

Other Bay Area and North American cities and expert analysis beyond Berkeley have identified trees as a welcome and useful component of traffic circles, particularly because they help slow traffic and identify for drivers the presence of a circle from a distance.

Half an acre of forest land can absorb three tons of carbon dioxide annually and produce two tons of oxygen. Berkeley's numerous existing current traffic circles cover about half an acre of land, all of it converted from asphalt. The City's Hazard Mitigation Plan and Climate Action Plan recommend more tree plantings in Berkeley to help fight climate change and reduce the "heat island effect" in lower elevation neighborhoods. Tree plantings are also an economic and social equity issue. City mapping has determined that tree cover is much higher in the Berkeley Hills than it is in the Flatlands.

Berkeley has a variety of existing trees in its traffic circles. Most have attained a size where they do not have any substantial small branching or leaf canopy below eight feet, and others are growing rapidly towards that expectation. These include California Live Oaks, Dawn Redwoods, California Buckeyes, palms of various species, strawberry trees, and even large woody shrubs that have been pruned up into a tree like canopy. These trees should be "grandfathered" into the City's policies after review of individual specimens to ensure they currently conform, or will conform as they continue to grow.

Pruning of circle trees should be done in consultation with circle coordinators and the City Forester. The pruning emphasis should not be on radical "limbing" or entirely removing everything below eight feet, especially for tree saplings, because this may retard rapid growth to appropriate height or permanently deform or weaken the tree. Instead, smaller trees can be thoughtfully pruned to improve sight lines and maintain healthy condition and growth. Pruning should be done at times of year best suited to individual species. Trees should generally be planted at, or slightly offset from, the center of the circle so the perimeter areas do not have trunks or low tree branches.

The City Forester should be consulted and review the selection of tree species for individual circle planting, but we do not recommend a specific proscriptive list of tree species for circles or a requirement that circle trees be the same as nearby, or citywide, street tree plantings. Diversity should be encouraged. In some areas circle trees can be species that match existing nearby street trees, but special tree species in circles also have their own value. For example, palms in circles along Ninth Street and Dawn Redwoods in circles along Ellsworth are a distinctive presence.

Individual neighborhoods and circle coordinators should be trusted, with appropriate review by the City Forester, to suggest species that will work in specific circles. A goal of circle trees that are among the most attractive, unusual, and distinctive in a neighborhood is consistent with these policies.

Specific guidelines for species selection:

1. Trees that *require* frequent or major irrigation once established are not encouraged for circles.
2. It should be expected that circle trees will receive, and should be able to thrive and remain attractive in, conditions of full or close-to-full sun and reflected heat from surrounding pavement.
3. The existence of utility access shafts and underground utilities should be a factor in the selection of tree species for individual circles.
4. Trees that have long lifespans may be preferable since they will remain mature for a longer time without deterioration or low elevation growth. Short lived species will increase the frequency of replacement plantings and also increase the time that younger, and thus lower, trees are in a circle.
5. Multi-trunked species should not necessarily be discouraged. Visibility can be maintained between trunks as the tree grows older and trunks overall will have a narrower diameter.

If any single variety or species is preferred, it should be native oaks. Oaks meet many of the goals described in this section and, as described elsewhere, a “re-oaking” effort in Berkeley could be partially based in newly planted traffic circles. Oaks could be a preferred species for “orphan” circles and newly installed circles where the City is undertaking all the installation and maintenance work.

New tree plantings in circles may be from 15 gallon 24 inch box or larger specimens so the new planting already has substantial height and a clear lower trunk when it is placed in a circle. However, smaller specimens may be selectively used / planted where the tree is expected to grow rapidly to greater height and clear sight lines. Research has shown that many tree species grow more rapidly when planted young. For example, the California Live Oak at Fulton and Russell was planted as a seedling less than three feet high and quickly attained adult maturity and size.

Circle trees may be planted as memorials to, or honoring, individual citizens, organizations, or causes, after appropriate city review. Special trees of this sort can reinforce neighbor and community ties and identity and increase neighbor maintenance attention to the circles. The City should develop guidelines and a process for approval of such memorial trees, and should have a process for reviewing and accepting community donations of tree specimens for circle plantings.

Small memorial plaques may be placed in circles in conjunction with memorial or other special plantings, but should be low and unobtrusive. An alternative, where space permits, would be a freestanding plaque on nearby sidewalks that can be read by passersby viewing the circle across the intersection.

D. Introduction to Suggested Planting Palettes

Whether or not you plant a circle to a specific palette, all appreciate the benefits of any type of planted circle.

About one quarter of Berkeley's land area is covered with asphalt or concrete pavement in the form of streets and parking lots. The typical Berkeley traffic circle provides 200-300 square feet of welcome growing ground, recovered from otherwise sterile asphalt pavement. When a new circle is created, it is quickly colonized by insects, plants, and soil organisms even without human help. Within a season or two birds can forage in circles for seeds and edible insects and find them a welcome place to take temporary refuge.

Traffic circles also absorb and filter rainwater, decreasing stormwater runoff and urban pollution. Circles with a mature central tree provide additional bird habitat and shade, sequester large amounts of carbon, remove greenhouse gases from the atmosphere, and combat the "heat island effect" prevalent in densely developed urban areas. Fruits and flowers produced by plants in circles provide food for birds and insects, including beneficial bees.

For generations Berkeley has prided itself on being a garden city, with plants and nature integrated into every area; circles reinforce that history. Traffic circles also function as miniature public open spaces in neighborhoods without large parks or other plantings. Although they should be viewed, not actively used for recreation, their very existence helps reduce human stress and brightens and softens the streetscape.

Appropriate seasonal, secular, decorations in circles that are planned and positioned to not obstruct sight lines can cheer the passersby, especially during the winter.

The palette lists below are drought-tolerant plant assemblages that support native biodiversity and the benefits to human health and well-being that local access to nature provides. The palettes are based on local ecosystems, to bring the experience of nature into our neighborhoods and re-establish some of the lost habitats of Berkeley. They are also designed to be low-maintenance, climate-resilient and to conform with visibility and safety considerations.

D-1. Re-Oaking Guidelines

The re-oaking template is based on the native oak savannas and woodlands that were common throughout much of the Bay Area before modern development. California's oaks are keystone species that support tremendous local biodiversity through their

leaves, branches, and acorns. In addition to their ecological benefits, coast live oaks and valley oaks also provide valuable ecosystem services to address climate change, providing large shade canopies while being drought-resilient and sequestering carbon at higher rates than most other trees. Matching oak canopy with complementary drought-tolerant understory vegetation creates an experience of local nature in the city that enhances the biodiversity benefits for local wildlife.

Biodiversity Benefits: Native oaks such as coast live oak and valley oak support a diverse range of native birds and insects. Planting neighborhood oaks within 500' of each other increases the likelihood of pollination and acorn production. The understory supports an extremely diverse range of native pollinators and other insects such as butterflies, beetles, bees, crickets and moths. For example, Great Spangled Fritillary Butterflies and wooly bear caterpillars use oak leaf litter for protection from cold weather and predators. The setting provides an opportunity for low-growing plants that were common to the area but now rarely find space given the priority for lawns and taller vegetation. A combination of different types of native oaks within neighborhoods (coast live, valley, blue, black) will support greater biodiversity and resilience to climatic variation.

Carbon Sequestration: Coast live oak and valley oak store more carbon per year than commonly used street trees.

Maintenance: As the oaks mature, their canopy provides shade and natural mulch, reducing the need for watering and weeding. The leaf drop – particularly from live oaks—can greatly reduce weeding needs.

Center tree

Coast live oak (*Quercus agrifolia*). Live oaks are hardy distinctive California trees with a striking dark green color and year-round canopy.

Valley oak (*Quercus lobata*). Valley oaks are a beautiful, graceful deciduous shade tree. Valley oaks are sensitive to salt in the air and tend to be found further away from the Bay. In Berkeley, healthy valley oaks appear to be more common east of Martin Luther King Way.

References: *Re-Oaking Silicon Valley: Building Vibrant Cities with Nature* (San Francisco Estuary Institute 2017). <https://www.sfei.org/documents/re-oaking-silicon-valley>

Oaks of California (Pavlik et al. 1993)

Suggested Plants for Oak Understory

Plant	Scientific Name	Height	Notes
Apricot Monkeyflower Bush	Mimulus bifidus	2-3 ft ht x 2-3 ft wide, might need some pruning to keep lower	Spectacular 2" azalea like flowers. No irrigation once established. Attracts hummingbirds. Host plant for Checkerspot butterflies.
Bush Monkeyflower 'Pt Molate'	Mimulus aurantiacus	2-3 ft ht x 3ft wide. Will need some pruning to keep low growing. Pinch to encourage more compact growth.	Very drought tolerant. No water once established. Hummingbirds attracted.
California Aster	Corethrogyne filaginifolia	1-3ft ht x 3ft wide, variable, prune to keep low.	Deciduous perennial. Bright lavender yellow centered 1" daisy like flowers summer into fall. A wildflower, pollinator and butterfly plant.
California Fuchsia	Zauschneria or Epilobium canum (low growing selections)	1-2 ft x 2-3 ft wide	Fine textured gray green to silver leaves, mounding habit and bright red orange 1.5" tubular flowers in clusters later summer into fall. Deciduous during winter. Best hummingbird attracting plant. Drought tolerant. Best to cut to ground after bloom. Spreads by root runners.
California Lilac	ex. Ceanothus hearstiorum - San Simeon Ceanothus (low growing selections)	3"-6" ht x 6 ft wide	Flat growing, dark green crinkled leaves and 1"deep blue flower clusters in the spring
Coyote Mint	Monardella villosa	2ft ht x 2ft wide	Mint scented. Trailing groundcover for sun or part sun. 1" lavender puff balls July thru August. Attractive nectar source for bees and butterflies. Drought tolerant.
Douglas Iris	Iris douglasiana and hybrids and selections (ex. 'Canyon Snow' Iris Pacific Coast Hybrid)	1ft ht x eventually 3ft wide (Canyon Snow)	Ex. 'Canyon Snow' recognized as an outstanding white flowered selection. Disease resistant, little water, evergreen. Blooming in the spring.
Fragrant Pitcher Sage	Lepechina fragrans	2-3ft ht x 3ft wide. May need pruning to keep mature height lower.	Evergreen perennial with pink tube shade flowers. Blooming spring thru summer. Very drought tolerant. Attractive to hummingbirds.
Island Alum Root	Heuchera maxima, varieties	2 ft ht x 2 ft wide	Part Shade to full shade clump forming perennial with delicate airy pale pink to white flower spikes. A preferred groundcover for Coast Live Oaks.
Hummingbird Sage	Salvia spathacea	1-3ft ht x 4ft wide, may need pruning to encourage lower growth	Showy native groundcover for dry shade. Blooming late spring into summer, 1" bright magenta pink flowers emerge from spikes of burgundy calyxes. Attractive evergreen to

			semi-evergreen wavy fruity scented leaves. Low to average water.
Manzanitas	Low growing selections (ex. <i>Arctostaphylos</i> 'Emerald Carpet', <i>Arctostaphylos edmundsii</i> 'Carmel Sur', <i>Arctostaphylos uva ursi</i> 'Point Reyes'- Point Reyes Bearberry)	6"-12 ht x 6 ft wide	Low tidy evergreen groundcovers that are drought tolerant with pink to white small urn shaped flowers winter into spring provide bees with nectar earl in season. Edible red berries good for bears and birds.
Red Buckwheat	<i>Eriogonum grande</i> var. <i>rubescens</i>	12" ht x 2-3ft wide	October, short growing. Drought tolerant, attractive to butterflies and bees.
Seaside Buckwheat	<i>Eriogonum latifolium</i>	1ft x 2ft wide	Compact mound of softly felted blue grey spoon shaped leaves topped by pale pink 1" clusters of flowers blooming summer into fall. Used for erosion control, drought tolerant. Loved by bees, butterflies and many pollinators.
Sulphur Buckwheat	<i>Eriogonum umbellatum</i>	1ft tall x 2 ft wide	Compact evergreen mound. Blooms late spring to end of summer. Needs little or no water once established. Attractive to Bee and Butterfly.
Western Sword Fern	<i>Polystichum munitum</i>	2-3ft ht x 4ft wide	Drought tolerant fern recommended for growing under oaks. Adds bold visual structure. Cut old fronds back as they die. Part shade to full shade. Average to Low water.
Western Yarrow	<i>Achillea millefolium</i>	1-4ft ht x 2-3ft wide Will need pruning if growth gets too high	Usually a low spreading ferny leaved perennial with 3-4" clusters of white to pink flowers. Usually full sun, edge of shade under oaks. Attractive to pollinators.
Yerba Buena	<i>Clinopodium douglasii</i>	2 in. tall and spreading	Flat evergreen groundcover for shade. Easy, tough and long lived, used medicinally by native people. Makes a mint-like tea. Drought tolerant by best with a little summer water.

D-2. Bee/Pollinator Guidelines

Bees are essential pollinators in the plant world. About 75% of plants rely on an animal pollinator—most often a bee—to create seeds and fruit that produce the next generation of plants. In recent years bee populations have seen significant declines; habitat loss and pesticides are thought to be primarily responsible.

By providing food for bees—and, simultaneously, many other pollinators—we help sustain local bee populations, especially natives which can actually be more efficient and productive at pollination than honey bees.

Aside from the common honeybee, there are some 1,600 species of native bees in California which can look quite different and do not construct and live in large, organized hives. Many native bee species form small colonies of just a few dozen adults. Some are solitary. Many live in the soil and do not make above-ground colonies.

This suggested planting palette serves bees in the following ways: it provides specific types of flowers especially rich in nectar and/or pollen that bees find most useful; the flowers bloom over a long period of time, giving bees a steady source of food during the seasons when they're most active; it concentrates many flowers in a small space, allowing the bees to forage efficiently without having to fly long distances; it emphasizes a diversity of native plants to which native bees are best adapted, thereby sustaining those bee species most adapted to California's climate.

Bee friendly traffic circle planting should avoid all insecticides and herbicides and heavy mulching (which can bury the homes of ground-dwelling native bees). A traffic circle which get little human foot traffic can be an excellent oasis for bee colonies, especially native bees which live in small numbers and/or in the ground.

Planting a traffic circle with bee friendly plants and habitat will reward your neighborhood many times over with increased yields of vegetables, fruits, and nuts from nearby gardens.

References: UC Berkeley Urban Bee Lab

<http://www.helpabee.org/best-bee-plants-for-california.html>

UC Davis Arboretum and Public Garden: California Native Bees

<https://arboretum.sf.ucdavis.edu/blog/beyond-honey-bee-learn-more-about-california-native-bees>

World Bee Day: Best plants to help save bees

<https://www.worldbeeday.org/en/did-you-know/86-best-honey-plants-to-help-save-bees.html>

Theodore Payne Foundation: Bee Friendly Native Plants

<http://theodorepayne.org/wp-content/uploads/2018/07/BEE-FRIENDLY.pdf>

Suggested Plants for Bees/Pollinators

Under Construction				
Plant	Scientific Name	Height	CaNa	Notes
Blanket Flower	Gaillardia x grandiflora	10-14" ht x 12" wide Use varieties described as Dwarfs		Pollen and Nectar source for many native bees. Daisy like flowers summer to fall in shades of orange red and yellow many banded. Perennial, but short lived 2-3 years. Drought tolerant.
Blue Thimble Flower	Gilia capitata	12-18" ht x 12" wide	Ca Native	Annual native wildflower loved by pollinators as pollen and nectar source. Ferny foliage and lavender blue flower clusters spring into summer. May self sow.
Borage	Borago officinalis	2-3ft ht x 1-2ft wide		Annual Herb, reseeds, Spring to summer bloom of star shaped Clear Blue flowers. Poor soil, drought tolerant Mediterranean.Edible.
Calamint	Calamintha ssp. Ex. C.nepeta	1-2ft ht x 1ft wide		Airy plumes of tiny barely blue flowers over mint scented oregano like foliage bloom summer to fall. Bees love it, drought tolerant. herb/perennial.
California Aster	Corethrogyne filaginifolia	1-3ft ht x 3ft wide, variable, prune to keep low.	Ca Native	Deciduous perennial. Bright lavender yellow centered 1" daisy like flowers summer into fall. A wildflower, pollinator and butterfly plant.
California Buckwheat	Eriogonum fasciculatum	2-3ft ht x 2-3ft wide	Ca Native	Small evergreen shrublet with clusters of cream colored flowers April to October, aging pink to rust. Attractive to many pollinators. Seeds prized by birds. Drought tolerant once established.
California Lilac	ex. Ceanothus hearstiorum - San Simeon Ceanothus (low growing selections)	4" ht x 5 ft wide	Ca Native	Flat growing, dark green crinkled leaves and 1"deep blue flower clusters in the spring. C.hearstiorum likes clay, not sand. Better with some summer water (Native to foggy coast).
Ca.Lilac Low Blue Blossom	Ceanothus thyrsiflorus repens	2ft ht x 6 ft wide prune to keep low	Ca Native	Evergreen prostrate shrub that can be 6" ht but also mounds - pruning required to keep low. Round dark green leaves, clusters of light blue flowers in spring. Drought tolerant, but likes to washed off occasionally. Attractive to bees as well as a butterfly host plant.
California Poppy	Eschscholzia californica	1-1.5ft ht x 1ft wide	Ca Native	Perennial grown as Annual. Reseeds. Start from seeds or plants. Drought tolerant state flower. Mainstay Pollen source for many native bees.
Coyote Mint	Monardella villosa	2ft ht x 2ft wide	Ca Native	Mint scented. Trailing groundcover for sun or part sun. 1" lavender puff balls July thru August.

				Attractive nectar source for bees and butterflies. Drought tolerant.
Fernleaf Carpet Tickseed	<i>Bidens ferulifolia</i>	12" ht x 1.5 ft wide		Short lived perennial (3-5yrs) Native to US/Mexico. Drought, deer and heat tolerant. Bright yellow daisies summer to fall or more. Moderate to low water.
Frikart's Aster	<i>Aster x frikartii</i> 'Monch'	2ft ht x 2ft wide		Moderate water, sun part shade, pruning late spring will lower overall ht. Cut to ground after bloom. Late summer fall bloom provides nectar and pollen late in season. Lavender Blue 2" daisy flowers in profusion. Attractive to butterflies too.
Hairy Gumplant	<i>Grindelia hirsutula</i>	1-2ft ht x 1-2ft wide	Ca Native	Low herbaceous perennial, 2" sunny yellow daisies, summer to fall. Drought tolerant, but best with some summer water. Pollen and nectar source. <i>G. stricta</i> . Similar, lower growing.
Hummingbird Mint	<i>Agastache</i> spp.	2-3ft ht x 2ft wide	West US Native	Long blooming perennial, hummer magnet, spikes of orange flowers, minty fragrant leaves. Low water once established
Lavender	<i>Lavandula</i> spp.	1-2ft ht x 1-3ft wide		Choose dwarf varieties that mature at or below guideline mature ht. Example: Hidcote - darkest purple, Munstead - blue w/grey foliage. Summer bloom of lavender flower clusters. Fragrant.
Manzanitas	Low growing selections (ex. <i>Arctostaphylos</i> 'Emerald Carpet', <i>Arctostaphylos edmundsii</i> 'Carmel Sur', <i>Arctostaphylos uva ursi</i> 'Point Reyes'- Point Reyes Bearberry)	6"-12"ht x 6ft wide	Ca Native	Low neat evergreen groundcover shrubs that are drought tolerant with pink to white small urn shaped flowers winter into spring provide bees with nectar early in season. Bumblebees. Edible red berries good for birds.
Pot Marigold	<i>Calendula officinalis</i>	12-18" ht x 12" wide		Short lived perennial grown as annual. Winter to spring bloom, Yellow and Orange Daisy like flower is edible. Easy to start from seed.
San Miguel Island Buckwheat	<i>Eriogonum grande</i> var. <i>rubescens</i>	12" ht x 2-3ft wide	Ca Native	Low growing. Drought tolerant, attractive to butterflies and bees. Red pink pom pom clusters Summer bloom.
Sea Holly	<i>Eryngium</i> spp.	1-2ft ht x 1-2ft wide		Thistle like perennial produces striking purple blue flowers with silver bract collars, often deeply lobed leaves. Drought tolerant. Very attractive to bees. Blooms summer to fall.
Seaside Buckwheat	<i>Eriogonum latifolium</i>	1ft ht x 2ft wide	Ca Native	Compact mound of softly felted blue grey spoon shaped leaves topped by pale pink 1" clusters of flowers blooming summer into fall. Used for erosion control, drought tolerant. Loved by bees, butterflies and many pollinators.

Squash	Squash, Pumpkin and Zucchini	2ft ht x 6 ft wide		Vegetable. Summer annual. Needs moderate water. Bushy to rambling vine. Large yellow trumpet shaped flowers attractive to bees. Food for humans after bees get Nectar and Pollen.
Sulphur Buckwheat	Eriogonum umbellatum	1-3ft ht x 2 ft wide, can mound high, may need pruning to keep lower	Ca Native	Compact evergreen mound. Cream to yellow flower clusters late spring to end of summer. Needs little or no water once established. Attractive to Bee and Butterfly.
Tickseed	Coreopsis spp.	1-2ft ht x 1-2ft wide	US	Short lived perennial (3-5yrs) Drought tolerant, long blooming, profuse, cheerful yellow to yellow and maroon daisy-like flowers summer to fall. Moderate water until established
Tidy Tips	Layia platyglossa	1.5ft ht x 1.5ft wide	Ca Native	Native annual wildflower. Spring 2" yellow with white edges daisies. Many types of bees at low numbers. Pollen and nectar source.
Toadflax	Linaria purpurea	2-3ft ht x 1ft wide		Easy slender spikes of tiny violet lavender purple snapdragon like flowers over narrow blue grey leaves. Blooms summer. Perennial and reseeds. Many pollinators attracted.
Wayne Roderick Daisy	Erigeron glaucus 'Wayne Roderick'	1ft ht x 1-2ft wide	Ca Native	Pollen and Nectar source for bees. Profusion of 2"lavender daisies with golden centers,easy tough and reliably perennial. Long blooming Spring to Fall with some deadheading. Drought tol. Better with some summer water.
Western Yarrow	Achillea millefolium	1-3ft ht x 3ft wide, variable, prune to keep low.	Ca Native	Usually a low spreading ferny leaved perennial with 3-4" clusters of white to pink flowers. Long bloom season. Attractive to pollinators.

D-3. Butterfly Habitat Guidelines

"The power to enrich a patch of earth with beautiful butterflies, no matter how humble the plot or simple the effort, is awesome"

-Robert Michael Pyle, author, lepidopterist

Our Bay Area is home to 142 species of butterflies and they depend on specific types of plants. The Bay Area also has the largest concentration of endangered butterfly species in California.

Habitat loss is a primary cause of decreasing populations of butterflies. Berkeley is home to many of these species and by planting for their specific needs we can help keep butterflies flying in our neighborhoods.

Despite the common and understandable focus on planting pretty flowers to provide nectar for adult butterflies, butterflies actually have two more essential needs. First, each species has certain plants—sometimes just one kind of plant—on which its larva / caterpillars feed; planting those species is the way to provide useful habitat, even if there aren't flowers in the same place. Second, pesticides kill butterflies and their caterpillars and should not be used in their habitat.

There are four stages of the butterfly's lifecycle —the egg, the caterpillar or larva, the chrysalid in which the larva turns into the winged butterfly, and the adult butterfly. A traffic circle can provide excellent space for all these life stages, starting with low growing caterpillar food plants.

Some spectacular species common to Berkeley are the Monarch, Western Tiger Swallowtail, Anise Swallowtail, Pipevine Swallowtail, West Coast Lady, Red Admiral, Gulf Fritillary, Buckeye, Cabbage White and Fiery Skipper Butterfly.

The suggested plants below can all grow low and thrive in traffic circles and provide food plants that will help generate a glorious annual bloom of butterflies like these for the surrounding neighborhood.

Suggested Plants for Butterflies

Under Construction					
Plant	Nectar Or HOST	Scientific Name	Height	CaNa	Notes
Apricot Monkey-flower Bush	Larval Host	Mimulus bifidus	2-3 ft ht x 2-3 ft wide, might need some pruning to keep lower	Ca Native	Spectacular 2" azalea like flowers. No irrigation once established, better with a little. Attracts hummingbirds. Host plant for Checkerspot and Buckeye Butterflies.
Pincushion Flower 'Butterfly Blue'	Nectar only	Scabiosa 'Butterfly Blue'	12-18" ht x 12-18" wide		One selection of many scabiosa. This one is perennial, low mounding and blooms for a long period. Summer to late fall. Frilly flat lavender 2" flowers. Moderate water best.
California Aster	Nectar & Host	Corethrogyne filaginifolia	1-3ft ht x 3ft wide, variable, prune to keep low.	Ca Native	Deciduous perennial. Bright lavender yellow centered 1" daisy like flowers summer into fall. A wildflower, pollinator and butterfly plant.
Ca.Lilac Low Blue Blossom	Nectar & Host	Ceanothus thyrsiflorus repens	2ft ht x 6 ft wide prune to keep low	Ca Native	Evergreen prostrate shrub that can be 6" ht but also mounds - pruning required to keep low. Round dark green leaves, clusters of light blue flowers in spring. Drought tolerant, but likes to be washed off occasionally. Tortoiseshell Butterfly host plant. Attractive to pollinators too.
California Showy Milkweed	Larval Host and nectar	Asclepias speciosa	3-4ft ht x 3ft wide	Ca Native	Monarch Butterfly caterpillar food. Deciduous (disappears in winter) Fuzzy leaved stalks with 5" clusters of star shaped rose & white flowers. Spreads by underground rhizomes. Sun. Some summer water appreciated.
Checker-bloom		Sidalcea malviflora	2ft ht x 1ft wide	Ca Native	Perennial wildflower. Dense low 6" mound of small round scalloped leaves, 12-20" spikes of bright to dark pink 1" flowers in spring. Native larval host plant for Westcoast Lady Butterfly.
Coyote Mint	Nectar only	Monardella villosa	2ft ht x 2ft wide	Ca Native	Mint scented. Trailing groundcover for sun or part sun. 1" lavender puff balls July thru August. Attractive nectar source for bees and butterflies. Drought tolerant.
De la Mina Verbena	Nectar	Verbena lilacina 'De La Mina'	3ft ht x 3ft wide	Ca Native	Long blooming perennial, profuse 1" clusters of lavender flowers spring summer

					into fall. Better with occasional summer water. Attracts pollinators.
Dill	Larval Host	Anethum graveolens	2ft ht x 6" wide	Herb	Annual grown from seeds. Widely used culinary herb by many Old World cultures. Anise Swallowtail Butterfly caterpillars use as host plant. Start seed in summer, regular water.
Fernleaf Carpet Tickseed	Nectar only	Bidens ferulifolia	12" ht x 1.5 ft wide		Short lived perennial (3-5yrs) Native to US/Mexico. Drought, deer and heat tolerant. Bright yellow daisies summer to fall or more. Small butterfly nectar. Moderate to low water.
Frikart's Aster	Nectar only	Aster x frikartii 'Monch'	2ft ht x 2ft wide		Moderate water, sun part shade, pruning late spring will lower overall ht. Cut to ground after bloom. Late summer fall bloom provides nectar and pollen late in season. Lavender Blue 2"daisy flowers in profusion. Attractive to butterflies & bees.
Frogfruit Lippia	Nectar and Host	Lippia nodiflora	1-4" ht x 2ft wide. Can be invasive spreader Or lawn substitute	Ca Native ?	Evergreen perennial flat groundcover. 1/2" flower clusters like tiny lantana in pink and white. Host for Buckeye Butterfly. Attractive to pollinators.
Grasses	Larval Host	Poacea family	1-2ft ht x 1ft wide	Ca Native +	Fiery Skipper butterfly caterpillars feed on grasses. In urban areas mostly on Bermuda Grass. Also feed on several native grasses ex. Purple Needlegrass (Nassella pulchra)
Lovage	Larval Host	Levisticum officinale	2-6ft ht x 4ft wide Usually much smaller in our dry climate. Prune to keep low for traffic circles.	Herb	Perennial Herb. Looks and grows like a big Parsley, leaves all originating from central basal rosette. Carrot like flowers. European herb that Anise Swallowtail caterpillars eat. Prune to keep low growing. Need moderate water. All parts of plant edible to humans too.
Narrow leaved Milkweed	Larval Host	Asclepias fascicularis	2-3ft ht x 2-3ft wide	Ca Native	Deciduous/semi deciduous perennial. 5"flower heads creamy white. Larval host plant for Monarch Butterfly. Full sun, occasional summer water.
Narrowleaf Plantain	Larval Host	Plantago lanceolata	3-15"ht x 10"wide		Rosette forming perennial herb. Lance shaped base leaves. Flower stalks narrow ending in 1" club. Often seen in lawns. Primary Bay Area Larval host of the Buckeye Butterfly. Moderate water.
Nasturtium	Larval Host	Tropaeolum majus	1ft ht x 2-3ft wide		Annual trailing herb. Sow seeds before winter rains. Reseeds. Larval host for European Cabbage White Butterfly. Better with some summer water. Clean up dead foliage after flower slows.

Parsley	Larval Host	<i>Petroselinum crispum</i>	10"ht x1ft wide	Herb	Biennial grown as annual, reseeds. Mediterranean herb/vegetable used by Anise Swallowtail caterpillars as host plant. Grows best with regular water, bees and birds also attracted.
Pellitory	Larval Host	<i>Parietaria judaica</i>	18" wide x 3ft wide	Weed	Herbaceous perennial, considered a weed. Larval food plant for the Red Admiral butterfly. Drought tolerant, evergreen, dense mound forming. May cause allergic reactions in some people.
Red Buckwheat	Nectar & Host	<i>Eriogonum grande</i> var. <i>rubescens</i>	12" ht x 2-3ft wide	Ca Native	October, short growing. Drought tolerant, Larval host for Lycaenid butterflies.
Seaside Buckwheat	Nectar & Host	<i>Eriogonum latifolium</i>	1ft ht x 2ft wide	Ca Native	Compact mound of softly felted blue grey spoon shaped leaves topped by pale pink 1" clusters of flowers blooming summer into fall. Drought tolerant. Caterpillar host for Blue butterflies.
Sulphur Buckwheat	Nectar & Host	<i>Eriogonum umbellatum</i>	1ft ht x 2 ft wide	Ca Native	Compact evergreen mound. Blooms late spring to end of summer. Needs little or no water once established. Caterpillar food for Gossamer Wing butterflies.
Toadflax	Larval Host	<i>Linaria purpurea</i>	2-3ft ht x 1ft wide		Easy to grow, slender spikes of tiny violet lavender purple snapdragon like flowers over narrow blue grey leaves. Blooms summer. Perennial and reseeds. Larval host of Buckeye Butterfly caterpillar.
Western Yarrow	Nectar Only	<i>Achillea millefolium</i>	1-3ft ht x 3ft wide, variable, prune to keep low.	Ca Native	Usually a low spreading ferny leaved perennial with 3-4" clusters of white to pink flowers. Long bloom season. Attractive to pollinators.
Yampah spp.	Larval Host	<i>Perideridia</i> ssp ex. <i>P.kelloggii</i> - Native to SF Bay Area. <i>P.bolanderi</i> native to western US.	1-3ft ht x 1ft wide	Ca Native	Ancient Native host plant for Anise Swallowtail Butterfly. Current urban caterpillars feed on introduced Fennel. Yampah is perennial, small greyish parsley-like plant with tall flat topped carrot-like flower stalk. Plant several to provide food for caterpillars

D-4. Native Wildflowers Guidelines

This palette draws on the rich wildflower meadows and flowering trees of the East Bay, bringing the colors and aromas of native California into our neighborhoods. The mix of native flowers provides pollen and nectar for native bees, butterflies, and other insects as well as providing high-value leaves and seeds for birds and insects. This array of flowering plants provides floral continuity through the year, so local species have reliable resources year-round.

UNDER CONSTRUCTION

E. Pruning Standards & Guidelines:

https://sfenvironment.org/sites/default/files/fliers/files/sfe_of_pruning_guide.pdf

DRAFT

City of Berkeley Traffic Circle Policy Task Force
Operation and Maintenance Sub-Committee
 Draft Policy Statement, July 19, 2019

The Berkeley City Council should direct the City Manager to have the Public Works Department formalize and create the Traffic Circle Community Stewardship Program to support the management of neighborhood traffic calming. The program will establish a partnership with a clear set of guidelines for community volunteers who adopt and maintain traffic circles, address safety concerns, as well as define responsibilities between the City and community volunteers. There isn't a real "home" or ownership for traffic circles within the City's departments, and there isn't consistent communication with community members about rules, plants, maintenance, roles or responsibilities. With a few serious traffic interactions between cars and people at traffic circles recently in Berkeley, there is a need to address the traffic circles in a more comprehensive manner and support the community volunteers and neighborhoods who have been mainstays of the traffic circle program.

1. Develop a Formal Partnership Program within Public Works

Berkeley has many civic-minded and engaged community members who volunteer their time and resources maintaining parks, open spaces and traffic circles. There is no formal mechanism for the City to engage these volunteers or to recruit new ones, although the City does have successful working relationships with community organizations who maintain some public spaces including Berkeley pedestrian paths and The Circle on Marin Avenue. Berkeley City leaders have expressed their willingness to work with the community and develop a real partnership by creating and supporting the establishment of the Traffic Circle Policy Task Force. A formal partnership program needs a shared commitment and written guidelines, structure, budget and resources to deliver the benefits to both the City and the community. There are many existing community-based partnership programs in the San Francisco Bay Area as well as around the country. The City of Oakland's "Adopt a Spot" program is a long-standing and successful model that has also served as a template for similar programs in Livermore and Richmond and should be considered a template for the City of Berkeley's program. In addition, members of the Traffic City Policy Task Force have done considerable research and found many good examples of other programs around the country that can be found in Appendix X.

2. Provide Staff Resources

In order to establish and operate a successful partnership program, staff resources are required. Staffing could be provided through the City or through an existing non-profit entity that would be contracted for staff resources (at this point it's not clear if this would be a full-time position or could be part time after the program is set up). A Traffic Circle Community Engagement Coordinator would report to Public Works and be responsible for coordinating with all existing traffic circle volunteers, recruiting new volunteers, act as a liaison between community volunteers and City staff, coordinate between Public Works, Parks and Recreation and Planning Departments as well as third-party utilities, and develop and maintain an on-line tool for tracking traffic circle compliance and administration. The Coordinator would also be responsible for developing an annual

budget, hosting annual work days, provide assistance with technical issues, and develop a plant discount program, free mulch delivery, tool and safety equipment lending library, and a green infrastructure mini-grants program with matching funds and/or in-kind support. The Coordinator and City leaders should explore consolidating all resources and responsibilities for traffic calming measures (traffic circles, bulb-outs, traffic diverter replacement/conversions and parklets) as well as supporting the Berkeley Bicycle Plan under the Traffic Circle Community Stewardship Program. The core goal of this position should be nurturing and supporting a Citywide and expanding program of traffic circles that are both beautiful and safe and that make use of community volunteer resources, while also coordinating City staff resources and interests as they apply. It should be noted that this position could also be defined to coordinate City staff and volunteer stewardship resources (through friends of parks and creeks groups) and efforts associated with maintaining and enhancing city parks, creeks, and open spaces. In this case, additional FTEs/staff capacity would likely be required.

3. Enhance Relationship between Public Works and Community Volunteers

Public Works needs to cultivate and enhance its reputation and relationship with the community volunteers to implement a successful program. The Traffic Circle Policy Task Force's report and recommendations and the City's approval and adoption is only the first step to implementation. Any changes to the status quo (where there is no program and no publicized or consistent rules) will be new and possibly startling to the community. A thoughtful communication plan with multiple ways to communicate within a set time period should be developed in concert with rolling out the new policy and program. Public Works should also strive to be seen as an ally and support for the community volunteers with expertise and resources to support them and the program. Public Works and the Coordinator should investigate incentives to help recruit additional community volunteers, especially in under-represented neighborhoods of the City. It is also recommended that Public Works establish an advisory board comprised of leaders within Public Works, Parks and Recreation, and Planning Departments and a representative group of relevant Commission representatives and community volunteers to meet periodically to review the programs progress. Note, we are not suggesting a new commission, with all the issues that would entail.

4. Structure Volunteer Program and Resources

All of the community volunteer programs that the Traffic Circle Policy Task Force reviewed have a more formal structure for their programs and volunteers. Typical elements include: a volunteer job description used for recruiting purposes, volunteer application or agreement with a minimum term, maintenance rules and guidelines, planting guidelines, and safety rules and guidelines. Public Works should borrow from the best programs, specifically Oakland's "Adopt a Spot," to develop the documents needed to support the program. All program documents should be maintained on the City's website with easy to use on-line applications and approvals.

This proposed program and its recommendations are designed in part to reduce City liability and risk from traffic circles. By the same token, the City should be willing to extend protection from liability to neighborhood volunteers who maintain traffic circles

and are in compliance with the program. The advice of the City Attorney and specialized legal experts on municipal volunteer programs should be sought in formalizing this two-way arrangement.

5. Provide a Clear Set of Guidelines and Best Practices for Safety and Maintenance Activities

Whether community volunteers are experts or novices, everyone needs common sense guidelines for safely maintaining the traffic circles. Most of the cities that support volunteer programs have all of the documents on the city's website. These guidelines and best practices will be important to help ensure compliance with overall vegetation traffic calming measures over time, as plants grow and obscure sightlines and as volunteers turn over. The coordinator and community volunteers could also work together by hosting demonstrations, workshops, and work days to share knowledge and expertise.

Here is a suggested list of topics for Guidelines and Best Practices (which will be more fully developed by the end of August, 2019)

Operation and Maintenance Guidelines and Best Practices:

1. General conduct, safety, tools, watering
2. Managing sightlines and vegetation
3. Plant maintenance, pruning, weeding, new planting and tree replacement and/or removal
4. Integrated Vegetation Management and Pest Control
5. Garbage and Debris Removal
6. Decorations, boulders, bird feeders, etc.
7. Coordinating with Public Works,
8. Self-Certification of Compliance with Best Practices
9. On-line Arc-GIS/Google Maps traffic circles GIS database

It is important to emphasize that guidelines should be common sense but not punitive, onerous, unreasonable or bureaucratic. Community volunteers are already giving a considerable amount of free time to maintain City spaces. The goal of City policy should be to support their contributions in a safe and reasonable manner and to find ways of recognizing and acknowledging their efforts.

6. Develop and Implement Consistent Traffic Standards for all Traffic Circles

Unlike large arterial and collector road round-a-bouts, neighborhood traffic circles located on local streets are designed first for traffic calming and not primarily for efficiently moving traffic quickly along the road. This is a fundamental issue. The City's existing (2009) Traffic Calming Policy is useful to quote in this regard:

“Traffic calming is intended to reduce the impact of motor vehicles on roadways, residents and road users. In Berkeley, this means primarily the reduction of motor vehicle speeds...Physical traffic calming measures are categorized in two ways: (1) vertical deflection: raising the road by using speed humps or speed tables, and (2) Horizontal shift moving vehicles off a certain alignment from one side or another (e.g.

traffic circles). Generally, physical traffic calming measures are the most effective form of traffic calming available.”

The Council should note that nowhere in that policy is an expectation or requirement that traffic circles should exist to make it easier for motor vehicles to move speedily or more efficiently along neighborhood streets. In fact, the opposite is the case.

Members of the Traffic Circle Policy Task Force have taken note of the various street intersections where traffic circles are located and the different traffic signing, speed limits, and crosswalk marking standards used.

The City should inventory all existing traffic circle intersections and develop consistent standards for signing, speed limits, installing traffic tables, etc. with an implementation timeline. Effective and safe traffic circles don't end at their curb-line. The City should work towards other holistic street improvements and modifications that will improve safety at traffic circle intersections. These might include: a uniform speed limit reduction at all intersections with traffic circles on neighborhood streets; uniform signage that clearly communicates expectations for drivers (the current ambiguous “Yield to traffic in circle” signs do not do this); four-way stop signs at all neighborhood circles; bulb outs or speed tables on the adjacent streets that act to mechanically reduce vehicle speeds, particularly for those drivers who ignore posted signage.

Pedestrians, cyclists, and motor vehicle drivers should be able to expect consistency in City rules for traffic circles. It is often this uncertainty—the driver, bicyclist or pedestrian who doesn't realize they've come to a two-way, not four-way, stop sign intersection around a circle—that increases hazards, not the existence or character of the circle itself.

Traffic Circles - Policy Alignment Issues - Subgroup 3

DRAFT 7-19-2019

Subgroup #3 task: Assess coordination needs for working within City policies and cooperatively with regional and state agencies; Current traffic circle policy: [here](#)

Members: Jean Pfann, Charlene Woodcock, Wendy Alfsen, Fred Krieger, John Steere, Diane Ross-Leech

Current task: *Subcommittees send the primary elements of their policy to Tano by July 19.*

Current situation and its effects

Traffic Circles are islands in the middle of an intersection that encourage motorists to slow down to maneuver around the circle. A major benefit of traffic circles is that vehicles do not need to cut directly in front of oncoming traffic to make a left turn. This tends to eliminate broadside hits, which are often the deadliest intersection crashes

Currently, Berkeley has 62 [?] traffic circles in the middle of intersections. In other locations, Berkeley also has bulb-outs extending from the sidewalk into the street. Both the traffic circles and bulb-outs have vegetation, including trees in some cases. This vegetation is generally maintained by the neighbors. Greenery in and along streets makes Berkeley a more beautiful city and is critical to Berkeley's livability and success as a place.

Berkeley currently has a [traffic circle policy](#) which is being revised with the assistance of the Traffic Circle Policy Task Force. The Task Force is composed of interested citizens, mostly volunteers who maintain the current traffic circles. The Task Force is being coordinated by the Mayor's Office.

In a recent lawsuit against the City, the plaintiff alleged traffic circle vegetation obstructed the view of an approaching driver and contributed to a collision with a pedestrian. The purpose of this new policy is to identify the appropriate design and operation characteristics of traffic circles that provide both traffic calming and other benefits while maintaining pedestrian safety.

(Recommendations and suggestions are presented later in this document)

Goals

Short version: This Policy intends to support the construction and maintenance of traffic circles. The Policy may be expanded to include related street facilities such as bulb-outs. The goals of traffic circles are to increase public safety by calming traffic and to create a desirable streetscape for the public to enjoy.

Long version: The goals of the traffic circle program include the following:

- Maintain traffic calming benefits of traffic circles
- Help beautify Berkeley - *Greenery in and along streets makes Berkeley a more beautiful city and is critical to Berkeley's livability and success as a place*
- Encourage joint activities by neighbors and friends for the betterment of Berkeley
- Maintain visibility to protect pedestrians and bicyclists
- Capture and infiltrate rainfall
- Reduce noise pollution (enhance noise abatement through the use of vegetation)

- Provide habitat for native creatures (birds, butterflies)
- Increase carbon sequestration (current traffic circles constitute ½ to 1-acre total surface area; trees are about 50% carbon)
- Help cool the urban environment.

Conformance with Berkeley Plans and Policies

This section provides a review of existing plans and policies and identifies sections that are relevant to the implementation of traffic circles.

- **General Plan**

The General Plan directly addresses traffic circles and encourages their construction, particularly for traffic calming. The Transportation Element describes its function:

Traffic circles and bulb-outs have been used successfully in Berkeley neighborhoods to calm traffic without diverting traffic onto neighboring streets.

Also, Policy T-22, **Traffic Circles and Roundabouts**, states:

Encourage the use of landscaped traffic circles to calm traffic in residential areas.

Action: A. Consider roundabouts as a viable traffic-calming device, especially at the Shattuck and Adeline intersection, the Gilman Street Freeway on and off-ramps, and at other appropriate intersections in the city.

The Public Works Transportation Division provides additional material on the benefits, including data indicating a significant reduction in collisions. These studies have shown that traffic circles reduce automobile speeds at intersections by up to 10% and that they reduce collisions significantly. To facilitate fire truck access, a minimal amount of parking might be prohibited at some intersections, depending upon the intersection layout.

- **Berkeley Climate Action Plan**

This Plan is an emissions elimination or prevention strategy. The Action Plan identifies traffic circles and other modifications as essential to slow or reduce automobile traffic and make walking and cycling more safe and viable. The Plan also suggests that replacing stop signs with yield signs at traffic circles on bicycle boulevards would improve the flow of cycling, consistent with public safety.

To change commute patterns, travelers, including bicyclists and pedestrians, require increased safety, that is, reduced vehicle speeds and volumes. Traffic circles are recognized traffic calming measures on a local street. Without vehicle speed and volume reduction to improve safety, the necessary changes to travel modes will not occur. A complementary benefit is that trees and plants sequester carbon.

The Climate Action Plan states:

Policy: 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
- 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

Implementing actions include:

- Maintain and protect mature trees wherever possible and maximize tree planting as part of public open space and street improvements.
- Consider developing a tree preservation ordinance that would articulate strong standards for the preservation and replacement of trees in the public right of way.
- Identify opportunities for tree planting and to maintain existing and create new public open spaces to increase community access to parks and plazas. The City should ensure that as development increases along certain transit corridors, it is accompanied by an appropriate level of tree planting and green and open space enhancements.
- 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.
- Identify opportunities to modify City streets to better serve the safety and needs of pedestrians and cyclists. Street modifications that serve to slow or reduce automobile traffic and make walking and cycling more safe and viable include traffic circles and allocating additional roadway space to cyclists. The City should develop and adopt “Complete Streets” design standards, and routinely accommodate bicycle and pedestrian improvements in all streets and sidewalks projects.
- Identify and implement opportunities to improve the flow of cycling along bicycle boulevards, consistent with public safety, including consideration of replacing stop signs with yield signs at traffic circles on bicycle boulevards. Many Berkeley cyclists see the stop signs as unnecessary and inconvenient given that the traffic circles already effectively slow automobile traffic, and are designed to function as “all-yield” intersections.

Therefore, a City Traffic Circle Policy which effectively increases non-gasoline vehicle travel and provides carbon sequestration is critical to reaching the City’s Climate Action Plan goals

- **Berkeley Pedestrian Master Plan**

The Pedestrian Master Plan strongly supports the traffic calming benefits and safety improvements provided by traffic circles. The Plan reports a Vancouver study that showed an average collision reduction of 40 percent in four neighborhoods that used a combination of traffic calming types, including traffic circles. The Plan also identifies some constraints:

- Fire Department approval of design (which may include removal of parking spaces to allow trucks to pass by the traffic circles.
- Landscaping should be based on low-growing shrubs that maintain visibility for pedestrians, particularly those in wheelchairs.

Key requirements of the Pedestrian Master Plan:

4.3.2. TRAFFIC CIRCLES

Traffic circles are located in intersections throughout the southern and western areas of the City. There were 62 traffic circles at the start of the planning process, with many additional traffic circles being constructed through the duration of the plan. Most of the traffic circles are along Blake, Carleton, Fulton, Ellsworth, Stuart, Parker, and Woolsey and California Streets. California Street has the most traffic circles of any street in the city. Traffic circles are accepted by the Berkeley Fire Department, provided the department has approval over the design.

4.3.3. TRAFFIC DIVERTERS

Traffic diverters, like traffic circles, are mostly located in the southern, central, and western portions of the city. The diverters complement the use of traffic circles and speed humps. There are a total of [XX] traffic diverters. The type of diverter varies from landscaped barriers to wide planter-type bollards. The diverters are completely permeable to pedestrians and bicycles but not to motor vehicles. There is a mixture of full diverters and semi-diverters which allow motor vehicle traffic through in one direction. A majority of diverters are located along streets surrounding the east-west portion of the Ohlone Greenway that parallels Ohlone Park and along streets feeding to Ashby Avenue.

10.4.4.3. LOCAL TRAFFIC CALMING FUND

(p. 10-13) The Berkeley City Council has made an annual allocation from the General Fund of \$50,000, which is utilized by the Department of Public Works to respond to residents' traffic calming requests. Periodically, the Council has made special one-time allocations of funding to supplement this program; for example, in 2008 an additional \$200,000 was programmed for traffic calming requests. These funds have been applied toward traffic circles, curb bulbouts and speed feedback signs. It is likely that this fund will be continued at a minimum level of \$50,000 and may be increased.

8. TRAFFIC CALMING

(p. B-31) Traffic calming interventions slow traffic by modifying the physical environment of a street. The City of Berkeley has employed a variety of traffic calming measures, including speed humps, chokers, traffic circles and both full and partial street closures.

Research into the efficacy of traffic calming devices to improve pedestrian safety has shown that traffic calming can reduce the number of automobile collisions. A Vancouver study published in 1997 showed an average collision reduction of 40 percent in four neighborhoods that used a combination of the traffic calming types described below. [Reference to "*Safety Benefits of Traffic Calming*"]

Care should be taken to ensure that any landscaping in the [traffic] circles uses low-growing shrubs that maintain visibility for pedestrians, particularly those in wheelchairs. The City maintains a list of acceptable plant species for traffic calming circle plantings.

[Comment: A definition of “low-growing shrubs” would be helpful.]

- **Berkeley Bicycle Plan**

[The following is a condensed description of the plan and its implementation.]

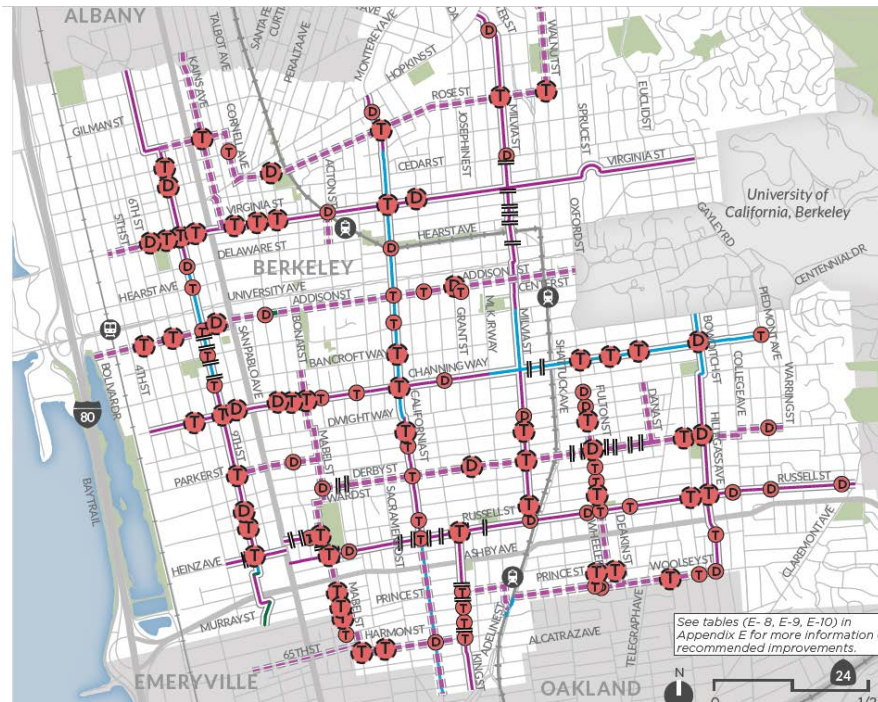
As envisioned in the 1977 Master Plan, bicycles continue to be an important mode of transportation in Berkeley. In 1990, about 5% of employed Berkeley residents commuted by bicycle and many residents use bicycles for recreation and personal tasks. Students also use bikes to get to school. In 2000, the City Council adopted the Berkeley Bicycle Plan and Bicycle Boulevard Design Tools and Guidelines. The Bicycle Plan is incorporated by reference into the General Plan.

The goal of the Bike Plan is to improve safety for cyclists of all ages, with the larger aim of encouraging a clean, carbon-free mode of transportation and reducing pollution as well as traffic accidents in Berkeley. The traffic circles are designed to slow traffic and improve safety for occupants of cars, cyclists, and pedestrians. Traffic calming will encourage more people to ride bikes and allow their children to bike on their own. An increase in the use of bikes instead of cars will reduce carbon and enhance resiliency by encouraging an energy-independent mode of transportation.

This Plan proposes several new Bicycle Boulevards and enhancements to the existing seven Bicycle Boulevards to provide greater traffic calming and convenience for through bicycle travel. Bicycle Boulevards make riding a bicycle feel safer and more intuitive for all ages and abilities.

Figure 5-15 below, excerpted from the Plan, shows recommended conceptual traffic calming improvements along the Bicycle Boulevard network. Diverters are recommended to direct vehicles off the Bicycle Boulevards and onto larger roadways, decreasing vehicle speeding and cut-through traffic. New recommended diverter locations were generally selected to provide at least one diversion point between each major street along the Bicycle Boulevard network. Recommended traffic circle and diverter locations in this Plan may be changed based on traffic studies, public process, and neighborhood feedback. The City may pilot these locations with temporary installations to understand their traffic impacts before making them permanent.

**Recommended Low-Stress Bike Boulevard
Traffic Calming Improvements
(Excerpt from Figure 5-15)**



TRAFFIC CALMING IMPROVEMENTS

- TRAFFIC CIRCLE
- TRAFFIC DIVERTER

EXISTING TRAFFIC CALMING FACILITIES

- TRAFFIC CIRCLE
- TRAFFIC DIVERTER
- SPEED HUMP

NETWORK IMPROVEMENTS

- BICYCLE BOULEVARD [3E]
- PAVED PATH [1A]
- STANDARD BIKE LANE [2A]
- BICYCLE BOULEVARD [3E]
- PARK/REC
- RAILROAD
- BART STATION
- AMTRAK STATION

The Plan includes *Project Recommendation Tables and Prioritization* in Appendix E. Following is an excerpt from Table E-2:

**Summary of Intersection Recommendations
(Excerpt from Table E-2)**

Recommended Project Type	Count	Cost Estimate
Protected Intersection	10	\$6,500,000
Traffic Circles	42	\$2,100,000
Traffic Diverters	13	\$650,000

Traffic Circle projects are prioritized within each corridor. Tier 1 projects, including traffic circles, are planned to be implemented in the short-term by 2025, Tier 2 in the medium-term (between 2025 and 2035), and Tier 3 in the long-term (by 2035).

**Future Traffic Circles - Tier 1 Projects:
Implementation planned by 2025**

(Excerpt from [Table E-8](#))

Corridor	Location	Cross St.	Est. Cost
Addison St	Addison St	7th St	\$50,000
	Addison St	5th St	\$50,000
Channing Wy	Channing Wy	7th St	\$50,000
	Channing Wy	Browning St	\$50,000
	9th St	Channing Wy	\$50,000
	Bonar St	Channing Wy	\$50,000
	California St	Channing Wy	\$50,000
	Channing Wy	Dana St	\$50,000
	Channing Wy	Ellsworth St	\$50,000
	Channing Wy	Fulton St	\$50,000
Fulton/Ban-croft/Hearst	Fulton St	Parker St	\$50,000
	Fulton St	Oregon St	\$50,000
	Prince St	Wheeler St	\$50,000
	Prince St	Deakin St	\$50,000
Hillegass Ave	Hillegass Ave	Russell St	\$50,000
Milvia St	Milvia St	Oregon St	\$50,000
	Milvia St	Parker St	\$50,000
Russell St	Russell	King St	\$50,000
Total cost			\$900,000

Overall, traffic calming via traffic circles should be very beneficial to bike riders and traffic circles are strongly supported by the Bicycle Plan. The plan notes that traffic circles can be landscaped but must be maintained to preserve sightlines.

- **Revised Traffic Calming Policy**

This policy states:

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City shall adopt the Traffic Calming Policy – 2009 as set forth in Exhibit A to:

- 1) establish an annual cycle with specific timelines and procedures for submitting, qualifying and processing traffic calming requests, regardless of where the request originates; 2) conduct data collection and traffic calming studies for requests with a validated problem and that meet specified criteria; 3) generate an annual, updated prioritized list of traffic calming capital improvement projects; and 4) allocate available funds for implementation of projects according to their priority.

This Resolution and implementing policy justify and support the creation of calming measures, including traffic circles. (See [Resolution No. 64,732-NS](#) and the [Policy](#))

- **“Vision Zero” Policy**

This initiative is a road traffic safety project intended to create a roadway transportation system with no fatalities or serious injuries involving road traffic. The Vision Zero approach has been effective in other cities. Berkeley plans to develop a policy and implementation strategy, as well as to identify funding sources. Traffic circles are a component

The *Considerations for Effective Implementation* include the following (*excerpt from p. 19*):

Engineering

Horizontal traffic-calming elements: chicanes, curb extensions, traffic circles, ped refuge islands

- Carefully select design vehicle
- Consider use of mountable features for very large vehicles

The Policy notes that a particular benefit of traffic circles is that vehicles do not need to cut directly in front of oncoming traffic to make a left turn. This tends to eliminate broadside hits, which are often the deadliest intersection crashes.

Traffic calming via traffic circles conforms to the Vision Zero goals. Possible view obstruction by vegetation will need to be considered.

- **Resilience Strategy**

The Resilience Strategy emphasizes building community resilience by building stronger connections:

- Between neighbors (including those in adjacent cities)
- Between public, private, nonprofit, and academic institutions;
- Between departments within the City government;
- Between Bay Area local and regional governments.

Key goals relevant to traffic circles:

- #1 – Build a connected and prepared community;
- #3 Adopt to the changing climate;

Suggestions for Berkeley citizens:

In the spirit of connectedness, the Resilience Strategy is also an invitation for all residents and organizations to partner with the City government and other community leaders to build Berkeley’s resilience together. Relevant items:

- *Know your neighbors* -The City provides incentives, such as a free dumpster or a cache of emergency supplies for neighborhood groups that work together to prepare for disasters.
- *Get involved*- Join Climate Action efforts to advance Berkeley's Climate Action Plan.

The Traffic Circle Policy conforms to the Resilience Strategy by building stronger connections between neighbors through neighborhood cooperation in caring for the traffic circles.

- **Streets and Open Space Improvement Plan**

(Applies to downtown, but the general concepts are relevant city-wide)

This Plan strongly supports the use of street trees for shading and stormwater control:

Chapter 8 - Street Trees and Landscaping ([here](#))

- Policy 5.1, Planting Program & Priorities. Promote the installation of Downtown street trees to the extent possible, with the ambitious but attainable goal of 1000 Trees by 2020.
- Policy 5.3, Tree Location. Use trees to shade and provide a canopy over sidewalks, and over bicycle and vehicle lanes to the extent possible,...[*emphasis added*]
- Policy 5.4, Preparation & Installation. Trees and associated features should be installed in ways that promote the sustained health of the trees.

Relevant provisions:

- c. Under this citywide program, abutting residents, agree to follow City procedures including watering the tree for at least three years; keeping the tree well clear of weeds and filled with soil or mulch; and to clean-up all leaf debris.
- f. Permeable materials should be used to maximize tree root access to water and oxygen....
- h. Street trees can be positioned and installed in ways that capture stormwater and filter pollutants in urban run-off (see also “Watershed Management & Green Infrastructure”). [*emphasis added*]

Similar to several of the other city plans, the use of trees is promoted because of the multiple benefits provided. Permeable materials are encouraged to allow infiltration of stormwater. This infiltration reduces runoff and also provides water for the vegetation.

Recommended roles and responsibilities

- **Public Works Department**

The functions of the Public Works Department include construction and maintenance of all streets, rights-of-way, etc. The Public Works Department will have oversight and approval responsibility for traffic circles including the construction, maintenance (in coordination with local community groups), vegetation.

Suggested code provision: Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve new Traffic Circles in the public right-of-way ...as set forth in, and in compliance with, the Berkeley traffic calming policy.

- **Traffic Circle Coordinator**

The Coordinator is a Berkeley City Employee who coordinates the activities of the neighborhood traffic circle committees. The Coordinator functions as the liaison between the City and these groups. The Coordinator maintains the list of the groups and their members. The Coordinator also identifies abandoned traffic circles for the “flying squad” to address.....[expand]

- **Parks, Recreation & Waterfront Department (Urban Forestry Unit)**

The Urban Forestry Unit plants and maintains street trees in the parkway (planting) strip between the curb and sidewalk. Upon request, the Urban Forestry Unit will assist local community groups in selecting trees and maintenance. Specifically, the Urban Forestry Unit will assist in trimming trees to ensure they maintain this Policy’s specified distance above the curb of the traffic circle [8 ft] and above the adjacent roadway [14 feet].

- **Neighborhood Traffic Circle Committees**

The committees are a group of friends and neighbors who have agreed to beautify their neighborhood by maintaining their local traffic circle. The Committees agree to the following:

- Keep all plants in good health
- Keep the traffic circle free of debris and grime
- Adequately maintain the surface of the traffic circle

(Adopted from Missoula, Mt. - [here](#); this and other group requirements are addressed later)

- **Proposed Traffic Circle Flying Squad**

This committee is a group of citizen volunteers available to plant and maintain “abandoned” traffic circles that do not have a local neighborhood group to support them. The Traffic Circle Coordinator identifies traffic circles for this group to address.

Needed changes to the Municipal Code

- BMC section 16.18.040 - **Exemptions from permit requirements** - Add traffic circles to this list. Otherwise, the requirements are onerous: public liability insurance, etc.
 - BMC section 16.18.280 - **Care of drainage** – May need clarification to allow for or encourage the installation of permeable pavers or to facilitate green infrastructure (e.g., curbside infiltration into planters).
 - *Other sections may also need modification.*
-

Other possible additions

1. Local Traffic-Circle Committee requirements

- **Release and Waiver** [needed?]

Every individual participating in a City of Berkeley Traffic-Circle committee shall sign a copy of this agreement form and fill out the volunteer release and waiver before any work on City property. The forms should be returned to the Traffic Circle Coordinator. (Adopted from Missoula, Mt. program- [here](#))

The individual listed below recognizes the inherent risks associated with participating in work in the Traffic-Circle program. The individual below shall indemnify and hold harmless the City of Berkeley, its officers, employees, agents and elected officials from and against any and all claims, suits, actions or liabilities of any nature, including but not limited to injury or death of any person, loss or damage to property, or any other basis whatsoever, arising out of the use of city property or participation in this program resulting from any act or omission, or thing done, permitted, or suffered to be done, by the organization/individual, except claims, suits or actions occasioned by the sole negligence of the City of Berkeley.

- **Maintenance Agreement** (to be signed by participants) [*is this needed?*]

Keep all plants in good health

Keep the traffic circle free of debris and grime

Adequately maintain the surface

- **Suggested Traffic Circle Participant Safety Rules and Guidelines**

Each participant in maintaining traffic circle circles should consider the following Safety Guidelines (adopted from Missoula, Mt. - [here](#))

1. Work only during daylight hours and in appropriate weather.
2. Wear protective clothing including work gloves, sturdy shoes, long-sleeved shirts, and pants to prevent injury from sharp objects, insect stings, and sunburn.
3. Don't overexert yourself. Take breaks and drink plenty of water [beer is acceptable]
4. Do not wear headsets or engage in horseplay or other conduct which could divert your attention from hazards such as traffic or other dangerous situations.

5. Be aware of your surroundings to ensure your safety and the safety of others. Be especially careful if you are using tools.
 6. Provide adequate supervision for participants under the age of 18.
 7. If picking up litter, use caution in handling collected items. Do not try to pick up heavy, large, or hazardous materials. Notify Berkeley Public Works for management of those materials.
 8. Consider the possibility of any participant's known allergies before working at the site.
 9. Ensure that power tools are only used by fully trained volunteers 18 years or older and use proper safety equipment (latex gloves, work gloves, eye protection, hard hats, face shields, safety vests, respirators, closed-toed shoes) when working with tools.
2. **Grandfathering current traffic circles** – Most traffic circles were built by the City or supported through grants with approved designs. Should traffic circles built by the City or with City approval be allowed to continue as currently constructed even though they may not conform completely to the provisions of the new Policy? Perhaps they would be processed through the exception provision described below.
 3. **Flexibility (exceptions)** – In some cases, a traffic circle may have unique characteristics, and separate design parameters should be applied. For example, if a traffic circle has a 4-way stop or adjacent speed bumps, then it may be appropriate to relax the sight-line requirements. Proposed exceptions would be submitted via the City's traffic circle coordinator (or direct to Public Works or Traffic?)
 4. **Policy for permitting and funding of new traffic circles** – Develop procedures for permitting and funding new in-street facilities.
 - Permit process
 - City approval
 - City support and oversight
 - Funding

The Bicycle Plan has identified locations and costs for additional traffic circles and other traffic calming devices (see previous discussion).

5. **Environmental equity** – Consider whether traffic circle benefits are equitably distributed in the City. Should certain areas be prioritized for new circles, bulb-outs, or parklets, especially areas with few street trees? *[Need to compare current map of traffic circles with Bicycle Plan map, if possible].*
6. **Research** – Assess various traffic circle related issues such as 1) the policy for having boulders in the traffic circles; 2) compile available research on traffic circle safety issues versus intersections with no traffic circles; 3) visibility and risk comparison of tree trunk vs. the traffic control sign.
7. **Signage wording** – Evaluate options for signage (location, size, wording). Various people have noted that the “Yield” wording makes some drivers believe that they do not stop when stop signs are present. Do we need stop signs for traffic circles? Or maybe a dual sign: “Stop & Yield.”
8. **Homeless encampments** – Consider a possible approach to address future homeless encampments in traffic circles? A specific ban may be necessary because of safety concerns.
9. **Harmonization with plantings (greenways and median strips)** – Assess coordination and compatibility with Ohlone Park and other greenways. Also, evaluate possible coordination with plantings in the curbside median strips and roadway center strips in the vicinity of the traffic circles.

Expanded Berkeley Partners for Parks (BFPF) Proposal to City of Berkeley Regarding Strengthening Volunteer Engagement by Establish a citywide *Adopt a Spot* program

See February 25, 2016, Summary Proposal Letter from BFPF and Berkeley Climate Action Coalition

We recommend that the City of Berkeley develop a citywide “Adopt a Spot” pilot program as a community-based public lands (i.e., open space and Rights of Way (ROW)) stewardship initiative that would be modeled after the City of Oakland’s “Adopt a Spot” program. An “Adopt a Spot,” or similarly named program, could be set up through City of Berkeley’s (City) Public Works Department and/or Parks and Recreation Department. The Adopt a Spot program would help bridge maintenance funding gaps for parks, community gardens, medians, roundabouts, etc. by establishing community partnerships between the City of Berkeley staff and organizations such as Berkeley Partners for Parks and the Climate Action Coalition and engaging residents in volunteering actions related to implementing the Climate Action Plan.

To appropriately incentivize community participation in public lands stewardship and to fund small-improvement and deferred maintenance projects, we also request that the City establish a public infrastructure mini-grants program. This would be similar to the successful Parks Mini-grants Program that the City operated between 1995 and 2000. The mini-grants program would explicitly include other “green” infrastructure such as community gardens, medians, and roundabouts. We advise that the proposed mini-grants program, like its predecessor, require matching funds and/or in-kind support.

We intend to bring this proposal to the City Council but wish to discuss it with staff before we do.

Background

Why a community-based public lands stewardship program (on the model of Adopt a Spot):

Berkeley has a long history in cultivating participatory democracy and of supporting community activism as an ethos. And our city is uniquely blessed with many civic minded and engaged residents. Unfortunately, there are no formal programs or mechanisms for the City of Berkeley and its staff to harness that energy in the community and to engage its citizenry in partnerships and community-based stewardship efforts; indeed residents often experience a lack of receptiveness to volunteer initiatives by staff, particularly over the past 5 to 7 years. This proposal will enable a positive, formalized context for City/resident/organization partnerships that will help the participatory democracy philosophy to flourish and incentivize community contributions to civic improvements and reduce certain maintenance needs over time through long term resident-driven infrastructure stewardship activities.

We have researched several existing community-based streetscape “stewardship” programs sponsored by municipal public works departments. Of these, the one that appears to have among the best track record and the longest lifetime (30 years) as a model for the Berkeley’s Program would be the City of Oakland’s “Adopt a Spot” program. It should be noted that Oakland’s Adopt a Spot was also a template for the comparable programs at the Cities of Livermore and Richmond. Oakland’s program is a community-based partnership of the City of Oakland’s Public Works Department with its residents that enables the latter to maintain specific public spaces by committing to regularly cleaning and beautifying them for no less than one year. For details of Oakland’s program see:

www.Oaklandadoptaspot.org. All "spots" in this program must be City of Oakland properties or Rights of Way (ROWs). It is recommended that City of Berkeley (City) use the Oakland *Adopt a Spot* as its model, including adapting its liability and application forms, since the Oakland edition of Adopt a Spot is successful and has been "field tested" for almost 30 years. It is proposed that the City adapt the Oakland program to 1) provide the basis to foster regular street/neighborhood litter clean-ups; 2) promote a greater sense of place and belonging to neighborhoods through constructive streetscape stewardship activities; and 3) addressing current and primary interests of the City in supporting Municipal Regional Permit (MRP) implementation and NPDES compliance in a manner that involves the local community. Residents would be trained to perform before and after visual assessments of randomly selected transects within the trash challenged neighborhoods targeted for clean-ups.

The City of Berkeley's *Adopt a Spot* should be designed to provide a community-building emphasis, since it would engage neighbors to undertake minor maintenance and improvement projects. This would serve to increase their awareness of and capacity to care for their local infrastructure, providing incentives for neighbors to participate and stay committed to community stewardship activities.

The following section, which analyzes Oakland's *Adopt a Spot* Program and focuses on those components that would be especially relevant to adapting it for City of Berkeley, was derived from interviews with Mike Perlmutter, Coordinator of Oakland's program.

Analysis of Oakland's "Adopt a Spot:" The City of Oakland (Oakland) has pioneered an *Adopt a Spot* program (Program) that allows individuals, neighborhood groups, civic organizations and businesses to play a direct and long term role in cleaning, greening and beautifying parks, creeks, shorelines, storm drains, streets, trails, medians and other public spaces. Volunteers involved in it have adopted hundreds of sites around Oakland. Oakland's Public Works Dept. supports these efforts with tool lending, debris collection services and technical assistance. Residents can perform the following tasks as part of this program:

- Planting/pruning/weeding in parks and ROWs and along creeks (with pre-approval from Public Works staff)
- Beautification of litter containers and utility boxes with mosaics and murals (similar to Earth Island's existing "60 Boxes" program with the City of Berkeley)
- Litter pick-up
- Graffiti removal
- Keeping storm drains free of debris ("Adopt a Drain")

A subset of Oakland's Adopt a Spot program, *Adopt a Drain*, allows for individuals to adopt specific storm drain inlets (SDIs) that are shown on a web-based/IMS map (modified Google map) –which displays streets and properties along with both drains that are "Available" and ones that are "adopted" for maintenance purposes: <http://adoptadrainoakland.com/>. Residents or groups can adopt "available" drains by completing an online form which automatically signs them up for the available drains.

The City of Oakland has 4 full time employees who are affiliated with the program and two part-time trainees. They are deployed by subject area. That is, projects and staff are divided between 3 subject areas: 1) parks; 2) creeks/storm drains; and 3) streets. One staff person is tasked to work with

Proposal to Establish an "Adopt a Spot" Program in City of Berkeley

residents in carrying out projects in each subject; they get to know the volunteers and projects within their respective subject areas, which increase the quality and specificity of support of residents who are involved in the program.

Oakland tracks hours spent by volunteers through its Volunteer Hours Tracking form:

https://docs.google.com/forms/d/1UphXhPsn0BtVsquidYnZDfcirO7xvt1sUnh-OoCj28/viewform?c=0&w=1&usp=send_form.

This allows the City of Oakland to have both documentation of the Program's benefits and maintenance of an ongoing database of the extent and type of resident involvement and it provides it with evidence of the in-kind matches of incentives for grant applications that the City is regularly submitting to support the program.

Incentives and Rewards: How does Oakland reward and attract volunteers? There are not many formal incentives, other than the annual "Volunteer appreciation party," which also provides volunteers a forum to meet and to get to know other civic-minded citizens. As Mike Perlmutter, its coordinator (and who is also a resident of Berkeley) said, the "City relies on citizens' desire to do good for the community;" another motivation, he noted, is that it "provides them with the means to rectify problems, or to get access to City resources and tools." The City of Berkeley should consider including recognition parties as well, but also permanent signage for active projects or adopted neighborhoods to acknowledge volunteer efforts; T-shirts with the name of program or group; and trainings of volunteers.

Public Outreach: Oakland does very little targeted outreach, except for its two annual cleanups. It does coordinate with Keep Oakland Beautiful and the Oakland Parks Coalition who actively promote and support volunteer efforts at Oakland's parks, creeks, streets and other public places. Materials and forms are also being translated into Spanish and Chinese. Oakland has a MOU with Keep Oakland Beautiful, which establishes the roles and responsibilities of each organization, e.g. in relation to promotion of the Program, specific projects and the volunteer appreciation party. They also provide financial resources/grants to groups who want to do projects. Oakland Parks Coalition functions as a watchdog and advocacy group for the parks, which provides a source of projects and advocacy for greater capacity. The City of Berkeley should identify its own affiliates, which can include BFPF and the Berkeley Climate Action Coalition.

To obtain a more detailed analysis of Oakland's Adopt a Spot Program, John Steere spoke with its manager, Mike Perlmutter. Notes from this interview follow.

Interview with Mike Perlmutter, Environmental Stewardship Team Supervisor, Environmental Services Division of the City of Oakland Public Works Department.

1) *Are there different forms, requirements or protocols depending on whether a group adopts a creek, a SDI, blocks, parks, etc.?*

No, there is one form, the "Oakland Adopt a Spot Request and Agreement" (Attachment 1) that covers all activities, though if a resident wants to adopt a drain, the process is streamlined further through an automated on-line form.

2) *Do you allow individuals or just groups to adopt a spot? What about businesses? That is, does the City of Oakland have criteria for who can and cannot adopt a city feature?*

Individuals, as well as groups, can adopt spots. There are about 200 groups and 300 individuals who have adopted spots around Oakland. In addition, about 800 drains have been adopted (by 600 residents, some of whom have adopted multiple drains). The City staff reviews forms submitted for projects (non-drain components) of the program, whereas the drain forms are automated and thus permit automatic adoption of the drains without staff vetting).

3) *What are the Adopt a Spot's criteria for deciding what spots qualify?*

Spots have to be ROWs or public spaces owned by City (but not other agencies.). The City partners with the Alameda County PWD in its "Adopt a Creek" projects. The City also works with East Bay Regional Park District (EBRPD) and with East Bay MUD in implementing the Program. Other criteria includes analysis of whether a project is safe and appropriate, e.g. of medians. Trash pick-ups don't involve much vetting, just how to go about. If pavement or vegetation is proposed for cutting in a park, then the PWD staff reaches out to the Park Staff to see if it corresponds to their goals; sometimes Parks or PWD staff functions as liaisons.

4) *What Open Source software do you use to administer the Program? And what GIS program do you use for mapping them and monitoring/updating them (e.g. volunteer work days; tasks accomplished etc.).*

Adopt a Drain was developed by *Open Oakland*, which is affiliated with **Code for America**. If Berkeley wishes to have its own Adopt a Drain program, then we should work with Code for America to offer a fellowship to conduct a hackathon to define a specific program for the City – or we could use the code on the Oakland website (Burlington VT has an identical program). The interactive GIS/mapping utility of Oakland's Program is only available at this time for its "Adopt a Drain" component. A geospatial database is being developed for tracking projects in the overall Program. Public service or infrastructure requests are already logged on a GIS database called "Cityworks," and the City is now developing one now for the *Adopt a Spot* program. The City already keeps track of hours of all individuals and what is being accomplished, (on a google form), but not geo-spatially.

5) *How do you receive project proposals (written/verbal/email)?*

Project proposals and other forms are faxed, delivered, and emailed. The City would like to go toward use of the Adopt a Drain model which is automated and thus more efficient and allows staff to avoid the substantial effort involved in evaluating, filing and scanning forms.

6) *What standards do you apply for helping to ensure public safety; how do you mollify/accommodate the City's legal counsel in terms of liability issues?*

The *Volunteer Waiver form* (Attachment 2) was vetted by Oakland 's legal counsel and it sets forth 3 parameters for volunteers to concur with: 1) acknowledges risk associated with a project; 2) they won't hold the City responsible for injury; and 3) they have read and agree with volunteer

Proposal to Establish an "Adopt a Spot" Program in City of Berkeley

guidelines. Program has been in operation for almost 30 years, but there are few if any lawsuits arising from it.

- 7) *What incentives do you provide volunteer workers and by what means do you promote Adopt a Spot to attract more community members to participate?*

Incentives: Volunteer appreciation party once a year – as forum for them to get together. Oakland doesn't provide much more but relies on citizens' desire to do good for community and motivation to rectify problems or to get access to City resources and tools. Past incentives: the City of Oakland is thinking of resuming signage to acknowledge volunteers; T-shirts; Mike Perlmutter would also like to see a training program to learn skills.

Oakland sponsors two clean-ups per year: Creek to Bay Day (in September– on the same day as Coastal Cleanup); and Earth Day (April), both of which they promote extensively throughout the city. The websites for these City-sponsored events are, respectively, www.oaklandcreektobay.org and www.oaklandearthday.org.

Public Outreach: The City of Oakland does very little targeted outreach, except for its two annual cleanups. Keep Oakland Beautiful and the Oakland Parks Coalition actively promote and support volunteer efforts in Oakland's parks, creeks, streets and other public places. Materials and forms are also being translated into Spanish and Chinese. The City has an MOU with Keep Oakland Beautiful, which establishes the roles and responsibilities of each organization, e.g., in relation to promotion of the Program, specific projects and the volunteer appreciation party. They also provide financial resources/grants to groups who want to do projects. Oakland Parks Coalition functions as a watchdog and advocacy group for the parks, which provides a source of projects and advocacy for greater capacity.

- 8) *How do you communicate with and monitor the work of Adopt a Spot groups and projects?*

Projects are divided between 3 subject areas: 1) parks; 2) creeks/storm drains; and 3) streets and there are staff identified with each these subjects; staff that are tasked to the subjects get to know volunteers and the projects within their respective subject areas. They meet with volunteers in certain neighborhoods or creeks to facilitate alliances and greater understanding of the context of the individual projects.

The City's PWD also sponsors the annual Oakland "Earth Expo" which is an annual environmental fair that highlights nature, community, transportation, environmental, health, and urban design theme. It provides an excellent forum for businesses and environmental and community groups to network and to develop partnerships. This year's expo was held on April 8.

- 9) *What is the annual budget for the Program? What are the roles of the 6 staff members (4 FTE; 2 PT) who work with you to administer/implement it? Does the City receive grant funding to help administer or promote it?*

Proposal to Establish an "Adopt a Spot" Program in City of Berkeley

Annual O&M Budget: \$100,000;

Labor Budget: 4 FTE; 2 PT (to the PWD) ; Program Analyst 3: \$80-85,000 (Mike's position)
Analyst 2: \$65,000 (other FTEs); trainee - \$15-25/hour (PT staff).

The City does receive several hundred thousand dollars in grants annually to help support the Program's implementation.

10) *What do you feel are the essential ingredients and requirements needed by any municipality to set up their own Adopt a Spot Program?*

(He responded with the following summary of requirements)

- Willingness by municipality to work with volunteers and role of volunteers vs. that of staff (union concerns for example).
- Need to have staff in place to support and coordinate the volunteers and to track their projects.
- Good tracking, training and communication system
- Documentation for project parameters, how to report, how to get questions answered; Maintain record of hours and tasks accomplished
- Vision and priorities that are communicated to volunteers

11) *How long has the Program been in effect? Are there any administrative procedures and parameters you would change if you were to start it over again?*

It has been in operation for about 30 years. We would change several things if I were to start over again. These include:

- Better signage and recognition and training.
- Better communication through list-serves (events; training/jobs, developments)
- Having an outreach plan to communities
- Seeking to automate more of the forms that are currently filled out.
- More informational resources (where to get paint, compost, mosaic artists, etc. Oakland Parks Coalition has a good model for resources.)

It is recommended that the City of Berkeley formally adopt an "Adopt a Spot" Program and incorporate the preceding guidance in developing its own version.

Available exhibits: *From City of Oakland*

1. Adopt a Spot Agreement
2. Volunteer Waiver and Release of Liability
3. Volunteer Guidelines
4. Volunteer Tool Request
5. One Time Cleanup Proposal
6. Graffiti Abatement Authorization



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ACTION CALENDAR
 September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Ben Bartlett and Rigel Robinson, and Mayor Jesse Arreguin
 Subject: Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program

RECOMMENDATION

That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley (Qualified Positive Recommendation from the Land Use, Housing & Economic Development Committee).

POLICY COMMITTEE RECOMMENDATION

On June 13, 2019, the Land Use, Housing, & Economic Development Committee adopted the following action: M/S/C (Hahn/Droste) to recommend that the report submitted be referred to the City Council with a Qualified Positive Recommendation such that the Recommendation section be revised as follows: That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Vote: All Ayes.

CURRENT SITUATION

Many City Staffers Cannot Afford to Live In Berkeley, But Must Be Available During Times of Emergency
 City regulations require city staff to respond in an emergency, even if off-duty. Regulations state that in the event of a disaster, Berkeley workers secure their home first, then carry out pre-determined department emergency procedures. In the event that an employee is unable to follow department reporting instructions, the employee should monitor sources of information from the city and attempt to contact their supervisor. If the employee cannot reach their supervisor, they are required to report to the City of Berkeley and act as a disaster service worker¹. Because critical infrastructure may be damaged or destroyed in a disaster, city employees must be able to live in Berkeley to fulfill this obligation, as they may need to travel to city infrastructure via foot. The average Berkeley home is currently valued at over \$1.2 million². LendingTree suggests a 20% down payment when buying a home³. That leaves a 20% down payment at \$240,000. A city worker would have to save \$24,000 a year for 10 years just to make a down payment on an average home in Berkeley. Berkeley city workers are unable to live in the city they serve. The Open Doors Initiative will allow Berkeley staff to live in the city they serve as well as carry out department instructions or serve as disaster service workers in an emergency.

¹ <http://webserver4/AR/PDF/2016/Administrative%20Regulation%209.2.pdf>

² <https://www.zillow.com/berkeley-ca/home-values/>

³ <https://www.lendingtree.com/home/mortgage/down-payment/how-much-is-a-down-payment-on-a-house/>

Ever-Increasing Housing Costs Have Drastically Reduced First-Time Home Buyers

In addition to allowing city staff to respond to an emergency, the Open Doors Initiative's deed restrictions will help first-time homebuyers create wealth. Homeownership is a human right, yet purchasing a home is prohibitively expensive in Berkeley. As previously mentioned, the average price for a home in Berkeley is more than \$1.2 million. In comparison, the median home value in the United States is \$222,800⁴ - just 18% of the median home value in Berkeley. Overall, California ranks 49th in both homes per capita and homeownership rates. The United States as a whole has seen a steep decline of first-time home buyers. In 2010, first-time buyers purchased roughly half of the homes sold nationally; in 2016, only 35% went to first-time buyers⁵. Many would-be home buyers are finding that they cannot afford to do so. In fact, a recent Credit Sesame survey of more than 1,000 renters found that roughly half of renters only rent a home because they can't afford to own⁶. Home ownership is a human right. The Open Doors Initiative is meant to increase home ownership opportunities for first-time home buyers (earning 120% AMI and below) who are increasingly shut out of the market.

BACKGROUND

The Need for Starter Homes

The Open Doors Initiative proposes to increase the number of starter homes, such as condominiums. It envisions residential homeowners dividing their properties into condominiums in Berkeley. Homeowners are granted increased density, with administrative approval, and other fiscal incentives -- provided the homeowner meets certain affordability restrictions and sells to city employees, and first-time homebuyers of moderate income.

Previous generations leveraged the rising housing market to utilize the equity of "starter" homes to allow them to purchase larger homes. This process also gave young families experience of maintaining homes and building community. Today this fundamental act has become more difficult, as the supply of starter homes have drastically dwindled⁷.

Bloomberg reports that starter home inventory has hit its lowest level since Trulia began keeping track in 2012⁸. The supply of starter homes is declining at 17% year-over-year, nearly twice as fast as all homes, and over 3 times faster than larger homes⁹. In July 2017, only 450,000 homes listed below \$200,000 remained in the market, which was about 120,000 fewer than in July 2015 (See id.)

Berkeley is now presented with an historic opportunity to impact the housing crisis by increasing its availability of starter homes. Currently, "[o]ver a third, or 35 percent, of millennials say 'the down payment' is their biggest obstacle to buying a home."¹⁰

With the Open Doors Initiative, houses that once cost upwards of \$1,000,000 and require a 20% down payment of \$200,000 (and often being sold for cash outright) will now be incentivized to become individual starter homes with drastically reduced costs – four condominiums created from the above converted home would ideally each cost approximately \$250,000 with a 20% down payment of only \$50,000. Such a change would turn homeownership into an achievable goal for many people, including young families.

⁴ <https://www.zillow.com/home-values/>

⁵ <https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

⁶ <https://www.gobankingrates.com/investing/real-estate/reasons-women-struggling-buy-home/>

⁷ <https://optimise-design.com/bring-back-starter-home/>

⁸ <https://www.bloomberg.com/news/articles/2018-03-21/u-s-starter-homes-are-pricier-smaller-older-and-scarcer>

⁹ https://www.realtor.com/research/housingshortage_starterhomes/

¹⁰ <https://www.cnbc.com/2018/09/14/the-2-main-reasons-young-people-cant-buy-homes.html>

“Americans 65 to 74 are now the country’s fastest-growing age group. According to a 2014 AARP survey, 88 percent of older Americans want to remain in place as they age.”¹¹ Open Doors Initiative encourages seniors in Berkeley who own large homes to downsize, earn money and while saving their assets.

In summary, we believe that increasing starter homes, will increase accessibility to homeownership for under-represented communities, artists, younger people, first responders, and teachers. This will, in turn:

- a. Reduce the wealth gap between older, predominately white homeowners and underrepresented communities;
- b. Increase diversity of Berkeley neighborhoods;
- c. Support Resiliency and Sustainability by reducing commute times for First Responders and City Employees;
- d. Provide financial benefit to senior homeowners

High Home Prices Place Homeownership Out of Reach for a Majority of City Workers and Berkeley Residence Berkeley salaries¹² are competitive in the region, but still fall below the threshold required to compete in the current housing market.

Disaster Worker Policy

The City of Berkeley requires that in the event of an emergency, every City worker is a disaster worker that prioritizes the safety and well-being of their family first and of Berkeley second. However, the ability for City employees to efficiently and effectively serve in this role is maximized if the employee lives in the city itself.

Missing Middle Housing

Open Doors Initiative will also create affordable housing in Berkeley. Homes created through the ODI will help address the Missing Middle, a type of housing including duplexes and other “starter home” units to which Berkeley residents desperately need access. Creating these units will give city workers, would-be first time homebuyers, disproportionately historically-marginalized communities, a path to home ownership and wealth creation through increased housing equity.

Increasing the supply of one bedroom and studio condominiums also allow community members, previously shut out of the middle class, the opportunity to own a home while simultaneously enabling older homeowners to downsize and efficiently utilize their equity. The deed restrictions provide a path to homeownership for moderate income persons; first responders to be on hand in the event of a crisis; and for workers to avoid long commutes by owning homes in the city they serve.

The Open Doors Initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability

¹¹ https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

¹² https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Level_3_-_General/SalaryListNONBENEFITED.pdf

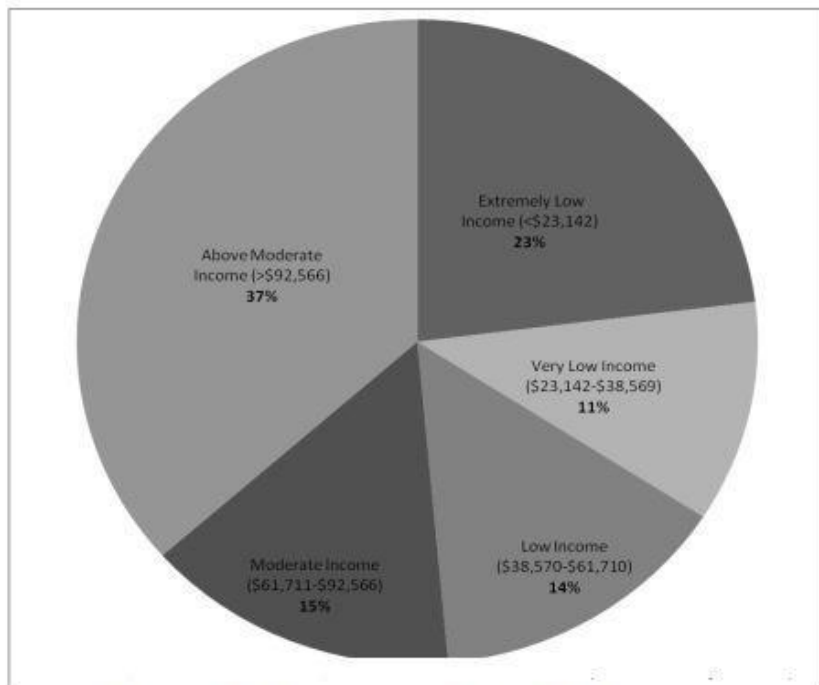
Table 2-20: Average Annual Salary by Job Type, Oakland, Fremont, Hayward Metro Area, 1st Quarter 2013

Job Title	Avg. Annual Salary
Health Care	
Physicians and Surgeons, All Other	> \$203,051
Registered Nurses	\$122,458
Physician Assistants	\$107,636
Pharmacy Technicians	\$50,535
Healthcare Support Workers, All Other	\$49,022
Home Health Aides	\$31,802
Higher Education	
Engineering Teachers, Postsecondary	\$111,076
History Teachers, Postsecondary	\$98,592
Social Science Research Assistants	\$54,683
Graduate Teaching Assistants	\$30,028
Local Government	
Urban and Regional Planners	\$85,419
Fire Fighters	\$88,704
Parking Enforcement Workers	\$50,796
Other Office	
Receptionists and Information Clerks	\$35,734
Office and Administrative Support Workers, All Other	\$36,696
Retail and Service	
Waiters and Waitresses	\$22,723
Dishwashers	\$21,372
Retail Salespersons	\$28,825

Source: CA Employment Development Department, Occupational Employment Statistics (OES) Survey Results

13

Figure 2-7: Household Income Distribution in Berkeley, ACS 2008-2012 Estimates



Source: ACS 2008-2012 5-year estimates, Table S1901

14

¹³ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

¹⁴ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

Accommodating City Workers Will Benefit Minority Groups, Who Are Disproportionately Unable to Purchase Homes

To accommodate workers like teachers and first responders in Berkeley, federal housing rules allow us to set aside workforce housing through a deed restriction. For example, in Colorado, the Peak One Neighborhood, Frisco Town Council, and Summit County Combined Housing Authority has adopted a deed restriction¹⁵ limited sales to municipal workers¹⁶ or work in the County¹⁷. A workforce deed restriction, accompanied by a change in zoning, can ensure that new homes with deed restricted units are only made available to people who have a history of employment in Berkeley/Alameda County and/or meet certain income requirements. Not only would this deed restriction ensure that units are never sold or rented to anyone who earns income outside of the Berkeley/Alameda County, but also it would protect Berkeley's long-term local workers by stabilizing the housing supply for residents. Because Berkeley city workers are disproportionately minorities, accommodating city workers with deed restrictions will benefit Berkeley minorities.

To successfully increase accessibility for these different communities, we have to change the underlying zoning in order to allow developers to convert single-family homes into duplexes, fourplexes, and other forms of housing that could house multiple groups of people. Currently, these types of housing are not allowed to be built in the R1 and in a few R2 districts as a result of zoning issues. Thus, we need to address zoning conditions in order to increase accessibility to homeownership for our constituents.

Wealth Gaps Have Resulted from Homeownership Inequalities

The impact of rising housing costs has manifested itself in glaring wealth disparities between homeowners and renters. Roughly half (51.2%) of the total wealth accumulated by the typical American homeowner is derived from the value of their primary residence¹⁸. Owning a home can drastically improve one's net worth. "Since 2013, the average homeowner has seen their net worth rise from \$201,600 to \$231,400. Renters have watched theirs fall from \$5,600 to \$5,000."¹⁹

Due to the increase in housing costs and the resulting inaccessibility to homeownership for many people, fewer people are able to accrue wealth by purchasing a home. These wealth disparities are most prevalent in underrepresented communities. For instance, a significant wealth gap has appeared between white and non-white households. "Recent data from the Survey of Income and Program Participation (2014) shows that black households hold less than seven cents on the dollar compared to white households."²⁰

"The Institute for Policy Studies recent report *The Road to Zero Wealth: How the Racial Divide is Hollowing Out the America's Middle Class (RZW)* showed that between 1983 and 2013, the wealth of the median black household declined 75 percent (from \$6,800 to \$1,700), and the median Latino household declined 50 percent (from \$4,000 to \$2,000). At the same time, wealth for the median white household increased 14 percent from \$102,000 to \$116,800."²¹

This gap shows no sign of slowing, but rather is projected to increase in the coming years. "In fact, by 2020 [...] black and Latino households are projected to lose even more wealth: 18 percent for the former, 12 percent for

¹⁵ https://peakoneneighborhood.com/pdf/Peak_One_Income_Deed_Restriction.pdf

¹⁶ https://peakoneneighborhood.com/pdf/Peak_One_Non-Income_Deed_Restriction.pdf

¹⁷ <https://peakoneneighborhood.com/community/locals-price-deed-restriction/>

¹⁸ <https://www.zillow.com/research/black-hispanic-home-wealth-16753/>

¹⁹ https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

²⁰ <https://insightcced.org/what-we-get-wrong-about-closing-the-racial-wealth-gap/>

²¹ <https://www.forbes.com/sites/brianthompson1/2018/02/18/the-racial-wealth-gap-addressing-americas-most-pressing-epidemic/#25b6eb127a48>

the latter. After those declines, the median white household will own 86 times more wealth than its black counterpart, and 68 times more wealth than its Latino one.” (See id.)

Another wealth disparity that has grown more extreme is between the younger and older generation. “Older people have always had more net worth than younger people, of course, but never like this. Thirty years ago, families headed by someone over 62 had eight times the median wealth of families headed by someone under 40. By 2013, older families had 15 times the wealth of younger families.”²²

Because homeownership increases one’s ability to expand one’s net worth, it is the surest on-ramp to addressing these grotesque wealth disparities.

Displacement as a Result of High Home Costs

Historically, Berkeley’s redlining policies denied people of color access to its best neighborhoods. Today, though these policies have long been gone, the residual effect of those policies combined with the housing crisis has had the effect of reinforcing similar divides. “The difference between the large homes and winding roads of the predominantly white neighborhoods of the Hills and the Claremont neighborhood, and the modest, mixed-use character of racially diverse South and West Berkeley is indicative of the city’s racial and class-based divisions.”²³

Housing costs in the United States have condemned many to a life of poverty, especially African Americans and Hispanics. “Though the number of Americans living in poverty has increased by 41 percent since 2000, the number of “high-poverty census tracts” has increased even faster. By now, 51 percent of blacks and 44 percent of Hispanics live in these areas of concentrated poverty, compared to just 17 percent of whites. According to numerous studies, children who grow up in areas of concentrated poverty are disadvantaged on nearly every measure, from school quality to violence to social mobility.”²⁴

The ever-increasing cost of housing has also forced teachers and first responders to live long distances from their workplaces. For example, San Francisco has seen a teacher shortage, because housing is so costly that the average teacher can only afford .7% of the homes on the market.²⁵ In addition, despite earning more than \$100,000 in San Francisco and San Jose, first responders can afford just 2.4% and 6.6% of currently listed homes, respectively.²⁶ In the event of a fire or massive tragedy, we need first responders to be able to live in Berkeley.

A closer look at the makeup of first-time buyers reveals a disturbingly large gap between white and non-white purchasers. The breakdown is as follows: 79% were white, 9% Hispanic, 8% Asian Pacific Islander, 7% African American, and 3% other²⁷.

This racial divide is not just present in first-time buyers. Zillow reports that “[i]n 1900, the gap in the homeownership rate between black and white households was 27.6 percentage points. It’s now 30.3 percentage points.”²⁸ Additionally, according to the same report, “the difference between white and Hispanic

²² https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

²³ <https://www.berkeleyside.com/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods>

²⁴ https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

²⁵ <https://www.sfgate.com/technology/businessinsider/article/SF-teachers-cant-afford-housing-in-SF-12797504.php>

²⁶ <https://www.trulia.com/research/affordable-housing-occupation-2018/>

²⁷ The percentage exceeds 100% because participants could choose more than one ethnicity.

<https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

²⁸ <https://www.zillow.com/research/homeownership-gap-widens-19384/>

homeownership rates has more than tripled”, from 7.9 percentage points in 1900 to 25.7 percentage points in 2016. (See id.) “It’s the widest gap among whites, blacks, Hispanics and Asians.” (See id.)

It is likely that the racial and gender wage gaps present in the United States have directly affected homeownership rates. When getting approved for a mortgage, a borrower’s income is an important factor when lenders assess his or her reliability, which puts borrowers with less income at a severe disadvantage.

In 2016, Pew Research found that African American men earned 73% of what white men earned, and Hispanic men earned approximately 69%²⁹. White women earn approximately 82% of white men, Asian women earn 87%, African American women earn 65%, and Hispanic women earned only 58%. (See id.)

The New York Times’s study of first-time buyers reflects the effect of the gender wage gap; while the median home price for a single male was \$157,000, the median price for a single female was \$146,300³⁰.

Another group adversely affected by the rising housing costs is young people, who are increasingly unable to afford homes. “Though every age bracket contains significant inequalities, Americans over 65 are the only cohort with higher homeownership rates now than in 1987. Homeownership for every other age group has fallen significantly”³¹

Many young people continue to be hindered by their student loans, preventing them from purchasing a home. “Paying college loans is a big burden for homebuyers. It’s harder to save for a down payment and can make qualifying for a mortgage more difficult. It can also delay a purchase as people pay down their debt.”³²

A recent study has also revealed that people in the LGBTQ+ community face unique challenges when buying a home. In April 2018, a survey by Freddie Mac among 2,313 LGBT community members (aged 22 to 72) living in the United States found that “49 percent of LGBT households are likely to own a home - considerably lower than the current national rate (64.3 percent).”³³ The study showed that when deciding where to live, LGBT renters cited price, safety and a LGBT-friendly location as the most important factors. (See id.)

Berkeley prides itself on accepting people from all walks of life. However, unless a conscious effort is made to increase accessibility of homeownership, underrepresented communities will continue to be denied access to the same benefits enjoyed by current, often very wealthy, homeowners. "Homeownership has become an indispensable part of being a full participant in American society," National Urban League President and CEO Marc H. Morial said. “An erosion of homeownership rates among African Americans represents not only a devastating financial loss but a barrier to full participation in the American dream.”³⁴

Funding

Potential funding sources include: private lenders; affordable housing financial technology platforms; federal and state homeownership programs; Measure A1 Homeowner Development Funds; and Qualified Opportunity Zones.

²⁹ <http://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/>

³⁰ <https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

³¹ https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e

³² <http://www.nareb.com/black-hispanic-homeownership-rates-remain-stuck-below-whites/>

³³ <https://freddiemac.gcs-web.com/news-releases/news-release-details/new-research-finds-lgbt-homeownership-rates-lag-behind-general>

³⁴ <https://newsroom.wf.com/press-release/consumer-lending/wells-fargo-commits-increase-african-american-homeownership>

In 2016, Alameda County passed Measure A1, which issued \$580 million in bonds to acquire and improve real property to help poor and middle-class people buy homes.³⁵ The Open Doors Initiative proposes to use these A1 Homeowner Development Funds for low income first-time home buyers.

Additionally, the Initiative proposes to explore the use of Qualified Opportunity Zone funds to aid in financing³⁶ construction costs³⁷. Qualified Opportunity Zone funds were established in the Tax Cuts and Jobs Act of 2017 with the purpose of improving Qualified Opportunity Zones.³⁸ Investors with capital gains can defer taxes on those gains if they invest within Qualified Opportunity Zones.³⁹

These Qualified Opportunity Zone funds should be used towards the construction costs related to the creation of starter homes. This will ease the financial burden of seniors seeking to downsize their homes and promote the construction of new starter homes in Berkeley.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

Currently Berkeley has a number of units zoned as R1, Single Family Residential. The Open Doors Initiative will allow homeowners in an R1 zone to apply for administrative approval to convert their single family home into a multi-family unit, provided they meet affordability restrictions and agree to sell to moderate income persons and/or city workers including, first responders, firefighters, and other public employees.

The Open Doors Initiative will also require deed restrictions in units that are converted from R1 to multi-family condos to sell to city workers that meet income requirements, ensuring that the “Missing Middle” of income earners with the city of Berkeley have access to home ownership.

Low-Income Homeowners Face Challenges Affording and Maintaining Their Homes

In Berkeley, many long-time homeowners were able to purchase their homes when values were much lower. Even though redlining and discrimination by financial institutions greatly limited access to capital for African Americans in particular, many were still able to become homeowners in South and West Berkeley.

The Open Doors Initiative would benefit these homeowners by providing a means financial stability. However, in order to realize these benefits, homeowners would be required to make substantial home improvements. The current cost in Berkeley for home improvements is \$400-500 per square foot.

Such prices will likely require the homeowner to receive commercial home improvement loans. This is problematic because, many homeowners of color still face barriers and discrimination in accessing commercial home improvement loans.

This practice of discrimination by lenders can result in homes falling into disrepair. Coupled with aggressive code enforcement has led to some community members losing their homes to receivership and the courts.

For these reasons, the Open Doors Initiative will include not only regulatory changes, but financial and informational programs to ensure low-income homeowners are able to participate and benefit from this program. The Open Doors Initiative helps low-income homeowners realize some of the equity locked up in their home, invest in maintenance and improvements, and provide affordable homeownership opportunities for

³⁵[https://ballotpedia.org/Alameda_County,_California,_Affordable_Housing_Bond_Issue,_Measure_A1_\(November_2016\)](https://ballotpedia.org/Alameda_County,_California,_Affordable_Housing_Bond_Issue,_Measure_A1_(November_2016))

³⁶ www.verbhouse.com

³⁷ www.divvyhomes.com

³⁸ <https://www.wellsfargo.com/the-private-bank/insights/planning/wpu-qualified-opportunity-zones/>

³⁹ <https://www.wealthmanagement.com/high-net-worth/what-are-qualified-opportunity-zones>

others in the community. Thus, the program meets the city's goals of stabilizing communities that are facing displacement while adding to the affordable homeownership stock.

ACTIONS/ALTERNATIVES CONSIDERED

That the City Council adopt The Open Doors Initiative to assist the creation of affordable starter homes and empower city employees and first-time home buyers. The Open Doors Initiative will allow homeowners in R1 and R1A zones to apply to renovate their properties to become multi-family condominiums, while providing incentives for doing so. To qualify for zoning approval, families must agree to deed restrictions which prohibit them from selling the newly-created condominiums to anyone who is not an employee with the city of Berkeley or does not meet income requirements. These deed restrictions are meant to provide a path to home ownership for persons within the missing middle and workers with the city of Berkeley who could otherwise not afford to own a home in the city they serve.

RATIONALE FOR RECOMMENDATION

As noted above, the homeownership has become increasingly more difficult. By financially incentivizing R1 homeowners to convert to multi-family condominiums, the city of Berkeley will offer a path to older homeowners seeking to downsize to leverage their equity while providing Berkeley city workers with a supply of affordable condominiums. Over time, as the housing market rises, Berkeley city workers and moderate income persons who own these condominiums will be able to leverage the equity themselves when taking out loans, or sell the condominiums to other Berkeley city workers and moderate income persons.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

To be determined.

FISCAL IMPACTS OF RECOMMENDATION

To be determined by an impact study.

ENVIRONMENTAL SUSTAINABILITY

Duplexing single family homes promotes environmentally sounded infill housing development. In addition, the Open Doors Initiative does not require the creation of additional parking spaces.

OUTCOMES AND EVALUATION

To be determined.

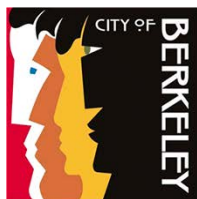
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napoli.matthew@gmail.com

Attachment:

- 1) **City of Berkeley Employee Salaries:**
https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Level_3_-_General/SalaryListNONBENEFITED.pdf



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

ACTION CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Rigel Robinson and Cheryl Davila
 Subject: Decriminalizing Entheogenic Plants

RECOMMENDATION

Refer to the Community Health Commission for feedback regarding the aAdoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.

POLICY COMMITTEE RECOMMENDATION

On July 17, 2019, the Public Safety Committee adopted the following action: M/S/C (Robinson/Wengraf) to send the item to the full Council with a Qualified Positive Recommendation that the author revise the report to refer the item to the Community Health Commission for further discussion. Vote: All Ayes.

BACKGROUND

Currently, Psilocybe mushrooms, peyote, and other hallucinogens are classified as schedule 1 drugs in the United States. This categorization indicates that there is “no currently accepted medical use [for them] and a high potential for abuse.” However, the federal drug schedule does not align with current medical research or scientific consensus; this is evident when considering that marijuana, which has been used for years by over 900,000 Californians in the legitimate treatment of mental and physical health conditions, is still a schedule 1 substance. In recent years numerous studies have provided promising evidence for the usefulness of Entheogenic Plants in treating addiction, depression, recidivism, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety, end-of-life anxiety, grief, diabetes, cluster headaches, and other conditions. This research comes at a crucial time when addiction and mental health issues such as veteran suicides are becoming an increasingly pressing problem (Cox, Billy). Many of these therapies are even able to improve psychological health in patients whose conditions are extremely treatment-resistant, making them a vital innovation for numerous struggling citizens.

Restrictions on natural psychedelics are not internationally consistent. The official position of the United Nations is that “No plants are currently controlled under the

Conventions. Preparations made from plants containing those active ingredients are also not under international control... Examples of such plants or plant material include ayahuasca, a preparation made from plants indigenous to the Amazon basin of South America, mainly a jungle vine (*Banisteriopsis caapi*) and another tryptamine-rich plant (*Psychotria viridis*) containing a number of psychoactive alkaloids, including DMT; the peyote cactus (*Lophophora williamsii*), containing mescaline; *Psilocybe* mushrooms, which contain psilocybin and psilocin; and iboga (*Tabernanthe iboga*), a plant that contains ibogaine and is native to the western part of Central Africa.” Additionally, different Entheogenic plants are decriminalized or legalized in various countries, such as Brazil, Jamaica, Portugal, Gabon, New Zealand, South Africa, Mexico, Costa Rica, and the Netherlands. In particular, Portugal’s decriminalization of all drugs in 2001 decreased addiction and drug-related deaths without leading to a significant increase in drug usage, and can be used as an informative model for how to effectively treat drug issues in society (Felix, Sonia et. al).

In the U.S., Denver voters recently passed Initiative 301 decriminalizing *Psilocybin*-containing mushrooms, and Oakland recently passed a resolution similar to this proposal decriminalizing involvement with and usage of Entheogenic Plants. In New Mexico, the cultivation of mushrooms is not prohibited by law as a result of the 2005 court case *State v. Pratt*. Certain groups also have explicit permission to use Entheogenic Plants for ceremonial and sacramental use under the Religious Freedom Restoration Act of 1993 and various court decisions, including *O Centro Espírita Beneficente União do Vegetal* (ayahuasca), the Church of the Holy Light of the Queen (ayahuasca), and the Native American Church (peyote).

In October of 2018, the FDA granted breakthrough therapy designation to psilocybin, acknowledging that it shows promise for treating resistant conditions such as depression and allowing more involved study. Internationally, investment is growing quickly in research companies focusing on psychedelic therapies for mental health such as that being done by Compass, which supports scientific and academic research into such therapies (Farr, Christina). This signals a paradigm shift in the way the global community regards the medical viability of psychedelics, as well as a promising future for further federal and international deregulation. Domestically Similarly, New York, Vermont, and Iowa have all proposed bills in the past four years allowing further research on Ibogaine as an addiction treatment, demonstrating that American attitudes towards psychedelics as therapeutic medicines are evolving nationwide as well.

Though currently illegal in the U.S., Entheogenic Plants are increasingly showing promise in clinical research for treating myriad serious conditions. Recent research on *Psilocybin* for depression shows that it significantly reduces symptoms, and has promise for treating alcohol and drug addiction as well as general and end of life anxiety. Mushrooms have also historically been used to facilitate beneficial personal and spiritual growth: a John Hopkins study on neurotypical participants revealed that over 75% of the respondents considered their psilocybin experience to be among the top five most meaningful experiences of their lives. Mushrooms are also fairly low risk, with no noted addictive properties and direct overdose practically impossible, and a

2000 study by the Center for Assessment and Monitoring of New Drugs concluded that the risk to public order, individual health, and public health was low.

Other Entheogens are also showing promise for the treatment of various health issues. Ibogaine, the active ingredient in Iboga, is already used with medical supervision in countries like Mexico as an opioid addiction treatment, and a 2016 study (Brown, Thomas Kingsley and Alper, Kenneth) found that withdrawal symptoms and opioid use were significantly lessened in addicts that underwent ibogaine therapy. Ayahuasca can have profound impacts on mental outlook and hopefulness, and a 2013 study (Thomas, Gerald et. al) showed that usage significantly reduced tobacco, alcohol, and cocaine dependence as well. Peyote has been used without harm in Native American religious ceremonies for decades, and research (Halpern, John H. et. al) has shown that such usage did not result in neurophysiological impairment. Anecdotally, peyote use is associated with reduced rates of alcoholism in Native American populations, providing a promising avenue for further research into the use of peyote in treating alcohol abuse. Other promising directions for Entheogenic Plants as medicinal aids include the treatment and amelioration of cluster headaches, recidivism and intimate partner violence, diabetes, grief, and PTSD.

Unfortunately, laboratory produced compounds based on Entheogens are not yet a viable treatment for those suffering from physical and mental conditions. Furthermore, if and when they do become available they are likely to be prohibitively expensive--synthetic psilocybin can range from \$7,000-10,000 per gram--raising concerns about access and equity for low income and uninsured populations. Decriminalizing the use, possession, cultivation, distribution, and transportation of Entheogens allows individuals rather than the pharmaceutical establishment to control their interaction with these powerful psychedelics, empowering and bonding communities as a result.

In this process, the organization Decriminalize Nature (decriminalizenature.org) has worked with Oakland, and now Berkeley, to further the movement to decriminalize natural Entheogens. Their mission is to enable every person to decide on their own how to engage with traditional Entheogenic Plants, and help restore the connection between nature, individuals, and communities in the process. It is intended that this resolution empowers Berkeley residents to be able to grow their own entheogens, share them with their community, and choose the appropriate setting for their intentions instead of having to rely exclusively on the medical establishment, which is slow to adapt and difficult to navigate for many. As this national conversation on entheogens grows, it is essential to influence the debate and take a stand now for disenfranchised communities who may be left out of the dominant model by opening a way for individual and community access.

FINANCIAL IMPLICATIONS

Adoption of the resolution may slightly reduce ongoing City expenditures associated with the enforcement of criminal penalties relating to Entheogenic Plant usage by adults. Some staff time to implement the resolution.

ENVIRONMENTAL SUSTAINABILITY

Small to none, although allowing personal cultivation of peyote specifically could help to counteract its current classification as a vulnerable endangered plant, contributing to long-term ecological sustainability.

CONTACT PERSON

Councilmember Robinson, Council District 7, 510-981-7170

Courtney Baldwin, Intern for District 7, cbaldwin@cityofberkeley.info

Attachments:

1: Resolution

2: References

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

RESOLUTION SUPPORTING ENTHEOGENIC PLANT PRACTICES AND
DECLARING THAT THE INVESTIGATION AND ARREST OF INDIVIDUALS
INVOLVED WITH THE ADULT USE OF ENTHEOGENIC PLANTS ON THE FEDERAL
SCHEDULE 1 LIST BE AMONGST THE LOWEST PRIORITY FOR THE CITY OF
BERKELEY

WHEREAS, Entheogenic Plants, based on the term "entheogen", were originally conceived by Ott, Ruck, and other colleagues from a working group of anthropologists and ethnobotanists in 1979; ~~and defined herein as to include~~ the full spectrum of plants, fungi, and natural materials ~~deserving reverence and respect from the perspective of the individual and the collective,~~ that can inspire personal and spiritual well-being¹, can benefit psychological² and physical³ wellness, and can reestablish human's inalienable and direct relationship to nature; and

WHEREAS, substance abuse⁴, addiction, recidivism⁵, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety⁶, end-of-life anxiety, grief⁷, diabetes⁸, cluster headaches⁹, and other conditions are plaguing our community and that the use of Entheogenic Plants has been shown to be potentially beneficial to the health and well-being of individuals and communities in addressing these afflictions via scientific and clinical studies and within continuing traditional practices, which can catalyze profound experiences of personal and spiritual growth; and

WHEREAS, practices with Entheogenic Plants have long existed and have been considered to be sacred to human cultures and human interrelationships with nature for thousands of years¹⁰, and continue to be enhanced and improved to this day by religious and spiritual leaders, practicing professionals, mentors, and healers throughout the world, many of whom have been forced underground; and

WHEREAS, those seeking to improve their health and well-being through the use of Entheogenic Plants use them in fear of arrest and prosecution; and

WHEREAS, the Entheogenic Plant practices of certain groups are already explicitly protected in the U.S. under the doctrine of religious freedom -- the Native American

¹ See Entheogens for Personal and Spiritual Growth

² See Entheogens and Psychological Wellness

³ See Entheogens and Physical Wellness

⁴ See Entheogens and Substance Abuse

⁵ See Entheogens and Recidivism

⁶ See Entheogens and Anxiety

⁷ See Entheogens and Grief

⁸ See Ayahwasca and Diabetes

⁹ See Entheogens and Cluster Headaches

¹⁰ See Historical Use of Entheogens

Church's use of peyote and the use of ayahuasca by two other churches, a Santo Daime congregation and the Uniao do Vegetal; and

WHEREAS, The United Nations considers Entheogenic Plant material used for ritual purposes as excluded from Schedule 1 substances; and

WHEREAS, Entheogenic plants containing ibogaine, for example, have been shown to alleviate treatment resistant cases of opiate and methamphetamine addiction even when other treatments have been ineffective¹¹. In addition, ibogaine is reported to be beneficial for addiction therapy related to specific work-related PTSD encountered by first responders such as EMT, police, and firefighters, as well as military veterans; and

WHEREAS, Entheogenic Plants or combinations of plants such as ayahuasca that contain forms of DMT, a naturally occurring compound in the human body that is listed as a Schedule 1 substance, can lead to experiences that are reported as mystical or experientially similar to near death experiences,¹² and that can be demonstrably beneficial in treating addiction¹³, depression¹⁴, and PTSD¹⁵, and ~~in that some have found to catalyzing-catalyze~~ profound experiences of personal¹⁶ and spiritual¹⁷ growth; and

WHEREAS, Entheogenic cacti that contain phenethylamine compounds such as mescaline can be beneficial in healing drug and alcohol addiction¹⁸ and for individual spiritual growth¹⁹, and have been utilized in sacred initiation and community healing by diverse religious and cultural traditions for millennia and continuing use as religious sacraments in modern times; and

WHEREAS, psilocybin, naturally occurring in Entheogenic mushrooms, can alleviate end-of-life anxiety for hospice and terminal cancer patients²⁰, can reduce prison recidivism²¹, and can effectively treat substance abuse, depression²², cluster headaches²³; and

¹¹ See [Iboga/Ibogaine for Addiction Therapy](#)

¹² See [Ayahuasca Experience Similar to Near-Death Experience](#)

¹³ See [Ayahuasca for Addiction Therapy](#)

¹⁴ See [Ayahuasca and Depression](#)

¹⁵ See [Ayahuasca and PTSD](#)

¹⁶ See [Ayahuasca and Personal Growth](#)

¹⁷ See [Ayahuasca and Spiritual Growth](#)

¹⁸ See [Peyote for treatment of alcohol and drug dependence](#)

¹⁹ See [Peyote](#)

²⁰ See [Psilocybin for End-of-Life Anxiety](#)

²¹ See [Entheogens and Reduced Recidivism](#)

²² See [Psilocybin and Treatment-Resistant Depression](#)

²³ See [Psilocybin and Cluster Headaches](#)

~~WHEREAS, a Johns Hopkins University study on "healthy normals" found that psilocybin can occasion mystical-type experiences, which were considered one of the top five most meaningful experiences in a subject's life for over 75% of their subjects within the first year after the study, and found continuing positive life-style changes after a 14-month follow-up; and~~

~~WHEREAS, the following principles, when adhered to, help to ensure safe and responsible use of entheogenic plants:~~

- ~~1. **Entheogens are not for everyone.** Knowledgeable clinicians caution that some people should not take entheogenic plants or fungi, including people with a personal or family history of schizophrenia or bipolar disorder or who are taking certain medications or using other recreational drugs. See <https://adf.org.au/drug-facts/psychedelics/> for more information.~~
- ~~2. **Always conduct thorough research before using entheogens or other drugs.** Side effects, interactions, and long term consequences are possible with any drug, including but not limited to permanent brain and personality changes.~~
- ~~3. **If someone has a serious condition like major depression or PTSD, they would do well to get serious, professional help before using an entheogen** and to ask that caregiver's advice. Some counselors and therapists are glad to work with a client before and after an entheogenic journey.~~
- ~~4. **Unless you have expert guidance, it's best to start with small amounts,** using more only after you become familiar with the material and the terrain.~~
- ~~5. **Don't go solo.** Have at least one trusted friend (called sitter, guide, or facilitator) be with you, sober during the entire journey, and commit in advance to honor that person's instructions if he or she tells you not to do something. Entheogens can amplify the whole range of human emotions, including anxiety, which can sometimes lead to panic. Having a sitter gives you a certain comfort and mental freedom, and can help keep things safe.~~
- ~~6. **Reverence reduces risks and can help lead to positive outcomes.** In cultures that have long used entheogenic substances beneficially, that use is approached with great respect, not haphazardly, and for life-enhancing purposes.~~

~~;~~ and

WHEREAS, the City of Berkeley wishes to declare its desire not to expend City resources in any investigation, detention, arrest, or prosecution arising out of alleged violations of state and federal law regarding the use of Entheogenic Plants.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Mayor and City Council hereby declare that it shall be the policy of the City of Berkeley

that no department, agency, board, commission, officer or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults of at least 21 years of age. For the purposes of this resolution, Entheogenic Plants are defined as plants and natural sources such as mushrooms, cacti, iboga containing plants and/or extracted combinations of plants similar to ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines.

BE IT FURTHER RESOLVED that this resolution does not authorize or enable any of the following activities: commercial sales or manufacturing of these plants and fungi, possessing or distributing these materials in schools, driving under the influence of these materials; or public disturbance.

BE IT FURTHER RESOLVED that the Council urges all those who decide to use entheogenic plants to consult their doctor beforehand and take the utmost medical precaution when doing so, and that no part of this resolution constitutes medical advice or a recommendation or endorsement of any drug or product.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to work with the City's lobbyists to support the decriminalization of all Entheogenic Plants and plant-based compounds that are listed on the Federal Controlled Substances Schedule 1.

BE IT FURTHER RESOLVED that the City Council hereby declare that it shall be the policy of the City of Berkeley that the investigation and arrest of adult persons for planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing Entheogenic Plants or plant compounds on the Federal Schedule 1 list shall be amongst the lowest law enforcement priority for the City of Berkeley.

BE IT FURTHER RESOLVED that the City Council call upon the Alameda County District Attorney to cease prosecution of persons involved in the use of Entheogenic Plants or plant-based compounds on the Federal Schedule 1 List.

~~BE IT FURTHER RESOLVED that the City Council directs the City Manager to return to Council and present an assessment of community impacts and benefits within a year of passage of this resolution.~~

BE IT FURTHER RESOLVED that if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute regulation or judicial decision or its applicability to any agency person or circumstances is held invalid the validity of the remainder of this resolution and its applicability to any other agency person or circumstance shall not be affected.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Alameda County Supervisor Keith Carson, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, and Senator Kamala Harris, and that the Berkeley City Council formally requests that they take action to decriminalize Entheogenic plants through their respective legislative bodies.

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Office of the Mayor

02a.59

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Rigel Robinson

Subject: Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea

RECOMMENDATION

Adopt a Resolution approving the reimbursement of travel expenses at up to \$6,000 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's sister city, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations.

Council approval of this one-time reimbursement is required under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S.) as the policy does not expressly allow reimbursement for international travel relating to city business.

BACKGROUND

Since 1967, Berkeley has established Sister City relationships with foreign cities to promote international communication and cooperation, promote cultural learning and exchange and to enable Berkeley to learn from the work of sister cities throughout the world. Berkeley currently has 17 Sister City relationships throughout the world, including two with Native American tribes. The first establishment of a Sister City was with Sakai, Japan.

Gongju, South Korea, a university town with a similar population size, approached Berkeley in 2017 with the request to become a Sister City. The City of Gongju sent two delegations to the City of Berkeley to discuss establishing a Sister City relationship. The Korean-American Community Center of San Francisco & Bay Area was also in communication with the Mayor's office in both Berkeley and Gongju regarding the creation of such a relationship.

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and Tomb of King Muryeong, which were designated as a UNESCO World Cultural Heritage site in 2015. It is located in the South Chungcheong Province of the Republic of Korea

On February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, to provide new opportunities to experience Korean culture and share ideas that mutually benefit the two cities.

The Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. In addition, the City of Gongju proposed establishing student exchanges between our two cities.

Recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju to participate in an event for their sister cities to exchange ideas. This event takes place from September 27 to September 30, 2019. This visit will also officially commemorate our Sister City relationship with Gongju.

The delegation consisting of Mayor Arreguin, Councilmember Robinson (Berkeley's first Korean American Councilmember) and a staff member will allow our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange.

Under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S., Attachment 1), authorized activities include the following:

- Communicating with representatives of local, regional, state and national government on City policy positions; and
- Participating in local, regional, state and national organizations of cities whose activities affect the city's interest.

While this trip aligns with the description of these activities to enable communication and collaboration with different governmental entities, the Resolution does not explicitly mention communicating or visiting "international" governments as a category eligible for reimbursement. However, the Policy does state that "*expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure.*" This item seeks Council approval for reimbursement of travel expenses to Gongju, South Korea under this specific provision.

Similar to ongoing work communicating with regional, state and national officials, international exchange and cooperation is beneficial for the City of Berkeley by educating foreign governments about City of Berkeley policies and programs and promoting greater cultural awareness and diplomacy which enhances relations between respective countries. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

With Gongju being our newest Sister City, the City of Berkeley should send a delegation at the invitation of the City of Gongju to officially commemorate our Sister City relationship. This goodwill visit will strengthen the partnership between our two cities and our ties to our local Korean-American community.

FINANCIAL IMPLICATIONS

Up to \$6,000 from Mayor Arreguin and Councilmember Robinson's discretionary Council Office Budgets

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguin	510-981-7100
Councilmember Rigel Robinson	510-981-7170

Attachments:

- 1: Resolution
- 2: Council Expense Reimbursement Policy, Resolution No. 67,992-N.S.
- 3: February 27, 2018 Consent Calendar Report "Establishment of a Sister City Relationship with Gongju, Republic of Korea"

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

APPROVING THE REIMBURSEMENT OF EXPENSES RELATING TO TRAVEL TO
BERKELEY'S SISTER CITY, GONGJU, REPUBLIC OF KOREA

WHEREAS, Berkeley currently has 17 Sister City relationships throughout the world. The first establishment of a Sister City was in 1967 with Sakai, Japan; and

WHEREAS, on February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, in the South Chungcheong Province of the Republic of Korea; and

WHEREAS, the City Council established a Sister City relationship with the City of Gongju in recognition of the Korean-American community in Berkeley, and to provide new opportunities to experience Korean culture and share ideas that can mutually benefit our two cities; and

WHEREAS, given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will; and

WHEREAS, the Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival; and

WHEREAS, recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju where they will be hosting an event for their sister cities to exchange ideas. This event takes place from September 27 to September 30, 2019; and

WHEREAS, the delegation consisting of Mayor Arreguin, Councilmember Robinson (Berkeley's first Korean American Councilmember) and a staff member will allow our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange; and

WHEREAS, the Council Expense Reimbursement Policy, approved under Resolution No. 67,992-N.S., allows for communicating with representatives of local, regional, state and national government on City policy positions, and participating in local, regional, state and national organizations of cities whose activities affect the city's interest; and

WHEREAS, while this does not include international visits, the Policy does allow the City Council to approve expense reimbursements if it meets an articulated municipal purpose; and

WHEREAS, since 1967, Berkeley has established Sister City relationships with foreign cities to promote international communication and cooperation, promote cultural learning and exchange and to enable Berkeley to learn from the work of sister cities throughout the world; and

WHEREAS, similar to ongoing work communicating with regional, state and national officials, international exchange and cooperation is beneficial for the City of Berkeley by educating foreign governments about City of Berkeley policies and programs and promoting greater cultural awareness and diplomacy which enhances relations between respective countries; and

WHEREAS, in order to send a goodwill delegation to Gongju Korea, associated costs would need to be reimbursed, consistent with city policy.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby authorizes the reimbursement of expenses of up to \$6,000 from Mayor Arreguin and Councilmember Robinson's discretionary Council Office Budgets for the purpose of traveling to Berkeley's Sister City, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations and to participate in the 65th Annual Baekje Cultural Festival.

RESOLUTION NO. 67,992–N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412–N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, on September 10, 2103, the City Council rescinded Resolution No. 63,412–N.S. and replaced it with Resolution No. 66,295–N.S., which revised the expenditure and reimbursement policy required by state law.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 66,295–N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS

I. City Expenditures for Mayor and Council

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

A. Authorized Activities.

Travel, meals and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. Most frequently, prior approval by the City Council is given in items to authorize relinquishment of Council office budget fund to general fund and grant of such funds for charitable events, which would be unauthorized expenses if not pre-approved by Council. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, www.dgs.ca.gov/travel¹, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for airfare must not exceed 110% of either the state DGS rates or the Federal rates published by the U.S. General Services Administration (GSA) rates, www.gsa.gov², whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.

¹ California Department of General Services Statewide Travel Program (DGS): www.dgs.ca.gov/travel

² U.S. General Services Administration (GSA): www.gsa.gov

4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services (DGS) Statewide Travel Program available through the League of California Cities shall be considered the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for car rental must not exceed 110% of either the state DGS rates or the Federal GSA rates, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.
6. **Taxis/Ride Shares/Shuttles.** Taxis, ride shares, or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the Council member at the time of booking. If lodging at the group rate is not available, or if travel is not in connection with a conference, rates that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for lodging must not exceed 120% of the state DGS rates or 100% of the Federal rates published by the GSA, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9. "Meals which are served at regular meetings of associations to which the city belongs (i.e. Alameda County Mayors' Conference, league of California Cities, or ABAG) shall be exempt from this policy.
8. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus

- long-distances charges for those calls.
9. **Airport Parking.** Short-term airport parking may not be used for travel exceeding 24-hours.
 10. **Other Travel Related Expenses.** Reasonable baggage fees given the duration of the travel will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
 11. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. In accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds, the City may reimburse such purchases.

D. Cash Advance Policy for Airfare and Hotel Only (per A.R. 3.9)

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity;
3. The benefit to the residents of the City;
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

E. Expense Report Content and Submission Deadline

1. A statement of expense must be completed, signed and submitted to the City Auditor for review and forwarded to the Finance Department for payment. The statement of expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their statement of expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Itemized restaurant receipts, including number of individuals served, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

F. Audits of Expense Reports

All expenses are subject to verification by the City Auditor of compliance with this policy.

G. Reports

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

H. Compliance with Laws

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

I. Violation of This Policy

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

The foregoing Resolution was adopted by the Berkeley City Council on May 30, 2017 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 
Mark Numalville, City Clerk

Councilmember Office Budget Relinquishment and Grant Policy

Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose:

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

Recipient	Purpose
The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)	Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
BUSD and other public agencies operating in Berkeley	Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).	City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed.
Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits)	To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.



Peace and Justice Commission

CONSENT CALENDAR
February 27, 2018

To: Honorable Mayor and Members of the City Council
 From: Peace and Justice Commission
 Submitted by: Alex Mabanta, Chairperson, Peace and Justice Commission
 Subject: Establishment of a Sister City Relationship with Gongju, Republic of Korea

RECOMMENDATION

Adopt a Resolution establishing a sister city relationship with the municipality of Gongju in the South Chungcheong Province of the Republic of Korea.

SUMMARY

The Peace and Justice Commission is tasked with recommending the establishments of new Sister Cities. Gongju, Korea, a university town with a similar population size to Berkeley, has approached Berkeley with the request of becoming a Sister City. Certain criteria must be met to become a Sister City, which Gongju meets.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 56,069-N.S., the City of Berkeley has an established criteria for the establishment of a Sister City relationship. Below is a list of what the proposal must require:

- A) A description of the proposed sister city, township, or community; and
- B) A list of similarities between Berkeley and the proposed sister community;
- C) An explanation of why this particular sister city should be selected by showing how it fits the below listed criteria.

There are seven criteria points that must be met:

- 1) The Sister City relationship should benefit the human rights, health, safety, culture, and education of the citizens of Berkeley; and
- 2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship; and

- 3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District; and
- 4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; and
- 5) It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship; and
- 6) There should be no direct nor indirect costs to the City of Berkeley; and
- 7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City.

BACKGROUND

Berkeley currently has 16 Sister City relationships throughout the world, including two with Native American tribes. There are no Sister Cities in Korea. The first establishment of a Sister City was in 1967 with Sakai, Japan, and latest took place in 2002, with Palma Soriano, Cuba.

The City of Gongju has sent two delegations to the City of Berkeley over the past several months to talk about setting up a Sister City relationship. The Korean-American Community Center of San Francisco & Bay Area has also been in communication with the Mayor's office in both Berkeley and Gongju on the creation of such a relationship.

A) Description of Gongju

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and Tomb of King Muryeong, which were designated as a UNESCO World Cultural Heritage site in 2015. The City of Berkeley does not have any Sister Cities in South Korea.

B) List of similarities between Berkeley and Gongju

- 1) Similar population: Gongju had a population of 116,870 in 2013; Berkeley was 112,580 in 2010.
- 2) University town: Approximately 30% of the population are students.
- 3) Cultural preservation: Gongju is home to historic buildings which are central to its identity.
- 4) Arts/Education: There are many schools and museums located within the city.

C) List of criteria**1) The Sister City relationship should benefit the human rights, health, safety, culture, and education of the citizens of Berkeley**

There currently is no Sister City located in Korea. Establishing one would provide new opportunities to experience Korean culture and share ideas that can mutually benefit our cities on a variety of fronts.

2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship

The proposal would proposal calls for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. There are also several student exchange programs which are described below.

3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District

Part of the proposal includes a youth homestay and culture which will involve 10 middle and high school students traveling to Gongju to learn about Korean culture, and a language training program.

4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship

The Korean American Community Center of San Francisco & Bay Area has met with the Mayor's office to discuss their involvement in maintaining a Sister City Association.

5) It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship

Twice this year, a delegation from Gongju visited Berkeley to discuss setting up a relationship and have expressed their commitment to sustaining it.

6) There should be no direct nor indirect costs to the City of Berkeley

The Korean American Community Center will provide funding for any related expenses.

7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City

Berkeley has a large Korean-American community, and establishing a Sister City with a city in Korea would be beneficial to promoting their culture. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

M/S/C Bohn/Agrawal

Ayes: Agrawal, Bohn, Gorrocino, Hariri, Lippman, Meola, Mabanta, Maran, Meola, Watson

Abstain: None

Absent: Marchesini, Orozco, Rodriguez

ENVIRONMENTAL SUSTAINABILITY

No environmental effects.

RATIONALE FOR RECOMMENDATION

Establishing a new Sister City, the first in 15 years, would continue Berkeley's legacy of being an international city.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

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

CONTACT PERSON

Shallon Allen, Secretary, Peace and Justice Commission, 510-981-7071

Attachments:

1: Resolution

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

ESTABLISHING A SISTER CITY RELATIONSHIP WITH THE MUNICIPALITY OF GONGJU IN THE SOUTH CHUNGCHEONG PROVINCE OF THE REPUBLIC OF KOREA

WHEREAS, the Peace and Justice Commission has been charged by the Berkeley City Council with reviewing proposals for new Sister City relationships; and

WHEREAS, the Korean-American Community Center of San Francisco & Bay Area has presented a proposal for a Sister City relationship with the Municipality of Gongju in the South Chungcheong Province of the Republic of Korea; and

WHEREAS, Gongju is an educational hub and University town, with an emphasis on culture and historic preservation, like Berkeley; and

WHEREAS, the Peace and Justice Commission has concluded that the proposal meets the City's criteria for establishing a Sister City, namely:

1. The Sister City relationship should benefit the human rights, health, safety, culture and education of the citizens of Berkeley; and
2. New opportunities for exchange programs, cultural enrichment, or curriculum enhancement should result from the relationship; and
3. From these new opportunities there should accrue direct benefits to the students of the Berkeley Unified School District; and
4. It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; and
5. It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship; and
6. There should be no direct or indirect costs to the City of Berkeley; and
7. The Sister City relationship should increase the harmony in Berkeley and be in the best interest of the City; and

WHEREAS, officials of the Municipality of Gongju have expressed their own desire for a Sister City relationship with Berkeley.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the establishment of a Sister City relationship with the Municipality of Gongju in the South Chungcheong Province of the Republic of Korea.

ESTABLISHING THE CRITERIA FOR THE SELECTION OF SISTER CITIES TO THE CITY OF BERKELEY

WHEREAS, on March 5, 1991, the City Council voted to direct the Peace and Justice Commission to develop the criteria for selection of Sister Cities; and

WHEREAS, on July 15, 1991, the subcommittee made a recommendation to the Peace and Justice Commission who approved the recommended criteria;

NOW THEREFORE, BE IT RESOLVED by the City Council that a Sister City proposal include the following: A) A description of the proposed sister city, township, or community; B) a list of similarities between Berkeley and the proposed sister community; C) an explanation of why this particular sister city should be selected by showing how it fits the below listed criteria.

FURTHER RESOLVED that the criteria used by the City Council to select a Sister City include the following: 1) The sister city relationship should benefit the human rights, health, safety, culture and education of the citizens of Berkeley; 2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship. 3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District; 4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; 5) It should be demonstrated that a sufficient number of residents in the proposed sister city are committed to, and capable of, sustaining the relationship; 6) There should be no direct nor indirect costs to the City of Berkeley; and 7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City.

Copies sent 9/17/91

To: Peace and Justice Commission

RESOLUTION

No. 56,069 N.S.

Dated September 10, 1991

Adopted by the Council of the City of Berkeley by the following vote:

Ayes: Councilmembers Chandler, Collignon, Dean, Goldfarb, Shirek, Skinner, Wainwright, Woodworth, and President Hancock.

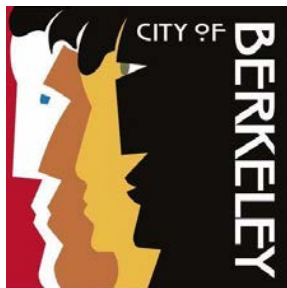
Noes: None.

Abstaining: None.

Absent: None.

LONI HANCOCK
Mayor and President of the Council

Attest MARIE MCKECHNIE
City Clerk and Clerk of the Council



Councilmember Ben Bartlett ^{02a.60}

City of Berkeley, District
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 PHONE: 510-981-7130
 EMAIL: bbartlett@cityofberkeley.info

ACTION CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Waiver of Fees for South Berkeley Plaza and Public Art Pilot Program

RECOMMENDATION

Adopt a resolution waiving the Minor Encroachment Permit application and permit fees and the Miscellaneous Permit to Construct fees required by Local Artists Berkeley for the installation of their streetside vehicle impact-rated raised planters, demolition, and removal of unkempt planter, beautification, and planting by Parks and Recreations and Waterfronts, and one integrated temporary public art site.

BACKGROUND

Local Artists Berkeley (a 501c3 non-profit) and Ohmdrone LLC (Berkeley contractor and co-master tenant at this property address) are cooperatively and currently in the process of redeveloping the dangerous frontage of their property and public right of way.

They have engineered and designed temporary yet secure structures designed to withstand a direct hit comparable to the DOT standards for “Jersey barriers” and “traffic bollards.” These raised planters are designed to help protect the business’s property and pedestrians from recent and frequent vehicle collisions that have fallen trees and totaled local residents parked vehicles while providing a more pleasing streetscape. Local Artists Berkeley will be co-drafting a call for art for the planters: painted or tiled with murals to add an artistic element to the project and increase the general beauty of the district.

Local Artists Berkeley will also be installing a temporary sculpture site integrated into this design, removal of a disheveled P&R&W planter, and creating a “micro plaza” that may allow for extended cafe seating for “Rasa Cafe”, and eventually “Smoke Berkeley” after the AUP is completed.

Because they are being constructed on city sidewalks, the planters and art site require a minor encroachment permit and a miscellaneous permit to construct. The Local Artists Berkeley and Ohmdrone LLC team are being assessed a \$454 application fee and a \$1,228 permit fee for the minor encroachment permit and a \$339.10 fee for the miscellaneous permit to construct, for a total between both projects of \$2021.10.

RATIONALE FOR RECOMMENDATION

The Local Artists Berkeley and Ohmdrone LLC team have requested that the city council waive these fees in order to ensure that the beautification and transportation safety project is financially viable. They are each using their own funds to design and build the “micro-plaza”, and are seeking the City’s support in removing this financial barrier. In reducing the impact of the disheveled planter on pedestrian foot traffic, increasing safety to property and pedestrians at this dangerous intersection, and providing beautification through public art, these planters and “micro plaza” provide a broad public benefit. The Council should , therefore, grant this waiver.

ENVIRONMENTAL SUSTAINABILITY

Consistent with the City’s environmental goals.

FISCAL IMPACTS

reduction in revenue to the Public Works Department by \$2,021.10

CONTACT PERSON

Councilmember Ben Bartlett:
James Chang

510-981-7130
jchang@cityofberkeley.info

FEE WAIVER FOR SOUTH BERKELEY PLAZA AND PUBLIC ART PILOT PROGRAM

WHEREAS, Local Artists Berkeley and Ohmdrone LLC are currently in the process of redeveloping the dangerous frontage of their property and public right of way.

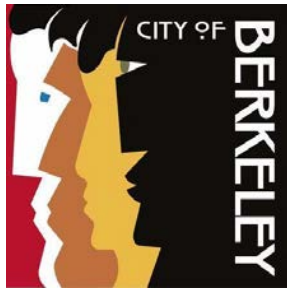
WHEREAS, Local Artists Berkeley will remove a disheveled P&R&W planter and create a “micro plaza” that may extend cafe seating for “Rasa Cafe” and eventually “Smoke Berkeley” after the AUP is completed. They have engineered and designed temporary and secure structures that can withstand a direct hit comparable to the DOT standards for “Jersey barriers” and “traffic bollards.”

WHEREAS, Local Artists Berkeley will also be installing a temporary sculpture site integrated into the design, which will be constructed on city sidewalks. A minor encroachment permit and a miscellaneous permit is required.

WHEREAS, Local Artists Berkeley and Ohmdrone LLC team are being assessed a total of \$2021.10: \$454 for the application fee, \$1,228 permit fee for minor encroachment permit, and a \$339.10 fee for the miscellaneous permit to construct.

WHEREAS, the Local Artists Berkeley and Ohmdrone LLC team requested the city council to waive these fees to ensure the beautification and transportation safety project to be financially viable. They are using their own funds to design and build the “micro-plaza” and reduce the impact of disheveled planter on pedestrian foot traffic.

THEREFORE BE IT RESOLVED, that the City of Berkeley hereby waive the Minor Encroachment Permit application and permit fees and the Miscellaneous Permit to Construct fees required by Local Artists Berkeley for the South Berkeley Plaza and Public Art Pilot Program.



Councilmember Ben Bartlett 02a.61

City of Berkeley, District
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CONSENT CALENDAR
 September 10, 2019

To: The Honorable Mayor & Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Negotiations to purchase People's Bazaar

RECOMMENDATION

That the City Council enter into negotiations to purchase People's Bazaar for the purposes of using it as a site for the African American Holistic Resource Center and affordable housing.

BACKGROUND

African American Holistic Resource Center

Members from the African American/Black Professional & Community Network (AABPCN) and Berkeley NAACP (BNAACP) have been advocating and leading efforts — in the city for the past 8 years — for the creation of the African American Holistic Resource Center (AAHRC). Members of the AABPCN shared the vision for the AAHRC and began gathering information from the community via focus groups, town hall meetings, small group discussions, and formal presentations to several Berkeley Commissions, the Berkeley City Council, and other stakeholder groups.

The 2016 City of Berkeley Community Health Commission report strongly recommends that the City of Berkeley “take immediate action steps towards the development and support of the African American Holistic Resource Center in South Berkeley”¹. The Peace and Justice Commission also submitted a letter of support to the City Council. Following the commission reports and community advocacy, councilmembers responded with overwhelming support for the development of the AAHRC, and they allocated funding for a feasibility study, as well as other required activities needed for the establishment of the facility.

The City Manager supported the AAHRC project by adding the African American Holistic Resource Center in the City of Berkeley's Strategic Work Plan; the AAHRC is also included in the Mayor's and the District 3 Councilmember's work plans. In February of 2018, the Department of Health, Housing, and Community Services provided funding to start the AAHRC feasibility study and signed a contract with a consultant to complete the AAHRC feasibility study.

¹ Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

Affordable Housing and Homelessness Population Rising

The homeless population has been steadily increasing in Berkeley over the last decade: from about 680 in 2009 to around 972 in 2017 before finally reaching 1,108 homeless people in 2019.² The number of homeless people has been growing disproportionately since 2006, with African Americans making up 73% of the homeless population in Berkeley, while only representing 10% of the total population. In addition, disability is the leading cause and biggest impediment to escaping homelessness because people with a disability are 733% times more likely to remain homeless.³ In response to this, and the overwhelming amount of residents that have been displaced outside of Berkeley due to growing gentrification in the Bay Area, the City of Berkeley created a community planning process with the Adeline Corridor in 2015. This included the construction of a number of affordable housing and temporary housing spaces. In 2016, Alameda County voters approved Measure A1 which authorized \$580 million in bond funds for affordable housing (of which more than \$15 million was specifically set aside for projects in Berkeley).

Within weeks of Mayor Arreguin taking office, the Mayor worked with the City Manager and City Council to activate the Emergency Operations Center. The city was able to immediately double the number of shelter beds and warming centers available, providing life-saving shelter to hundreds of homeless individuals. The City kept this shelter in operation until June 2017.

In June 2017, the Council unanimously approved the prioritization of the Berkeley Way project, led by BRIDGE Housing and Berkeley Food and Housing Project, in downtown Berkeley. This was funded by measures O and P which were passed in November of 2018, to address the housing crisis in Berkeley. This is expected to be completed by 2022. The development will consist of 142 permanent affordable housing units, along with emergency shelter and transitional housing for homeless veterans.⁴

In 2018, the city opened its first permanent Berkeley Emergency Storm Shelter (BESS) in the newly renovated basement of the Veterans' Memorial building. The venue has space for 65 people, offering showers, laundry and storage services for people staying there as well as walk-ins. Berkeley also opened an inclement weather shelter in the lobby of the Old City Hall for up to 40 guests in December 2018.⁵

On February 28, 2019, the Berkeley City Council amended a municipal code to prevent RVs from parking on city streets from 2 a.m. to 5 a.m. The plan was to create a permitting system for RV's, but the city has yet to find a space to implement it. This

² Larson, Pamela. 2017. "Berkeley's homeless population nears 1,000 during 'homeless shelter crisis'." *The Daily Californian*. May 29. Accessed Aug. 6, 2019. <https://www.dailycal.org/2017/05/29/berkeleys-homeless-population-nears-1000-homeless-shelter-crisis/>.

³ Larson, Pamela. 2017. "Berkeley's homeless population nears 1,000 during 'homeless shelter crisis'." *The Daily Californian*. May 29. Accessed Aug. 6, 2019. <https://www.dailycal.org/2017/05/29/berkeleys-homeless-population-nears-1000-homeless-shelter-crisis/>.

⁴ BRIDGE Housing Corporation. 2019. *Bridge Housing*. Strategic Plan, Berkeley: BRIDGE Housing Corporation. <https://bridgehousing.com/wp-content/uploads/2019/04/2019-23-Strategic-Plan-1.pdf>.

⁵ 2019. "HOMELESSNESS." *Mayor Jesse Arreguin*. Accessed Aug. 1, 2019. <https://www.jessearreguin.com/homelessness>.

policy and the delay in creating a permitting policy have only further displaced Berkeley residents and offset the progress Berkeley has made in addressing homelessness and displacement.

CURRENT SITUATION

In the Adeline Corridor draft plan, the City of Berkeley aspires to convert many of the area surrounding Adeline way into affordable housing, hoping that at least 50% of the housing projects will be affordable. Some of the buildings around that area are publicly owned, but much of it is privately owned. In order to ensure that the goal is met in maximizing affordable housing, the city should obtain more publicly owned land. People's Bazaar is planning on selling their property soon, which includes a building that is 5000 sq ft and a backyard area. This location was already considered a potential location for the AAHRC in their feasibility study conducted in 2018. This gives an opportunity for the city to address the affordable housing issue and secure a location for the AAHRC. Therefore, it is in the City's best interest to purchase this property.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Affordable Housing and Homelessness

In 2019, general fund contributions have totaled \$6.5 million for services alone, and the City receives an additional \$9.8 million in State, County, and Federal funding as well. To help guide these and future investments, on March 12, 2019, Berkeley became the first jurisdiction in Alameda County to adopt the 2018 Strategic Update to the countywide EveryOne Home Plan to End Homelessness. On February 26, 2019, City staff delivered a comprehensive analysis and cost estimate to end homelessness in Berkeley with the 1000 Person Plan.

Over the past year, the mayor's office has been working on the 1,000 Person Plan. The goal is to work with Berkeley's regional partners to build 8,500 affordable units throughout Alameda County by 2023.⁶ Berkeley also plans to leverage Measure A1 (paid for by all county residents) and state funds to build more tiny home villages, micro units, and other transitional housing until permanent affordable housing is built. With the creation of the Adeline Corridor Plan, Berkeley projects that a total of 1,450 new housing units could be built in the corridor over the next 20 years. At least half of the total 725 units is being built specifically as affordable units for very low, low, and moderate income households. A large part of this plan will be the Ashby Bart parking lot.

Berkeley has created policies to incentivise new housing projects to include affordable housing units in their plans. For example, Berkeley implemented the State's Density Bonus law, which allows residential developments to be built at a higher density than what is currently allowed under local zoning, if the project includes affordable units for low income households. Currently Berkeley requires payment of \$37,962 per new housing unit, unless 20% of a residential housing project is reserved for affordable housing. While many projects may choose to pay this fee, the State Density Bonus allows projects that include at least 10% Low-Income or 5% Very Low-Income units to build bigger projects than would otherwise be allowed.

⁶ 2019. "HOMELESSNESS." *Mayor Jesse Arreguin* . Accessed Aug. 1, 2019. <https://www.jessearreguin.com/homelessness>

In addition to the State Density Bonus, the Adeline Corridor Plan proposes to increase the share of on-site affordable units by offering a targeted on-site affordable housing incentive program. The program will offer additional density increases and other land use concessions in exchange for a significant increase in the share of affordable units provided in a project. This program will allow density bonuses of up to 100% in exchange for up to 50% affordable housing. There will be different tiers measuring the level of affordability, and, as the tier increases, so does the density bonus.

African American Holistic Resource Center

The plan is to have the AAHRC be a state-of-the-art, green building between 5,000-6,000 square feet and to include the following features:

- Ecologically responsible building with plenty of natural light
- Two classrooms
- Multipurpose room with dividing wall (seating for 250)
- Dance studio
- Library (will have spaces for the South Berkeley Legacy Project and a children's section)
- Children's playroom/game room
- Computer lab
- Classroom kitchen
- Medical screening room
- Two private therapy rooms
- Lockers in hallway
- Utility room
- Four bathrooms (one with a shower)
- Reception/waiting area
- Built-in projectors and AV equipment in classrooms, multipurpose room and library
- Facility completely ADA compliant

There are two potential blueprints developed to support plans for the AAHRC. The first blueprint houses everything on one main floor, and the second blueprint breaks up the design into two floors.⁷

People's Bazaar, was considered as a potential location in the AAHRC feasibility study because it is 5000 sq ft and includes a backyard, and it is conveniently located near buses and BART. The building would be renovated, making it the most cost effective option. However, People's Bazaar would also require seismic upgrades. If the building were to be demolished, design flexibility would be limited, and installation of new mechanical, plumbing, and electrical systems would be too expensive.

RATIONALE FOR RECOMMENDATION

Although Berkeley aspires to have 50% of the new housing units offer affordable housing, under the current policies, this may not happen. Even with the incentives, this may not be economically feasible and the city estimates that only about 12% of the new

⁷ Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

housing projects, over the next 20 years, will offer affordable housing. Homelessness has increased in Berkeley by about 13% since 2017. Therefore, by 2040 it could potentially increase at a faster rate than the new housing projects are being built, if it is not addressed properly.

Most land along the Adeline Corridor is privately owned; therefore, the city can only incentivize, but not guarantee, that 50% of the projects include affordable housing. On the other hand, with publicly-owned land, the City and its partners have more direct development control over the land. These sites can then be reserved for development of 100% affordable buildings or mixed-income projects, in which more than 50% of the units are affordable. Ultimately, the best way for Berkeley to increase the number of affordable housing units available is to obtain more privately owned land. Thus purchasing this property is the best way to extend and better support the existing plans and programs.

Funds to purchase new buildings for affordable housing is supported by Measure O and P. In addition, acquiring this space complies with the plans and goals of the 1000 Man Plan and Berkeley BRIDGE, which plans to acquire or develop 9000 affordable and mixed use units by 2023.⁸ Currently in Berkeley, the amount of affordable housing available is less than 10%; therefore, a lot of work has to be done to address this inadequacy as homelessness increases.

African American Holistic Resource Center

The African American/Black community in Berkeley has the highest rate of morbidity and mortality of any racial/ethnic group. According to the City of Berkeley's Health Status Summary Report 2018, "African Americans are 2.3 times more likely to die in a given year from any condition compared to Whites". The report further indicates that "The risk of an African American mother having a low-birth weight (LBW) rate baby is 2.5 times higher than the risk for White mothers".⁹

In comparing 2013 and 2018 COB Health Status Summary Reports, the rate of poverty among African American families has quadrupled. During a five-year period the poverty rate for African Americans has gone from two times more likely to live in poverty to eight times more likely to live in poverty in the City of Berkeley. It is well documented that poverty is linked to poor health outcomes and a shorter life expectancy. Unfortunately even without the role of poverty, middle class and affluent Black people's health is worse compared to their white counterparts in Berkeley.

Preliminary research of African American/Black Resource Centers nationwide found that most centers are located on college campuses or affiliated with colleges and universities. The few African American/Black Resource Centers that are not located on or in partnership with a college or university are membership-based organizations. Having a resource center in the City of Berkeley accessible to all of the black community is vital because the feasibility study found that various inequities disproportionately impact the health, wealth, education, and safety of African Americans across their lifespan. These inequalities include, birth outcomes, morbidity and mortality

⁸ BRIDGE Housing Corporation . 2019. *Bridge Housing* . Strategic Plan, Berkeley: BRIDGE Housing Corporation

⁹ Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

rates, which indicates that they are not thriving in the City of Berkeley. Culturally appropriate integrated services and community-defined practices that are embedded in the creation of a holistic system of care must be developed, or the Black population will continue to decline.

ENVIRONMENTAL SUSTAINABILITY

The reconstruction of the People’s Bazaar building will meet the requirements of the California State Green Building Code (CALGreen). This will ensure that the building maximizes savings through the efficient use of energy and water and limit construction impacts on the natural environment and the surrounding community.

If contaminants are found on the property during reconstruction, then a mitigation process must be determined to ensure that the construction team and building occupants are not affected. Also, according to Proposition 65, it is mandatory to warn individuals who live or work in or near a contaminated property or land about the risks associated with carcinogens and/or other health-related risks. In addition, the property must pass the Alameda County’s Environmental Health Agency’s regulations for land use. The reconstruction of this building will comply with all these standards.

FISCAL IMPACTS

Purchasing the People’s Bazaar has a number of different fiscal impacts. First, there is an estimated cost of up to \$500,000 to retrofit an older building to meet new upgraded building codes and regulations in California.¹⁰ Second, the current estimated costs to build the AAHRC facility range from \$300 per square foot to \$380 per square foot. A projected space of 5,000-5,700 square feet to be used to develop the building will have a construction budget that ranges between approximately \$1.6 million to \$2 million. Lastly, the estimated cost to build affordable housing units above the AAHRC is about \$600,000 per unit.¹¹

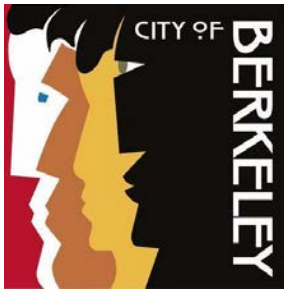
Other costs associated with permits and meeting regulation standards may apply.

CONTACT PERSON

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¹⁰ Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

¹¹ Cortright, Joe. 2017. "Why Is 'Affordable' Housing So Expensive to Build?" *City Lab*. 19 Oct. Accessed Aug. 19, 2019. <https://www.citylab.com/equity/2017/10/why-is-affordable-housing-so-expensive-to-build/543399/>



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CONSENT CALENDAR
 September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Budget Referral: Funding the Pavement of Derby Street Between Telegraph Ave and Shattuck Ave

RECOMMENDATION

That the Council directly refers the paving of Derby St. between Shattuck Ave and Telegraph Ave to the City Manager in order to repair the deteriorating street that serves as a part of major commuter corridor in which both drivers and buses use in their daily commute.

CURRENT SITUATION

Derby Street is a major commuter corridor that serves both drivers and AC Transit. However, the street is in horrible shape and is not currently scheduled to be paved, which puts both drivers and pedestrians at risk. In order to maintain traffic and street safety, the Council should refer to the City Manager its proposal for the budget process to fund the construction of the more effective pedestrian crossing signal.

BACKGROUND

A 2012 report from the City Auditor concluded that the average Berkeley street is in “at-risk condition”¹, which not only threatens the safety of drivers and AC Transit buses but also the cost of street rehabilitation. A poll conducted by Berkeleyside found that Derby Street was one of the worst streets in Berkeley.² Many drivers, to avoid potholes, drive down the middle of Derby Street, which puts other drivers, cyclists, and pedestrians at risk. It is crucial to take the necessary steps in improving street pavement conditions in order to maintain traffic conditions and safety.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted and renewed the 5-Year Street Rehabilitation Plan, which intends to sustain and reconstruct City streets. This policy is determined to “maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit, and pedestrians.”³

The Street Rehabilitation Plan strives to “identify and implement integrated solutions that address the multiple demands on the street infrastructure that are designed for

¹ <https://www.berkeleyside.com/2011/11/16/average-berkeley-street-is-in-at-risk-condition-many-are-worse>

² <https://www.berkeleyside.com/2018/12/12/the-10-worst-streets-in-berkeley-with-one-very-clear-winner>

³ https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx

safety, environmentally sustainable and economically efficient over the long run.”⁴ Its outline for the basic criteria for street rehabilitation includes street condition, cost-effectiveness amount of traffic, AC Transit bus or bicycle route, and coordination with both other City programs and utility company work.⁵ If the City is dedicated to creating a community with better traffic safety and safer street conditions, the Council should direct the proposal for street pavement at Derby Street from Telegraph to Shattuck Ave. to the City Manager to ensure its addition to the pavement schedule.

ACTIONS/ALTERNATIVES CONSIDERED

The alternative would be to include this section of Derby Street on next year’s pavement schedule. However, as the street continues to be ignored and deteriorate, the cost of street rehabilitation will increase.

RATIONALE FOR RECOMMENDATION

If the Council is dedicated to maintaining traffic safety in the neighborhoods for all people, they should refer to the pavement of Derby Street to the City Manager. The Council must keep its commitment to ensuring the safety of our drivers and pedestrians by preventing future accidents from occurring through the maintenance of city streets.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Council should refer to the Department of Public Works Transportation Division to create a plan for the paving of the street. The Council should also refer the plan to the City Manager to insure its implementation.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the construction of the crossing signal.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects on the environment. Improved street conditions and slower traffic.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of funding of street rehabilitation for the residents who live in this neighborhood and use this street .

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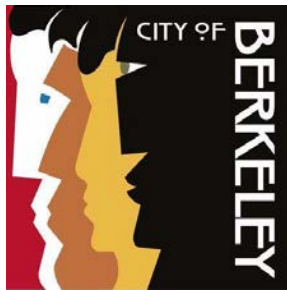
ARTICLES

<https://www.berkeleyside.com/2011/11/16/average-berkeley-street-is-in-at-risk-condition-many-are-worse>

<https://www.berkeleyside.com/2018/12/12/the-10-worst-streets-in-berkeley-with-one-very-clear-winner>

⁴ https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx

⁵ <https://www.cityofberkeley.info/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=48574>



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CONSENT CALENDAR
 September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Budget Referral: Funding Repair of Ground Lights at Sacramento Street and Oregon Street

RECOMMENDATION

That the Council directly refers the repair of the ground lights at the intersection of Sacramento and Oregon Street to the City Manager in order to address inadequate traffic control and stopping, and reduce traffic accidents and further safeguard the community.

CURRENT SITUATION

The intersection at Sacramento Street and Oregon Street only has two ground stop lights that control the flow of traffic. However, the ground lights are not functional and are often ignored by drivers, leading to many close-calls and accidents. In order to cultivate a culture of traffic and pedestrian safety, the Council should refer to the City Manager its proposal for budget process to fund repairs for these malfunctioning and ineffective stop lights.

BACKGROUND

In this district, even with streets with stop lights, cars tend to drive past the speed limit or even ignore the light itself. This not only threatens the safety of drivers, but children and seniors as well. On May 5th, a 69-year-old woman was crossing Sacramento Street when she was struck by a southbound vehicle. The stop light that was posted there was non functional and failed to control the flow of traffic and resulted in a horrible accident.¹ The non-functional stop signs can lead to public safety issues, especially since many children or seniors are not completely aware of their surroundings and do not know when it is okay to cross.

Neighbors also constantly hear the screeching of brakes at the intersection of Sacramento Street and Oregon Street where pedestrians, cyclists, and vehicles cross. The traffic increases significantly during peak commuting hours of the day as well. Because of the absence of a functional stop light, this residential neighborhood, which is

¹ <https://www.berkeleyside.com/2019/05/05/older-female-pedestrian-in-critical-condition-after-berkeley-crash>

composed of families with young children and seniors, find themselves avoiding the unsafe intersection when possible. It is absolutely crucial to take the necessary steps in improving pedestrian safety and traffic conditions at this dangerous intersection by repairing the existing stop light.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted a Complete Streets Policy in 2013, which intends to create and sustain street designs and repairs. This policy is determined to create “comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel”² for all users. This includes pedestrians, persons with disabilities, motorists, bicyclists, users and operators of public transportation, seniors, children, youth, and families.

This Complete Streets Policy, resolves to “provide safe, comfortable, and convenient travel along and across streets.”³ If the City is dedicated to creating a community of traffic safety that protects all pedestrians from auto-related accidents, the Council should direct the proposal to fund the repair of the ground stop lights and investigate the cost of construction of a 4-way stop sign at the intersection of Sacramento Street and Oregon Street to the City Manager to insure its construction.

ACTIONS/ALTERNATIVES CONSIDERED

Alternatives include installing a 4-way stop sign to let oncoming traffic know that the cross street does have a stop sign. However, this will still require additional funding.

RATIONALE FOR RECOMMENDATION

If the Council is truly dedicated to community safety, they should refer the repair of the stop lights at the intersection of Sacramento and Oregon to the City Manager. There have been many auto-related accidents or close-calls throughout the City of Berkeley, especially at the relevant intersection. The Council must maintain their commitment to ensuring the safety of our drivers and pedestrians by preventing future accidents from occurring through the maintenance of city street lights.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Council should refer to the Department of Public Works Transportation Division to create a plan for the installation of a stop sign. The Council should also refer the plan to the City Manager to insure its implementation.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the repair of the stop light.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment. Slower traffic and safer street crossings.

² <https://www.cityofberkeley.info/completestreetspolicy/>

³ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of funding the repair of the stop lights for the residents and children who live among these areas.

CONTACT PERSON

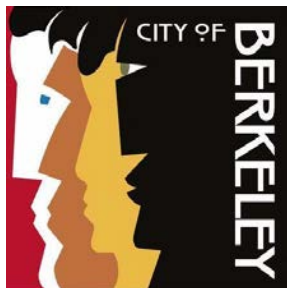
Councilmember Ben Bartlett

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ARTICLES

<https://www.berkeleyside.com/2019/05/05/older-female-pedestrian-in-critical-condition-after-berkeley-crash>

<https://www.berkeleyside.com/2019/05/29/pedestrian-struck-during-crash-in-south-berkeley-police-say-to-avoid-the-area>



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CONSENT CALENDAR

September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Budget Referral: Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street

RECOMMENDATION

That the Council directly refers the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton Street to the City Manager in order to address inadequate traffic control and stopping, reduce traffic accidents, and further safeguard the community.

CURRENT SITUATION

The intersection at Ashby Street and Fulton Street only has two ground stop lights that control the flow of traffic. However, the ground lights are not easily visible and are often ignored by drivers, leading to many close-calls and accidents. In order to cultivate a culture of traffic and pedestrian safety, the Council should refer to the City Manager its proposal for budget process to fund the construction of the more effective pedestrian crossing signal.

BACKGROUND

In this district, even with streets with stop lights, cars tend to exceed the speed limit or even ignore the stoplight itself. This not only threatens the safety of drivers but children and seniors as well. On March 5th, a 73-year-old cyclist was riding south down Fulton Street when he was struck by a westbound vehicle. The stop lights that were posted there were not visible and failed to control the flow of traffic and resulted in a fatal accident.¹ It is crucial to take the necessary steps in improving pedestrian safety and traffic conditions at this dangerous intersection by constructing a more visible pedestrian crossing signal.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted a Complete Streets Policy in 2013, which intends to create and sustain street designs and repairs. This policy is determined to create “comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel”² for all users. This includes pedestrians, persons with disabilities, motorists, bicyclists, users and operators of public transportation, seniors, children, youth, and families.

¹ <https://www.berkeleyside.com/2019/03/02/cyclist-seriously-injured-in-hit-and-run-crash-on-ashby>

² <https://www.cityofberkeley.info/completestreetspolicy/>

This Complete Streets Policy, resolves to “provide safe, comfortable, and convenient travel along and across streets.”³ If the City is dedicated to creating a community of traffic safety that protects all pedestrians from auto-related accidents, the Council should direct the proposal to fund the construction of a pedestrian signal at the intersection of Ashby Street and Fulton Street to the City Manager to insure its construction.

ACTIONS/ALTERNATIVES CONSIDERED

Alternatives include replacing the existing traffic signal with a more visible one or installing the crosswalk LED lights to flash while a pedestrian or cyclist crosses the street. However, this will still require additional funding and possible paving.

RATIONALE FOR RECOMMENDATION

If the Council is dedicated to ensuring safety in the neighborhoods for all people, they should refer to the construction of a pedestrian signal at the intersection of Ashby and Fulton to the City Manager. There have been many auto-related accidents throughout the City of Berkeley, especially at the relevant intersection that can be prevented with further action. The Council must keep their commitment to ensuring the safety of our drivers and pedestrians by preventing future accidents from occurring through the construction of more visible crossing signals.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Council should refer to the Department of Public Works Transportation Division to create a plan for the installation of a crossing sign. The Council should also refer the plan to the City Manager to insure its implementation.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the construction of the crossing signal.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment. Slower traffic and safer street crossings.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of funding the construction of a visible pedestrian crossing signal for the residents who live in this neighborhood.

CONTACT PERSON

Councilmember Ben Bartlett

510-981-7130

ARTICLES

<https://www.berkeleyside.com/2019/03/02/cyclist-seriously-injured-in-hit-and-run-crash-on-ashby>

³https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf



Councilmember Ben Bartlett

02a.65

City of Berkeley, District 3
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
PHONE 510-981-7130
EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Budget Referral: Funding for Pedestrian Crossing Signal at intersection of Shattuck and Prince

RECOMMENDATION

That the Council refer to the City Manager to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.

CURRENT SITUATION

The intersection currently has only an unlit crosswalk in all directions, making crossing during darker hours of the day dangerous for pedestrians, bicyclists, and motorists. This danger can be ameliorated through the installation of pedestrian crossing signals. These signals, consisting of bright flashing lights, will be activated by a button pressed by the pedestrian. This will ensure that the risk of pedestrian-involved accidents will be decreased, but will also enable traffic to flow smoothly when no pedestrians are in the vicinity.

BACKGROUND

This intersection has experienced a number of accidents involving pedestrians and motorists alike in the past, with the latest occurring on June 3, 2019 at 9:20PM. In this incident, a 75-year-old man was crossing Shattuck Avenue when he was struck by a Toyota Highlander. Despite suffering serious injuries, the man survived the accident. Unfortunately, not all pedestrians survive these preventable collisions and thus, it is the responsibility of the City of Berkeley to mitigate the dangers of simply crossing the street at night by installing pedestrian crossing signals.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

On December 11, 2013, the Council adopted a Complete Streets Policy, which aims to create and sustain “comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users.”¹ These users include pedestrians, bicyclists, persons with disabilities, seniors, youth, families, and more.

In the resolution of the policy, it states that “the City of Berkeley expresses its commitment to creating and maintaining Complete Streets that provide safe,

¹ <https://www.cityofberkeley.info/completestreetspolicy/>

comfortable, and convenient travel along and across streets.”² If the City is committed to cultivating a culture of traffic safety that protects pedestrians from auto-related accidents, the Council should fund the installation of street lights at the intersection of MLK and Stuart.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the installation of pedestrian crossing signals.

RATIONALE FOR RECOMMENDATION

This high-traffic intersection is frequently by used by motorists, bicyclists, and pedestrians alike, and thus is at a relatively higher risk of collisions between these groups. Due to a lack of any form of signage or traffic controls, this risk is even higher. Installation of a pedestrian crossing signal will lower this risk.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of installing a pedestrian crossing signal at the intersection of Shattuck and Prince in order to ensure the safety of its citizens.

CONTACT PERSON

Councilmember Ben Bartlett
Brian Gan

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² https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf



Councilmember Ben Bartlett ^{02a.66}

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CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Budget Referral: Funding Streetlight Near South East Corner of Otis Street

RECOMMENDATION

That the Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.

CURRENT SITUATION

Currently, there is no street lighting at the corner of Otis and Ashby Ave. This leaves the area dark and unsafe, which has led to an increase in robberies and accidents near this intersection. The residents of Otis street have petitioned and gathered 40 signatures requesting the installation of a streetlight. As of now, there are no funds available to construct stop signs in these neighborhoods. However, in the past, this area was under consideration for the City of Berkeley Streetlight Repair or Retrofit Program, which would have replaced the old dim streetlights with more energy efficient LED lights. In order to promote a safe environment, the Council should refer to the City Manager to fund a street light at this corner.

BACKGROUND

On April 23, 2019, Lt. David Lindenau found a car with two people sitting in it without license plates. Both were on probation, so the police searched them and their vehicle. The police found burglary tools, heroin, and a taser, along with multiple checkbooks, checks, debit/credit cards, fraudulent identifications, packaging materials, and multiple digital scales.¹ The two suspects were Neddy Castellanos, 44, and Elicia Alvarez, 35. A thorough search of Castellanos and Alvarez found more than 10 instances of identity theft. Castellanos had been previously convicted of identity theft. On May 25, 2019, on Otis and Ashby, a vehicle break-in occurred at 8 a.m.² On July 16, 2019, there was another vehicle break-in near Otis Street and Ashby Street.³ Furthermore, on July 22, 2019, police responded to a vehicle break-in on Russell Street and Otis Street.⁴ These vehicle break-ins point to the need for a streetlight at Otis and Ashby.

¹<https://www.berkeleyside.com/2019/05/29/berkeley-police-man-dragged-in-elmwood-robbery-tesla-camer-a-helps-solve-burglary-series-more>

² <https://www.crimemapping.com/Share/90c11ecaf2e64414b2b1131fa17c864b>

³ <https://www.crimemapping.com/Share/85baa0222d294a3385497f18d44d48ff>

⁴ <https://www.crimemapping.com/Share/776814206a6346f18a471a971c77fa3b>

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted a Complete Streets Policy in 2013, which intends to create and sustain street designs and repairs.

RATIONALE FOR RECOMMENDATION

If the Council is truly dedicated to ensuring safety in the neighborhoods for all people, then they should refer to the budget process to fund the necessary streetlight near the corner of Otis. This could decrease the amount of break-ins and help residents of the neighborhood feel safer. The addition of a streetlight could also decrease accidents at night and ensure the safety of pedestrian crossing at crosswalks.

FISCAL IMPACTS

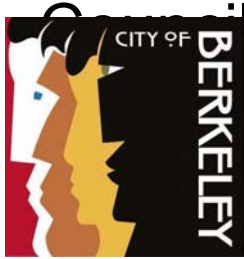
Estimated cost of \$4500 per light plus staff time for an energy efficient solar powered light.

ENVIRONMENTAL SUSTAINABILITY

Berkeley has been transitioning to clean and energy efficient lighting because of their Climate Action Plan, which was initiated in 2013. Thus a new streetlight would run on solar power and contribute to the continued reduction of greenhouse gas emissions in the City of Berkeley.

CONTACT PERSON

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James Chang	510-981-7130
Reequanza McBride	510-981-7130



Member Ben Bartlett

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CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Ben Bartlett and Kate Harrison
Subject: Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street

RECOMMENDATION

Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.

BACKGROUND

On April 21, 2017, a Berkeley teenager biking to school was in a collision with a car at the intersection of Dwight and California and was hospitalized. On September 26, 2017, a different middle schooler biking to school was hit at the same intersection and was hospitalized. In response to these collisions, the City Council allocated \$400,000 in November 2017 towards infrastructure improvements, specifically the installation of traffic lights, HAWK lights, or stop signs.

The intersection at Dwight Way and California Street does not meet the prior municipal requirements for a stop sign. Last year, Councilmembers Harrison, Bartlett, and Droste submitted a referral to change the criteria for stop signs by including elements such as the presence of bike boulevards and to allow a simpler process for requesting stop signs in the future. In March 2019, the Transportation Commission recommended expanded stop sign criteria, but the accompanying staff report has not been completed. Hence, the Council has not yet had the opportunity to approve the new criteria, which would allow the installation of a stop sign at this intersection. Installing a HAWK light or Rectangular Rapid Flash Beacon (RRFB) would not require any changes to the current traffic policy.

On May 8, 2019, volunteers and bicycle advocates with Walk Bike Berkeley hosted a “safe crossing event” at Dwight and California, where they would stop traffic along Dwight Way with whistles, signs, and their own bodies whenever a pedestrian or bicyclist needed to cross. Other volunteers collected data on how the intersection is used between 8:00-9:00 am and tallied 84 adults and 24 children biking, and 12 adults and 4 children walking. Still, more volunteers gathered 58 signatures petitioning the City to make appropriate safety improvements.

The Transportation Department has developed plans for the intersection in the form of an extended median that can facilitate a two-stage crossing but without a stop sign or HAWK light. However, some constituents have expressed concern regarding the effectiveness of this plan, stating that a stop sign or HAWK light at the crosswalk would be more effective in providing

needed safety. Two-stage crossings are useful for pedestrians, but bicyclists move through intersections at a much faster pace and need vehicular traffic to slow or stop in both directions before crossing is safe. As volunteers with Walk Bike Berkeley demonstrated, the intersection experiences far more bicycle traffic than pedestrian and thus the needs of bicyclists are key in all future traffic mitigations.

REVIEW OF EXISTING PLANS AND POLICIES

The 2017 Bicycle Plan is an ambitious plan to turn Berkeley into “a model bicycle-friendly city where cycling is a safe, comfortable, and convenient form of transportation for people of all ages and abilities.” The first goal of the Bike Plan is to achieve zero bicycle-related fatalities by 2025 and zero bicycle-related injuries by 2035.

Dwight Way is considered a major arterial street (see Attachment 3), though it has only two lanes. If we assume a “medium” traffic volume for this arterial, the 2017 Bicycle Plan as seen in Attachment 4 calls for the installation of an RRFB, HAWK light, or traffic light to achieve a low-stress designation (LTS 1). California Street is a bicycle boulevard and a Tier 2 priority project for bicycle improvements. The Plan explicitly calls for the installation of RRFB at the intersection of Dwight and California.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley City Council approved funds over two years ago for significant traffic improvements most appropriate to the 2017 Bicycle Plan and the needs of cyclists, and it is unclear how these directives are being implemented.

RATIONALE FOR RECOMMENDATION

It is in the best interest that City Council understand the process in order to create the safest possible intersection and street for pedestrians and bicyclists with maximum community and policy input.

ENVIRONMENTAL SUSTAINABILITY

Unsafe streets discourage Berkeley residents from walking and biking. Hastening safety improvements will encourage people to reduce the usage of their cars and reduce transportation emissions.

FISCAL IMPACTS

None. \$400,000 has previously been allocated to address this intersection.

CONTACT PERSON

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ATTACHMENTS

- 1: Item 28, May 30th, 2017: “Expedite the construction of Beacon Lights at Dwight Way and California Street to take place at the onset of Phase 1 of the Berkeley Bicycle Plan”
- 2: Item 16, October 31st, 2017: “Budget Referral: Prioritize Installation of Traffic Lights, HAWK Lights, or Stop Signs at the Intersection of Dwight Way and California Street in the 2017 Mid-Year Budget Process”
- 3: City of Berkeley Traffic Engineering Average Total Daily Traffic Volume
- 4: Excerpts from 2017 Berkeley Bicycle Plan



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR

May 30, 2017

To: Honorable Mayor and Members of the City

From: Councilmembers Ben Bartlett and Kate Harrison

SUBJECT: Expedite the construction of Beacon Lights at Dwight Way and California Street to take place on the onset of Phase 1 of the Berkeley Bicycle Plan

RECOMMENDATION

Refer to the Transportation Department to expedite the construction of Beacon Lights at Dwight Way and California Street as part of Phase 1 of the Berkeley Bicycle Plan

FISCAL IMPACTS OF RECOMMENDATION

Cost of improvements to be determined.

ENVIRONMENTAL SUSTAINABILITY

No ecological impact.

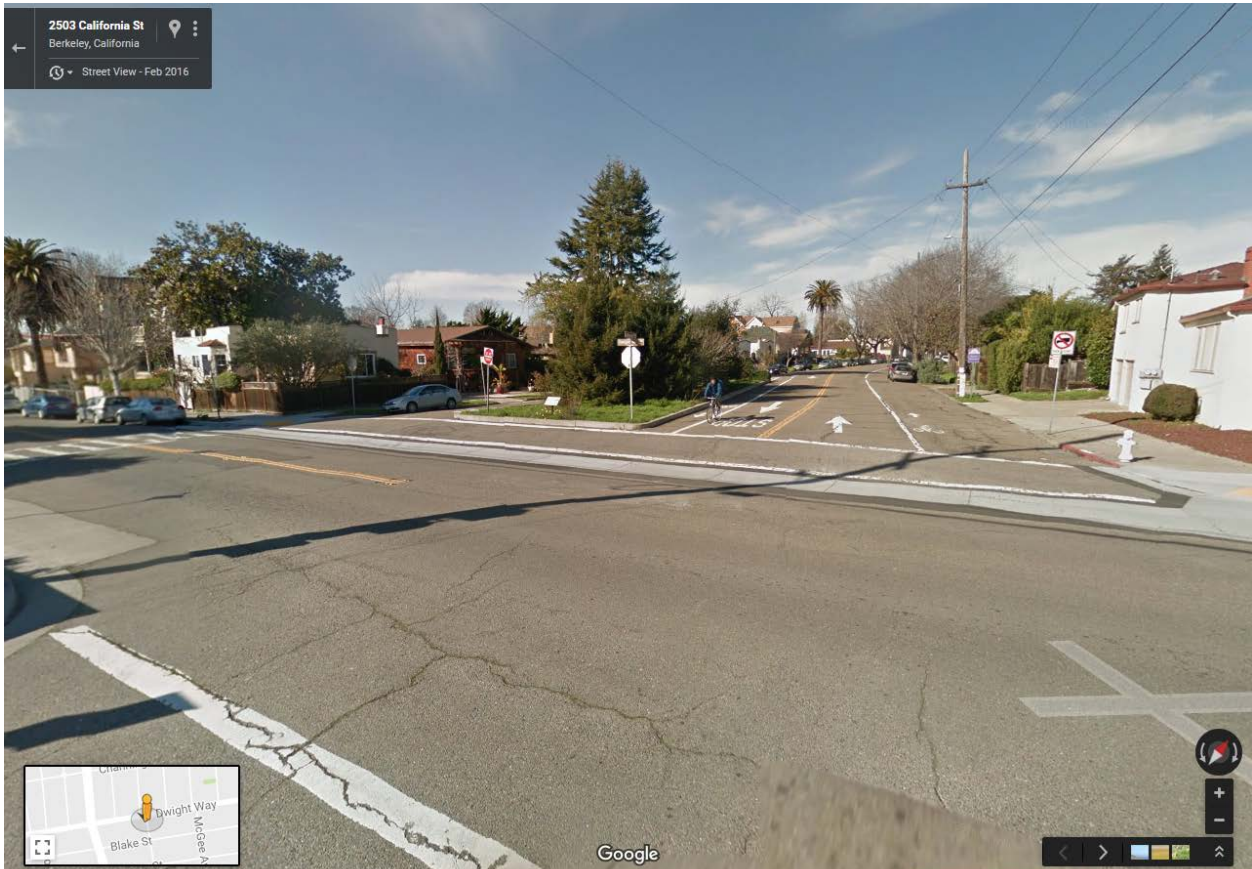
BACKGROUND

On April 21, 2017, a young child riding his bike sustained moderate injuries at this intersection after colliding into a moving car. The incident highlighted the need to improve pedestrian safety at Dwight and California. Numerous senior citizens who live nearby have voiced safety concerns.

California St. is a designated bicycle boulevard, as well as a corridor that many students use to get to two separate schools. Given the high volume of vulnerable traffic and the history of accidents at this intersection, further safety features would be a significant benefit.

California Street routinely carries a high volume of traffic traveling at high speed. Many children ride down California in both directions during rush hour, on their way to school. This beacon light would enable people riding their bicycles down the heavily trafficked bike boulevard on California to more safely cross Dwight Way. This intersection is of particular concern since as one approaches California Street, a bicycle boulevard from

the North, there is no crosswalk at the southbound lane.



CONTACT PERSON:
Councilmember Ben Bartlett

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Kate Harrison
Councilmember District 4

CONSENT CALENDAR
October 31th, 2017

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Kate Harrison, Ben Bartlett and Cheryl Davila
 Subject: Budget Referral: Prioritize Installation of Traffic Lights, HAWK Lights, or Stop Signs at the Intersection of Dwight Way and California Street in the 2017 Mid-Year Budget Process

RECOMMENDATION

1. Refer to the 2017 Mid-year budget process the installation of Traffic Lights, HAWK Lights, or Stop Signs at the intersection of Dwight Way and California Street. If such an installation is approved in the budget process, direct the City Manager and Transportation staff to prioritize and expedite said installation.
2. Request that the stoplights on Dwight at the intersections on either side of the Dwight and California intersection be coordinated.

FISCAL IMPACTS OF RECOMMENDATION

\$10,000-\$400,000 and staff time.

BACKGROUND

On September 16, 2017, the most recent in a series of crashes involving young bicyclists occurred at the intersection of Dwight and California, a bicycle boulevard and route to a nearby middle and elementary school. Due both to its unusual layout and high levels of youth bicycle traffic, this intersection has proven repeatedly to be a danger to young bicyclists.

Prior to installation of either Traffic Lights, HAWK Lights or Stop Signs in this location, a traffic study and public hearing must be held to consider the impacts of the proposed improvements. This item urges staff to prioritize completion of all steps necessary to install the improvements immediately after the budget referral is approved. Further, this item requests that staff coordinate the stoplights at the intersections of Spaulding Ave and Dwight Way and Jefferson Ave and Dwight Way, in order to limit two way traffic at the Dwight and California intersection.

ENVIRONMENTAL SUSTAINABILITY

Consistent with the City's environmental goals by removing disincentives to bicycling.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

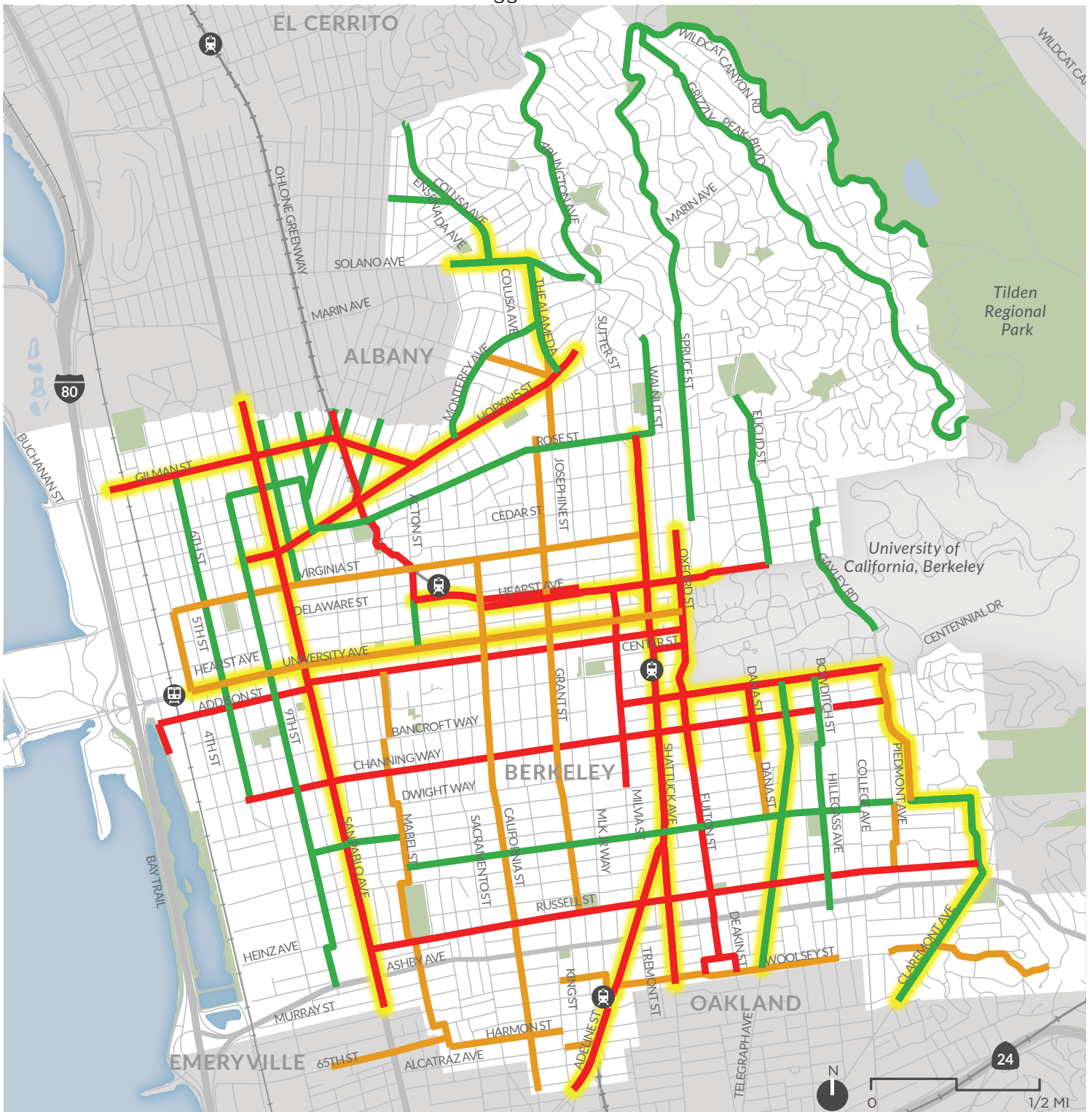


FIGURE ES-6: PROJECT PRIORITIZATION CORRIDORS



Complete Street Corridors shown in yellow are proposed studies, not proposed projects. Class 4 Cycletracks and other bikeways that might impact parking, transit operations or roadway capacity that are recommended as part of Complete Street Corridors will not be implemented without further study, traffic and environmental analysis, public process, and coordination with all affected agencies. For further information, see Section 5.7 of the Berkeley Bicycle Plan.

FINAL PLAN

Table 5-2: Unsignalized Bikeway Crossing Treatment Progression

CROSSING TREATMENT	TRAFFIC VOLUMES						
	VERY LOW	LOW		MEDIUM		HIGH	
	Up to 3 lanes	Up to 3 lanes	4 lanes	Up to 3 lanes	4 or 5 lanes	Up to 3 lanes	4 or 5 lanes
Marked Crossing	LTS 1	LTS 1 or 2	LTS 2	LTS 3	LTS 3	LTS 4	LTS 4
Median Refuge Island ¹	LTS 1	LTS 1	LTS 2	LTS 2	LTS 3	LTS 3	LTS 4
RRFB ^{2, 3}	X	LTS 1	LTS 1	LTS 2	LTS 3	LTS 3	LTS 3
RRFB with median ^{1, 2, 3}	X	LTS 1	LTS 1	LTS 1	LTS 2	LTS 2	LTS 3
Pedestrian Hybrid Beacon (HAWK) ²	X	X	LTS 1	LTS 1	LTS 1	LTS 1	LTS 1
Traffic Signal ²	X	X	X	LTS 1	LTS 1	LTS 1	LTS 1

X No additional benefit

1. Minimum 6-ft wide median

2. Subject to successful warrant analysis

3. 4-Way Stop Signs may be considered as an alternative to RRFBs

LTS refers to Level of Traffic Stress

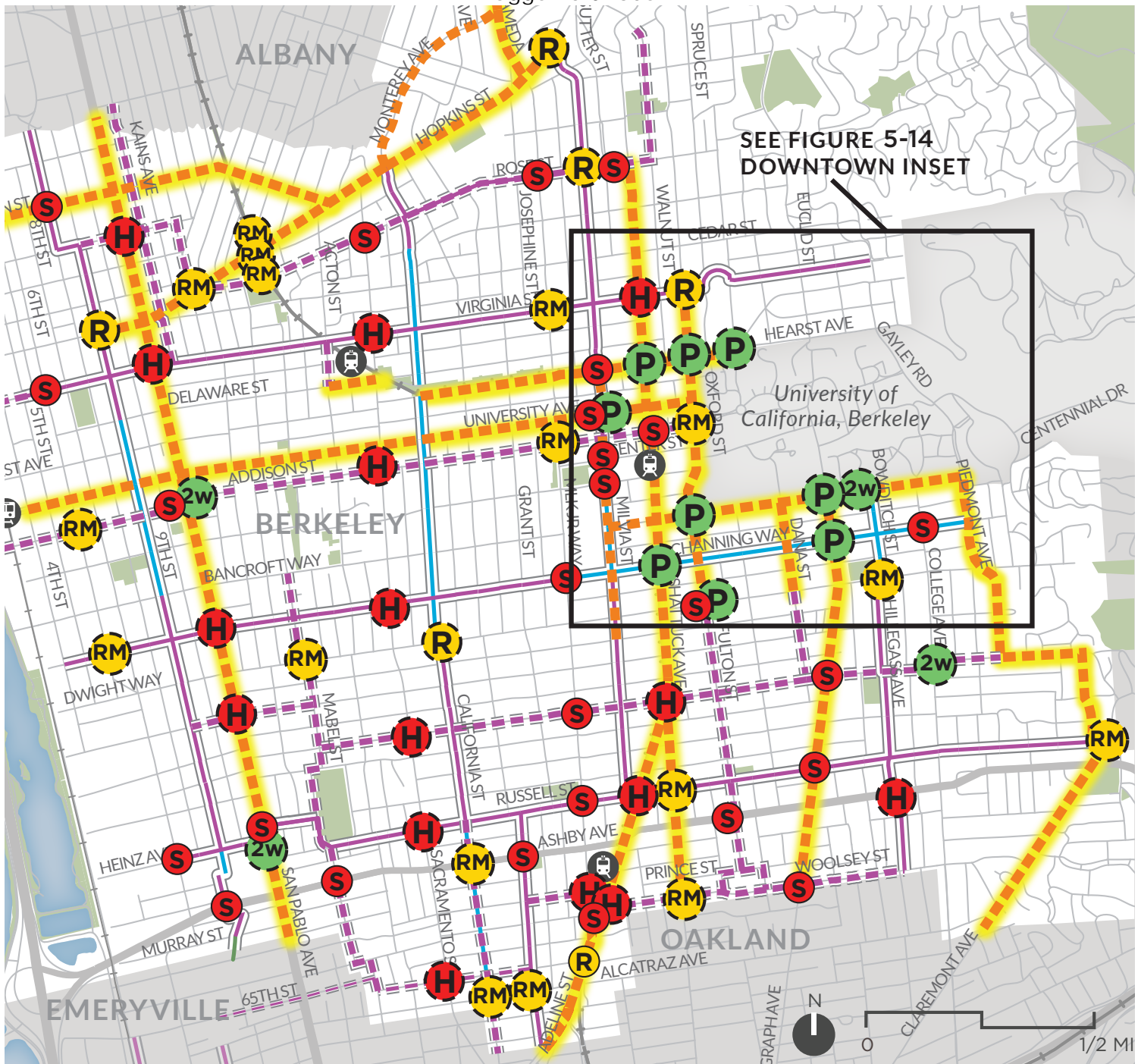


FIGURE 5-13: RECOMMENDED LOW STRESS BIKEWAY INTERSECTION CONTROL IMPROVEMENTS




TRAFFIC CALMING IMPROVEMENTS

- 
PROTECTED INTERSECTION
- 
2-WAY CYCLETRACK CONNECTOR
- 
RRFB
- 
RRFB + MEDIAN
- 
PEDESTRIAN HYBRID BEACON
- 
TRAFFIC SIGNAL

EXISTING TRAFFIC CALMING FACILITIES

- 
TRAFFIC SIGNAL
- 
RRFB

NETWORK IMPROVEMENTS

-  **BIKEWAY BOULEVARD [3E]**
-  **CYCLETRACK [4B]**
-  **COMPLETE STREET CORRIDORS**

EXISTING BIKEWAY NETWORK

-  **PAVED PATH [1A]**
-  **STANDARD BIKE LANE [2A]**
-  **BIKEWAY BOULEVARD [3E]**

Complete Street Corridors shown in yellow are proposed studies, not proposed projects. Class 4 Cycletracks and other bikeways that might impact parking, transit operations or roadway capacity that are recommended as part of Complete Street Corridors will not be implemented without further study, traffic and environmental analysis, public process, and coordination with all affected agencies. For further information, see Section 5.7 of the Berkeley Bicycle Plan.



Kate Harrison
Councilmember District 4

02a.68

ACTION CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow.
2. Refer to Planning Department to draft a resolution establishing appropriate local climatic, geological or topographical findings as required by the California Building Standards Commission.

POLICY COMMITTEE TRACK

Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee

BACKGROUND

The California Building Standards Code, or Title 24 of the California Code of Regulations, specifies the standards for buildings and other structures in California. Title 24 is intended to protect public health, safety, and general welfare building occupants, and is updated at the state level and adopted by local jurisdictions every three years. Municipalities are permitted to make local amendments to the Building Standards Code¹ as deemed necessary for general welfare, as long as they are submitted to the California Building Standards Commission with the necessary findings. The ideal time to

¹ “Local Amendments to Building Standards—Ordinances,” California Building Standards Commission, <https://www.dgs.ca.gov/BSC/Codes/Local-Jurisdictions-Code-Ordinances>.

update local buildings codes is before the next code cycle. Berkeley will adopt the 2019 code on January 1, 2020.

Natural gas in buildings poses significant risks to health and safety. A recent ordinance adding Chapter 12.80 to the Berkeley Municipal Code phases out natural gas in new buildings.² This will make Berkeley's new building stock safer and greener over time, but there is an outstanding need to prevent seismic and other disasters in existing buildings.

Gas shut-off valves are a component of a plumbing system capable of preventing the flow within a gas piping system. Shut-off valves allow for a resident to stop the flow of gas in their homes in case of an emergency, such as an earthquake or a gas leak.

All existing buildings, if they have natural gas, should have a shut-off valve of some kind. However, manual shut-off valves require timely attention during a seismic event, physical access and exertion, and mechanical knowledge to operate. In case of a natural disaster, relying purely on manual shut-off valves can be dangerous. For example, following the 2010 San Bruno explosion, Pacific Gas & Electric officials testified before the National Transportation Safety Board that "gas feeding the flames could have been shut off an hour earlier if PG&E had automatic or remotely controlled valves on the pipeline that exploded."³ Since the San Bruno explosion, gas companies across California have urged a fast transfer to automatic shut-off valves.

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes blanket exceptions for buildings with individually metered residential units when the building contains five or more residential units, unless the units are condominiums, putting renters at risk of physical harm.

In recommending this exception for multi-unit buildings in 2010, City staff intended to reduce the cost burden to property owners. For example, City staff were concerned that the ordinance would require very large multifamily buildings to install shut-off valves in every unit in a 50 unit building when completing a \$50,000 renovation.⁴

While financial costs are important, there will also likely be significant costs to human life and property resulting from natural gas infrastructure during seismic events that far

² Susie Cagle, "Berkeley became first US city to ban natural gas. Here's what that may mean for the future," The Guardian, <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>.

³ Paul Rogers, "PG&E officials grilled about automatic shut of valves," Mercury News, March 1, 2011, <https://www.mercurynews.com/2011/03/01/pge-officials-grilled-about-automatic-shut-off-valves-3/>.

⁴ "Installation of Automatic Gas Shut-off Valves," Berkeley Planning and Development Department, July 13, 2010, <https://www.cityofberkeley.info/recordsonline/api/Document/Af7NhvRQQKZ1%C3%81%C3%89xY9QpwmChW6QBqKp%C3%89scsKBclRXOVsvA1QlgXjP%C3%89Rs2zLVn2kCnCNjn918yaZSDbGqiogM WpBM%3D/>

outweigh the costs to property owners for installing shut-off valves. A more-tailored and comprehensive approach was adopted by the City of Los Angeles's 1997 policy in the wake of the Northridge Earthquake, requiring valves in all multifamily, condominium and commercial units when a permit for any addition, alteration or repair valued in excess of \$10,000 is taken out affecting the entire building, or in specific units affected by work in excess of \$10,000.⁵

This item proposes to apply the \$50,000 threshold for all work affecting multifamily, condominium and commercial buildings exclusive of work affecting the units and apply a \$10,000 threshold to work in excess of \$10,000 inclusive of any individual unit. In addition, this item proposes maintaining the current single-family home requirement when a permit is taken out of any addition, alteration or repair valued in excess of \$50,000.

Consistent with the Los Angeles code, the item removes the exception for commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building. Berkeley City staff in 2010 previously suggested that pipes larger than 1 1/2 inches were marginally more expensive to retrofit with valves and therefore warranted an exception. Though upon further review, the few additional hundred dollars in labor and materials per valve does not warrant an exception due to ongoing risks to health and safety.

Berkeley is on top of one of California's most dangerous fault lines, the Hayward fault, making it prone to earthquakes. The extreme fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey stimulation of "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause property (building and content) losses approaching \$30 billion."⁶ The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes. According to the most recent census, 59.1% of units in Berkeley are occupied by renters.⁷ It is vital to extend the shut-off valve requirement to rental units to prioritize the health and safety of all Berkeley residents and the broader community.

Beyond extending this protection to large rental buildings during major renovations, this ordinance amends BMC 19.34 to mirror the City of Los Angeles's code to require

⁵ City of Los Angeles Ordinance No. 171874, December 16, 1997, http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1_ORD_171874_02-05-1998.pdf; See also, City of Los Angeles Plumbing Code Section 94.1217.0.

⁶ "The HayWired earthquake scenario—Engineering implications," U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

⁷ "Bay Area Census: City of Berkeley" <http://www.bayareacensus.ca.gov/cities/Berkeley.htm>

installing automatic shut-off valves prior to execution of a contract for sale in all buildings and units therein.

The transfer of property triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires that, gas water heaters are seismically braced, anchored, or strapped.⁸ Other local ordinances related to environment, such as the BMC 19.81: the Building Energy Saving Ordinance, require energy efficiency reports prior to time of sale. The intention of Section 1209.4.2 is to ensure that all buildings that are sold in Berkeley include automatic gas shut-off valves, therefore enhancing seismic safety across the existing building stock.

FINANCIAL IMPLICATIONS

Staff time to submit ordinance to the Building Standards Commission and to draft findings resolution. In addition, building inspector staff time will be necessary to compliance with new provisions.

ENVIRONMENTAL SUSTAINABILITY

Mandating shut-off valves in rental units undergoing renovation and all units at sale will prevent the excess release of greenhouse gases (methane) due to gas leaks and fires during seismic events and other related emergencies.

CONTACT PERSON

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

ATTACHMENTS

1: Ordinance

⁸ Health and Safety Code § 18031.7,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC

AMENDING CHAPTER 19.34 OF THE BERKELEY MUNICIPAL CODE TO EXPAND
AUTOMATIC GAS SHUT-OFF VALVE REQUIREMENTS IN MULTIFAMILY,
CONDOMINIUM AND COMMERCIAL BUILDINGS UNDERGOING RENOVATIONS
AND TO ALL EXISTING BUILDINGS PRIOR TO EXECUTION OF A CONTRACT FOR
SALE OR CLOSE OF ESCROW

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

Section 1. That Berkeley Municipal Code Section 19.36.040 is hereby amended to read as follows:

19.34.040 Gas Shut-Off Valves.

Chapter 12 of the 2016~~9~~ California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

1209.2 General Requirements for Gas Shut-Off Valves. Automatic gas shut-off valves installed either in compliance with this Section or voluntarily pursuant to a plumbing permit issued on or after the effective date of this Section, shall comply with the following:

1209.2.1 All valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be listed by the State of California Office of the State Architect (OSA).
4. Be installed on downstream side of the gas utility meter.
5. Be installed in accordance with the manufacturer's instructions.
6. Be installed in accordance with a plumbing permit issued by the City of Berkeley.
7. Provide a method for expedient and safe gas shut-off in an emergency.
8. Provide a capability for ease of consumer or owner resetting in a safe manner.

1209.2.2 Motion activated seismic gas shut-off valves shall be mounted rigidly to the exterior of the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

1209.3 Definitions

For the purpose of this Section terms shall be defined as follows:

AUTOMATIC GAS SHUT-OFF VALVE shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

DOWNSTREAM OF GAS UTILITY METER shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

EXCESS FLOW GAS SHUT-OFF VALVE shall mean an approved valve or device that is activated by significant gas leaks or overpressure surges that can occur when pipes rupture inside a structure. Such valves are installed at each appliance, unless otherwise specified by the manufacturer's installation instructions.

MOTION ACTIVATED GAS SHUT OFF VALVE shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

UPSTREAM OF GAS UTILITY METER shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

1209.4 Devices When Required. Approved automatic gas shut-off or excess flow valves shall be installed as follows:

1209.4.1 New Construction. In any new building construction containing gas piping for which a building permit is first issued on or after the effective date of this Section.

1209.4.2 Existing Buildings. In any existing building, when any addition, alteration or repair is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.

1209.4.2.1 Multifamily, Condominium and Commercial Buildings.

1. In any existing commercial, multifamily and condominium and commercial building, and applicable to all units and tenant spaces therein if the building is individually metered and lacks a central automatic shut-off valve downstream of the utility delivery point, when any addition, alteration or repair exclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.
2. In any existing commercial, multifamily and condominium unit for all gas piping serving only those individual units, when any addition, alteration or repair inclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$10,000.

1209.4.3 Sale of Existing Buildings.

The requirement to install seismic gas shutoff or excess flow shutoff valves shall apply

prior to entering into a contract of sale, or prior to the close of escrow when an escrow agreement has been executed in connection with a sale as follows:

1. in any building or structure, and all units therein when gas piping serving those units lacks a central automatic shut-off valve downstream of the utility delivery point; or
2. in an individual condominium unit for all gas piping serving that individual unit.

1209.4.4 Exceptions:

~~1.—Buildings with individually metered residential units when the building contains 5 or more residential units, unless the units are condominiums.~~

~~2.—For residential or mixed use condominium buildings, valves are required when the value of the work exceeds \$50,000 in any single condominium unit or when any work done outside of the units exceeds \$50,000.~~

~~3.—Commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building.~~

14. Automatic gas shut-off valves installed with a building permit on a building prior to the effective date of this Section provided the valves remain installed on the building or structure and are adequately maintained for the life of the building or structure.

25. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Section 2. The effective date of this amendment shall be January 1, 2020, or the effective adoption date of the 2019 California Building Standards Code, whichever is sooner.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
September 10th, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Kate Harrison
Subject: Resolution Endorsing the United Nations Convention on the Rights of the Child

RECOMMENDATION

1. Adopt a resolution endorsing the United Nations Convention on the Rights of the Child.
2. Send a letter of support to Acting U.S. Ambassador to the United Nations, Jonathan Cohen.

BACKGROUND

On November 20, 1989, the United Nations General Assembly adopted the United Nations Convention on the Rights of the Child (CRC). The CRC outlines the civil, political, economic, social, health and cultural rights of children. It includes, but is not limited to, the right to an adequate standard of living (such as food, water, and healthcare), the right to education, freedom from discrimination and bigotry, and protections in the justice system. Ratifying governments must periodically report to the United Nations Committee on the Rights of the Child to be evaluated on the progress it has made on advancing the implementation of the CRC.

Thirty years later, the U.S. is the only country in the United Nations that has not ratified the CRC, despite playing an active role in drafting it. According to The Atlantic, the U.S. has a child poverty rate of 43% and its infant mortality rate is uncharacteristically high among developed nations.¹ The ACLU adds that American juvenile prisons often lack proper rehabilitation services, 14 states have no minimum age for a child to be prosecuted for a crime as an adult, and 2,500 people were sentenced to life in prison without parole as children and are incarcerated today.²

¹ "Is America Holding Out on Protecting Children's Rights?"

<https://www.theatlantic.com/education/archive/2017/05/holding-out-on-childrens-rights/524652/>

² "There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US"

<https://www.aclu.org/blog/human-rights/treaty-ratification/theres-only-one-country-hasnt-ratified-convention-childrens>

Most recently, the U.S. has adopted a policy of detaining immigrant children in border detention centers and separating them from their families. More than 2,000 children are being held by the U.S. Border Patrol for days, sometimes weeks, without basic necessities like food, soap and toothpaste, and medical care.³ These developments make the ratification of the CRC more critical than ever, to prevent this infringement on the basic rights of immigrant children within American borders.

Ratifying the CRC would put the U.S. on par with the international community and help align our laws and practices with international law, improving the quality of life of American children.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

- 1: Resolution
- 2: Letters

³ "The horrifying conditions facing kids in border detention, explained"
<https://www.vox.com/policy-and-politics/2019/6/25/18715725/children-border-detention-kids-cages-immigration>

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

RESOLUTION ENDORSING THE UNITED NATIONS CONVENTION OF THE RIGHTS
OF THE CHILD

WHEREAS, the United Nations Convention on the Rights of the Child (CRC) is a comprehensive human rights treaty protecting the rights of children, including "the right to survival, to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life"; and

WHEREAS, the United States is the only country in the United Nations that has not ratified the CRC; and

WHEREAS, the CRC would ensure children's right to access basic necessities like food, water, healthcare, and education; and

WHEREAS, the CRC guarantees fairness and equal treatment to all children despite their race, ethnicity, religious beliefs, parents, and background; and

WHEREAS, the convention provides protections for children in the juvenile justice system; and

WHEREAS, child poverty and infant mortality rates in the United States are some of the highest in the developed world, and its juvenile justice policies often do not offer adequate protection to children accused or convicted of crimes; and

WHEREAS, thousands of children are currently being held in U.S. Border Patrol custody for days or weeks at a time without their families, as well as basic necessities like food, hygienic products, and medical care; and

WHEREAS, ratifying the convention would allow for more U.S. global leadership and international collaboration on the issue of children's rights; and

WHEREAS, ratifying the convention would provide a framework for U.S. laws and practices affecting children;

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council urges the United States Ambassador to the United Nations and the United States Senate to ratify the United Nations Convention on the Rights of the Child; and

BE IT FURTHER RESOLVED that copies of this Resolution will be sent to the Acting Ambassador to the United Nations Jonathan Cohen.

The Honorable Jonathan Cohen
United States Mission to the United Nations
799 United Nations Plaza
New York, NY 10017

Re: Support from Berkeley City Council for the United Nations Convention on the Rights of the Child

Dear Acting Ambassador Cohen,

We, the Berkeley City Council, wish to endorse the United Nations Convention on the Rights of the Child (CRC), a comprehensive human rights convention that protects the well-being of children worldwide.

The CRC was first adopted by the United Nations General Assembly in 1989. The CRC guarantees the civil, political, economic, social, health and cultural rights of children. It includes, but is not limited to, the right to an adequate standard of living (such as food, water, healthcare, legal protections) the right to education, freedom from discrimination, and protections in the justice system. However, despite taking a key leadership role in drafting the CRC, 30 years later the U.S. remains the only country in the United Nations not to ratify it. The Atlantic finds in 2017 that the U.S. has a child poverty rate of 43% and its infant mortality rate is uncharacteristically high among developed nations. The ACLU furthers in 2015 that the criminal justice system also harms children; 14 states have no minimum age for a child to be prosecuted for a crime as an adult, and 2,500 people are serving life in prison without parole for crimes they committed as children. Most recently, Vox finds in June that 2,000 immigrant children are being detained by the U.S. Border Patrol, separated from their families for days or weeks and denied basic needs like healthcare, food, and hygienic products like soap and toothpaste. These developments make the ratification of the CRC more critical than ever, to prevent this infringement on the basic rights of immigrant children within American borders.

Ratifying the CRC would bring the U.S. up to standard with the rest of the international community and improve global cooperation on children's rights. It would also help the U.S. align its own laws and practices with the standards outlined in the CRC, helping our children grow and thrive. We believe this convention is crucial towards the well-being of future generations of Americans.

Thank you for your leadership on children's rights in the international community.

Sincerely,

Berkeley City Council



Lori Droste
Berkeley City Council District 8

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Lori Droste and Mayor Jesse Arreguin
Subject: Game Day Parking - Minor Update to include RPP area K

RECOMMENDATION

Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.

BACKGROUND

On May 14, 2019, Council adopted a [“Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion”](#) item that included updated fines and expanded prohibitions on UC Berkeley home football game day parking.

These new rules were adopted for portions of RPP areas B, D, F, G, and I. Since that time, there is growing concern that RPP Area K should have been included in those new regulations. This item amends the current rules to include Area K, which encompasses Panoramic Hill, a neighborhood directly east of the football stadium that is negatively impacted on UC Berkeley home football game days.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and signage

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Lori Droste, Berkeley City Council, District 8, 510-981-7180

ATTACHMENTS

MAY 2019 Game Day Parking Item



Office of the City Manager

PUBLIC HEARING
May 14, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip Harrington, Director, Public Works
 Subject: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
3. Adopt a Resolution modifying parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

SUMMARY

The recommended actions constitute a package of “mid-term” changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

Football Game Day Enforcement Cost

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

		Initial Cost	Ongoing Annual Cost
Signs	Materials	\$50,000	N/A
	Labor	\$25,000	N/A
Decals	Materials	\$5,000	\$5,000
	Labor	Included in sign installation.	\$10,000
Total		\$80,000	\$15,000

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.¹

RPP Program Enforcement Enhancement and Expansion Cost

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

¹ If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;² and
- New RPP sign installation, including labor and materials, at \$23,000 per year.³

Estimated New Revenue

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new “Enhanced Fine Areas” to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program’s expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program’s costs and revenues as new enforcement staff are hired.

User Fee Increases for Cost Neutrality

Per Council Budget Policies,⁴ the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

² Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

³ Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

⁴ “Council Budget Policies”: <http://bit.ly/2z4UiFY>

Permit Type	Current Fee	Proposed Fee	\$ Increase	% Increase
Annual Residential & In-Home Care	\$66.00	\$90.00	\$24.00	36.4%
1-Day Visitor	\$3.00	\$4.00	\$1.00	33.3%
14-Day Visitor	\$34.00	\$47.00	\$13.00	38.2%
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00	\$12.00	36.4%
Community-Serving Facility	\$83.00	\$114.00	\$31.00	37.3%
Merchant	\$185.00	\$253.00	\$68.00	36.8%
1-Day Senior Center	\$1.00	\$1.00	N/A	N/A
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00	\$6.00	40.0%

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

RPP Program Financial Components	April 2018-March 2018 Actuals	FY 2021 Projections
Total RPP Permit Fee Revenue	\$936,960	\$1,305,240
RPP-Related Citation Revenue	\$1,573,840	\$2,023,840
Football RPP-Related Citation Revenue	\$49,100	\$80,750
Total Revenue	\$2,559,910	\$3,409,830
Total RPP Program Costs	\$2,684,580	\$3,409,230
RPP Program Deficit/Surplus	(\$124,670)	\$600

CURRENT SITUATION AND ITS EFFECTS

This report represents “mid-term” changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial “short-term” changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends “mid-term” changes that respond to remaining resident requests and Council referrals.

UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

Memorial Stadium (“stadium”), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.⁵ The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

Existing Game Day Parking Restrictions

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations⁶ within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,⁷ and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior.⁸ Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

Enforcement Duties	Number of Assigned PEOs
--------------------	-------------------------

⁵ Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

⁶ Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

⁷ For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

⁸ UC Berkeley reimburses the City for BPD overtime costs.

	Non-Game Days	Football Game Days
Game Day Activities	0	5-7
Parking Meters, Curbs, Time Limits, and RPP	7-9	2-4

Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.⁹ In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.¹⁰ A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs' ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities.¹¹ Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., 'nanny permits', or 'gardener permits', which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program's effectiveness for all existing permit holders and encourages more driving, which is contrary to the City's

⁹ Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

¹⁰ Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

¹¹ In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Climate Action Plan goals of reducing vehicular emissions.

2. Enhanced Game Day Parking Management and Enforcement

In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- **New tow-away areas for vehicles without a valid RPP permit** on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- **New “Enhanced Fine Areas”** on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.¹²

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days

While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area.¹³ Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

¹² Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

¹³ Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

5. Staffing Requirements

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,¹⁴ Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.¹⁵ In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.¹⁶ Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

¹⁴ March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgnqD>

¹⁵ September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

¹⁶ February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas.¹⁷ On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission's recommendation.¹⁸ On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission's 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.¹⁹

ENVIRONMENTAL SUSTAINABILITY

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the "two-hour shuffle" (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

¹⁷ April 5, 2016 *City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus* <https://bit.ly/2GRoSzi>

¹⁸ July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* <https://bit.ly/2fwXaEj>

¹⁹ September 25, 2018 *City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus* <https://bit.ly/2EwSnfS>

Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

ALTERNATIVE ACTIONS CONSIDERED

The following table summarizes four alternatives considered by staff:

Alternative	Estimated Annual Permit Fee
<u>Option 1: Staff Recommendation, Enhanced RPP and Football Enforcement, and Expansion, Without Changing Saturday Enforcement.</u>	\$90/year (+36% / +\$24)
<u>Option 2: Saturday Enforcement in All Areas, Enhanced RPP and Football Enforcement, and Expansion</u> <ul style="list-style-type: none"> • Implement Saturday patrols of all RPP Zones,²⁰ plus increased RPP and football enforcement, and expansion as in Option 1 • Increase permit fees to eliminate deficit and add seven (7) PEOs and one (1) supervisor for increased RPP enforcement, one (1) PEO per twenty new blocks/year, and equipment 	\$97/year (+47% / +\$31)
<u>Option 3: Expansion and Enhanced Football Enforcement</u> <ul style="list-style-type: none"> • Implement enhanced football enforcement and expansion as in Option 1 • No change to existing RPP enforcement levels/frequency • Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new blocks/year, and equipment 	\$88/year (+34% / +\$22)
<u>Option 4: Expansion Only</u> <ul style="list-style-type: none"> • Expand RPP Program eligibility per guidelines in Option 1 • No changes to existing RPP and football enforcement levels • Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year 	\$82/year (+24% / +\$16)

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

CONTACT PERSON

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Danette Perry, Parking Services Manager, Public Works (510) 981-7057
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish "Enhanced Fine Area" and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule
 - Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations
 - Exhibit B: List of New Parking Violations

²⁰ Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

14.72.030 Definitions.

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.

BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

DC. "Mixed Use-Residential" and "Mixed Use-Light Industrial" refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 and 23E.80, respectively.-

ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

HG. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and

either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

JJ. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

KJ. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cl, Clb, Clc, Clb(E).

LK. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

LM. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

NM. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.

ON. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

PO. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

QP. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 2. That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:

14.72.050 Designation of a residential permit parking area.

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:

a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.

b. The petition shall contain a description or a map showing the proposed residential permit parking area.

c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.

d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.

e. For applicants in areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.

g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

h. In areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:

a. City Council shall initiate the area as a residential permit parking area.

b. For areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.

d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.

B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.

2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 3. That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

14.72.090 Residential parking permit.

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

FEEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

Permit Type	Permit Fees
Annual Residential & In-Home Care	\$90.00
1-Day Visitor	\$4.00
14-Day Visitor	\$47.00
Semi-Annual Residential & In-Home Care	\$45.00
Community-Serving Facility	\$114.00
Merchant	\$253.00
1-Day Senior Center	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved	\$100.00

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.

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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states “the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued,” and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new “Enhanced Fine Areas” in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

Exhibits

- A: Schedule of Fines and Late Payment Penalties for Parking Violations
- B: List of New Parking Violations

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	6.24.020	Off-St Rsrv Pkg No Permit Displayed	\$48	\$78	\$128
BMC	6.24.020	FD Off-St Rsrv Pkg No Permit Displayed			
BMC	6.24.020	Non-Electric Vehicle Parked in Electric Vehicle Space	\$35	\$65	\$115
BMC	6.24.060	Electric Vehicle Exceeding EV Parking Space Time Limit	\$30	\$60	\$110
BMC	6.24.020	Electric Vehicle Not Actively Charging in EV Parking Space	\$35	\$65	\$115
BMC	6.24.093	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	6.24.093	FD P&D Dispensing Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	6.24.096	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	6.24.096	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
BMC	6.24.100 B	P&D Station Expired Time	\$43	\$73	\$123
BMC	6.24.100 B	FD P&D Station Expired Time	\$65	\$95	\$145
BMC	6.24.103 B	Time Limits Enforced at Inoperable P&D Sta	\$43	\$73	\$123
BMC	6.24.103 B	FD Time Limits Enforced at Inoperable P&D Sta	\$65	\$95	\$145
BMC	6.24.130	Off-St Facility: Motorcycle Zone Only	\$48	\$78	\$128
BMC	6.24.130	Off-St Facility: Pkg Outside Markings	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Pkg Outside Markings	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	FD Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	Off-St Facility: Restricted Load Zone	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Restricted Load Zone	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Unmarked Space	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Unmarked Space	\$72	\$102	\$152
BMC	6.24.140	Off-St Facility: Backed-In	\$48	\$78	\$128
BMC	9.52.140	Unattended Taxi Over 5 Min	\$91	\$121	\$171
BMC	13.52.040	Unauth Pkg on Private Property	\$41	\$71	\$121
BMC	14.24.070	Unauth Vehicle on Private Prop	\$64	\$94	\$144
BMC	14.36.030 A	No Parking on Divisnl Islands	\$55	\$85	\$135
BMC	14.36.030 A	FD No Parking on Divisnl Islands	\$83	\$113	\$163
BMC	14.36.030 C	No Parking Zone (Sign Posted)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Sign Posted)	\$96	\$126	\$176
BMC	14.36.030 C	No Parking Zone (Red Curb)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Red Curb)	\$96	\$126	\$176

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.36.030 D	No Parking Street Sweeping (sign)	\$49	\$79	\$129
BMC	14.36.030 E	No Parking on Railroad Tracks	\$64	\$94	\$144
BMC	14.36.030 F	Hazard Obstructing Traffic	\$64	\$94	\$144
BMC	14.36.030 F	FD Hazard Obstructing Traffic	\$96	\$126	\$176
BMC	14.36.030 G	Construct: No Permit on Dashboard	\$64	\$94	\$144
BMC	14.36.030 G	FD Construct: No Permit on Dashboard	\$96	\$126	\$176
BMC	14.36.050	On Street 72 or More Consec hrs	\$60	\$90	\$140
BMC	14.36.060	Repair Vehicle on Street	\$52	\$82	\$132
BMC	14.36.080	Vehicle Parked in School Zone	\$51	\$81	\$131
BMC	14.36.090	Pkg on Grade Brake/Block Wheels	\$55	\$85	\$135
BMC	14.36.110	Emerg Prkg w/o Permit (Tow CVC 22651)	\$52	\$82	\$132
BMC	14.40.010	3 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 3 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	5 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 5 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	10 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 10 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	12 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	15 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	24 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 24 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.020	30 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.020	FD 30 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	1 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.030	FD 1 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	Faulty Meter Over 1 hr Limit	\$43	\$73	\$123
BMC	14.40.040	2 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.040	FD 2 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.040	Faulty Meter Over 2 hr Limit	\$43	\$73	\$123
BMC	14.40.050 A	Parallel Pkg Veh Outside Markers	\$48	\$78	\$128
BMC	14.40.050 B	Veh Facing Wrong Way 1-way St	\$48	\$78	\$128
BMC	14.40.050 B	FD Veh Facing Wrong Way 1-way St	\$72	\$102	\$152
BMC	14.40.050 B	Pkg Over 18" from Curb 1-way St	\$51	\$81	\$131
BMC	14.40.050 B	FD Pkg Over 18" fr Curb 1-way St	\$77	\$107	\$157
BMC	14.40.060 A	Diagonal Pkg Veh Outside Markers	\$51	\$81	\$131
BMC	14.40.060 B	Diagonal Pkg FW Over 6" from Curb	\$51	\$81	\$131
BMC	14.40.070 A	No Stopping 4-6pm (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	FD No Stopping 4-6pm (Tow CVC 22651)	\$96	\$126	\$176
BMC	14.40.070 A	No Stopping 7-9am (Tow CVC 22651)	\$64	\$94	\$144

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.070 A	No Stopping 9pm-6am (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	Posted No Stopping Tow Away	\$64	\$94	\$144
BMC	14.40.090	RPP Zone No RPP Permit Displayed	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D No Permit Dsply	\$98	\$128	\$178
BMC	14.40.090	RPP Zone K No Permit Displayed	\$57	\$87	\$137
BMC	14.40.090	RPP Zone RPP Permit Expired	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D Permit Expired	\$98	\$128	\$178
BMC	14.40.090	RPP Zone Permit Improper Display	\$49	\$79	\$129
BMC	14.40.090	FD RPP A,B,D Permit Impropr Dsply	\$98	\$128	\$178
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305
BMC	14.40.130	Pkg/Standing in City Lots/Spaces	\$55	\$85	\$135
BMC	14.40.130 A	City Lot No Permit Displayed	\$57	\$87	\$137
BMC	14.40.130 C	Reserved Pkg No Permit Displayed	\$49	\$79	\$129
BMC	14.40.130 E	Reserved City Hall Pkg Towable	\$64	\$94	\$144
BMC	14.40.150 A	Car Parking in Motorcycle Area	\$51	\$81	\$131
BMC	14.40.150 B	Motorcycle Zone Overtime	\$51	\$81	\$131
BMC	14.40.160	DbI-Pkd Commer Vehicle Center St	\$60	\$90	\$140
BMC	14.44.020 B	Commer Zone No Permit (yellow)	\$57	\$87	\$137
BMC	14.44.020 B	FD Commer Zone No Permit (yellow)	\$86	\$116	\$166
BMC	14.44.020 A	Commercial Zone Overtime	\$57	\$87	\$137
BMC	14.44.020 A	FD Commercial Zone Overtime	\$86	\$116	\$166
BMC	14.44.030	Passenger Load Zone (white curb)	\$57	\$87	\$137
BMC	14.44.030	FD Passgr Load Zone (white curb}	\$86	\$116	\$166
BMC	14.44.040	No Stopping Bicycle Zone	\$55	\$85	\$135
BMC	14.44.040	FD No Stopping Bicycle Zone	\$83	\$113	\$163
BMC	14.44.050	Special Passenger Load Zone only	\$57	\$87	\$137
BMC	14.44.060	Parking in Coach (bus) Zone	\$64	\$94	\$144
BMC	14.44.060	FD Parking in Coach (bus} Zone	\$96	\$126	\$176
BMC	14.44.070	Unauthorized Use of Funeral Zone	\$51	\$81	\$131
BMC	14.44.080	Taxicab Parking Only	\$51	\$81	\$131
BMC	14.44.080	Unauthorized Taxicab Stand Pkg	\$51	\$81	\$131
BMC	14.46.040 B	Non-Electric Vehicle Parked in EV Space	\$49	\$79	\$129
BMC	14.46.050 B	Electric Vehicle Exceeding EV Space Time Limit	\$43	\$73	\$123
BMC	14.46.050 C	Electric Vehicle Not Actively Charging in EV Space	\$43	\$73	\$123
BMC	14.52.050 A	Meter Street: Expired Meter	\$43	\$73	\$123
BMC	14.52.050 A	FD Meter Street: Expired Meter	\$65	\$95	\$145
BMC	14.52.050 B	Pay & Display Station Expired Time	\$43	\$73	\$123

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.52.050 B	FD Pay & Display Sta Expired Time	\$65	\$95	\$145
BMC	14.52.060 A	Meter St: Extending Meter Time	\$43	\$73	\$123
BMC	14.52.060 A	FD Meter St: Extending Meter Time	\$65	\$95	\$145
BMC	14.52.060 B	Pay & Display Station Extend Time	\$43	\$73	\$123
BMC	14.52.060 B	FD Pay & Display Sta Extend Time	\$65	\$95	\$145
BMC	14.52.063	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	14.52.063	FD P&D Dispens Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	14.52.066	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	14.52.066	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
CVC	4000	No Evidence Current Registration	\$50	\$80	\$130
CVC	4000	Expired Registration	\$50	\$80	\$130
CVC	4461 B	Improper Lending of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 C	Improper Display of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 D	Improper Use of DP Placard or Plate	\$550	\$580	\$630
CVC	4463 C	Use of Forged, Counterfeit, or False DP Placard or Plate	\$550	\$580	\$630
CVC	5200	Missing License Plates	\$25	\$55	\$105
CVC	5201	Lic Plates Improperly Positioned	\$25	\$55	\$105
CVC	5202	Hanging/Detached License Plate	\$25	\$55	\$105
CVC	5204 A	Expired Tags (read back)	\$25	\$55	\$105
CVC	5204 A	Missing Tags	\$25	\$55	\$105
CVC	21113 A	Parking on Public Grounds	\$54	\$84	\$134
CVC	21211 B	Vehicle Blocking Bicycle Lane	\$54	\$84	\$134
CVC	21718	Parking on Freeway	\$54	\$84	\$134
CVC	22500 A	Parking in an Intersection	\$60	\$90	\$140
CVC	22500 A	FD Parking in an Intersection	\$86	\$116	\$166
CVC	22500 B	Parking in Crosswalk	\$60	\$90	\$140
CVC	22500 B	FD Parking in Crosswalk	\$90	\$120	\$170
CVC	22500 C	Parking in Safety Zone	\$60	\$90	\$140
CVC	22500 C	FD Parking in Safety Zone	\$90	\$120	\$170
CVC	22500 D	Parking within 15' of Fire Station	\$60	\$90	\$140
CVC	22500 D	FD Parking within 15' of Fire Station	\$90	\$120	\$170
CVC	22500 E	Parking in Driveway	\$60	\$90	\$140
CVC	22500 E	FD Parking in Driveway	\$90	\$120	\$170
CVC	22500 F	Parking On/Across Sidewalk	\$60	\$90	\$140
CVC	22500 F	FD Parking On/Across Sidewalk	\$90	\$120	\$170
CVC	22500 G	Parking Construction No Permit	\$60	\$90	\$140
CVC	22500 G	FD Parking Construction No Permit	\$90	\$120	\$170
CVC	22500 H	Double-Parked	\$60	\$90	\$140

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
CVC	22500 H	FD Double-Parked	\$90	\$120	\$170
CVC	22500 I	Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 I	FD Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 J	Parking in Tunnel	\$54	\$84	\$134
CVC	22500 K	Parking on Bridge	\$54	\$84	\$134
CVC	22500 L	Blocking Disabled Ramp	\$288	\$318	\$368
CVC	22502 A	Parking Over 18" from Curb 2-Way St	\$69	\$99	\$149
CVC	22502 A	FD Parking Over 18" from Curb 2-Way St	\$104	\$134	\$184
CVC	22503 E	Parking Over 10" from Curb 1-Way St	\$58	\$88	\$138
CVC	22507.8 A	Parking in Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	FD Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22514 a	Parking within 15' of Fire Hydrant	\$78	\$108	\$158
CVC	22514 a	FD Parking within 15' of Fire Hydrant	\$117	\$147	\$197
CVC	22521	Parking within 7.5' of Railroad Tracks	\$54	\$84	\$134
CVC	22522	Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22522	FD Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22523 a	Abandon Vehicle on Highway	\$168	\$198	\$248
CVC	22523 b	Abandon Vehicle on Pub/Prvt Prop	\$168	\$198	\$248

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

Permit Type	Current Fee	Proposed Fee
Annual Residential & In-Home Care	\$66.00	\$90.00
1-Day Visitor	\$3.00	\$4.00
14-Day Visitor	\$34.00	\$47.00
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00
Community-Serving Facility	\$83.00	\$114.00
Merchant	\$185.00	\$253.00
1-Day Senior Center	\$1.00	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved	\$100.00	\$100.00

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of May 2, 2019.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become**

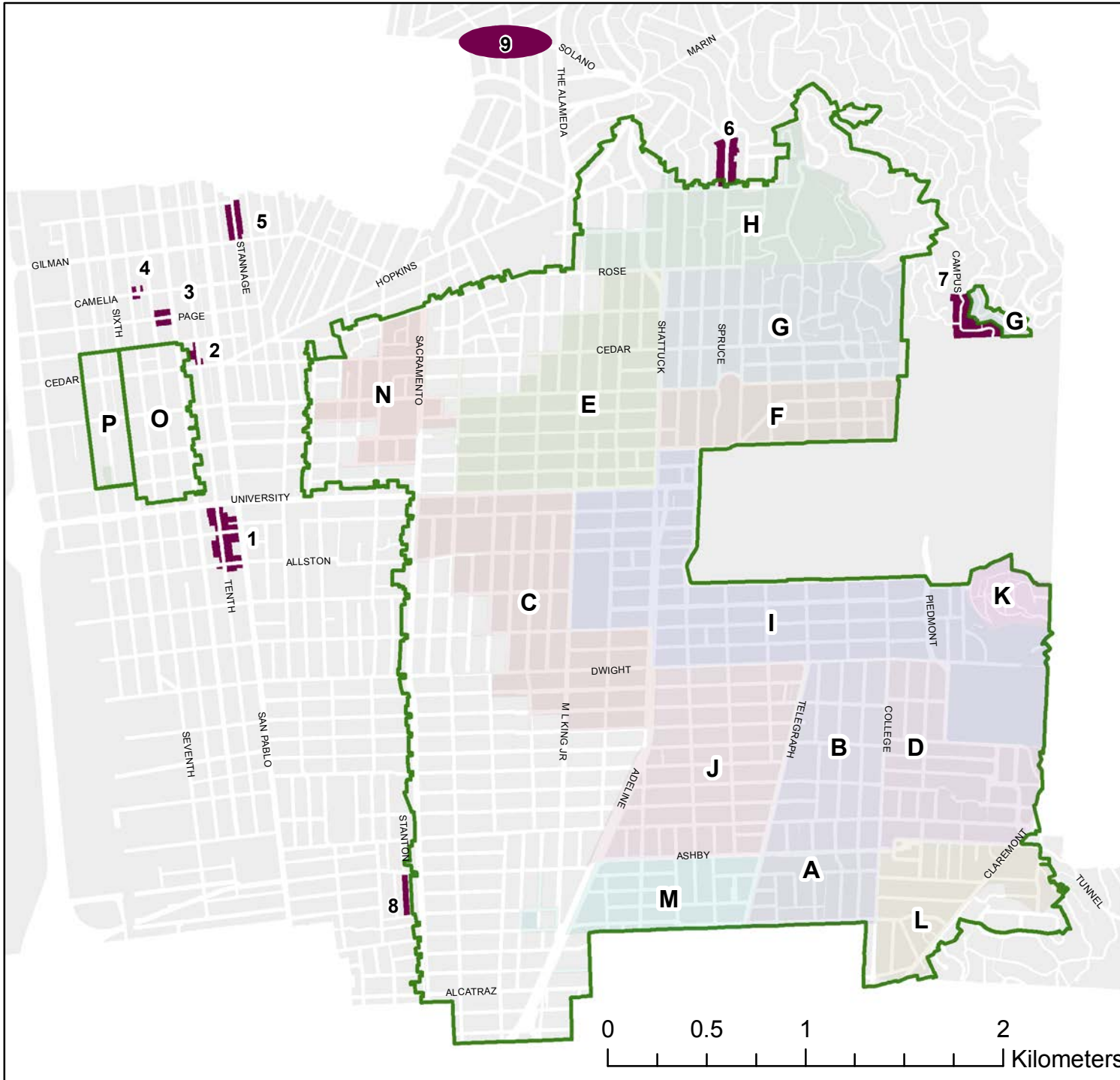
part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 3 and May 10, 2019 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on May 2, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk



# ATTACHMENT 6

## EXISTING ELIGIBILITY AND INELIGIBLE OPT-IN REQUESTS

- E Existing RPP Area Extents
- Current Eligibility Boundary
- Out of Area Opt-In Requests

### FY 2019 Requests

1. 10th between University and Allston with adjacent side streets
2. 10th between Jones and Cedar
3. Page between 8th and 9th
4. Camelia between 7th and 8th

### Requests Prior to FY 2019

5. Stannage between Gilman and Harrison
6. Spruce between Los Angeles to Eunice
7. Campus between Avenita and LBL Campus
8. Stanton between Ashby and Prince
9. Multiple requests from Solano neighborhood

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019



**CITY OF BERKELEY**  
 Transportation Division  
 1947 Center Street  
 Berkeley CA 94704





Commission on Labor

02a.75

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Commission on Labor  
Submitted by: Margy Wilkinson, Chairperson, Commission on Labor  
Subject: Commission on Labor 2020-2021 Work Plan

INTRODUCTION

The Commission on Labor has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; updating the Labor Bill of Rights; educating workers, children and young adults; and monitoring local labor disputes.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on May 15, 2019, the Commission on Labor took the following action:

M/S/C (Schriner/Sharenko) to approve work plan for FY20-21, removing section E. in first section of FY18-19 work plan, and for Kyle Schriner to finalize the council report and plan.

Ayes: W. Bloom; P. Castelli; M. Jones; Neil McClintick; K. Schriner;  
A. Sharenko; M. Wilkinson  
Noes: None  
Absent: J. Fillingim

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts determined at this time.

CONTACT PERSON

Delfina Geiken, Commission Secretary, HHCS, (510) 981-7551

Attachments:

1: Commission on Labor Work Plan





Commission on Labor

Attachment 1

**Work Plan  
Approved May 15, 2019**

Research and gather information to report to City Council and support Commission's recommendations to City Council:

- a. Invite speakers to present relevant and current information regarding labor issues.
- b. Develop policies for recommendation to City Council in formal coordination with other City of Berkeley commissions to maximize the availability of subject matter experts and identify connections between labor and other relevant issues including, but not limited to, economic development and human rights.
- c. Examine City's policies and practices regarding workplace sexual harassment.
- d. Examine the University of California at Berkeley's policies and practices regarding workplace sexual harassment.

Labor bill of rights:

Review and update the Labor Bill of Rights and submit recommended revisions to City Council.

Education

- a. Facilitate education of workers in Berkeley about their rights and the process for addressing workplace sexual harassment.
- b. Facilitate education of workers in Berkeley about the City's policies and practices regarding Immigration and Customs Enforcement (ICE).
- c. Facilitate education of children and young adults in Berkeley about the benefits and opportunities of organized labor.

Local labor disputes

- a. Monitor on-going and new labor disputes
- b. Hold public hearings on labor disputes as requested/required
- c. Submit recommendations to Council based on information gathered from both sides of disputing parties.







Landmarks Preservation Commission

02a.76

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Landmarks Preservation Commission (LPC)  
 Submitted by: LPC Secretary on behalf of the LPC  
 Subject: LPC Annual Report to City Council for the period May 2018 to May 2019

INTRODUCTION

The LPC has prepared a report on its activities during the period May 2018 through May 2019; see Attachment 1, "LPC Annual Report to the City Council." Reports on the Commission's activities are required on an annual basis, in accordance with Berkeley Municipal Code Chapter 3.24.090 (*Annual report required*).

CURRENT SITUATION AND ITS EFFECTS

On July 2, 2019, the Commission voted to adopt the attached report and forward it to City Council [Vote: 7-0-0-1 (one vacancy); Yes: Abranches Da Silva, Adams, Allen, Crandall, Finacom, O'Malley, Schwartz; No: none; Abstain: none; Absent: Chignon].

The Commissioners' Manual (2018) requires that the Commission Secretary present the Commission's communications to City Council within three weeks of receiving the final document; however, due to an internal oversight, this transmittal was delayed.

BACKGROUND

On June 6, 2019, Chairperson Finacom prepared and presented a draft of the report to the LPC; some Commissioners then responded with feedback and suggestions for further refinement of the information therein. On July 2, 2019, the Commission voted to adopt the final version of the report and to forward it to City Council.

Among the Commission's accomplishments during the reporting period, the Executive Summary of Attachment 1 (see page 1) highlights the following Commission activities:

- Designated a total of two properties as City Landmarks or Structures of Merit
- Granted eight requests for Structural Alteration of existing properties on the City's register
- Studied and then recommended City Council approval of a Mills Act contract for repair and rehabilitation of a recently designated City Landmark property

The report describes these and other accomplishments in detail, and it identifies issues the Commission would like to consider in the coming year(s).

ENVIRONMENTAL SUSTAINABILITY

Historic preservation practices encourage the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

Other reports on the City's historic preservation-related activities, such as a copy of the City's Certified Local Government annual report to the California State Historic Preservation Officer, will be forwarded for Council's information per the City's standard practice.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no financial impacts associated with reporting this information to City Council.

CONTACT PERSON

Fatema Crane, Commission Secretary, Department of Planning and Development,  
(510) 981-7410

Attachment:

1: Landmarks Preservation Commission Report to City Council on Commission Activities, adopted July 2, 2019

Landmarks Preservation Commission Annual Report to the City Council for the period May 2018 to May 2019

**Background:** The Landmarks Preservation Ordinance mandates (BMC Section 3.24.090) that *“The commission shall report its actions annually to the City Council not later than June 30.”* This report covers the reporting period implied by that provision.

**Executive Summary:** During the reporting period the Commission:

1. held eleven regular Commission meetings and several subcommittee meetings.
2. approved two Landmark designations (both submitted by property owners).
3. had under consideration three other Landmark nominations (one of these was designated a Structure of Merit in June, 2019, after the reporting period ended).
4. reviewed for historic significance seven demolition referrals of buildings over 40 years old. Considered, and took no action to initiate these properties.
5. approved one Mills Act contract and sent it forward to the Council.
6. reviewed eight Structural Alteration Permits for existing Landmark properties. Six were approved generally as proposed, with appropriate conditions; one was denied; one is still under consideration.
7. placed three properties on the Commission’s “Potential Initiations” list for possible Landmark consideration in the future.
8. undertook three “courtesy reviews” of projects for or adjacent to Landmark properties owned by entities exempt from City regulation.

These actions and activities are summarized in more detail later in this report.

The Commission also has several issues to raise for, and recommendations to make to, the Council as part of this report. The following two pages summarize these items. Most of these are items previously raised by the Commission with the Council. The Commission believes it would be helpful for the Council to have a work session with the Commission to discuss some of these items.

**Religious Exemptions:** The Commission encourages the Council to seek changes at the State level that would clarify and reform the conditions under which a religious property owner can claim hardship exemption from landmark designation. Changes might include a requirement that the owners detail and demonstrate in writing the economic circumstances they believe would cause hardship, and that they hold the mandated public meeting to consider asserting the hardship claim in the actual community where the proposed landmark is designated. (In Berkeley’s case, owners of a religious property held the required “public meeting” in Thousand Oaks, California.)

**Ordinance Review:** In 2017 the City of Berkeley was sued by the owners of a recently designated Landmark building. The City prevailed in court, although the decision has been appealed. The trial judge did suggest that Berkeley should clarify some terminology in the Landmarks Preservation Ordinance. The Commission's Policies and Procedures subcommittee has been working on a suggested set of revisions.

**Mills Act Fees:** The Mills Act is a State law which allows designated Landmark property owners, under City review, to re-allocate a portion of their property taxes (typically the taxes that would go to the County) to a targeted program of investment in rehabilitation of their historic property. The Commission notes that all Landmark property owners who apply for State Mills Act contracts are currently charged the same, substantial, fees by the City, regardless of size or use of the property. In some cases the fees charged may exceed the property tax benefit to the owners of smaller properties such as many single family homes, while owners of large commercial properties may reap substantial benefits. The City should consider more equitable, graduated, fee levels to permit use of the Mills Act and promote preservation, particularly by owners of limited means.

Some members of the Commission also believe that the City should place a moratorium on the granting of Mills Act applications until the city has an opportunity to study the financial impact of Mills Act applications that are already in force and assess whether from a financial standpoint Mills Acts should be continued. They believe a study should evaluate the fiscal impact on the budget of the City, the School District, and other government entities.

The process for monitoring Mills Act contracts should also be reviewed and clarified to ensure that property owners follow their obligations under the Mills Act and that the City has the means to effectively monitor the contracts.

**Historic Districts:** Commission members and community members have periodically noted the desirability of Berkeley updating and improving its process for creating historic overlays / districts that would provide preservation safeguards for geographically and historically related groups of buildings or sites. Many other cities with good preservation programs utilize a system of historic overlays / districts for historic neighborhoods. The Commission would like to explore this issue with the Council and seek ways to create a workable historic overlay / district program.

**Potential View Ordinance:** During discussion of the Campanile Way landmark application in 2017/18, Planning Staff suggested the Commission consider proposing a view ordinance that would specifically address the protection and preservation of historic views, particularly those that are public in nature.

**Certified Local Government Grant Application:** The State provides annual grants (recently averaging \$40,000) to Certified Local Governments to pursue specific preservation initiatives and projects, such as neighborhood surveys. For two years Berkeley has been unable to apply for this grant because a source of local matching funds has not been confirmed early enough in the application process. The Commission

hopes to recommend an application for the 2020/21 fiscal year. Staff and Council support will be needed for preparation and submission of an application early in 2020. To facilitate this, we recommend the Council set aside in the next biannual budget an amount equal to matching funds for one of these grants (approximately \$27,000). This money would not be committed until the Council reviewed and approved a specific grant application.

**Measure T-1 Properties:** Measure T-1 bond funding is affecting numerous designated City Landmark properties and potential historic resources. The Commission has established a subcommittee and good working relationship with Parks & Recreation and Public Works leadership. The next year will be crucial as several Landmark properties, particularly those in the Civic Center, undergo Measure T studies. It remains important that the City plan comprehensively and intelligently for the future of the Civic Center historic district and all the historic designated properties in that area, especially those that are partially vacant or in need of substantial rehabilitation (including the Veterans Memorial, Maudelle Shirek Building / City Hall, and Main Berkeley Post Office).

**Archaeological Resources:** We reiterate our past recommendation that the City should review and discuss currently ambiguous procedures for identification, documentation, management and protection of historic era and pre-historic archaeological resources in Berkeley. The City should identify and review State laws pertaining to archaeological resources and ensure that the City is in compliance; otherwise, Berkeley's CLG status could be endangered. The City should also ask the State Legislature to clarify the wording of new state laws that have created ambiguities in the definition of local historic resources.

**Relations with Exempt Property Owners:** The Commission has continued to work with owners of properties exempt from direct City regulation (including the University of California, and Berkeley Unified School District) to bring their projects involving historic properties to the Commission for courtesy reviews and comment. This process should be continued and strengthened. It is noted that the University has only come to the Commission once in the past year and subsequent University presentations have been delayed, despite the fact that pending University projects impact several City of Berkeley landmarks.

**Inclusion in Landmark Designation:** Earlier this year the Commission approved a proposal from the Chair that the LPC hold one or more community listening sessions or workshops to hear from the public, and discuss, what types of historic resources or areas of Berkeley's architectural or cultural history are under-represented in landmark designations to date. Action on this is planned, pending staff support for the logistics of a listening session process.

**Processing of Landmark Appeals:** Last year the Commission wrote to the Council regarding the improper processing of two appeal petitions submitted to the City. Both were appeals of landmark designations submitted by parties with no standing under the BMC to make appeals of landmark designations. Those who have standing under the

Ordinance to make an appeal are 50 or more residents of Berkeley, the Civic Arts Commission, the Planning Commission, or the owner of the property that is under consideration for Landmark designation. This is more restrictive than the appeal process for ZAB decisions. The City Council may also independently set a landmark designation for appeal.

Relevant excerpt from the LPO:

***3.24.300 Appeals--Procedures required--City Council authority.***

*A. 1. An appeal may be taken to the City Council by the City Council on its own motion, by motion of the Planning Commission, by motion of the Civic Art Commission, by the verified application of the owners of the property or their authorized agents, or by the verified application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of this chapter.*

Despite the fact that one appeal was filed by one individual who stated he represented an Oakland-based organization and did not submit any resident petition, and the other appeal was filed by a resident petition that was apparently not verified before acceptance, the City Clerk nonetheless accepted both appeals and the Council held public hearings and took action on them (sustaining one landmark designation, and overturning another).

We later asked the City Council to address the flawed processing of these appeals. No Council consideration was undertaken and no further information was formally received by the Commission from the Council or City staff. We renew this request. Improper processing of landmark issues endangers the City's valued CLG status with the State of California since being a Certified Local Government means, in part, that the City is expected to adhere to the rules of its preservation ordinance.

**Commission Meetings:**

During the reporting period the Commission conducted a full schedule of monthly meetings, with the exception of a January 2018 recess. There were 11 meetings held in the review period.

The Commission has a practice of establishing subcommittees to address some specific projects and issues. Most subcommittees have been formed to provide flexibility so a few members of the Commission with special interest or expertise in a particular building or preservation issue can go review a proposed project's details on-site, rather than having the full commission undertake the review. The subcommittee reports its actions or recommendations back to the full Commission. Subcommittee meetings are publicly noticed and open to the public. This has proved to be an effective way of evaluating project details, especially when site visits are made. Subcommittees are typically disbanded when review of a particular project is finished.

**Commission Membership:**

During the reporting period the nine member Commission saw one Commissioner resign for health reasons. Another long-time Commissioner was not reappointed by a new Councilmember. Two new Commissioners were appointed. The Commission currently has one vacancy (as of May, 2019).

The Commission encourages Councilmembers undertaking appointment of new Commissioners to give the current appointees the courtesy of informing them of that they are being replaced, well in advance of Commission meetings. In each of the past two years a long-time Commissioner has arrived at a LPC meeting ready to routinely participate, only to find a replacement appointee already seated. This practice of not informing Commissioners that they have been replaced is discourteous to volunteers who have been serving the City with their time and expertise on commissions, and the responsibility rests with individual Councilmembers.

**Landmark Initiations and Designations:**

A primary charge of the LPC is to consider and, if appropriate, designate, City of Berkeley landmarks, Structures of Merit and Historic Districts. During the past year the Commission received six requests to designate new Landmarks, and action was also completed by the City on two pending Landmark designations from the previous year. Landmark consideration begins with "initiation" that can take place in a variety of ways including a letter from a property owner or member of the public, a petition signed by 50 or more Berkeley residents, or a request from an individual Commissioner or the Commission as a whole.

Of the five landmark initiation proposals received in 2018/19:

1. two were initiated by the property owners, and considered and approved for designation by the Commission;
2. one was initiated by public petition, with the support of the property owner;
3. one was initiated by public petition, without the support of the property owner;
4. one was initiated by public petition organized by residents of the initiated property, without the support of the property owner.

As stated in our previous report for 2017-18, it should be noted that the Landmarks Commission has a long standing tradition of Commissioners researching and preparing landmark applications. This is consistent with the Commission mandate in the Landmark Preservation Ordinance that the Commission shall "establish and maintain a list of structures, sites and areas deemed deserving of official recognition, although not yet designated as landmarks, historic districts or structures of merit, and take appropriate measures of recognition" and also shall "carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation." However, during this review year no Commissioner-authored landmark applications were submitted.

Of the properties designated in 2018/19 for Landmark or Structure of Merit status, none have applied for Mills Act contracts.

The table below shows the number and pace of landmark designations over the past 11 years.

As we noted in our Annual Report last year, the total designations represent only a very small fraction of total properties in Berkeley. There are about 332 designated Landmarks or Structures of Merit in Berkeley, representing only about 1 out of every 140 properties in the city. There is about one landmark, on average, for every three city blocks.

| <b>CALENDER YEAR</b>                 | <b>NUMBER OF LANDMARKS DESIGNATED</b>                                                                          | <b>Calendar Year</b> | <b>Number of New Mills Act Contracts</b> |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------|
| 2019                                 | None during reporting period (one to date after reporting period, which will appear in 2019/20 Annual report). | 2019                 | <i>Pending</i>                           |
| 2018                                 | 5                                                                                                              | 2018                 | 1                                        |
| 2017                                 | 4                                                                                                              | 2017                 | 2                                        |
| 2016                                 | 2                                                                                                              | 2016                 | 1                                        |
| 2015                                 | 2                                                                                                              | 2015                 | 0                                        |
| 2014                                 | 6                                                                                                              | 2014                 | 6                                        |
| 2013                                 | 1                                                                                                              | 2013                 | 2                                        |
| 2012                                 | 3                                                                                                              | 2012                 | 0                                        |
| 2011                                 | 2                                                                                                              | 2011                 | 4                                        |
| 2010                                 | 2                                                                                                              | 2010                 | 0                                        |
| 2009                                 | 5                                                                                                              | 2009                 | 0                                        |
| 2008                                 | 2                                                                                                              | 2008                 | 0                                        |
| Eleven year total (through May 2019) | 34 total designations, averaging about 3 per year.                                                             | 2018                 | 9                                        |

#### **Commission Staffing:**

The Planning Department assigns two planners to the LPC; one acts as Commission Secretary. Current staff are Fatema Crane (Commission Secretary) and Alison Lenci (Commission Clerk). As in the past the Commission appreciates the professionalism of the staff support and, in particular, the ability of the staff to maintain poise and professionalism in the face of occasionally difficult and often stressful circumstances, tight deadlines and complex



workloads. In addition to their visible services at Commission meetings, the LPC staff do a great deal of work processing and preparing materials related to individual landmark properties.

The Commission notes once again to the Council that while the assigned level of staff support is sufficient for the Commissions basic operations, no Planning staff time is assigned to assist the Commission with initiatives beyond those basic operations. During the life of the Ordinance almost all historic research and Landmark applications have been done by Commission or community members on a volunteer basis. This means that the City of Berkeley does not really have a historic preservation program; instead, it only has assigned staff resources for the processing of externally generated proposals and permits for specific existing or potential historic resources. This places Berkeley in a position of being largely reactive, not proactive, on historic preservation issues, contrary to our ordinance and State expectations of CLG governments. Berkeley would and should be more engaged with historic resources through the provision of more staff time to support preservation work and initiatives beyond basic permit and application processing and reviews.

As we noted in our previous report, the lack of staff time for broader initiatives limits the ability of the Commission to pursue initiatives and programs called for in the Landmarks Preservation Ordinance. For example, the Landmarks Commission is given the following powers and duties by the Landmarks Preservation Ordinance. Powers and duties A, C, D, and F in particular are difficult to pursue with only the volunteer time / labor of individual Commissioners.

3.24.070 Powers and duties generally. In connection with the foregoing power and authority, the commission may:

- A. Establish and maintain a list of structures, sites and areas deemed deserving of official recognition, although not yet designated as landmarks, historic districts or structures of merit, and take appropriate measures of recognition, as more fully set forth in Section 3.24.330 below;
- B. Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation, and establish archives where pictorial evidence of the structures and their architectural plans, if any, may be preserved and maintained;
- C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation;
- D. Inspect structures, sites and areas which it has reason to believe worthy of preservation with the permission of the owner or the owner's agent;
- E. Disseminate information to the public concerning those structures, sites and

areas deemed worthy of preservation, and may encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of landmarks, property in historic districts and other officially recognized property of historical or architectural interests;

F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation;

G. Establish such policies, rules and regulations as it deems necessary to administer and enforce this chapter, subject to the approval of the City Council. (Ord. 5686-NS § 1 (part), 1985; Ord. 4694-NS § 2(i), 1974)

### **Summary of details of Commission Actions during Reporting Period**

The Commission took these specific actions during the reporting year.

#### **Landmark Nominations Approved:**

- 2415 Blake Street (one parcel, two structures, and grounds). 1880s Victorian cottage, with freestanding mid-century Modern cottage and garden designed and added by previous architect / owner in the 1980s.
- 1 and 5 Canyon Road (one parcel, two structures and grounds). Arts and Crafts era home, grounds, and garage / cottage at the base of Panoramic Hill.

#### **Landmark Nominations Received and in process of review:**

- 1440 Hawthorne Terrace (single family home).
- 1450 Hawthorne Terrace (single family home).
- 1619 Walnut Street (small apartment complex. *This property was then designated a Structure of Merit in June, 2019, after the reporting period for this report ended. The appeal period has not yet concluded.*)

#### **Mills Act Contracts for Landmark properties Reviewed / Recommended to Council:**

- 2901 Benvenue (single family home).

#### **Demolition referrals of buildings over 40 years old:**

Considered and took no action to initiate these buildings for any further landmark consideration:

- 1000-1010 Carleton 1014-1016 Carleton 1020 Carleton
- 2710 Tenth Street
- 2198 San Pablo Avenue 1835 San Pablo Avenue. 2352 Shattuck Avenue.
- DRAFT Page 8 of 9
- Buildings placed on Potential Initiations List:
- 1013 Pardee
- 1940 Hearst Avenue 2222 Fifth Street

**Signage or other exterior alteration reviews on Landmark structures:**

- Cambridge Apartments commercial signage for new business (approved) 1414 Walnut Street, security fencing (approved)
- 2140 Shattuck Avenue (Wells Fargo Building), exterior lighting (approved) 2300 Shattuck Avenue (Corder Building), window replacement and alleyway gates and security additions. (approved)
- 2018 University Avenue (UC Theater) storefront improvements. (Pending, application incomplete.)
- 1915 Fourth Street (Spenger's Fish Grotto) (pending. Commission has appointed a subcommittee to review plans.)
- 2580 Bancroft. Demolition of a mid-century commercial building (Bancroft Center), renovation of a Julia Morgan designed commercial building (Fred Turner Building), construction of an 8 story commercial and apartment infill building. (Approved).
- 8 Greenwood Common. Proposed second floor addition. (Denied, with opportunity left open for applications to resubmit with modified plans.)

**Courtesy reviews of projects at historic resources exempt from LPC oversight:**

- Berkeley Community Theater (discussed and sent letter to Council)
- 2626 Bancroft Way / 2625 Durant Avenue (UC's Woo Hon Fai Hall, the former University Art Museum) (established subcommittee, sent comments)
- Upper Hearst Development (Sent comment letter to UC)

**Other reviews and actions:**

- Had Measure T-1 update from City Staff
- Approved motion to encourage State Historic Resources Commission to hold one 2019 meeting in Berkeley.
- Approved annual Certified Local Government (CLG) report prepared by Commission staff.
- Approved motion to hold one or more community listening sessions about landmark issues.





Parks and Waterfront Commission

02a.77

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Parks and Waterfront Commission  
Submitted by: Jim McGrath, Chairperson  
Subject: Parks and Waterfront Commission 2019 Work Plan

INTRODUCTION

The Parks and Waterfront Commission has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; updating the Labor Bill of Rights; educating workers, children and young adults; and monitoring local labor disputes.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on June 12, 2019, the Parks and Waterfront Commission approved the commission's 2019 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Wozniak/Brostrom/U) to approve the work plan and submit an Information Report to City Council.

Ayes: Brostrom; Cox; Diehm; Kamen; McGrath; Skjerpking; Wozniak;  
Noes: None  
Absent: None  
Leave of Absence: Kawczynska

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Roger Miller, Secretary, Parks and Waterfront Commission, 981-6704  
Jim McGrath, Chairperson

Attachment: 1: Parks and Waterfront Commission 2019 Work Plan

**Topic:** 2019 Parks and Waterfront Commission Work plan

**Prepared by:** Jim McGrath

**Date:** June 5, 2019

| No | Topic                      | Work Items                                                                                                                                                                | PW Commission Role                                                                                                         | Staff role                                                                                                                                    | SUB COMM | Schedule                                                                                                                         |
|----|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------------------------------------------------------------------------------------------------------------------------|
| 1  | Marina Master plan         | <ul style="list-style-type: none"> <li>• CEQA</li> <li>• Land use changes</li> <li>• Live aboards</li> <li>• Identify capital projects</li> <li>• SLR analysis</li> </ul> | <ul style="list-style-type: none"> <li>• Public listening sessions</li> <li>• Participate in listening sessions</li> </ul> | <ul style="list-style-type: none"> <li>• Role of Parks and Planning not clear</li> <li>• CEQA Scoping</li> <li>• BCDC negotiations</li> </ul> | ?        | •                                                                                                                                |
| 1a | Parking Study and Analysis | <ul style="list-style-type: none"> <li>• Inventory spaces</li> <li>• Monitor use</li> <li>• Track BCDC permitting</li> </ul>                                              | •                                                                                                                          | •                                                                                                                                             |          | •                                                                                                                                |
| 1b | Pier/Ferry Study           | <ul style="list-style-type: none"> <li>• Determine existing ferry use</li> <li>• New breakwater?</li> </ul>                                                               | •                                                                                                                          | •                                                                                                                                             |          | •                                                                                                                                |
| 1c | Marina Fiscal              | <ul style="list-style-type: none"> <li>• Update infrastructure needs for marina</li> <li>• Update market comparisons for marina rentals</li> </ul>                        | <ul style="list-style-type: none"> <li>• Track funding</li> <li>• Track lease of seawall property</li> </ul>               | •                                                                                                                                             | Y        | <ul style="list-style-type: none"> <li>• Report to Council in May 2019</li> <li>• Final report to Council in May 2020</li> </ul> |
| 1d | Cesar Chavez Park          | <ul style="list-style-type: none"> <li>• Establish land uses, accessible trails for the remainder of the park</li> </ul>                                                  | <ul style="list-style-type: none"> <li>• Develop recommend parks projects</li> </ul>                                       | •                                                                                                                                             |          | •                                                                                                                                |
| 2  | Measure T1                 | <ul style="list-style-type: none"> <li>• Develop Phase 2 recommendation</li> </ul>                                                                                        | <ul style="list-style-type: none"> <li>• Develop Recommendation Outreach</li> </ul>                                        | <ul style="list-style-type: none"> <li>• Develop options</li> </ul>                                                                           | Equity   | <ul style="list-style-type: none"> <li>• Complete a recommended approach to a long range plan by Nov. 2019</li> </ul>            |
| 3  | Volunteer efforts          | <ul style="list-style-type: none"> <li>• Consider changes such as "Adopt a spot"</li> </ul>                                                                               | <ul style="list-style-type: none"> <li>• Develop response to council</li> </ul>                                            | <ul style="list-style-type: none"> <li>• Develop options</li> </ul>                                                                           |          | •                                                                                                                                |







Police Review Commission

02a.78

INFORMATION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Police Review Commission  
 Submitted by: George Perezvelez, Chairperson, Police Review Commission  
 Subject: Police Review Commission Work Plan for 2019-2020

INTRODUCTION

The Police Review Commission submits its work plan for the year beginning July 2019, in compliance with the 2016 City Council directive for commissions to submit work plans at the beginning of each fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The Commission adopted the attached work plan at its July 24, 2019 meeting. (M/S/C: Allamby/Calavita; Ayes: Allamby, Calavita, Chang, Earnest, Matthews, Perezvelez, Ramsey, Roberts; Noes: None; Abstain: None; Absent: Mikiten.)

The work plan includes a list of policy subjects that the Commission is or anticipates addressing in this fiscal year. The Commission is also interested in participating in more training about police procedures and tactics, staffing and organization of the police department, and training that officers receive. Additionally, the Commission would like to conduct more outreach to ensure that the public is aware of the Commission's existence and its role.

BACKGROUND

The Police Review Commission was established by ordinance in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

Policy work is carried out by the Commission with support from staff, while complaint investigations are handled by staff with commissioner involvement if a case proceeds to hearing. Review of police policies, practices and procedures is largely determined by the Commission itself, while complaint investigations and hearings are externally driven.

ENVIRONMENTAL SUSTAINABILITY

No identifiable environmental effects or opportunities are associated with the subject of this report.

POSSIBLE FUTURE ACTION

While the attached work plan reflects the Commission's priorities as of the date of its adoption, it is subject to change throughout the year should more urgent or important matters arise. These matters may take precedence as a result of Council referrals, incidents involving the police, or requests from the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts of possible future action are anticipated for the current fiscal year.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, 510-981-4960

Attachments:

1: Police Review Commission Work Plan for 2019-2020



Police Review Commission

## **Police Review Commission 2019-2020 Work Plan**

### **Commission mission statement**

The general purpose of the Police Review Commission is to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. sec. 3.32.010.)

### **Goal #1: Review and set BPD policies, practices, and procedures.**

#### a. Resources<sup>1</sup>

PRC staff, BPD staff, meeting space.

#### b. Program activities

A policy review may be initiated by the Commission, by a City Council referral, the Police Department, or a member of the public. The initial review steps may be undertaken by the Commission, a commission subcommittee, or staff, depending on the nature and breadth of the policy, practice, or procedure in question. The review could include: holding meetings and hearings to receive input from community members; meeting with and asking questions of the BPD; studying current policies, practices, and procedures; gathering policies from other jurisdictions; and surveying the literature regarding best practices.

If a subcommittee or staff perform the initial work, it will be presented to the full Commission for review and approval.

#### c. Outputs

Based on the information gathered, the Commission will make a recommendation to the BPD, City Manager or City Council about a change in a policy, practice, or procedure.

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<sup>1</sup> Unlike most other commissions, the Police Review Commission has a staff of three City employees dedicated to supporting the Commission's work.

d. Outcomes

The desired change is a new or improved policy, practice, or procedure. If new, it will provide guidance where it did not previously exist or was not well-documented. A revised policy, practice, or procedure will reflect a change to conform with new laws, to embrace best practices that have changed since the original policy was established, or to better align with community values.

- e. Specific policies, practices, or procedures to be addressed in the coming fiscal year will include ongoing, recurring, and new reviews.

Topics for which review was begun last fiscal year and will continue:

- New or revised policies and practices to address disparities in BPD pedestrian and traffic stop, citation, search, and arrest rates; and other efforts to ensure unbiased policing.
  - Specifically, a PRC Subcommittee is looking into the BPD practices of routinely asking detainees whether they are on probation or parole and, if they are, conducting searches.
- Conversion of all BPD General Orders into Lexipol policies.

Recurring topics:

- Memoranda of understanding and mutual aid pacts with other law enforcement agencies (an annual process).
- Surveillance Acquisition Policies and Surveillance Technology Use Policies, under the Surveillance Technology Use and Community Safety Ordinance, as needed when new technologies or new uses of existing technologies are proposed.

Possible new or renewed subjects of review:

- Revised policy governing the Use of Force by police officers.
- Assessment of use of body-worn cameras and re-visiting of policy recommendations made in March 2018.
- Evaluation of a proposed charter amendment to restructure the police commission and oversight staff.

Not all reviews of police policies, practices, or procedures can be anticipated in advance, as some issues are undertaken based on a request from the City Council or a civilian. Also, the PRC may undertake a review in response to particular police activity or incident.

**Goal #2: Process complaints regarding individual police officer misconduct.**

a. Resources

PRC staff are responsible for carrying out this goal, with critical participation by Commissioners. BPD staff are also involved.

b. Program activities

Staff will receive complaints of alleged misconduct by police officers, conduct an investigation, and, if warranted, prepare the case for a hearing before a Board of Inquiry. Rotating panels of three Commissioners serve as the BOI, except in death cases, where the Commission sits as a whole.

Cases may be closed without a hearing; the reasons for such closures include: mediation between the complainant and subject officer is completed; the complainant withdraws the complaint; or the complainant does not cooperate in the investigation.

c. Outputs

Following a BOI hearing, a Findings Report will be sent to the Chief of Police and City Manager, who may rely on the PRC's findings in determining whether to impose discipline.

Based on prior years, it is anticipated that roughly eight BOI hearings will be held in the coming fiscal year.

d. Outcomes

By providing a venue for investigation of complaints that is separate from the Police Department, civilians may view the process as more objective than investigations conducted by the Police Department internally. Addressing problematic behavior identified by the PRC may result in corrective action or discipline. Police officers' awareness of the PRC's complaint process may influence their behavior in a positive way.

**Goal #3: Participate in training.**

a. Resources

PRC staff and BPD staff

b. Program activities

Presently, Commissioners are not subject to any mandatory or prescribed course of training, other than the training that all commission chairs and vice-chairs must complete. Each Commissioner receives a 2-hour orientation from PRC staff covering topics relevant to service on the commission, the role of Commissioners and PRC staff in reviewing policy and processing complaints, and service on Boards of Inquiry. Commissioners are to meet with the Chief of Police and schedule a ride-along.

Currently, additional training on the organization of the BPD, police policies, relevant law, and officer training occurs sporadically. Topics presented to the PRC in the past year include BPD de-escalation training and response of BPD in conjunction with the Mobile Crisis Team to persons in mental health crisis.

In light of an October 2018 Council referral asking the PRC to explore mandatory training requirements, the Commission has asked the PRC Chair and PRC Officer to arrange for ongoing training.

c. Outputs

The results will be Commissioners who are better and more uniformly knowledgeable about police procedures, staffing and organization, training, tactics, and relevant law.

d. Outcomes

The outcome will be policy reviews and Board of Inquiry decisions that are based on a deep understanding of police work and police-community relations such that both the police and the community will have more confidence in the work of the PRC.

**Goal #4: Conduct outreach activities.**

a. Resources

PRC staff, printing of materials

b. Program activities

The Commission, as a whole or through a subcommittee, will develop and implement activities and strategies to better inform the community about the PRC's mission and services, including its policy review function and intake of civilian complaints about officer misconduct as an agency independent of the Police Department.

c. Outputs

The results will include increased presence at community fairs and other events; speaking to community groups, churches, and the like; holding Commission meetings at various locations; updated literature describing the Commission's work; a revamped and expanded website.

d. Outcomes

The outcome will be larger numbers of community members who are aware of the PRC and informed about its services and activities.

**Goal #5: Revise PRC Regulations for Handling Complaints Against Police Officers as needed.**

a. Resources

PRC staff and BPD staff.

b. Program activities

The complaint process, from intake through the BOI hearing, is governed by regulations promulgated by the PRC. The need to revise the regulations may arise when, for example: a deficiency is discovered; a way to streamline the process is identified; or a change is desired.

Regulation changes may be initiated by the Commission or by staff. The Commission as a whole may consider a revision, or establish a subcommittee for this purpose.

Depending on the specific change, a meet-and-confer with the police union may be required.

c. Outputs

The result will be amended PRC Regulations.

d. Outcomes

Amended Regulations will result in a process for handling complaints that is clearer; more efficient; conforms to current law; and reflects community values.







Office of the Mayor

02a.79

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Update on Assembly Bill 101 and Local Government Planning Support Grants

INTRODUCTION

Governor Gavin Newsom signed the State Budget into law on June 27, 2019. The FY 2019-2020 Budget totaling \$214.8 billion is the largest in state history. The budget specifically invests \$1.75 billion in funding for the production and planning of housing. Assembly Bill 101, the Housing Trailer Bill, details many of Governor Newsom's plans for increasing housing in California

BACKGROUND

Assembly Bill 101, the Housing Trailer Bill, details many of Governor Newsom's plans for increasing housing in California. The bill includes new Local Government Planning Support Grants, an Infill Infrastructure Grant Program, investments to address street homelessness and preventing displacement, and support for homeownership programs.

AB 101 provides substantial new one-time funding for a new Local Government Planning Support Grants Program. The California Department of Housing and Community Development (HCD) will allocate \$250 million to Councils of Governments and local jurisdictions to accelerate housing production. It is estimated that the Bay Area region will receive approximately \$50 million in combined funds from the program to be split 50/50 between the Association of Bay Area Governments (ABAG) and local jurisdictions.

**Berkeley will receive \$500,000 in funds from the program directly. Jurisdictional funds must be requested by July 1, 2020. These funds can be used for rezoning and plan updates to encourage development, for environmental clearance to eliminate project specific review, establishing workforce housing opportunity zones, revamping local planning processes, and creating or improving ADU ordinances.**

ABAG, as the regional Council of Governments, may request funding and allocate grants to local governments. Eligible uses for these grant funds include:

- Establishing regional or countywide housing trust funds for affordable housing
- A planning grant program to accelerate housing production in alignment with state goals

- Technical, staffing, or planning assistance to local agencies
- Updating housing elements to comply with state law
- Improving methodology for the distribution of the Sixth Cycle RHNA
- Developing local or regional policies to link transportation funds to housing outcomes
- Infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents
- Feasibility studies
- Staffing needs to implement the program

Additional highlights include support for homeownership programs and rental assistance. The bill authorizes HCD to make grants to local agencies or nonprofits to build or repair accessory dwelling units (ADUs) for low-income homeowners under the CalHome Program, and for disaster relief for low-income homeowners. To assist renters, \$20 million is allocated for legal aid support.

AB 101 also creates a new system of penalties and incentives for housing production. Under AB 101, if the HCD determines a jurisdiction is not in “substantial compliance” with California housing element law, they are subject to a tiered system of penalties—court notices, escalating fines and local fund interceptions—designed to encourage local compliance. These penalties escalate from a conference call and notice at three months out of compliance, to fines of \$10,000-\$100,000 at twelve months. If the non-compliance persists after the initial imposition of these fees, the fines escalate by a factor of three after three additional months, and a factor of six after six months. All fines are deposited into the Building Homes and Jobs Trust Fund<sup>1</sup>.

To reward local jurisdictions, the bill intends to award additional points or preference in the scoring of competitive housing and infrastructure programs. Local jurisdictions that have been designated as “pro-housing” based on their adopted local policies, defined as those that facilitate the planning, approval, or construction of housing, will be awarded additional points or preference in the program applications for the following programs:

- The Affordable Housing and Sustainable Communities Program (Cap and Trade program)
- The Transformative Climate Communities Program (Cap and Trade program)
- The Infill Incentive Grant Program of 2007
- Additional bonus points may be awarded to other state programs when already allowable under state law

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<sup>1</sup> For more details on the fine schedule and additional penalties, see Attachment C of the ABAG-MTC summary attached.

Examples of “pro-housing” policies include many of the same policies that can be supported by Local Government Planning Support Grants. For a complete list and additional details on AB 101, see attachment 1.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the information in this report. New funding for updates to plans and ordinances to encourage more infill housing will enable local governments to create more housing along transit corridors and at transit hubs, reducing VMT and greenhouse gas emissions, and helping advance climate goals.

#### FINANCIAL IMPLICATIONS

Through this legislation \$500,000 will be available to Berkeley directly. In addition, the city will be eligible to apply for regional funds from the Local Government Planning Supports Grant Program through ABAG, as well as grants for creating ADUs through the CalHome Program.

#### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

#### Attachments:

1: ABAG-MTC Summary of the FY 2019-20 State Budget Housing trailer Bill (AB 101)

**Metropolitan Transportation Commission and Association of Bay Area Governments  
Joint MTC Legislation Committee and ABAG Legislation Committee**

July 12, 2019

Agenda Item 4b

**Summary of the FY 2019-20 State Budget Housing Trailer Bill (AB 101)**

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**Subject:** Governor Newsom signed the FY 2019-20 State Budget on June 27, the largest in state history at \$214.8 billion. The budget invests \$1.75 billion in the production and planning of new housing. Assembly Bill 101, the budget's housing trailer bill, details many of the Governor's plans for moving forward on housing in the state.

**Summary:** The FY 2019-20 State Budget prioritizes affordable housing in many respects. An additional \$500 million may be allocated to low-income housing under the low-income housing tax credit program, and the bill also makes certain tax adjustments to this program. Importantly from a local and regional standpoint, the bill provides substantial one-time funding for a new Local Government Planning Support Grants Program, which requires the Department of Housing and Community Development (HCD) to allocate \$250 million to councils of governments and local jurisdictions to accelerate housing production. Of the total, \$125 million will go directly to cities and counties, and \$125 million will go to councils of government. Staff estimates that the region will receive approximately \$50 million in combined funds from this program, split 50/50 between ABAG and local jurisdictions, with the ABAG portion also available to be used as grants for local agencies. See Attachment A for full details on this program, including eligible uses of these funds, and Attachment B for the specific amount that each Bay Area jurisdiction is estimated to receive.

AB 101 also allocates \$500 million, through the Infill Infrastructure Grant Program, to capital improvement projects that facilitate development of infill projects or infill areas.

**A Stick and Carrot Approach**

The bill establishes a new penalty and reward structure for the state to impose financial penalties on local governments that violate state housing law as well as a reward system for jurisdictions that meet specified benchmarks by giving them priority for certain funds. Jurisdictions can also be brought to court by the Attorney General if they do not comply with their HCD-approved housing element, where they will be subject to fines, court follow-ups, and ineligibility for programs until they are compliant. HCD must also post on its website a list of jurisdictions that have failed to adopt a compliant housing element. See Attachment C for more details on penalties and rewards for housing-compliant jurisdictions.

**Major Investment in Homelessness**

To address homelessness, the bill distributes \$650 million to cities, counties and regional homelessness prevention agencies. Funding from this category is eligible for a variety of purposes, including development of permanent housing, subsidies for new and existing housing units, emergency shelters and navigation centers, and rental assistance. Funds will be distributed based on 2019 Point-in-Time (PIT) counts, which are snapshot counts of people experiencing homelessness on a single night, conducted by local Continuums of Care (CoCs) nationwide. Of the total, \$190 million will go to CoCs; \$275 million will go to cities over 300,000 people (Oakland, San Francisco and San Jose in the Bay Area); and \$175 million will go to counties. Based on 2017's PIT numbers (subject to change for 2019), the Bay Area could

expect to receive approximately \$118 million (\$21 million to CoCs, \$62 million to the three cities above, and \$35 million to counties).

The bill also requires that supportive housing for people transitioning from homelessness be allowed “by right” in areas already zoned to allow multifamily and mixed-use. Local agencies therefore may not impose certain requirements, such as conditional use permits or other discretionary review or approval, on transitional homeless navigation centers until 2027. Additionally, the California Environmental Quality Act (CEQA) will not apply to actions taken by agencies to build these centers through 2027.

**Homeownership Programs**

With respect to homeownership, this bill also increases the amount of money applicants can receive, and expands the uses of the money, through various established housing loan funds, including the Local Housing Trust Fund Matching Grant Program and the Housing Rehabilitation Loan Fund. Most notably, the bill appropriates \$500 million from the General Fund to the Self-Help Housing Fund, a program that makes loans to low- and moderate-income families to build their homes with their own labor. The bill also authorizes HCD to make grants to local agencies or nonprofits to build or repair accessory dwelling units (ADUs) for low-income homeowners under the CalHome Program, and for disaster relief for low-income homeowners.

**Rental Assistance**

To assist renters, the budget also includes \$20 million to provide legal aid for renters and assist with landlord-tenant disputes, including legal assistance for counseling, renter education programs, and preventing evictions, consistent with Governor Newsom’s proposal in the May Revise.

**Recommendation:** No recommendation

**Bill Positions:** None on file

**Attachments:** **Attachment A:** Local Government Planning Support Grants Program Details  
**Attachment B:** Bay Area Jurisdiction Funds under Local Government Planning Support Grants Program  
**Attachment C:** Penalties and Incentives for Housing Production

  
\_\_\_\_\_  
Therese W. McMillan

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
Local Government Planning Support Grants Program Details**

AB 101 provides substantial one-time funding for the Local Government Planning Support Grants Program, a new grant program to be administered by the Department of Housing and Community Development (HCD), to help implement the Sixth Cycle of the Regional Housing Needs Assessment (RHNA), covering the planning period of January 1, 2019 to August 31, 2027. The breakdown of the funds is as follows:

- \$250 million towards housing planning, including technical assistance/documents/process improvements, to accelerate housing production
- \$125 million directly to jurisdictions based on a 6-tier system
- \$125 million to councils of government (COGs), in matching amounts as provided to the total individual jurisdictions in the COG
- For the Bay Area, this amounts to \$25.5 million to ABAG and \$25.5 million to local jurisdictions directly. See Attachment B for the amount each Bay Area jurisdiction will receive.

**Fund Distribution to Jurisdictions: 6 Tiers**

- \$1,500,000 to localities with populations over 750,000
- \$750,000 to localities with populations between 300,000 and 749,999
- \$500,000 to localities with populations between 100,000 and 299,999
- \$300,000 to localities with populations between 60,000 and 99,999
- \$150,000 to localities with populations between 20,000 and 59,999
- \$65,000 to localities with populations under 20,000

**Regional Funding**

Funds to councils of government may be spent on the following uses:

- Establishing regional or countywide housing trust funds for affordable housing
- A planning grant program to accelerate housing production in alignment with state goals
- Technical, staffing, or planning assistance to local agencies
- Updating housing elements to comply with state law
- Improving methodology for the distribution of the Sixth Cycle RHNA
- Developing local or regional policies to link transportation funds to housing outcomes
- Infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents
- Feasibility studies
- Staffing needs to implement the program

Until January 31, 2021, a region may request funds. HCD will then have 30 days to review the application. The region must develop an education and outreach strategy to inform local agencies and meet other tracking and reporting requirements as outlined in the bill. The region must submit a final report on the uses of the funds by December 31, 2024.

**Jurisdictional Funding**

Funds to jurisdictions may be used for all of the above *regional uses* on the local level, plus:

- Rezoning and updating plans to encourage development
- Completing environmental clearance to eliminate project-specific review
- Establishing Workforce Housing Opportunity Zones
- Revamping local planning processes to speed up production of housing
- Creating/improving accessory dwelling unit (ADU) ordinances

A jurisdiction may request funds until July 1, 2020, must meet certain reporting requirements as outlined in the bill, and submit a final report on the uses of the funds by December 31, 2024.

FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
 Local Government Planning Support Grants Program  
 Bay Area Jurisdictional Funds

**Funding Tiers**

- \$1,500,000 to populations over 750,000
- \$750,000 to populations between 300,000 and 749,999
- \$500,000 to populations between 100,000 and 299,999
- \$300,000 to populations between 60,000 and 99,999
- \$150,000 to populations between 20,000 and 59,999
- \$65,000 to populations under 20,000

| <b>County/City/Town</b>         | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|---------------------------------|-------------------|----------------------------------------|
| <i>County of Alameda -</i>      |                   |                                        |
| <i>Unincorporated</i>           | 149,536           | \$500,000                              |
| City of Alameda                 | 79,316            | \$300,000                              |
| City of Albany                  | 19,393            | \$65,000                               |
| City of Berkeley                | 123,328           | \$500,000                              |
| City of Dublin                  | 64,577            | \$300,000                              |
| City of Emeryville              | 11,885            | \$65,000                               |
| City of Fremont                 | 232,532           | \$500,000                              |
| City of Hayward                 | 159,433           | \$500,000                              |
| City of Livermore               | 91,039            | \$300,000                              |
| City of Newark                  | 48,712            | \$150,000                              |
| City of Oakland                 | 432,897           | \$750,000                              |
| City of Piedmont                | 11,420            | \$65,000                               |
| City of Pleasanton              | 80,492            | \$300,000                              |
| City of San Leandro             | 89,825            | \$300,000                              |
| City of Union City              | 74,916            | \$300,000                              |
| <b>TOTAL, Alameda County</b>    | <b>1,669,301</b>  | <b>\$4,895,000</b>                     |
| <i>County of Contra Costa -</i> |                   |                                        |
| <i>Unincorporated</i>           | 173,406           | \$500,000                              |
| City of Antioch                 | 113,901           | \$500,000                              |
| City of Brentwood               | 63,662            | \$300,000                              |
| City of Clayton                 | 11,653            | \$65,000                               |
| City of Concord                 | 129,889           | \$500,000                              |
| Town of Danville                | 45,270            | \$150,000                              |
| City of El Cerrito              | 25,459            | \$150,000                              |
| City of Hercules                | 26,224            | \$150,000                              |
| City of Lafayette               | 26,327            | \$150,000                              |
| City of Martinez                | 38,490            | \$150,000                              |
| Town of Moraga                  | 16,939            | \$65,000                               |
| City of Oakley                  | 41,759            | \$150,000                              |
| City of Orinda                  | 19,475            | \$65,000                               |



**Joint MTC Legislation Committee and ABAG Legislation Committee  
July 12, 2019**

**Attachment B  
Agenda Item 4b**

| <b>County/City/Town</b>                 | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|-----------------------------------------|-------------------|----------------------------------------|
| City of Pinole                          | 19,498            | \$65,000                               |
| City of Pittsburg                       | 72,541            | \$300,000                              |
| City of Pleasant Hill                   | 35,055            | \$150,000                              |
| City of Richmond                        | 110,436           | \$500,000                              |
| City of San Pablo                       | 31,817            | \$150,000                              |
| City of San Ramon                       | 83,957            | \$300,000                              |
| City of Walnut Creek                    | 70,121            | \$300,000                              |
| <b>TOTAL, Contra Costa County</b>       | <b>1,155,879</b>  | <b>\$4,660,000</b>                     |
| <i>County of Marin -</i>                |                   |                                        |
| <i>Unincorporated</i>                   | 69,343            | \$300,000                              |
| City of Belvedere                       | 2,148             | \$65,000                               |
| City of Corte Madera                    | 10,047            | \$65,000                               |
| Town of Fairfax                         | 7,721             | \$65,000                               |
| City of Larkspur                        | 12,578            | \$65,000                               |
| City of Mill Valley                     | 14,675            | \$65,000                               |
| City of Novato                          | 54,115            | \$150,000                              |
| Town of Ross                            | 2,526             | \$65,000                               |
| Town of San Anselmo                     | 12,902            | \$65,000                               |
| City of San Rafael                      | 60,046            | \$300,000                              |
| City of Sausalito                       | 7,416             | \$65,000                               |
| Town of Tiburon                         | 9,362             | \$65,000                               |
| <b>TOTAL, Marin County</b>              | <b>262,879</b>    | <b>\$1,335,000</b>                     |
| <i>County of Napa - Unincorporated</i>  |                   |                                        |
| City of American Canyon                 | 26,158            | \$150,000                              |
| City of Calistoga                       | 20,629            | \$150,000                              |
| City of Napa                            | 5,453             | \$65,000                               |
| City of St. Helena                      | 79,490            | \$300,000                              |
| Town of Yountville                      | 6,133             | \$65,000                               |
| 2,916                                   | \$65,000          |                                        |
| <b>TOTAL, Napa County</b>               | <b>140,779</b>    | <b>\$795,000</b>                       |
| <i>City and County of San Francisco</i> |                   |                                        |
| <b>TOTAL, SF City &amp; County</b>      | <b>883,869</b>    | <b>\$1,500,000</b>                     |
| <i>County of San Mateo -</i>            |                   |                                        |
| <i>Unincorporated</i>                   | 66,027            | \$300,000                              |
| Town of Atherton                        | 7,070             | \$65,000                               |
| City of Belmont                         | 27,174            | \$150,000                              |
| City of Brisbane                        | 4,691             | \$65,000                               |
| City of Burlingame                      | 30,317            | \$150,000                              |
| Town of Colma                           | 1,512             | \$65,000                               |
| City of Daly City                       | 109,122           | \$500,000                              |
| City of East Palo Alto                  | 30,499            | \$150,000                              |

| <b>County/City/Town</b>          | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|----------------------------------|-------------------|----------------------------------------|
| City of Foster City              | 33,693            | \$150,000                              |
| City of Half Moon Bay            | 12,631            | \$65,000                               |
| Town of Hillsborough             | 11,769            | \$65,000                               |
| City of Menlo Park               | 35,790            | \$150,000                              |
| City of Millbrae                 | 23,154            | \$150,000                              |
| City of Pacifica                 | 38,674            | \$150,000                              |
| Town of Portola Valley           | 4,659             | \$65,000                               |
| City of Redwood City             | 85,319            | \$300,000                              |
| City of San Bruno                | 45,257            | \$150,000                              |
| City of San Carlos               | 29,864            | \$150,000                              |
| City of San Mateo                | 104,570           | \$500,000                              |
| City of South San Francisco      | 67,078            | \$300,000                              |
| Town of Woodside                 | 5,615             | \$65,000                               |
| <b>TOTAL, San Mateo County</b>   | <b>774,485</b>    | <b>\$3,705,000</b>                     |
| <i>County of Santa Clara -</i>   |                   |                                        |
| <i>Unincorporated</i>            | 88,368            | \$300,000                              |
| City of Campbell                 | 43,250            | \$150,000                              |
| City of Cupertino                | 59,879            | \$150,000                              |
| City of Gilroy                   | 55,928            | \$150,000                              |
| City of Los Altos                | 31,190            | \$150,000                              |
| Town of Los Altos Hills          | 8,785             | \$65,000                               |
| Town of Los Gatos                | 30,988            | \$150,000                              |
| City of Milpitas                 | 76,231            | \$300,000                              |
| City of Monte Sereno             | 3,787             | \$65,000                               |
| City of Morgan Hill              | 45,742            | \$150,000                              |
| City of Mountain View            | 81,992            | \$300,000                              |
| City of Palo Alto                | 69,397            | \$300,000                              |
| City of San Jose                 | 1,043,058         | \$1,500,000                            |
| City of Santa Clara              | 128,717           | \$500,000                              |
| City of Saratoga                 | 31,407            | \$150,000                              |
| City of Sunnyvale                | 155,567           | \$500,000                              |
| <b>TOTAL, Santa Clara County</b> | <b>1,954,286</b>  | <b>\$4,880,000</b>                     |
| <i>County of Solano -</i>        |                   |                                        |
| <i>Unincorporated</i>            | 19,580            | \$65,000                               |
| City of Benicia                  | 27,570            | \$150,000                              |
| City of Dixon                    | 19,794            | \$65,000                               |
| City of Fairfield                | 117,149           | \$500,000                              |
| City of Rio Vista                | 9,416             | \$65,000                               |
| City of Suisun City              | 29,447            | \$150,000                              |
| City of Vacaville                | 98,807            | \$300,000                              |
| City of Vallejo                  | 119,544           | \$500,000                              |
| <b>TOTAL, Solano County</b>      | <b>441,307</b>    | <b>\$1,795,000</b>                     |

| <b>County/City/Town</b>                      | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|----------------------------------------------|-------------------|----------------------------------------|
| <i>County of Sonoma -<br/>Unincorporated</i> | 141,781           | \$500,000                              |
| City of Cloverdale                           | 9,257             | \$65,000                               |
| City of Cotati                               | 7,919             | \$65,000                               |
| City of Healdsburg                           | 12,501            | \$65,000                               |
| City of Petaluma                             | 62,247            | \$300,000                              |
| City of Rohnert Park                         | 43,339            | \$150,000                              |
| City of Santa Rosa                           | 175,625           | \$500,000                              |
| City of Sebastopol                           | 7,885             | \$65,000                               |
| City of Sonoma                               | 11,556            | \$65,000                               |
| Town of Windsor                              | 28,565            | \$150,000                              |
| <b>TOTAL, Sonoma County</b>                  | <b>500,675</b>    | <b>\$1,925,000</b>                     |
| <br>                                         |                   |                                        |
| <b>BAY AREA TOTAL</b>                        | <b>7,783,460</b>  | <b>\$25,490,000</b>                    |

Source: Department of Finance, 2019 Population Estimates

<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/>

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
Penalties and Incentives for Housing Production**

AB 101, which passed the Senate and was pending approval on the Assembly Floor when this memo was finalized, creates a new system of penalties and rewards for local jurisdictions relative to compliance with state housing law and pursuit of “pro-housing” policies.

**Penalties**

Penalty-wise, for a jurisdiction that the California Department of Housing & Community Development (HCD) determines is not in “substantial compliance” with California housing element law, HCD must first issue written findings to the jurisdiction, which then has 30 days to respond to the findings. HCD must also offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation.

Next, HCD notifies the Attorney General that the jurisdiction is in violation of state law. The Attorney General, upon a finding of the court that the housing element does not substantially comply, requests that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance.

If the jurisdiction has not complied with the order or judgment after twelve months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply, the bill requires that the court fine the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Fines are a minimum amount of ten thousand \$10,000 per month, but shall not exceed \$100,000 per month.

If the jurisdiction has not complied with the order or judgment after three months following the imposition of these fees, after another status conference, the court may multiply the fine by a factor of three. If the jurisdiction has still not complied with the order or judgment six months following the imposition of fees, the court may multiply the fine by a factor of six.

In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction’s failure to pay. The court may also order remedies available under the Code of Civil Procedure, providing broad latitude to the court to use all the powers necessary to bring the jurisdiction’s housing element into substantial compliance.

**Incentives**

The bill intends to award additional points or other preference in the scoring of competitive housing and infrastructure programs to “pro-housing” jurisdictions. For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements, and that have been designated “pro-housing” based upon their adopted local policies, shall be awarded *additional points or preference* in the scoring of program applications for the following programs:

- The Affordable Housing and Sustainable Communities Program (Cap & Trade program)
- The Transformative Climate Communities Program (Cap and Trade program)
- The Infill Incentive Grant Program of 2007
- Additional bonus points may be awarded to other state programs when already allowable under state law.

The bill defines “pro-housing local policies” as policies that facilitate the planning, approval, or construction of housing. These policies include, but are not limited to:

- financial incentives for housing;
- reduced parking requirements for sites zoned residential;
- zoning allowing for use by right for residential and mixed-use development;
- zoning more sites for residential development or zoning sites at higher densities than required;
- adoption of accessory dwelling unit ordinances;
- reduction of permit processing time;
- creation of objective development standards;
- reduction of development impact fees; and
- Establishment of a Workforce Housing Opportunity Zone or housing sustainability district.



| Upcoming Workshops – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                  |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                            |                                                                                                                                                                  |
| Sept. 17                                                                   | <ol style="list-style-type: none"> <li>1. Arts and Culture Plan</li> <li>2. Zero Waste Rate Review</li> </ol>                                                    |
| Oct. 22                                                                    | <ol style="list-style-type: none"> <li>1. Berkeley's 2020 Vision Update</li> <li>2. Census 2020 Update</li> <li>3. Short Term Rentals</li> </ol>                 |
| Nov. 5                                                                     | <ol style="list-style-type: none"> <li>1. Transfer Station Feasibility Study</li> <li>2. Vision Zero Action Plan</li> <li>3. Update: goBerkeley (RPP)</li> </ol> |

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

| Unscheduled Presentations (City Manager)                                   |
|----------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Adeline Corridor Plan</li> </ol> |

|    | <b>City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: Housing Advisory Commission</b><br/> <b>Recommendation:</b> That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p><b>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b> Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Dee Williams-Ridley, City Manager, 981-7000</p> |
| 2. | <p><b>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance</b> (<i>Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.</i>) <b>March 18, 2019 Action:</b> <i>Item to be agendized at future Agenda and Rules Committee Meeting pending scheduling confirmation from City Manager.</i><br/> <b>From: Councilmember Worthington</b><br/> <b>Recommendation:</b> Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                      |
| 3. | <p><b>4. Disposition of City-Owned, Former Redevelopment Agency Properties at 1631 Fifth Street and 1654 Fifth Street</b> (<i>Referred from the September 25, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b><br/> 1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF).<br/> 2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale.<br/> <b>Financial Implications:</b> See report<br/> Contact: Kelly Wallace, Housing and Community Services, 981-5400<br/> <b>Note:</b> <i>At the June 11, 2019 meeting, Council approved a recommendation directing the City Manager to issue a Request for Proposals to select a qualified organization to purchase the single family home at 1654 Fifth Street to operate as housing for the homeless.</i></p>                                                                                                                                                                                                                        |



4. **17. Short-term referral to City Manager and budget referral for creation of a “vehicle dweller program” in Berkeley** *(Referred from the April 2, 2019 agenda.)*

**From: Councilmember Davila**

**Recommendation:** Create a comprehensive program to support those living in their vehicles, including but not limited to RVs, to stay in Berkeley without fear of being criminalized, harassed, displaced, fined or having their vehicles confiscated, and with the support needed to have minimal impact on the neighborhoods in which they reside. The program could include: -Issuing 3-6 month permits for vehicles in running order with an option to renew if no validated complaints have been filed. -Creating a registration process that identifies any additional support needed. -Specifying a consistent, clear and transparent process for investigating complaints to determine validity and issuing warnings. -Distributing permits equally across all parking permit districts and identifying any restrictions on parking (i.e. near schools given bus access, etc.). -Creating an affordable sliding scale permit structure based on size of vehicle, weight, number of wheels, etc. -Providing pump-out services, waste disposal and social services as needed. -Creating a pump-out station for use by RVs within the City of Berkeley. -Creating a program for up to \$3,000 per a vehicle for mechanical and sanitation repairs as well as registration and offering a grace period to get vehicles into compliance for a permit. -Piloting a Safe Parking program modeled after Oakland’s pilot: 4-8 sites with 6-10 vehicles parked at business, school, community or faith-based site parking lots, including support and sanitation services.

Vehicles with permits are exempt from Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

| CITY CLERK DEPARTMENT                                                       |                      |                       |                                         |                   |
|-----------------------------------------------------------------------------|----------------------|-----------------------|-----------------------------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                       |                                         |                   |
| Address                                                                     | Board/<br>Commission | Appeal Period<br>Ends | Determination<br>on Appeal<br>Submitted | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                            |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Public Hearings Scheduled</b>                                            |                      |                       |                                         |                   |
| 2325 Sixth St (single-family residence)                                     | ZAB                  |                       |                                         | 9/24/2019         |
| 0 Euclid Ave - Berryman Reservoir (denial of 4G telecom facility)           | ZAB                  |                       |                                         | 10/29/2019        |
| 2701 Shattuck Ave (construct mixed-use building) (Remanded)                 | ZAB                  |                       |                                         | 11/12/2019        |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Remanded to ZAB or LPC</b>                                               |                      |                       |                                         |                   |
| 1155-73 Hearst Ave (develop two parcels)<br>90-Day Deadline: May 19, 2019   | ZAB                  |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Notes</b>                                                                |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |

Last Updated: 8/21/19

**This version incorporates the changes from the July 15, 2019 meeting of the Agenda & Rules Committee. The document was reviewed up to page 10.**

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## The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. 68,753–N.S.  
Effective  
January 29, 2019

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## I. DUTIES

### A. Duties of Mayor

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

Commented [NML1]: Standard current practice per City Charter

### B. Duties of Councilmembers

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

### C. Motions to be Stated by Chair

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

### D. Decorum by Councilmembers

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

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

Commented [NML2]: Edit from July 15, 2019 Agenda & Rules Committee meeting

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

### E. Voting Disqualification

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

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

Commented [NML3]: Correct terminology

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

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

**G. ~~City Council Policy for Naming and Renaming Public Facilities~~**

~~The City Council Policy for Naming and Renaming Public Facilities adopted on January 31, 2012, and all its successors, is incorporated by reference into the City Council Rules of Procedure and included as Appendix A to this document.~~

Commented [NML4]: Edit from July 15, 2019 Agenda & Rules Committee meeting

## II. MEETINGS

### A. Call to Order - Presiding Officer

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

Commented [NML5]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML6]: Amended to standardize use throughout the document

### B. Roll Call

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

### C. Quorum Call

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

### D. Council Meeting ~~Schedule~~Conduct of Business

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

Commented [NML7]: Moved to more appropriate location below

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

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

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

Commented [NML8]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML9]: Items removed from Consent may have many other actions taken and listing this single action is misleading.

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

Commented [NML10]: Edit from July 15, 2019 Agenda & Rules Committee meeting – changed "a Councilmember" to "the Council"

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the



~~Agenda Committee~~ Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Commented [NML11]: Amended to standardize use throughout the document

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

**E. Adjournment**

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

**F. Unfinished Business**

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

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

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

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

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

Commented [NML12]: Proposed addition regarding starting early for ceremonial items was removed at the July 15, 2019 Agenda & Rules Committee meeting

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

Commented [NML13]: Special meetings are as needed and are not factored in to the annual schedule that is adopted, which includes the recess periods.

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

## II. MEETINGS

extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the ~~Agenda Committee~~ Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend ~~through up to the deadline for submission of staff reports for date of the first~~ through up to the date of the first ~~Agenda & Rules Committee~~ Agenda & Rules Committee meeting ~~for the first regular meeting~~ after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

### H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the ~~program~~ Ceremonial Calendar will be the Pledge of Allegiance.

### I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Council ~~members~~ may ~~become~~ be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from ~~the~~ residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in ~~public and in accessible~~ locations that are open to the public ~~and meet accessibility requirements under the Americans with Disabilities Act~~. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Commented [NML14]: The existing definition left a significant gap that did not allow City Manager action on administratively urgent items

Commented [NML15]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML16]: Edit from July 15, 2019 Agenda & Rules Committee meeting

## II. MEETINGS

~~City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public, or may be called upon to offer insights or provide information during discussion.~~

~~Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.~~

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Certain requirements listed above may not apply to a~~ Ad hoc subcommittees ~~may seeking legal advice and assistance from the City Attorney or meeting with the City Manager or his/her designees for purposes of real estate or labor negotiations.~~ convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

Commented [NML17]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting. This language mirrors the language used for Policy Committees Charter III, Section G

Commented [NML18]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items ~~carried over~~ continued from a previous meeting and published on a revised agenda.

Commented [NML19]: Additional clarification

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by any ~~Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if a ~~Councilmember~~ council member so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

Council agenda items are limited to a maximum of four Co-Authors (including the primary author). Co-Authors to Council reports may only be added in the following manner:

Commented [NML20]: Must have certainty at the time of submission and throughout the process to properly monitor participation in policy committee meetings per the Brown Act. New language for designation of co-authors from the July 15, 2019 Agenda & Rules Committee meeting – removed limitation on when co-sponsors could be added and changed it to limit the addition of co-sponsors to discretion of the primary author.

- In the original item as submitted by the primary author
- In a revised item submitted by the primary author at the Agenda & Rules Committee
- By verbal request of the primary author at the Agenda & Rules Committee
- In a revised item submitted by the primary author in Supplemental Reports and Communications Packet #1 or #2
- By verbal request of any Councilmember at the meeting when the item is considered

**START HERE 8/26/19**

Agenda items shall contain all relevant documentation, including the information listed below and the recommended points of analysis in the Council Report Guidelines in Appendix B. following as applicable:

Commented [NML21]: Adding reference to the new guidelines.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report ~~and action requested;~~
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

- c) Recommendation of the City Manager report author that describes the action to be taken on the item, if applicable; ~~(these provisions shall not apply to Mayor and Council items.);~~
- d) Fiscal impacts of the recommendation;
- e) A description of the current situation and its effects;
- f) Background information as needed;
- g) Rationale for recommendation;
- h) Alternative actions considered;
- i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
- j) Person or persons to contact for further information, with telephone number.
- k) Additional information and analysis as required.
- ~~j) If the author of any report believes additional background information beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Commented [NML22]: Required by the Brown Act for all agenda items.

Commented [NML23]: Outdated. We publish all materials except for the full administrative record of ZAB appeal.

2. "Co-Author" means the primary author of a council agenda item and other Councilmembers designated by the primary author to be co-authors of the council agenda item.

- 3. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
- 4. "Packet" means the agenda plus all its corresponding duplicated agenda items.
- 5. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
  - a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency

III. AGENDA

matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

- 6. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, ~~as uncompleted items.~~
- 7. "Old Business" Items carried over from a prior agenda of a meeting ~~as uncompleted items occurring~~ **as occurring more than 11 days earlier.**

Commented [NML24]: Per Open Government Ordinance

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by any ~~Councilmember~~ **council member**, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by ~~an the Agenda Committee~~ **Agenda & Rules Committee**, which shall be a standing committee of the City Council. ~~The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting.~~

Commented [NML25]: Superseded by policy committee section below

The ~~Agenda Committee~~ **Agenda & Rules Committee** shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. ~~Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day.~~ The ~~Agenda Committee~~ **Agenda & Rules Committee** packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the ~~Agenda Committee~~ **Agenda & Rules Committee** meeting.

Commented [NML26]: Clarification

The ~~Agenda Committee~~ **Agenda & Rules Committee** shall have the powers set forth below.

- a) **Items Authored by a Councilmember or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the ~~Agenda Committee~~ **Agenda & Rules Committee** shall review the item and may recommend that the matter be referred to a commission, to the City Manager, ~~a policy committee~~, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the ~~Agenda Committee~~ **Agenda & Rules Committee meeting** whether ~~he or she~~ **they** prefers to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the ~~Agenda Committee~~ **Agenda & Rules Committee** **within** 24 hours of the adjournment of the ~~Agenda~~

Commented [NML27]: Current practice

~~Committee~~ Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a policy committee.

Commented [NML28]: Per policy committee regulations

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the ~~Agenda Committee~~ Agenda & Rules Committee's adjournment, the recommendation of the ~~Agenda Committee~~ Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk. ~~If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item.~~

Commented [NML29]: Unnecessary. If the item is being submitted for a future meeting, it is a "new" item.

~~For authors of referred items that select option 2) above, the referred item will automatically be placed at the end of the Action Calendar under the heading "Referred Items". The Agenda Committee shall specify the reason for the referral from the categories listed below. This reason shall be printed with the item on the agenda.~~

Commented [NML30]: No longer needed with the policy committee system.

- ~~Reason 1 — Significant Lack of Background or Supporting Information~~
- ~~Reason 2 — Significant Grammatical or Readability Issues~~

b) **Items Authored by the City Manager.** The ~~Agenda Committee~~ Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the ~~Agenda Committee~~ Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the ~~referral~~ recommendation of the ~~Agenda Committee~~ Agenda & Rules Committee ~~or revised items that have not been resubmitted to the Agenda Committee~~ will automatically be placed on the Action Calendar.

Commented [NML31]: Inconsistent with current practices. Staff reports are still in review and are not printed in the Agenda & Rules Committee packet.

c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the ~~Agenda Committee~~ Agenda & Rules Committee.

i) For a commission item that does not require a companion report from the City ~~Manager~~ Manager, the ~~Agenda Committee~~ Agenda & Rules

[Committee](#) may act on an agendized commission report in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
  2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  3. Allow the item to proceed as submitted.
- ii) For any commission report that requires a companion report, the ~~Agenda Committee~~[Agenda & Rules Committee](#) will schedule the item on a Council agenda for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the ~~Agenda Committee~~[Agenda & Rules Committee](#). A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The ~~Agenda Committee~~[Agenda & Rules Committee](#) shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E ~~of the Rules of Procedures and Order~~.

**2. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

**3. Submission of Agenda Items.**

- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or ~~Councilmember~~[council member](#) is



received by the City Clerk after established deadlines and is not included on the ~~Agenda Committee~~ Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the ~~Agenda Committee~~ Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the ~~Agenda Committee~~ Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the ~~Agenda Committee~~ Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the ~~Agenda Committee~~ Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

#### 4. Submission of Supplemental and Revised Agenda Material.

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need

Commented [NML32]: Per Open Government Ordinance

for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

~~a)~~

b)c) After 5:12:00 p.m. ~~seven~~one calendar days prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

**5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

~~Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.~~

~~The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.~~

Commented [NML33]: Reflects current practice, which is much less formal than deleted text.

**D. Packet Preparation and Posting**

**1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4. Reports carried over, as Continued Business or Old Business need not be reproduced again.

Commented [NML34]: Inconsistent with OGO

**2. Distribution and Posting of Agenda.**

a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a

special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.

- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which support~~ing~~ing materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

Commented [NML35]: Edits to reflect current order

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, [Comments from the City Auditor, Non-Agenda](#) Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
  - ~~f) Referred Items~~

~~4.~~ Information Reports

~~4-5.~~ [Non-Agenda Public Comment](#)

~~5-6.~~ [Adjournment](#)~~Communications~~

~~6-7.~~ [Communications](#)~~Adjournment~~

Action items may be reordered at the discretion of the Chair with the consent of Council.

The ~~Agenda Committee~~[Agenda & Rules Committee](#) shall have the authority to reorder the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at

the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

G. Regulations Governing City Council Policy Committees

**1.A. Legislative Item Process**

All agenda items begin with submission to the ~~Agenda Committee~~ Agenda & Rules Committee.

Full Council Track

Items under this category are exempt from ~~Agenda Committee~~ Agenda & Rules Committee discretion to refer them to a policy committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- k.l. Committee and Regional Body Appointments

Commented [NML36]: Regulations from the Policy Committee resolution are inserted in red text; changes to the resolution language are in track changes

Commented [NML37]: Clarification

Commented [NML38]: Standard administrative item

### III. AGENDA

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Notwithstanding the exemption stated above, the ~~Agenda Committee~~ Agenda & Rules Committee, at its discretion, may route a Full Council Track item submitted by a Councilmember to a policy committee if the item has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues.

The ~~Agenda Committee~~ Agenda & Rules Committee has discretion to determine if an item falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item.

#### Policy Committee Track

Items submitted by Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the ~~Agenda Committee~~ Agenda & Rules Committee on a draft City Council agenda ~~(on a list)~~.

Commented [NML39]: Clarification

The ~~Agenda Committee~~ Agenda & Rules Committee must refer an item to a policy committee at the first meeting that the item appears before the ~~Agenda Committee~~ Agenda & Rules Committee. The ~~Agenda Committee~~ Agenda & Rules Committee may only assign the item to a single policy committee.

For a Policy Committee Track item, the ~~Agenda Committee~~ Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a policy committee.

#### Time Critical Track

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

The ~~Agenda Committee~~ Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass policy committee review if determined to be time critical. If such an item is deemed not to be time critical, it will be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the ~~Agenda Committee~~ Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

#### **B2. Council Referrals to Committees**

The full Council may refer any agenda item to a policy committee by majority vote.

**3. Participation Rules for Policy Committees Pursuant to the Brown Act**

Commented [NML40]: New requirements due to re-evaluation of Brown Act applicability to policy committees

- a. The quorum of a three-member policy committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two policy committee members may not discuss any item within the committee's subject matter jurisdiction outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a policy committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or and action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a policy committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the policy committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other councilmembers may attend as observers.
- g. An item may be considered by only one policy committee before it goes to the full Council.

**4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.

III. AGENDA

e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.

f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.

f.g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.

Commented [NML41]: Clarification of authority; reflects Charter

g-h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.

i. Reports leaving a policy committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.

h.i. No final action may be taken on an item for which revised or supplemental materials were submitted at the meeting. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Commented [NML42]: Added for transparency and to avoid violations arising from submission of materials only tangentially related to the agendized items

Items referred to a policy committee from the Agenda Committee Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda Committee Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's will include their recommendation will be included in a new separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

Commented [NML43]: Clarification of authority. Commissions are advisory to the Full Council



The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the policy committee are submitted to the agenda process by the members of the committee.

Commented [NML44]: Clarification of responsibility for shepherding items through process

~~A policy committee may refer an item to another policy committee for review. The total time for review by all policy committees is limited to the initial 120-day deadline.~~

Commented [NML45]: Inconsistent with Brown Act – review by two committees would result in an illegal serial meeting

If a policy committee does not take final action by the 120-day deadline, the item is returned to the ~~Agenda Committee~~ Agenda & Rules Committee and appears on the next available Council agenda. The ~~Agenda Committee~~ Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a policy committee may not be referred to a policy committee and must remain on the full Council agenda for consideration.

Commented [NML46]: Closes "endless loop" loophole

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Commented [NML47]: Clarification

Once the item is voted out of a policy committee, the final item will be resubmitted to the agenda process by the author, and it will return to the ~~Agenda Committee~~ Agenda & Rules Committee on the next available agenda. The ~~Agenda Committee~~ Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

Commented [NML48]: Clarification

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the item first appeared on the committee agenda.

**5D. Number and Make-up of Committees**

Six committees are authorized, each comprised of three ~~Councilmembers~~ Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The committees are as follows:

Commented [NML49]: This will allow two members of a policy committee to co-author an item. The Alternate will substitute for one of the co-authors while the item is heard by the policy committee.

1. Agenda and Rules Committee

III. AGENDA

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2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The ~~Agenda Committee~~ Agenda & Rules Committee shall establish the policy committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing policy committees of the City Council are considered "legislative bodies" under the Brown Act and must conduct all business in accordance with the Brown Act.

Commented [NML50]: Clarification

**6E. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall [stand and identify themselves](#), shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

[This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.](#)

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants [of a single appeal](#) collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. [If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment.](#) Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

Commented [NML51]: Reflects existing due process standards

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

~~According to the current Rules and Procedures Pursuant to this document, no~~ Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the ~~Agenda Committee~~ [Agenda & Rules Committee](#) for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, ~~Councilmembers~~, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

#### IV. CONDUCT OF MEETING

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It is the policy of the Council that ~~C~~eouncilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

#### C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of any ~~Councilmember~~council member shall be added to the appropriate section of ~~the Reports for Action~~ Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of any ~~Councilmember~~council member a Report for Information may be acted upon by the Council.

#### D. Communications

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." \_

All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. A ~~Councilmember~~council member may refer a communication to ~~staff~~ the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

Commented [NML52]: Clarification per OGO

#### E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

Commented [NML53]: Same as above

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Commented [NML54]: Current practice. Matches existing language for appeals above.

**F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Public Discussions**

Commented [NML55]: Unnecessary. A "public discussion" must still occur at a noticed meeting which is regulated by the Brown Act, OGO, and this document.

#### IV. CONDUCT OF MEETING

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~~The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.~~

#### H. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a ~~Councilmember~~council member except through the Presiding Officer.



## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council. ~~message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.~~

Commented [NML56]: Clarification that Clerk forwards written communications only, not verbal messages

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and

9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to ~~adjourn~~, amend, or substitute, shall be put to a vote without debate.

Commented [NML57]: Motion to adjourn is not debatable pursuant to Roberts Rules

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall ~~supercede~~supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The ~~Councilmember~~council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the ~~Councilmember~~council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session on the day such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made ~~and seconded~~ by a member one of on the prevailing sides, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

Commented [NML58]: Must happen at the same meeting, not just the same day.

Commented [NML59]: Inconsistent with Roberts Rules. Requiring a seconder to be on the prevailing side could infringe on a single member's right to reconsider their vote.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. ~~Except as provided in Section V.F.b hereof, e~~ Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of ~~Good of the City Information Reports~~; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph ~~a-1~~ hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any ~~Councilmember~~ council member to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any ~~Councilmember~~ council member may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in ~~subparagraph Section a-4D~~ hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

~~Any person desiring to address the Council shall first secure the permission of the presiding officer to do so.~~ Under the following headings of business, unless the presiding officer rules otherwise, any ~~qualified and~~ interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Commented [NML60]: Exactly restated later in same paragraph

Commented [NML61]: Not sure what could be meant by "qualified"

Interested parties or their authorized representatives may address the Council ~~by in the form of~~ written communications in regard to matters of concern to them ~~by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.~~

~~Communications pertaining to an item on the agenda which are received by the City Clerk after the deadline for inclusion in the Council Agenda packet and through 5:00 p.m. seven calendar days prior to the meeting shall be compiled into a supplemental communications packet. The supplemental communications packet shall be made available to the City Council, public and members of the press no later than five days prior to the meeting.~~

~~Communications received by the City Clerk after the aforementioned deadline and by noon on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Communications submitted at the Council meeting will be included in the public viewing binder and in the Clerk Department the day following the meeting.~~

Commented [NML62]: Described elsewhere and unnecessary here.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than a ~~Councilmember~~council member shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI. FACILITIES

### A. Council Chamber Capacity

~~Council Chamber~~ Attendance at council meetings shall be limited to the posted seating capacity of the meeting location~~thereof~~. Entrance to the ~~City Hall~~ meeting location will be appropriately regulated by the City Manager on occasions when the ~~Council Chamber~~ capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the ~~Council Chamber~~ meeting room except to address the Council, and sitting on the floor shall not be permitted. ~~The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.~~

Commented [NML63]: Updated to reflect new locations of meetings and to not be as specific with regards to meeting locations

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the ~~City Council Chambers~~ School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the ~~City Council Chambers~~ Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the ~~City Council Chambers~~ Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the ~~Council Chamber~~ meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the ~~Council Chambers~~ meeting location has ~~have~~ reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## **APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES**

### **Purpose**

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### **Objective**

A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### **Section 1 – Lead Commission**

The City Council designates the following commissions as the 'Lead Commissions' in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### **Board of Library Trustees**

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### **Section 2 – General Policy**

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### **Section 3 – Criteria for Naming of Public Facilities**

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.



APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

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1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the [Agenda Committee](#) ~~Agenda & Rules Committee~~ to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

#### **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

#### **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

#### **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

July 15, 2019

To: Honorable Members of the Agenda and Rules Committee

From: Councilmembers Lori Droste, Susan Wengraf

Subject: Updated Guidelines for Council Items

### **Recommendation**

Adopt revised Guidelines for Writing and Developing Council Agenda Items (Attachment 2) to serve as a guiding template for Council referrals beginning in September 2019.

### **Problem/ Summary Statement**

Current Council guidelines lack a few critical elements –opportunity costs and an evaluative criteria category, including specific budget allocation requests and *alignment* with strategic plan tenets– in [Guidelines for Writing and Developing Council Agenda Items](#). As a result, Council may not have adequate information to make decisions in the best interest of the public. Staff may be required to implement a measure without necessary funding or clarity of what to prioritize given the new item.

### **Background**

In January 2019, City Council adopted new guidelines for writing and developing Council items. These guidelines were an important step in ensuring that Council items on the agenda include detailed, contextual background information.

During the 2019 budget subcommittee process, community members provided valuable input regarding the City of Berkeley’s budget process. Typically, budget referrals are not tied to Council referrals. For example, many items that are high priorities for Berkeley City Council may not have a specific budget request. Additionally, prior to the June and November budget decisions, a flurry of Council budget referrals are submitted after the printed budget deadline. This can result in making budget adjustments much more challenging in the closing days of the budget process and passing a budget where top priorities are unfunded while other initiatives are funded without an accompanying policy referral.

Additionally, City Auditor Jenny Wong has also indicated to Council and various policy committees the necessity of confronting tradeoffs and opportunity costs prior to adopting policies.<sup>1</sup> This was based on the auditor’s report that found some ordinances are passed without fully analyzing the resources needed and without understanding current staffing capacity. By passing ordinances without understanding tradeoffs or opportunity costs, Council is not equipped with adequate information to make decisions and the public does not have the proper expectations about when and how an ordinance will be implemented, even at a high level.

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<sup>1</sup>[https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/A.2\\_RPT\\_Code%20Enforcement\\_Fiscal%20Year%202018.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/A.2_RPT_Code%20Enforcement_Fiscal%20Year%202018.pdf)

## Actions/Alternatives Considered

### *Current policy*

The revised guidelines adopted in January 2019 were a tremendous step forward toward better policy making and procedures. The revised item provides some minor amendments and formatting changes and simplifies the guidelines.

### *Proposed Guidelines*

The revised guidelines for council items draws upon Eugene Bardach's *Eightfold Path for Policy Analysis*.

1. Define the Problem
  - "Problem/Summary Statement"
  - Emphasis on defining the problem with specifics (e.g. quantify) and with enough context to explain why people should care.
  - E.g. "What private troubles warrant definition as public problems and thereby legitimately raise claims for amelioration by public resources?"
2. Assemble the Evidence
  - Merges "Background," "Review of Existing Plans, Programs, Policies, and Laws", "Consultation/Outreach Overview and Results"
  - E.g. What current plans, programs, policies, laws, and best practices currently address this issue?
  - E.g. What stakeholders did you engage and what was the feedback?
3. Construct the Alternatives
  - Merges status quo ("Current Situation and Its Effects") with "Actions/Alternatives Considered"
  - E.g. What is the current situation? What were some alternatives you considered when trying to address the problem?
4. Select the Criteria
  - **New recommendation: "Criteria Considered"**
  - Includes current categories "Environmental Sustainability" and "Fiscal Impacts"
  - Adds new categories "Effectiveness" and "Strategic Plan Alignment"
  - Amends Fiscal Impacts to include "Budget Referral" that dollarizes staff time and program implementation.
5. Project the Outcomes
  - AKA "Outcomes and Evaluation"
  - Evaluates the alternatives using the selected criteria
  - Identifying results to be achieved from passing item, which can include short and long term outcomes.

Example:



|                      | Benefits/<br>Effectiveness | Fiscal<br>Impacts/ Cost | Strategic Plan<br>Alignment                                                                                | Additional criteria<br>(environmental<br>sustainability, equity,<br>privacy, or safety, etc.) |
|----------------------|----------------------------|-------------------------|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Current<br>situation | <i>Analysis</i>            | <i>Analysis</i>         | E.g. “Provide state-<br>of-the-art well-<br>maintained<br>infrastructure,<br>amenities, and<br>facilities” | <i>Analysis</i>                                                                               |
| Alternative A        | <i>Analysis</i>            | <i>Analysis</i>         | E.g. “Provide state-<br>of-the-art well-<br>maintained<br>infrastructure,<br>amenities, and<br>facilities” | <i>Analysis</i>                                                                               |
| Alternative B        | <i>Analysis</i>            | <i>Analysis</i>         | E.g. “Provide state-<br>of-the-art well-<br>maintained<br>infrastructure,<br>amenities, and<br>facilities” | <i>Analysis</i>                                                                               |

6. Confront the Tradeoffs

- **NEW RECOMMENDATION “Operational Considerations”<sup>2</sup>**
- E.g. What are the tradeoffs, including what services and programs will diminish and by how much and how long when staff shift their efforts from an existing service or program to the proposed item? What is the estimated staff time needed for the proposed item? Will critical projects have to be delayed? Will crucial work not get done? Are there fiscal implications of not doing currently assigned work? Does diverting staff’s time risk noncompliance with laws and regulations? Assess the shift of staff time in terms of time and dollars.
- If this is a referral to commissions, what previous referrals will be put on hold in order to complete this? How does this fit into the Commission’s existing workplan?
- Operational considerations will be finalized during policy committee review before Council review and will not be a requirement for initial submission.

7. Decide

- AKA “Rationale for Recommendation”
- Moves this category to the end of the referral after appropriate analysis.

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<sup>2</sup> Recommendation from City Auditor Jenny Wong’s 2019 letter

- E.g. How did you land on this policy as being the most effective path forward?

8. Tell Your Story

- Drafting council items is a form of telling your story.

**Rationale for Recommendation**

If Council and staff incorporate these guidelines into agenda items, better policies will result. Namely, the City Council and the public will learn more about costs and benefits of certain policies. The community will learn about potential tradeoffs of current or existing policies. Finally, Council will no longer have to submit last minute budget referrals so budget requests will be easily prioritized, quantified and considered in time for budget adoption. Collectively, the improved process will better communicate expectations to policy makers, stakeholders and the community.

**Contact Information**

Councilmember Lori Droste, (510) 981-7180

Councilmember Susan Wengraf, (510) 981-7160

**Attachment 1**

RESOLUTION NO. ##,###-N.S.  
AMENDING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council Rules of Procedure and Order attached hereto and incorporated by reference shall govern all proceedings of the City Council herein prescribed, subject to the exceptions and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, excepting that breach of the peace or willful failure to comply with the lawful orders of the Council or its presiding officer shall be punishable as misdemeanors under applicable law.

BE IT FURTHER RESOLVED that the City Council Rules of Procedure and Order are amended to include amendments to Appendix B. Guidelines for Developing and Writing Council Agenda Items.

BE IT FURTHER RESOLVED that such guidelines constitute suggestions but not requirements for items submitted to the agenda for consideration by the City Council.

BE IT FURTHER RESOLVED that preceding amendatory Resolutions XXXXX-N.S. and xxxxx-N.S. are hereby rescinded.

## Attachment 2

### APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as applicable:

- A. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
- B. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- C. Recommendation;
- D. Problem/Summary Statement
- E. Background information as needed;
- F. A description of the current situation and its effects and alternative actions considered;
- G. Criteria considered, including fiscal impacts of the recommendation;
- H. Outcomes and evaluation;
- I. Operational considerations;
- J. Rationale for recommendation;
- K. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
- L. Person or persons to contact for further information, with telephone number.

Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Problem/Summary Statement
5. Background
6. Current Situation and Actions/Alternatives Considered

7. Criteria Considered
8. Outcomes and Evaluation
9. Operational Considerations
10. Rationale for Recommendation
11. Budget Referral
12. Contact Information
13. Attachments/Supporting Materials

### **1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

### **2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

### **3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

### **4. Problem/Summary Statement**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- State the opportunity/problem/concern that has been identified and why it warrants intervention.
- Define, quantify and contextualize the problem

### **5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

#### *a. Review of Existing Plans, Programs, Policies and Laws*

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to

them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

*b. Consultation/Outreach Overview and Results*

- Review/list external and internal stakeholders that were consulted
  - External: constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - Internal: staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

**6. Actions/Alternatives Considered**

*a. Current Situation and Its Effects*

*b. Alternatives Considered*

- What are some policy options that may mitigate or solve the problem?
- What solutions/measures have other jurisdictions adopted?
- What solutions/measures are recommended by advocates, experts, organizations?

**7. Criteria Considered**

- *Effectiveness*—How does this alternative maximize net benefits? How does it maximize public interest?
- *Fiscal Impacts*—Dollarize the estimated staff time and program implementation. Clarify whether the item is already budgeted, being shifted from an existing service to another, or a new funding source. [CG1] If the item requires a new funding source, include a budget referral. Review the recommended action’s potential to generate funds or savings for the City in the short and long-term.
- *Strategic Plan Alignment*—What provision of the strategic plan does this fall under?
- *Additional Criteria*—Additional criteria includes environmental sustainability, privacy, equity, safety or any other relevant and pertinent criteria.

**8. Outcomes and Evaluation**

- Project the outcomes and evaluate the alternatives using the selected criteria (Alternatives X Criteria).
- What are some of the major pros and cons?
- Why were other solutions not advisable/feasible?

Example:

|                   | Benefits/<br>Effectiveness | Fiscal<br>Impacts/<br>Cost | Strategic Plan Alignment                                                                  | Additional criteria<br>(environmental<br>sustainability, equity,<br>privacy, or safety, etc.) |
|-------------------|----------------------------|----------------------------|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Current situation | <i>Analysis</i>            | <i>Analysis</i>            | E.g. “Provide state-of-the-art well-maintained infrastructure, amenities, and facilities” | <i>Analysis</i>                                                                               |
| Alternative A     | <i>Analysis</i>            | <i>Analysis</i>            | E.g. “Provide state-of-the-art well-maintained infrastructure, amenities, and facilities” | <i>Analysis</i>                                                                               |
| Alternative B     | <i>Analysis</i>            | <i>Analysis</i>            | E.g. “Provide state-of-the-art well-maintained infrastructure, amenities, and facilities” | <i>Analysis</i>                                                                               |

**9.Operational Considerations**

- What are the tradeoffs, including what services and programs will diminish and by how much and how long when staff shift their efforts from an existing service or program to the proposed item? What is the estimated staff time needed for the proposed item? Will

critical projects have to be delayed? Will crucial work not get done? Are there fiscal implications of not doing currently assigned work? Does diverting staff's time risk noncompliance with laws and regulations? Assess the shift of staff time in terms of time and dollars. (Wong, 2019).

- If this is a referral to commissions, what previous referrals will be put on hold in order to complete this? How does this fit into the Commission's existing workplan?
- Operational considerations will be finalized during policy committee review before Council review and will not be a requirement for initial submission.

#### **10. Rationale for Recommendation**

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in minor ways
- Change/Amend existing Plans, Programs, Policies and Laws in major ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

#### **11. Budget Referral**

Include a budget referral. If the accompanying item is already budgeted, indicate so. Budget considerations should be finalized during policy committee analysis and are not a requirement for referral to a policy committee.

#### **12. Contact Information**

#### **13. Attachments/Supporting Materials**





**Date:** June 25, 2019

**To:** Jesse Arreguin, Mayor

**From:** Jenny Wong, City Auditor *zw*

**Topic:** Operational Considerations of New Council Directives and Ordinances

### Background and Current Situation

Drafting and considering a new ordinance requires thorough research and input from a variety of stakeholders. While there is suggested guidance, the current rules do not require new ordinances to go to the new policy committees. This can lead to inadequate vetting of a new ordinance. In addition, the current lack of operational information on City Council items leaves a gap in information for this legislative body to make informed decisions.

On January 29, 2019, the City Council referred the issue to the Agenda and Rules Committee to consider amendments related to opportunity costs. On February 4, 2019, the City Manager introduced an operational impacts analysis for use in staff reports. However, this information is not currently being used. As of today, this issue of operational and opportunity cost is not consistently available and therefore not considered in decision making by the City Council.

### Suggested Action

Amend the Berkeley City Council Rules of Procedure and Order to require all ordinances be automatically referred to a policy committee; and identify the operational considerations as requirements to be included in agenda items that will result in the use of staff time.

### Operational Considerations

It is in the best interest of the public and transparency in government when adequate information is provided for the City Council to make decisions. Currently, there is no requirement that operational cost, including opportunity cost (tradeoffs), be included in council directives, including ordinances. The lack of information does not equip City Council with information about what staff can reasonably accomplish given its available resources, nor does it give City Council an understanding of the tradeoffs they are making when proposing new items. New projects, new ordinances, and similar directives all require staff time and staff time has fiscal implications.

Many staff are working at high-capacity and any new work or need realistically means that they must stop working on one service or program in order to address new demands. This makes sense as City Council sets new priorities given the needs of the community. It is, therefore, essential for Council to have this information to think in terms of tradeoffs as they work to address the many, diverse needs of the community. This information will also serve as transparency and provide expectations to the public about the timeframes and resources related to the rollout of a new directive.

The term opportunity costs may seem more daunting than need be. While over time this concept can be developed into something more robust with a deeper analysis, the City can start from a more basic position to inform their decisions and remain accountable to the public. When drafting new items, Councilmembers can be better informed by working with city management to get an understanding of the operational impact that the new directive will require. The following outlines a way for City Council to prepare their item for review and consideration by the Policy Committee:

- **Analyze what is being gained against what must be lost (tradeoffs):**

A new commitment to the public without new resources, i.e., new staff, to provide the service means that an existing commitment can no longer be kept. To ensure that public needs are met, there some questions to ask of management when developing a new directive include: How severe would the shift from an existing service to the new service be? Is the new promise more important than the old? Is there a middle ground? Will critical projects have to be delayed? Will crucial work not get done? Are there fiscal implications of not doing that work? Does diverting staff's time risk noncompliance with laws and regulations? Will the public still expect the former promises to be kept?

Those are just some of the questions to guide the discussion because while there will always be strictly fiscal implications, the real issue to think about is the need to shift staff from one project to another, either entirely or at least partially, which removes the ability to get other work done or greatly delays it.

- **Assess the shift in staff priorities in terms of time and dollars:**

The discussion with management should also consider how much time it will take of staff to do the work. This will first require an open discussion about what the expectations are of the new item. Questions to ask include: How soon does this need to be done? Is it an ongoing need or short-term? Is it a high-priority? Does it require proactive enforcement? What other work needs to be done to make it happen?

After having those and other questions answered, management will be better able to identify resource needs in terms of staff time, e.g., “it’ll take two full weeks (80 hours),” or “a ½ FTE.” This then will allow management to assess dollars using known salaries and fringe benefit rates.

- **Set timeframes for the information:**

Management will need some time to provide City Council with the information they need. For some items, that are less complex and have a known comparison, a two-week turnaround to get the information may be feasible. For complex items involving multiple departments and that do not have an existing framework to build upon, more time will be needed, e.g., a month. There is no one size fits all but guidelines can set up these expectations.

### Agenda Item Requirements

To better inform Councilmembers who will vote on an agenda item and ensure that the public is provided transparent information on what services they may lose or have reduced as the result of a new Council directive, we suggest that Council amend the Berkeley City Council Rules of Procedure and Order (Rules):

- **Ordinances automatically referred to a policy committee:**

This will help ensure that a proposed policy is fully vetted and includes a discussion on both operational considerations and fiscal implications before sent to City Council for a vote.

- **Include service and program tradeoffs as an agenda item requirement:**

Adopting a new ordinance or giving a directive to have city staff produce an item will always require the use of a resource – staff time – and those always translate into fiscal implications. This should be transparent to both City Council considering the adoption of the new item and the public impacted by the new item. Page nine of the Berkeley City Council Rules of Procedure and Order (Rules) list the requirements for agenda items. Missing from those is the requirement to provide information on tradeoffs – shifting of staff time from one service or program to another and the impact of that shift.

- **Change “Implementation, Administration, and Enforcement” to “Operational Considerations:”**

Administration and enforcement are subsets of implementation and all are the operational considerations that Council should understand before adopting an item. This section should be used to discuss the service and program tradeoffs, including what services and programs will diminish and by how much and how long.

- **Move “Fiscal Implications” below “Operational Considerations:”**

Fiscal implications and operational considerations are intricately linked. By having fiscal implications shifted above environmental sustainability, this will be more transparent to both City Council and the public.

- **Dollarize staff time and make this a requirement:**

Staff time is the city’s largest cost and new Council directives requiring either short-term or ongoing staff time will result in fiscal implications that shift the use of existing budgeted funds. A well vetted agenda item that has identified staff time, e.g., ½ FTE, should automatically require that the time be translated into salaries and benefit costs and clarify that these are budgeted funds being shifted from an existing service to another. This practice is done on some items but not all. Making it a requirement will ensure Council has this information to make informed decisions.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items carried over.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by any council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if a council member so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.
2. Agenda items shall contain all relevant documentation, including the following as applicable:
  - a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c) Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d) Operational considerations of the recommendation;
  - e) Fiscal impacts of the recommendation;
  - f) A description of the current situation and its effects;
  - g) Background information as needed;
  - h) Rationale for recommendation;
  - i) Alternative actions considered;
  - j) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);

- j) Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.
3. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
4. "Packet" means the agenda plus all its corresponding duplicated agenda items.
5. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
  - a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
6. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, as uncompleted items.
7. "Old Business" Items carried over from a prior agenda of a meeting as uncompleted items.

### **C. Procedure for Bringing Matters Before City Council**

#### **1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by any council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by an Agenda Committee, which shall be a standing committee of the City Council. The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting. **Proposed ordinances are automatically referred to policy committee for review.**

The Agenda Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. The Agenda Committee packet, including a draft agenda and Councilmember and Commission

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Operational considerations of the recommendation;
  - e. Fiscal impacts of the recommendation;
  - f. A description of the current situation and its effects;
  - g. Background information as needed;
  - h. Rationale for recommendation;
  - i. Alternative actions considered;
  - j. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - k. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.



## Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. ~~Implementation, Administration and Enforcement~~  
Operational considerations of the recommendation;
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. ~~Implementation, Administration and Enforcement~~ Operational Considerations of the Recommendation**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation? What are the tradeoffs, including what services and programs will diminish and by how much and how long when staff shift their efforts from an existing service or program to the proposed item? What is the estimated staff time needed for the proposed item, e.g., 1/2 FTE?

**11. Fiscal Implications**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs. Translate the estimated staff time from item 10 into salaries and benefit costs and clarify that these are budgeted funds being shifted from an existing service to another, or a new funding source.

**12. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



City Clerk Department

July 1, 2019

To: Agenda and Rules Committee  
From: Mark Numainville, City Clerk  
Subject: Amendments to the City Council Rules of Procedure and Order

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The attached document contains significant amendments to City Council Rules of Procedure and Order. The amendments are needed to update the Rules of Procedure (ROP) to incorporate the regulations adopted to govern City Council Policy Committees in Resolution 68,726-N.S. adopted on December 11, 2018. In addition, with three months of policy committee meetings completed, the need for amendments to the original policy committee regulations have surfaced. The amendments related to policy committees have ripples throughout the document and require changes to the sections for the Agenda Committee and the legislative process.

Some of the amendments related to policy committees are related to the participation of councilmembers. These amendments are being proposed due to a re-evaluation of the Brown Act's applicability to the policy committee process. After thorough review by the City Attorney's Office, the City Clerk Department, and the Chair of the League of California Cities Brown Act Committee, staff has concluded that new rules limiting participation by councilmembers are required. These changes are located on pages 20-21 of the attachment.

With the significant amendments needed to incorporate policy committees, staff recommends using this update to make other amendments related to the items below.

- Revised and Supplemental materials per the Open Government Ordinance
- Outdated language and agenda headings
- Clarification regarding public comment on appeals
- Parliamentary clarifications to adhere to Roberts Rules of Order
- Updates to reflect the move to BUSD Board Room
- Other minor modifications and technical corrections

A fully annotated version of the revised document with all amendments in track changes is attached.

The Rules of Procedure and Order are adopted by Resolution. Staff is seeking comments and suggestions from the Committee on the proposed changes and will submit the amendments to the full Council after the committee has taken action on the amendments.

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# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. 68,753–N.S.  
Effective  
January 29, 2019

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## I. DUTIES

### A. Duties of Mayor

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

Commented [NML1]: Standard current practice per City Charter

### B. Duties of Councilmembers

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

### C. Motions to be Stated by Chair

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

### D. Decorum by Councilmembers

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

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak.

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

### E. Voting Disqualification

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

by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to ~~absent~~recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

Commented [NML2]: Correct terminology

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

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

**G. City Council Policy for Naming and Renaming Public Facilities**

The City Council Policy for Naming and Renaming Public Facilities adopted on January 31, 2012, and all its successors, is incorporated by reference into the City Council Rules of Procedure and included as Appendix A to this document.

## II. MEETINGS

### A. Call to Order - Presiding Officer

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

Commented [NML3]: Amended to standardize use throughout the document

### B. Roll Call

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

### C. Quorum Call

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

### D. Council Meeting ~~Schedule~~Conduct of Business

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

Commented [NML4]: Moved to more appropriate location below

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

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

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

Commented [NML5]: Items removed from Consent may have many other actions taken and listing this single action is misleading.

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

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the

~~Agenda Committee~~ Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Commented [NML6]: Amended to standardize use throughout the document

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

**E. Adjournment**

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

**F. Unfinished Business**

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

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

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

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

Regular City Council meetings shall begin no later than 6:00 p.m. ~~Ceremonial~~ items may be taken up as special items noticed to be heard in advance of the scheduled start time of the regular meeting.

Commented [NML7]: Allows for possibility of starting earlier for ceremonial items

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

Commented [NML8]: Special meetings are as needed and are not factored in to the annual schedule that is adopted, which includes the recess periods.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary

## II. MEETINGS

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for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the ~~Agenda Committee~~Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend ~~through~~up to the ~~deadline for submission of staff reports for~~date of the first meeting after the Council recess.

Commented [NML9]: The existing definition left a significant gap that did not allow City Manager action on administratively urgent items

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

### H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the ~~program~~Ceremonial Calendar will be the Pledge of Allegiance.

### I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Council ~~members~~ may ~~become~~be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from ~~the~~ residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in public and in accessible locations that are open to the public. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

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## II. MEETINGS

-City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public, or may be called upon to offer insights or provide information during discussion.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Certain requirements listed above may not apply to ad hoc subcommittees seeking legal advice and assistance from the City Attorney or meeting with the City Manager or his/her designees for purposes of real estate or labor negotiations.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items ~~carried over~~ continued from a previous meeting and published on a revised agenda.

Commented [NML10]: Additional clarification

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by any ~~Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if a ~~Councilmember~~ council member so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

Council agenda items are limited to a maximum of three Co-Authors. Co-Authors to a Council agenda item must be designated and included on the agenda item when it is originally submitted to the City Clerk. Co-Authors may not be added after the item is initially submitted to the City Clerk.

Commented [NML11]: Must have certainty at the time of submission and throughout the process to properly monitor participation in policy committee meetings per the Brown Act. Limiting to three allows for more flexibility for compliance in the legislative process.

Agenda items shall contain all relevant documentation, including the information listed below and the recommended points of analysis in the Council Report Guidelines in Appendix B. following as applicable:

Commented [NML12]: Adding reference to the new guidelines.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report ~~and action requested;~~
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the ~~City Manager~~ report author that describes the action to be taken on the item, if applicable; ~~(these provisions shall not apply to Mayor and Council items.);~~
- d) Fiscal impacts of the recommendation;
- e) A description of the current situation and its effects;
- f) Background information as needed;

Commented [NML13]: Required by the Brown Act for all agenda items.



- g) Rationale for recommendation;
- h) Alternative actions considered;
- i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);

j) Person or persons to contact for further information, with telephone number.

k) Additional information and analysis as required.

~~j) If the author of any report believes additional background information beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Commented [NML14]: Outdated. We publish all materials except for the full administrative record of ZAB appeal.

2. "Co-Author" means the primary author of a council agenda item and other Councilmembers designated by the primary author to be co-authors of the council agenda item.

3. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

4. "Packet" means the agenda plus all its corresponding duplicated agenda items.

5. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

- a) A work stoppage or other activity which severely impairs public health, safety, or both;
- b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

6. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, ~~as uncompleted items.~~

7. "Old Business" Items carried over from a prior agenda of a meeting ~~as uncompleted items occurring occurring more than 11 days earlier.~~

Commented [NML15]: Per Open Government Ordinance

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by any ~~Councilmember~~council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by ~~an the Agenda Committee~~Agenda & Rules Committee, which shall be a standing committee of the City Council. ~~The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting.~~

Commented [NML16]: Superseded by policy committee section below

The ~~Agenda Committee~~Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The ~~Agenda Committee~~Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the ~~Agenda Committee~~Agenda & Rules Committee meeting.

Commented [NML17]: Clarification

The ~~Agenda Committee~~Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by a Councilmember or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the ~~Agenda Committee~~Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a policy committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the ~~Agenda Committee~~Agenda & Rules Committee meeting whether ~~he or she~~they prefers to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the ~~Agenda Committee~~Agenda & Rules Committee within 24 hours of the adjournment of the Agenda CommitteeAgenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a policy committee.

Commented [NML18]: Current practice

Commented [NML19]: Per policy committee regulations

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the ~~Agenda Committee~~Agenda & Rules Committee's adjournment, the recommendation of the ~~Agenda Committee~~Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk. ~~If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item.~~

Commented [NML20]: Unnecessary. If the item is being submitted for a future meeting, it is a "new" item.

~~For authors of referred items that select option 2) above, the referred item will automatically be placed at the end of the Action Calendar under the heading "Referred Items". The Agenda Committee shall specify the reason for the referral from the categories listed below. This reason shall be printed with the item on the agenda.~~

Commented [NML21]: No longer needed with the policy committee system.

~~Reason 1 — Significant Lack of Background or Supporting Information  
Reason 2 — Significant Grammatical or Readability Issues~~

- b) **Items Authored by the City Manager.** The ~~Agenda Committee~~Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the ~~Agenda Committee~~Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the ~~referral recommendation of the Agenda Committee~~Agenda & Rules Committee or ~~revised items that have not been resubmitted to the Agenda Committee~~ will automatically be placed on the Action Calendar.

Commented [NML22]: Inconsistent with current practices. Staff reports are still in review and are not printed in the Agenda & Rules Committee packet.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the ~~Agenda Committee~~Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City ~~Manager~~Manager, the ~~Agenda Committee~~Agenda & Rules Committee may act on an agendized commission report in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports

submitted in response to a Council referral shall receive higher priority for scheduling.

3. Allow the item to proceed as submitted.

ii) For any commission report that requires a companion report, the ~~Agenda Committee~~ [Agenda & Rules Committee](#) will schedule the item on a Council agenda for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the ~~Agenda Committee~~ [Agenda & Rules Committee](#). A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.

d) The ~~Agenda Committee~~ [Agenda & Rules Committee](#) shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E ~~of the Rules of Procedures and Order~~.

2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

3. **Submission of Agenda Items.**

a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

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

The author of the report shall bring any reports submitted as Time Critical to the meeting of the ~~Agenda Committee~~ [Agenda & Rules Committee](#). Time Critical items must be accompanied by complete reports and statements of financial implications. If the ~~Agenda Committee~~ [Agenda & Rules Committee](#) finds the matter to meet the definition of Time Critical, the ~~Agenda Committee~~ [Agenda & Rules Committee](#) may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the ~~Agenda Committee~~ Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

**4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

Commented [NML23]: Per Open Government Ordinance

~~a)~~

- b)c) After ~~5~~12:00 p.m. ~~seven~~one calendar days prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a

comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Council member evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

**5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

Commented [NML24]: Reflects current practice, which is much less formal than deleted text.

~~Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.~~

~~The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.~~

**D. Packet Preparation and Posting**

**1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4. Reports carried over, as Continued Business or Old Business need not be reproduced again.

Commented [NML25]: Inconsistent with OGO

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, [Comments from the City Auditor, Non-Agenda](#) Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business

Commented [NML26]: Edits to reflect current order

~~f) — Referred Items~~

~~4. Information Reports~~

~~4.5. Non-Agenda Public Comment~~

~~5.6. Adjournment Communications~~

~~6.7. Communications Adjournment~~

Action items may be reordered at the discretion of the Chair with the consent of Council.

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the authority to reorder the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.
3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.



G. Regulations Governing City Council Policy Committees

**1A. Legislative Item Process**

All agenda items begin with submission to the ~~Agenda Committee~~ Agenda & Rules Committee.

**Full Council Track**

Items under this category are exempt from ~~Agenda Committee~~ Agenda & Rules Committee discretion to refer them to a policy committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- ~~k.l. Committee~~ and Regional Body Appointments

Commented [NML27]: Regulations from the Policy Committee resolution are inserted in red text; changes to the resolution language are in track changes

Commented [NML28]: Clarification

Commented [NML29]: Standard administrative item

Notwithstanding the exemption stated above, the ~~Agenda Committee~~ Agenda & Rules Committee, at its discretion, may route a Full Council Track item submitted by a Councilmember to a policy committee if the item has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues.

The ~~Agenda Committee~~ Agenda & Rules Committee has discretion to determine if an item falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item.

**Policy Committee Track**

Items submitted by Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the ~~Agenda Committee~~ Agenda & Rules Committee on a draft City Council agenda (on a list).

Commented [NML30]: Clarification

The ~~Agenda Committee~~ Agenda & Rules Committee must refer an item to a policy committee at the first meeting that the item appears before the ~~Agenda Committee~~ Agenda

### III. AGENDA

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& Rules Committee. The ~~Agenda Committee~~ Agenda & Rules Committee may only assign the item to a single policy committee.

For a Policy Committee Track item, the ~~Agenda Committee~~ Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a policy committee.

#### Time Critical Track

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

The ~~Agenda Committee~~ Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass policy committee review if determined to be time critical. If such an item is deemed not to be time critical, it will be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the ~~Agenda Committee~~ Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

#### **B2. Council Referrals to Committees**

The full Council may refer any agenda item to a policy committee by majority vote.

#### **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member policy committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two policy committee members may not discuss any item within the committee's subject matter jurisdiction outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a policy committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or and action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.

Commented [NML31]: New requirements due to re-evaluation of Brown Act applicability to policy committees

- d. All three members of a policy committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the policy committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other councilmembers may attend as observers.
- g. An item may be considered by only one policy committee before it goes to the full Council.

**C4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- f.g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- g.h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a policy committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- h.j. No final action may be taken on an item for which revised or supplemental materials were submitted at the meeting. Per Brown Act regulations, any such materials must

Commented [NML32]: Clarification of authority; reflects Charter

Commented [NML33]: Added for transparency and to avoid violations arising from submission of materials only tangentially related to the agendized items

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be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a policy committee from the ~~Agenda Committee~~Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the ~~Agenda Committee~~Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's ~~will include their~~ recommendation will be included in a ~~new~~separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

Commented [NML34]: Clarification of authority. Commissions are advisory to the Full Council

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the policy committee are submitted to the agenda process by the members of the committee.

Commented [NML35]: Clarification of responsibility for shepherding items through process

A policy committee may refer an item to another policy committee for review. The total time for review by all policy committees is limited to the initial 120-day deadline.

Commented [NML36]: Inconsistent with Brown Act – review by two committees would result in an illegal serial meeting

If a policy committee does not take final action by the 120-day deadline, the item is returned to the ~~Agenda Committee~~Agenda & Rules Committee and appears on the next available Council agenda. The ~~Agenda Committee~~Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a policy committee may not be

Commented [NML37]: Closes "endless loop" loophole

referred to a policy committee and must remain on the full Council agenda for consideration.

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Commented [NML38]: Clarification

Once the item is voted out of a policy committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda Committee ~~Agenda & Rules Committee~~ on the next available agenda. The ~~Agenda Committee~~ Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

Commented [NML39]: Clarification

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the item first appeared on the committee agenda.

**5D. Number and Make-up of Committees**

Six committees are authorized, each comprised of three ~~Ce~~ councilmembers with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The committees are as follows:

Commented [NML40]: This will allow two members of a policy committee to co-author an item. The Alternate will substitute for one of the co-authors while the item is heard by the policy committee.

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The ~~Agenda Committee~~ Agenda & Rules Committee shall establish the policy committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing policy committees of the City Council are considered "legislative bodies" under the Brown Act and must conduct all business in accordance with the Brown Act.

Commented [NML41]: Clarification

**6E. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at

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the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall stand identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

[This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.](#)

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants [of a single appeal](#) collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. [If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment.](#) Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

Commented [NML42]: Reflects existing due process standards



**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

~~According to the current Rules and Procedures Pursuant to this document, no~~ Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the ~~Agenda Committee~~ [Agenda & Rules Committee](#) for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, ~~C~~ouncilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

#### IV. CONDUCT OF MEETING

It is the policy of the Council that ~~C~~eouncilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

#### C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of any ~~Councilmember~~council member shall be added to the appropriate section of ~~the Reports for Action~~ Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of any ~~Councilmember~~council member a Report for Information may be acted upon by the Council.

#### D. Communications

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." \_

All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. A ~~Councilmember~~council member may refer a communication to ~~staff~~ the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

Commented [NML43]: Clarification per OGO

#### E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

Commented [NML44]: Same as above

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Commented [NML45]: Current practice. Matches existing language for appeals above.

**F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Public Discussions**

Commented [NML46]: Unnecessary. A "public discussion" must still occur at a noticed meeting which is regulated by the Brown Act, OGO, and this document.

#### IV. CONDUCT OF MEETING

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~~The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.~~

#### H. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a ~~Councilmember~~council member except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council. ~~message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.~~

Commented [NML47]: Clarification that Clerk forwards written communications only, not verbal messages

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and

9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to ~~adjourn~~, amend, or substitute, shall be put to a vote without debate.

Commented [NML48]: Motion to adjourn is not debatable pursuant to Roberts Rules

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall ~~supercede~~supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The ~~Councilmember~~council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the ~~Councilmember~~council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session on the day such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made ~~and seconded~~ by a member one of the prevailing sides, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

Commented [NML49]: Must happen at the same meeting, not just the same day.

Commented [NML50]: Inconsistent with Roberts Rules. Requiring a seconder to be on the prevailing side could infringe on a single member's right to reconsider their vote.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. ~~Except as provided in Section V.F.b hereof, e~~ Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of ~~Good of the City Information Reports~~; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph ~~a-1~~ hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any ~~Councilmember~~ council member to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any ~~Councilmember~~ council member may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in ~~subparagraph Section a-4D~~ hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

~~Any person desiring to address the Council shall first secure the permission of the presiding officer to do so.~~ Under the following headings of business, unless the presiding officer rules otherwise, any ~~qualified and~~ interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Commented [NML51]: Exactly restated later in same paragraph

Commented [NML52]: Not sure what could be meant by "qualified"



Interested parties or their authorized representatives may address the Council ~~by in the form of~~ written communications in regard to matters of concern to them ~~by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.~~

~~Communications pertaining to an item on the agenda which are received by the City Clerk after the deadline for inclusion in the Council Agenda packet and through 5:00 p.m. seven calendar days prior to the meeting shall be compiled into a supplemental communications packet. The supplemental communications packet shall be made available to the City Council, public and members of the press no later than five days prior to the meeting.~~

~~Communications received by the City Clerk after the aforementioned deadline and by noon on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Communications submitted at the Council meeting will be included in the public viewing binder and in the Clerk Department the day following the meeting.~~

Commented [NML53]: Described elsewhere and unnecessary here.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than a ~~Councilmember~~council member shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI. FACILITIES

### A. Council Chamber Capacity

~~Council Chamber a~~Attendance at council meetings shall be limited to the posted seating capacity of the meeting location~~thereof~~. Entrance to the City Hall meeting location will be appropriately regulated by the City Manager on occasions when the Council Chamber capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the Council Chamber meeting room except to address the Council, and sitting on the floor shall not be permitted. ~~The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.~~

Commented [NML54]: Updated to reflect new locations of meetings and to not be as specific with regards to meeting locations

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the ~~City Council Chambers~~ School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the ~~City Council Chambers~~ Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the ~~City Council Chambers~~ Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the Council Chamber meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the Council Chambers meeting location has ~~have~~ reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the 'Lead Commissions' in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

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1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the [Agenda Committee](#) ~~Agenda & Rules Committee~~ to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan



- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

#### 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

#### 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

#### 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**