



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

**TUESDAY, SEPTEMBER 6, 2022**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Kate Harrison

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH  
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://cityofberkeley-info.zoomgov.com/j/1601730715>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter Meeting ID: **160 173 0715**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

# **AGENDA**

## **Roll Call**

## **Public Comment**

## **Review of Agendas**

- 1. Approval of Minutes: August 29, 2022**
- 2. Review and Approve Draft Agenda:**
  - a. 9/20/22 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

## **Scheduling**

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

## **Referred Items for Review**

- 8. Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**
- 9. Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies**

## **Unscheduled Items**

- 10. Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)**
- 11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**

## **Items for Future Agendas**

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

## Adjournment – Next Meeting Monday, September 12, 2022

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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.*

*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.*

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



#### COMMUNICATION ACCESS INFORMATION:

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

\* \* \*

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 Thursday, September 1, 2022.



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, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



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

**MONDAY, AUGUST 29, 2022**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Kate Harrison

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter Meeting ID: **160 605 7708**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

**Roll Call:** 2:33 p.m. All present.

**Public Comment** – 3 speakers

## **Review of Agendas**

**1. Approval of Minutes: July 11, 2022**

**Action:** M/S/C (Wengraf/Hahn) to approve the minutes of 7/11/22.

**Vote:** All Ayes.

**2. Review and Approve Draft Agenda:**

a. 9/13/22 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Wengraf) to approve the 9/13/22 agenda with the changes note below.

- *Item 6 Urgency Ordinance (City Manager) – removed from the agenda*
- *Item 22 Vision 2050 (City Manager) – removed from the agenda*
- *Item 26 Pacific Center (Arreguin) – added Councilmembers Robinson and Hahn as co-sponsors*
- *Item 27 Efficiency Unit Ordinance (Taplin) – moved to Action Calendar*
- *Item 35 Abortion Access (Commission) – moved to Consent Calendar*
- *Item 37 Ordinance Amendment (Arreguin) – moved to Consent Calendar; Councilmember Hahn added as a co-sponsor*
- *Item 38 Information Report Request (Taplin) – referred to the Public Safety Committee*

Order of Items on Action

Item 33 Surveillance Technology Report

Item 34 Municipal Code Amendment

Item 36 Equitable Safe Streets

Item 27 Efficiency Unit Ordinance

**Vote:** All Ayes.

**3. Selection of Item for the Berkeley Considers Online Engagement Portal**

- None Selected

**4. Adjournments In Memory**

1. Leisl Griffith Redmond, Berkeley Employee
2. Neil Mayer, Former Berkeley Employee

## **Scheduling**

**5. Council Worksessions Schedule**

- Request to reschedule 10/6/22 special and regular meetings to 10/11/22

**6. Council Referrals to Agenda Committee for Scheduling**

**Action:** M/S/C (Arreguin/Wengraf) to take no further action on Item 1 Rent Board Proposed Ballot Measure.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to schedule Item 2 City Website to 9/20/22.  
**Vote:** All Ayes.

**7. Land Use Calendar**

- Request to reschedule 10/6/22 appeal to 10/11/22

**Referred Items for Review**

**8. Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**

**Action:** 3 speakers. No action taken.

**9. Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies**

**Action:** 2 speakers. Request for Public Health Officer to attend next meeting for discussion on hybrid/in-person meetings.

**Unscheduled Items**

**10. Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)**

**11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**

**Items for Future Agendas**

- The Committee discussed the potential role for Agenda & Rules Committee in the performance reviews for the City Attorney and the Director of Police Accountability.

**Adjournment**

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

**Vote:** All Ayes.

Adjourned at 3:39 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on August 29, 2022.

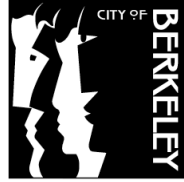
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Mark Numainville, City Clerk

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**DRAFT AGENDA**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 20, 2022**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <<INSERT URL HERE>>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free) and enter Meeting ID: <<INSERT MEETING ID HERE>>. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

### Roll Call:

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

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

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

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

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

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

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

## Consent Calendar

**1. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

**From: City Manager**

**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, and July 26, 2022.

**Financial Implications:** To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

**2. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**

**From: City Manager**

**Recommendation:** Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, and August 23, 2022.

**Financial Implications:** To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

**3. Establish 2023 City Council Meeting Schedule**

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the City Council regular meeting schedule for 2023, with starting times of 6:00 p.m.

**Financial Implications:** None

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

## Consent Calendar

- 4. 2023 Tax Rate: Transportation Network Company User Tax**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the 2023 tax rate (effective January 1, 2023) for the transportation network company at the following rates: 53.775 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 26.249 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 5. Contract No. 084349-1 Amendment: AMCS Group Inc. for Zero Waste PC Scale Software Maintenance and Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 084349-1 with AMCS Group, Inc. to provide additional maintenance support and professional services for the Public Works Department's Zero Waste Scale House in an amount \$45,000 for a total contract amount not to exceed \$261,282 and extending the term from July 1, 2022 through June 31, 2025.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
- 6. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$250,000 through December 31, 2023.  
**Financial Implications:** Total FY 2023 Professional Services - \$250,000  
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
- 7. Contract No. 105921-1 Amendment: TruePoint Solutions, LLC for Accela Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$195,000, for a total not-to-exceed amount of \$1,047,200 and extending the term by two years for the term beginning June 1, 2015 to June 30, 2024.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Information Technology, (510) 981-6500

## Consent Calendar

8. **Contract: SCS Engineers for Landfill Post Closure Maintenance and Monitoring Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with SCS Engineers, in an amount not to exceed \$714,022, to provide engineering, maintenance, and monitoring services for the landfill to meet mandatory compliance requirements at Cesar Chavez Park, from January 1, 2023, to June 30, 2026.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300
9. **Contracts: Davey Resource Group, Inc., and HortScience Bartlett Consulting for On-Call Arborist Services**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call arborist services for capital improvement projects, each for a period of November 1, 2022, through December 31, 2025:  
1. Davey Resource Group, Inc. for an amount not to exceed \$125,000.  
2. HortScience Bartlett Consulting for an amount not to exceed \$125,000.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300
10. **Contracts: On-Call Civil Engineering Services, CSW Stuber-Stroeh Engineering Group, Inc., HDR Engineering, Inc., LCC Engineering & Surveying, Inc., Mark Thomas & Company, Inc., Park Engineering, Inc., Pavement Engineering Inc., and SCI Consulting Group.**  
**From: City Manager**  
**Recommendation:** Adopt seven Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call civil engineering services for capital improvement projects, each for a period of November 1, 2022 through December 31, 2025:  
1. CSW Stuber-Stroeh Engineering Group, Inc. for an amount not to exceed \$750,000.  
2. HDR Engineering, Inc. for an amount not to exceed \$750,000.  
3. LCC Engineering & Surveying, Inc. for an amount not to exceed \$1,500,000.  
4. Mark Thomas & Company, Inc. for an amount not to exceed \$750,000.  
5. Park Engineering, Inc. for an amount not to exceed \$1,500,000.  
6. Pavement Engineering Inc. for an amount not to exceed \$1,500,000.  
7. SCI Consulting Group for an amount not to exceed \$150,000.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300

## Consent Calendar

**11. Contract No. 10350 (112199-1) Amendment: Technology, Engineering, and Construction, Inc. for Tank Maintenance and Certification Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or designee to execute an amendment to Contract No. 10350 with Technology, Engineering and Construction, Inc. for the provision of tank maintenance and certification services, extending the contract term to June 30, 2024 and increasing the amount by \$100,000 for a total contract amount not to exceed \$250,000.

**Financial Implications:** See report

Contact: Liam Garland, Public Works, (510) 981-6300

**12. Contract No. 31900085 Amendment: Syntech Systems, Inc. for a Fuel Management System and Software**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Syntech Systems, Inc. to provide ongoing service and support of infrastructure and software for the City's Fleet Fueling Program, increasing the contract amount by \$45,000 for a new not to exceed amount of \$231,472 and extending the contract term through June 30, 2025.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

**13. Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Pursuant to City Charter Article XI Section 67.2 requirements, accepting the California Multiple Award Schedule (CMAS) bid procedures; 2. Approving the CMAS Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building; 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed \$177,218.68, which includes a contingency of \$23,115.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

## Action Calendar

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

## Action Calendar

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function 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 use the "raise hand" function 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. 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.*

### **14. Zoning Ordinance Amendments Making Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23 From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance containing technical edits, corrections and other non-substantive amendments to the following sections of the Zoning Ordinance:

- BMC Section 23.204.050 (C-C Zoning District)
- BMC Section 23.204.080 (C-E Zoning District)
- BMC Section 23.204.090 (C-NS Zoning District)
- BMC Section 23.204.130 (C-DMU District)
- BMC Section 23.206.050 (Protected Uses)
- BMC Section 23.304.030 (Setbacks)
- BMC Section 23.304.090 (Usable Open Space)
- BMC Section 23.322.030 (Required Parking Spaces)
- BMC Section 23.406.070 (Design Review)

**Financial Implications:** None

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

## Action Calendar – Old Business

15. **Restoring and Improving Access to City of Berkeley Website and Archival Materials** *(Continued from July 26, 2022)* *(Item contains supplemental materials)*  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:**

1. Accept the report outlining results from consultation with the City Manager after introduction of this item and thank City Staff for their consideration.
2. As a means to support transparency and improve ease of access to historical/archival government records for policymakers, the press, and the general public, request that the City Manager continue developing and implementing measures that support efficient and effective searching, sorting, and identification of responsive materials through Records Online.
3. To support transparency and ease of access to government records, consider creating and disseminating a “style guide” with standards/conventions/protocols for accurately referencing and attaching City materials so they can be properly linked to or easily accessed in Records Online (or a successor/alternative program/database), allowing such materials to be referenced consistently by Councilmembers, Staff, members of the press, and other authors.
4. Refer to the November 2022 Budget Update up to \$50,000 for staff support for Council/Mayor offices to locate documents previously accessed via now-expired links, and request that the City Manager consult Councilmembers and the Mayor to offer the scope of assistance available and identify potential needs.
5. As a means to support transparency and restore ease of access to City materials referenced/attached via now-broken links in City reports, plans, items, and other documents created prior to launch of the new City website, request that the City Manager consider updating key plans, programs and reports by creating and linking PDFs of previously linked documents and/or substituting broken links with footnotes/ references in a standard format allowing referenced and attached materials to be quickly/directly located through Records Online (or a successor/alternative program/ database).
6. To better fulfill the requirements of the City of Berkeley’s Open Government Ordinance, request the City Manager retain materials such as Council, Committee, and Commission agendas, minutes, recordings, and other official documents on the website for a period at least 4 years, and preferably longer, before retiring them to Records Online.

**Financial Implications:** Staff time

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



## Action Calendar – New Business

16. **Extending Community Agency Contracts for One Year at Existing Levels and Postponing the Community Agency Request for Proposal (RFP) Process Until Fiscal Year 2024**

**From: City Manager**

**Recommendation:** Adopt a Resolution that extends all existing community agency contracts under the community agency Request for Proposal (RFP) process for one year, at current baseline one-year funding, and postpone the four-year Community Agency's RFP process for one fiscal year, to FY2024, with new contracts to start in FY2025.

**Financial Implications:** See report

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

## Action Calendar – Policy Committee Track Items

17. **Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral**

**From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**

**Recommendation:** Refer to the City Attorney and City Manager to draft a HARD HATS Ordinance based on the policy terms outlined below and bring the Ordinance back to Council for action on December 13, 2022.

**Financial Implications:** See report

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

## Information Reports

18. **Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight**

**From: City Manager**

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

19. **Update on the Implementation of Fair and Impartial Policing Task Force Recommendations**

**From: City Manager**

Contact: Jennifer Louis, Police, (510) 981-5900

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

Archived indexed video streams are available at:  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.  
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

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

Agendas and agenda reports may be accessed via the Internet at:  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>  
and may be read at reference desks at the following locations:

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

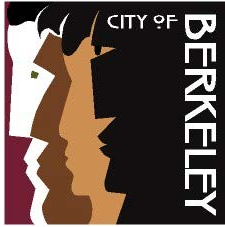
Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,  
North Branch – 1170 The Alameda, South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

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



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Captioning services are provided at the meeting, on B-TV, and on the Internet.  
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Sophie Hahn  
Councilmember District 5

## SUPPLEMENTAL AGENDA MATERIAL

**Meeting Date:** July 26, 2022

**Item Number:** 32

**Item Description:** Restoring and Improving Access to City of Berkeley Website and Archival Materials

**Supplemental/Revision Submitted By:** Councilmembers Hahn, Bartlett, Taplin

**“Good of the City” Analysis:**

*The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.*

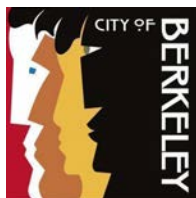
Due to illnesses in Council and City staff offices, consultation needed to refine this item took longer than usual. Given the importance of a transparent and accessible website, it is important that Council consider this revised supplemental prior to going onto Summer recess.

***Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)***

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revision agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Councilmember Sophie Hahn  
City of Berkeley, District 5

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Sophie Hahn (Author), Councilmembers Terry Taplin and Ben Bartlett (Co-Sponsors)

**Subject:** Restoring and Improving Access to City of Berkeley Website and Archival Materials

**RECOMMENDATION:**

*The following supplemental recommendations supersede all recommendations in the originally submitted item.*

1. Accept the report outlining results from consultation with the City Manager after introduction of this item and thank City Staff for their consideration.
2. As a means to support transparency and improve ease of access to historical/archival government records for policymakers, the press, and the general public, request that the City Manager continue developing and implementing measures that support efficient and effective searching, sorting, and identification of responsive materials through Records Online.
3. To support transparency and ease of access to government records, consider creating and disseminating a “style guide” with standards/conventions/protocols for accurately referencing and attaching City materials so they can be properly linked to or easily accessed in Records Online (or a successor/alternative program/database), allowing such materials to be referenced consistently by Councilmembers, Staff, members of the press, and other authors.
4. Refer to the November 2022 Budget Update up to \$50,000 for staff support for Council/Mayor offices to locate documents previously accessed via now-expired links, and request that the City Manager consult Councilmembers and the Mayor to offer the scope of assistance available and identify potential needs.
5. As a means to support transparency and restore ease of access to City materials referenced/attached via now-broken links in City reports, plans, items, and other documents created prior to launch of the new City website, request that the City Manager consider updating key plans, programs and reports by creating and

linking PDFs of previously linked documents and/or substituting broken links with footnotes/references in a standard format allowing referenced and attached materials to be quickly/directly located through Records Online (or a successor/alternative program/database).

6. To better fulfill the requirements of the City of Berkeley's Open Government Ordinance, request the City Manager retain materials such as Council, Committee, and Commission agendas, minutes, recordings, and other official documents on the website for a period at least 4 years, and preferably longer, before retiring them to Records Online.

### **BACKGROUND:**

In April 2022 the City of Berkeley launched a newly redesigned website, the culmination of more than five years of hard work by Communications, IT and other staff. This change has brought many important improvements, in particular with respect to customer/resident services. The site has a clean, updated look and is much easier to navigate, with fresh information just a few clicks away. Community members are able to easily and quickly access relevant and updated materials about public-facing City services and facilities and get help with important functions such as requesting a service, applying for a permit, or paying a bill.

Unfortunately, the previous website's utility as a searchable database of historic records and materials, accessible via simple, intuitive, and almost instantaneous web searches, has been largely extinguished. Staff has reported that over 15,000 pages were consolidated into 500, in an attempt to gain control of a massive amount of information - much of it outdated - and to focus the website on a particular and important user experience.

As a result of this significant reduction in materials posted to the website, thousands of pages of materials once identifiable via Google-type search engines are now only accessible through the City's Records Online portal. Records Online is a deep and materials-rich archive, but is much less intuitively searched, slower to produce results, and difficult to navigate for generations of users accustomed to the ease, flexibility, and speed of web-based searches. This reduction in search functionality for a class of users who relied on the City's website for research and other database purposes - Council offices, journalists, researchers, and other community members - is a significant challenge for those users.

Another consequence of removing thousands of pages maintained on the City's "old" website is that almost all city-facing links in plans such as the Bicycle, Pedestrian, and Vision Zero Plans, Area Plans, the SOSIP Plan, the Climate Action Plan, Electric

Mobility Plan - and hundreds of other Plans generated prior to launch of the new website - are broken. Also broken are City-facing links in every Council, Committee, or Commission report, memorandum, study, regulation, footnote, press release, health order, or other document or statement generated by the City prior to launch of the new website - and many generated since the launch that incorporate or reference pre-launch materials, up to and including materials in the most recent Council meeting packet.

To address the loss of functionality with closure of the City's previous website, Councilmembers Hahn, Harrison, Taplin, and Bartlett introduced an item titled "Restoring and Improving Access to City of Berkeley Website and Archival Materials" to the June 14, 2022 Council Meeting. This item required both interim and long-term solutions to be implemented to address the critical reduction in website functionality and the broken connections to referenced and attached ("linked") resources across virtually all of the City's documents and materials generated in the 21st Century.

Upon introduction of this item, the City Manager convened a meeting of her office and the City Clerk, Communications, and IT departments to discuss the item's recommendations. She responded to the item's referrals and outlining projected costs. At a June 9, 2022 meeting, City Staff reviewed their responses to the specific recommendations made by the referral, almost all of which they found to be either redundant to existing efforts, infeasible, or too expensive to implement. The item was postponed to allow for more collaboration and communication between the author and City Staff. Later in June, consistent with one of the item's recommendations, the City Clerk provided a zoom-based training for Councilmembers and legislative aides on the effective use of Records Online.

Only July 27th Councilmember Hahn and her staff met again with the City Manager and her team to continue the conversation about the new website and potential improvements. Councilmember Hahn asked to set aside discussion of the specific "fixes" requested by the original item and sought a broad problem-solving-oriented discussion of the challenges faced by users who relied on the previous website's deep trove of historical materials, and of the significant loss of functionality precipitated by the failure of all web-based links to City documents included as references or attachments to City plans, reports, items, and other materials.

City Staff listened carefully to first and second-hand descriptions of challenges to research and write legislation, news articles, items, memos and other materials, and to following "daisy-chains" of information previously accessible by flowing seamlessly from linked-document to linked-document. In addition, staff considered the challenge of records, studies, plans, reports, and other materials with broken links, ending or

rendering significantly more time consuming the review of linked/referenced and attached resources.

Staff acknowledged these challenges, considered suggestions, and offered some resources to help Councilmembers and others navigate the transition to a website that no longer will function as a quasi-archive, and to a more accurate but also more cumbersome/less intuitive system for doing research and creating attachments and references to City documents.

### **REPORT:**

The City Manager's specific response to the original item addresses each element of the original referral. To summarize responses:

- Restoration of URLs for linked PDFs and re-establishing access to the old website for archival and search purposes is found to be infeasible for technical and cost reasons.
- Inputting 2-3 years of historical documents for Council, Commissions, and Committees would cost \$200,000 and take up to six months.
- Training on use of Records Online was already scheduled for June, and the Clerk is addressing "all issues" with training.
- The Records Online homepage already includes search instructions, and additional documentation is being prepared.
- Adding Rent Board and Housing Agency materials to Records Online would require those agencies to opt-in and commit staff to adding their materials to the database.
- Search functions are as robust as they can be at this time, and materials in Records Online cannot be searched via web-based search engines so there is no fix possible for this challenge.
  - OnBase, the software supplier for Records Online, will be contacted to inquire about any potential to improve functionality of their search system.
  - The City is updating to a newer version of OnBase and upgrade options will be explored; however, upgrades are costly and time consuming.
- 404 Error pages don't need general or specific "redirect" notices as requested; some links were already broken, some will never be visited more than once, Goggle is the reason for the error messages, and over time Google will stop sending people to broken links so the problem will resolve itself.<sup>1</sup>

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<sup>1</sup> Links from previous Council records and City Documents, however, will continue to direct to broken links indefinitely, even after Google indexes the new website.

- Staff have decades of experience in web usability and the vendor is highly experienced. SEO is as good as it can be; no further improvements are possible. Errors are already down by 81% and Google is adapting.

The City Manager also provided additional background including a clear statement of the City's commitment to helping address operations impacts to Councilmembers and their aides and reference to actions already taken by the Clerk's office to provide training and seek improvement to the search functions of Records Online. Purging old records from the website is noted as having been a practice for over ten years. Users are "encouraged to attach documents to council items instead of using links so that the referenced information is included in the public record."

In addition to these written responses received, through conversation with the City team, we learned that the previous website's evolution as a deep historical resource, in retrospect and perhaps also at the time it was being created, was not a best practice. Nevertheless, staff members' use of the website as a repository for agendas, minutes, plans, rules, regulations, reports, and a huge volume of other City materials persisted over several decades, resulting in more than 15,000 pages of accumulated materials. At the same time, staff, council members, the press, other researchers, and members of the public came to rely on the website for an archive-like function, with outdated, stale and at times incorrect information remaining accessible alongside a huge volume of useful, accurate, and interesting information.

We were reminded that simultaneous with the evolution of the previous website as a de facto repository of historic information, the City Clerk has continuously updated the City's Records Online database, which is considered one of the deepest and most comprehensive publicly-accessible City archives of official materials. In particular, Berkeley's database includes materials from the earliest days of Berkeley's history; a feature many City legislative databases apparently do not enjoy. The City Clerk has diligently and accurately maintained Records Online throughout, while a parallel unplanned repository of materials accumulated on the old website.

Reliance on the previous website as an historical resource may have been a misguided, if widespread, practice. The challenges currently being faced were suggested to flow from the habit of users relying on web-based search engines to search for and locate potentially stale or incomplete materials on the web when Records Online was always the recommended and reliable archive. This was compounded by the habit of linking to website pages in reports, items, plans, articles and other materials rather than attaching referenced City documents in full.



In sum, through written responses and conversation we learned that adjusting to the realities of the new website would be less challenging if users had not been following poor practices all along. While not categorically stated, it appears that changing the website in response to challenges raised and fixes recommended is considered by staff to be either impossible, expensive, or otherwise not recommended. The only possible conclusion understood through these conversations is that users, not the website, need to adapt.

The City Manager and staff are open to finding ways to help with the process of adapting to the new database and search functions, and a productive conversation ensued. The results of that conversation are captured in the revised referrals, which encourage staff to continue with training and other measures already undertaken, and request consideration of a variety of other possible measures to support adaptation to a different search function and to broken links across the organization's materials, including within Councilmember work products.

### **EXPLANATION OF REFERRALS:**

#### **Referral #1:**

This referral thanks the City Manager and her team for consultation, and accepts the report.

#### **Referral #2:**

To ensure the public and all users are able to access documents proficient in use of Records Online, this item requests that the City Manager continue developing and implementing measures that support efficient and effective searching, sorting, and identification of responsive materials through Records Online.

Staff has already provided some training for Records Online, and is developing better written instructions including visual examples and screenshots. Staff may also consider creating one or more short informational videos and additional zoom/in-person training with real-time Q&A.

As noted above, staff will be requesting information from the Records Online vendor to determine if search functions can be upgraded.

#### **Referral #3**

To support authors and other users in the consistent use of "correct" attachment, reference, footnote and other protocols that formerly were achieved using links to the City website, the City Manager is requested to consider creating, posting, and disseminating a "style guide" with standards/conventions/protocols for accurately referencing and attaching City materials such that they can be linked to or easily

accessed in Records Online (or in a successor/alternative/supplemental program or database).

While staff was clear that the use of links to the City website - and to any materials found on the web - is not advisable, establishing common and effective protocols for “doing things right” will help all Records Online and website users fully, accurately, and consistently represent City materials when included as sources in footnotes and other references, or as attachments to other documents. It was noted that linking to materials on the new website is also not recommended, as these materials will be removed after a period of time and the only permanent, reliable record will be Records Online.

#### **Referral #4**

The City Manager very generously proposed making a clerk available through the City Manager’s office to assist Councilmembers in locating and re-establishing links/references to their own materials that were lost through the website transition. At this time, it is unclear how much utility various Council/Mayor offices would derive from such a service; the City Manager is requested to share the offer with all Council/Mayor offices to determine the scope of potential needs. A budget referral of up to \$50,000 is provided as a placeholder, pending the outcome of discussions with Council/Mayor offices to determine potential needs.

#### **Referral #5**

While not as specifically addressed in conversation with the City Manager, this referral requests that the City Manager consider updating key City plans, programs and reports by either recreating PDFs and linking to them or substituting broken links with footnotes/references in a standard format allowing referenced and attached materials to be quickly/directly located through Records Online.

#### **Referral #6**

During conversations with staff, it was discussed that a longer retention period of City Council, Committee, and Commission agendas, minutes, recordings, and other records on each body’s individual webpages might have been of better service to the public. However, the cost to restore the previous volume of listing was considered to be prohibitive. Going forward, it is requested that the City Manager retain these materials on the City Website for at least 4 years prior to their relocation solely to Records Online, to better comply with the City’s Open Government Ordinance (see below, and Attachment A).

## **WEBSITE FUNCTIONALITY AS A POLICY ISSUE**

Transparency and public access to government materials and decision making has long been a policy matter of significant concern to the Federal government as well as to State and local governments. At the State level, California's Brown Act and Public Records Act provide statewide guarantees of access to public meetings and documents. Transparency and open government are also clear, long standing Berkeley community and City values.

Berkeley's Open Government Ordinance, also known as the "Sunshine Ordinance," ensures that community members have access to public meetings and public documents. The Ordinance prescribes key roles for the City website in supporting transparency and access to public documents. A full copy of the Sunshine Ordinance is included with this memo as Attachment A.

Article IV, Section 2.16.180 of the Ordinance states that:

"All documents submitted to the City Council, including but not limited to, the Agenda and Agenda Packet, communications, and any documents submitted at a meeting of that body, shall be available through the City's website no later than the close of business the following business day after the meeting for which the documents were submitted."

No limitations, restrictions, expiration dates, or time periods are given to waive or reduce the requirement that Council materials be available through the City's website.

The Ordinance further enumerates in Section 2.06.140 records that must be available through the City's website, further establishing the website, including details as fine-grained as specific materials that must be accessible on the website, as integral to transparency, accountability, and access - all policy matters within the City Council's purview.

"The following shall be available through the City's website and shall be available in written form in the City Clerk Department:

- City Charter
- Berkeley Municipal Code
- General Plan and Area Plans
- Zoning Ordinance
- Landmarks Preservation Ordinance
- Citizen's Guide to Public Information Records Retention Schedule
- City Council Rules of Procedure
- Commissioner's Manual

Conflict of Interest Code  
Statements of Economic Interest for filers under GC 87200  
Agendas and Minutes of the meetings of all Legislative Bodies  
Index of Regional Bodies on which the City is represented and the City  
Representatives who serve on them

The same Section requires that:

“All communications from the City Manager and department heads to other agencies on behalf of the City shall be available through the City’s website at the same time they are provided to members of the City Council.”

Chapter IV, Section 2.06.160 addresses “Large document borrowing” and states:

“Large published documents produced by or on behalf of the City, such as City Budgets and environmental impact reports or statements prepared pursuant to the California Environmental Quality Act (CEQA) or the National Environmental Protection Act (NEPA), shall be available through the City’s website . . .”

As a final example, Chapter IV Section 2.06.170 address website technology directly:

“To provide for the accessibility of electronic information on the City’s website, the City shall:

1. Meet or exceed the guidelines for accessibility specified by the Federal General Services Administration pursuant to Section 508 of the Rehabilitation Act (29 U.S.C. 794d) as it may be amended from time to time.
2. When feasible within resource constraints, use open, non-proprietary, standards-based data formats on public facing information systems. When platform-specific formats must be used, provide an alternate format or a viewer to consume the file types.
3. Make audio and video available for both download and streaming using open, cross-platform, standards based formats, accessible by a broad range of computer operating systems and portable devices.
4. When feasible within resource constraints, avoid web content types that are not compatible across browsers (such as Flash).
5. Make substantive website changes trackable in an open, cross-platform, standards-based journal format (such as RSS).”

Though several portions of this Section are qualified by statements such as “when feasible” and/or “within resource constraints,” no such caveats apply to requirements for Council, Commission, and Large Documents to be available on the City Website.

It is unclear whether the new website meets all of the standards required in the Sunshine Act; regardless, what is clear is that the City’s website is central to policy issues of transparency, access, and good government. Further, the Sunshine Ordinance is very specific in its requirements of the City’s website, prescribing both the materials that must be posted to the website and the website’s functionality. Attention to this level of detail is integral to policies of transparency, access and good government.

#### Attachments

- A. Full Text of the City of Berkeley “Sunshine Ordinance,” Chapter 2.06 of the Berkeley Municipal Code
- B. Originally Submitted Item: Restoring and Improving Access to City of Berkeley Website and Archival Materials
- C. Screenshot of instructions for use of Records Online
- D. Documentation of challenges in Records Online search functionality

## Chapter 2.06 OPEN GOVERNMENT

Sections:

### Article I. General Provisions

- 2.06.010 Findings and purpose.
- 2.06.020 Definitions.
- 2.06.030 Severability.
- 2.06.040 Implementation.
- 2.06.050 No private cause of action.

### Article II. City Council Agenda Process

- 2.06.060 City Council agenda process.
- 2.06.070 Agenda Packet distribution.

### Article III. Conduct of City Council Meetings

- 2.06.080 Number of meetings--Start time--Public hearings.
- 2.06.090 Reports regarding regional bodies.
- 2.06.100 Broadcast of meetings.
- 2.06.110 Disclosure of ex parte contacts.
- 2.06.120 Closed sessions and litigation.
- 2.06.130 Presentation tools for the public.

### Article IV. Public Records

- 2.06.140 Records available through the City's website.
- 2.06.150 Contributions to the City.
- 2.06.160 Large document borrowing.
- 2.06.170 Technology standards.
- 2.06.180 Posting of documents.

### Article V. Oversight

- 2.06.190 Open Government Commission--Duties.

## Article I. General Provisions

### 2.06.010 Findings and purpose.

- A. Democracy in our representative form of government requires that the public have an opportunity to understand the government's activities and to communicate its concerns to its elected and appointed representatives, and that those representatives have an adequate opportunity to consider those concerns and then act effectively and in a timely manner.
- B. To the extent these goals are sometimes in tension with each other in a given case, the government's obligation is to balance them responsibly, under the circumstances, in such a way that it is able to function and carry out its mission of ensuring the public's health, safety and general welfare in a fiscally and environmentally sustainable manner.
- C. Accordingly, the purpose of this ordinance is to codify certain existing practices, as well as to adopt new practices, to ensure that the public has an adequate opportunity to be informed of the City's activities and to communicate its concerns to its elected and appointed officials. (Ord. 7166-NS § 1 (part), 2011)

### 2.06.020 Definitions.

The following words and phrases shall have the meanings specified below.

- A. "Agenda" means a document that informs the public about a Meeting, published in advance of the Meeting which at a minimum (1) identifies the Legislative Body conducting the Meeting, (2) specifies the time and location of the Meeting, and (3) lists each item of business to be discussed or transacted and describes the proposed action for each such item.
- B. "Agenda Packet" means the Agenda of a particular Meeting with all its relevant Supporting Documents.
- C. "Closed Session" means a Meeting that begins with a public comment period, followed by a session that excludes the public as permitted by state law, and ends with an open session at which a public report is made as and to the extent required by state law.
- D. "Legislative Body" shall have the meaning set forth in Government Code sections [54950](#) through [54960](#), as they may be amended, or any successor sections.
- E. "Meeting" shall have the meaning set forth in Government Code sections [54950](#) through [54960](#), as they may be amended, or any successor sections.
- F. "Supporting Documents" means all documents, regardless of form or medium or author, that are provided to members of a Legislative Body for their use in considering Agenda items for a particular Meeting.
- G. "Brown Act" means Government Code sections [54950](#) et seq., as they may be amended from time to time.

H. "Public Records Act" means Government Code sections [6250](#) et seq., as they may be amended from time to time. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.030 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof in any circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Council of the City of Berkeley hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.040 Implementation.**

The City Manager may promulgate regulations to implement this ordinance. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.050 No private cause of action.**

Nothing in this chapter shall limit any person's right to seek a writ of mandate or other available administrative or judicial remedy. (Ord. 7166-NS § 1 (part), 2011)

## **Article II. City Council Agenda Process**

### **2.06.060 City Council agenda process.**

- A. The City Council Agenda Committee shall meet 15 days prior to each City Council meeting and shall determine the agenda of that City Council meeting. After the conclusion of the Agenda Committee meeting, an item may be added to the Agenda only by the City Council as a whole at a duly noticed meeting that occurs after the Agenda Committee meeting.
- B. The Agenda Committee packet, including a draft agenda and Councilmember and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda Committee meeting.
- C. The City Council Agenda Packet shall be distributed no later than 5:00 p.m. 11 days before the scheduled City Council meeting.



D. The powers of the Agenda Committee shall be as set forth in Rules of Procedure adopted by the City Council. The Rules of Procedure may allow for the addition of time-critical items at the Agenda Committee meeting provided they are accompanied by complete reports and statements of financial implications. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.070 Agenda Packet distribution.**

- A. The Agenda Packet shall consist of the Agenda and all supporting documents for the agenda items.
- B. No later than 11 days prior to a regular Meeting, the City Clerk shall:
1. Distribute the Agenda Packet to each member of the City Council;
  2. Post the Agenda Packet to the City's website;
  3. 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;
  4. Mail copies of the Agenda to any resident of the City of Berkeley who so requests in writing; and
  5. Make copies of the Agenda available free of charge in the City Clerk Department.
- C. Failure to post the Agenda Packet to the City's website shall not be a basis for cancelling a City Council meeting.
- D. The City Clerk may not accept any agenda item or revised agenda item after the established deadlines, 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.
- E. No item may be considered unless it is included in the Agenda Packet except that a correction or supplement to an item already included in the Agenda Packet may be considered, if either:
1. the City Council, by a two-thirds roll call vote, determines that the good of the City clearly outweighs the lack of time for citizen review or City Council member evaluation of an item; or
  2. the correction or supplement to an item is posted on the City's website with the City Council agendas no later than either:
    - (a) 5:00 p.m. on the fifth calendar day prior to the City Council meeting at which it is to be considered; or
    - (b) 5:00 p.m. on the day prior to the City Council meeting at which it is to be considered, subject to the receipt of the correction or supplement by the City Clerk by noon on the day prior to the City Council meeting for distribution at the meeting.

Reports carried over as Old Business need not be reproduced again.

F. Matters not included on the published Agenda may be discussed and acted upon only if and to the extent authorized by the Brown Act, specifically Government Code section [54954.2\(b\)](#) as it may be amended from time to time. (Ord. 7588-NS § 1, 2018; Ord. 7473-NS § 1, 2016; Ord. 7396-NS § 1, 2015; Ord. 7257-NS § 1, 2012; Ord. 7166-NS § 1 (part), 2011)

### **Article III. Conduct of City Council Meetings**

#### **2.06.080 Number of meetings--Start time--Public hearings.**

- A. 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.
- B. Regular City Council meetings shall begin no later than 7:00 p.m.
- C. 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. (Ord. 7166-NS § 1 (part), 2011)

#### **2.06.090 Reports regarding regional bodies.**

Councilmembers who represent the City on regional bodies and commissions shall provide to the City Council and the public a report that briefly summarizes the discussion and any action on any item that affects the City of Berkeley subject to the following provisions:

- A. If the webpage containing the Agendas and Minutes of the Regional Body is directly linked from the City of Berkeley web site, no additional report from the Councilmember is required.
- B. If the Agendas and Minutes of the Regional Body are not linked as described in paragraph A., the Councilmember must submit the required summary report to the Council agenda process no later than 15 days after the minutes of the Regional Body meeting have been approved and the report will appear on the next available Council agenda. Such reports shall state where additional information about the issues summarized may be obtained. (Ord. 7395-NS § 1, 2015; Ord. 7166-NS § 1 (part), 2011)

#### **2.06.100 Broadcast of meetings.**

- A. All regular and special meetings of the City Council, Redevelopment Agency, Rent Stabilization Board, and Zoning Adjustments Board, when held in the venue regularly used, shall be recorded, televised and video-streamed live as well as archived for replay. The live broadcasts shall be captioned.

B. It is the intent of the City to broadcast the meetings of the Planning Commission, Landmarks Preservation Commission, and Housing Advisory Commission, in the same manner as specified in paragraph A, as City resources become available.

C. The broadcast requirements shall not apply if necessary equipment malfunctions or if a public meeting is changed to a location that does not have the technological capacity to accommodate the broadcasting needs. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.110 Disclosure of ex parte contacts.**

Whenever a Legislative Body holds a public hearing on a zoning, landmarks, subdivision or other adjudicative matter, following any staff presentation, each member of the Legislative Body 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 secretary to the Legislative Body prior to the Meeting and placed in a file available for public viewing at the Meeting. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.120 Closed sessions and litigation.**

A. Before any Closed Session, a Legislative Body shall meet in open session for the purpose of taking public comment solely on the subject(s) of the Closed Session.

B. Any member of a Legislative Body attending a Closed Session by teleconferencing is required to state at the beginning and end of the Closed Session that they are participating with no other person present and to file a signed statement to that effect under penalty of perjury, except that if a member of a Legislative Body is disabled and needs assistance to participate in a Closed Session, the City shall provide a staff assistant who is authorized to attend the Closed Session. Any specialized attendant or assistant, whom a disabled Council Member needs to have present in order to participate fully in the Closed Session shall be allowed to attend the Closed Session.

C. Immediately following the end of the Closed Session, the Legislative Body shall make a report in open session describing any final action taken as required by state law, as well as any other matter or statement the City Council decides to make. If the Closed Session is not followed the same day by a regular meeting of the Legislative Body, the report shall also be made at the next regular meeting.

D. The location of reports to the public after a Closed Session has ended shall be in a venue that is open to the public, and where practicable, one that supports video transmission, audio, and video-streaming.

E. Any report on final approvals taken in Closed Session shall be posted no later than the end of the following business day to the City's website.

F. When litigation involving the City is finally adjudicated or otherwise settled, the text and terms of any settlement shall be subject to disclosure. No attorney representing the City shall solicit or agree to any settlement

provision that would restrict disclosure of terms or communications between each party after settlement and any such provision shall be void.

G. When settlements are authorized by the City Council at a Closed Session but are not reported out immediately following the end of the Closed Session, the City Attorney shall prepare an information item for the City Council Agenda promptly upon execution of the settlement, which shall include a copy of any settlement agreement. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.130 Presentation tools for the public.**

Members of the public may use City equipment for audio/visual presentations for items on the meeting agenda of the City Council if the presentation is provided to the City Clerk no later than seven (7) days before the meeting, or five (5) days before for items carried over from a meeting that occurred the week immediately prior. Requests for presentation tools are subject to reasonable availability of any equipment that the proposed presentation would require. Presentations from the public shall comply with the time limits set forth in the City Council Rules of Procedure. (Ord. 7166-NS § 1 (part), 2011)

## **Article IV. Public Records**

### **2.06.140 Records available through the City's website.**

A. The following shall be available through the City's website and shall be available in written form in the City Clerk Department:

City Charter

Berkeley Municipal Code

General Plan and Area Plans

Zoning Ordinance

Landmarks Preservation Ordinance

Citizen's Guide to Public Information

Records Retention Schedule

City Council Rules of Procedure

Commissioner's Manual

Conflict of Interest Code

Statements of Economic Interest for filers under GC 87200

Agendas and Minutes of the meetings of all Legislative Bodies

Index of Regional Bodies on which the City is represented and the City Representatives who serve on them

B. All communications from the City Manager and department heads to other agencies on behalf of the City shall be available through the City's website at the same time they are provided to members of the City Council. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.150 Contributions to the City.**

Any gift of funds, goods, or services worth more than \$1000 in aggregate, which may be accepted or collected by the City or any of its functionaries or Legislative Bodies, for the purpose of carrying out or assisting any City function, shall be disclosed and approved on the Agenda of a regular Meeting of the City Council. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.160 Large document borrowing.**

Large published documents produced by or on behalf of the City, such as City Budgets and environmental impact reports or statements prepared pursuant to the California Environmental Quality Act (CEQA) or the National Environmental Protection Act (NEPA), shall be available through the City's website and made available at designated City offices with copies available for borrowing by the public at the Berkeley Central Public Library. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.170 Technology standards.**

A. To provide for the accessibility of electronic information on the City's website, the City shall:

1. Meet or exceed the guidelines for accessibility specified by the Federal General Services Administration pursuant to Section 508 of the Rehabilitation Act ([29 U.S.C. 794d](#)) as it may be amended from time to time.
2. When feasible within resource constraints, use open, non-proprietary, standards-based data formats on public facing information systems. When platform-specific formats must be used, provide an alternate format or a viewer to consume the file types.
3. Make audio and video available for both download and streaming using open, cross-platform, standards-based formats, accessible by a broad range of computer operating systems and portable devices.
4. When feasible within resource constraints, avoid web content types that are not compatible across browsers (such as Flash).

5. Make substantive website changes trackable in an open, cross-platform, standards-based journal format (such as RSS).
- B. Nothing in this Section shall require programming a computer to respond to a request for information or to release information that would violate a licensing agreement or copyright law. (Ord. 7166-NS § 1 (part), 2011)

### **2.06.180 Posting of documents.**

All documents submitted to the City Council, including but not limited to, the Agenda and Agenda Packet, communications, and any documents submitted at a meeting of that body, shall be available through the City's website no later than the close of business the following business day after the meeting for which the documents were submitted. (Ord. 7166-NS § 1 (part), 2011)

## **Article V. Oversight**

### **2.06.190 Open Government Commission--Duties.**

A) There is hereby created the Open Government Commission, which shall have authority for oversight of this Chapter and Chapter [2.09](#), the Lobbyist Registration Act, as set forth in this Section. The Open Government Commission shall consist of the members of the Berkeley Fair Campaign Practices Commission established by Berkeley Municipal Code section [2.12.170](#) who shall be ex officio members of the Open Government Commission.

- 1) The Open Government Commission shall:
  - a) hear complaints by any person concerning alleged non-compliance with this Ordinance, the Brown Act, the Public Records Act, or the Lobbyist Registration Act, by the City or any of its legislative bodies, elected or appointed officials, officers or employees;
  - b) consider ways to informally resolve those complaints and make recommendations to the Council regarding such complaints;
  - c) seek advice from the City Attorney concerning those complaints;
  - d) advise the City Council of its opinion, conclusion or recommendation as to any complaint; and
  - e) take any action authorized by the Lobbyist Registration Act under Chapter [2.09](#).

To be considered by the Open Government Commission, complaints shall be submitted in writing using a form provided by the City, and must be submitted to the Secretary of the Commission no less than 14 days prior to the Commission meeting at which it will be considered.

- 2) In addition, the Commission may advise the City Council concerning the report prepared pursuant to subdivision [\(C\)](#), propose additional legislation or procedures that it deems advisable to ensure the City's

compliance with this Ordinance, the Brown Act, the Public Records Act, and the Lobbyist Registration Act, and advise the City Council as to any other action or policy that it deems advisable to enhance open and effective government in Berkeley.

B) The power and authority of the Open Government Commission with respect to oversight of this Chapter shall be limited to the functions set forth in this Section, and the Commission shall not have any of the additional authority or powers set forth in Chapter [2.12](#) with respect to oversight or enforcement of this Chapter.

C) Each year, the City Manager shall prepare and submit to the Open Government Commission a report that contains at least the following information:

- 1) The number of Public Records Act requests received by the City;
- 2) The average length of time taken to respond to those requests;
- 3) The approximate number of pages produced in response to those requests;
- 4) The number and resolution of all written complaints received by the City concerning its compliance with the Public Records Act with respect to such requests;
- 5) The number and resolution of all complaints received by the City concerning its compliance with the Brown Act; and
- 6) Any other information the City Manager deems appropriate that relates to the City's compliance with this Ordinance, the Brown Act, the Public Records Act, the Lobbyist Registration Act, or open and effective government in Berkeley.

D) Notwithstanding anything to the contrary in Section [2.04.075](#) or Chapter [3.02](#), the appointment and tenure of members of the Commission shall be governed by Chapter [2.12](#). (Ord. 7629-NS § 2, 2018; Ord. 7166-NS § 1 (part), 2011)

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**The Berkeley Municipal Code is current through Ordinance 7812-NS, passed May 24, 2022.**

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

**Note:** This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.berkeleyca.gov](http://www.berkeleyca.gov)

[Code Publishing Company](#)



**Sophie Hahn**  
**Councilmember**  
**District 5**

**ACTION CALENDAR**  
 July 26, 2022  
*(Continued from July 12, 2022)*

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Sophie Hahn (Author), Councilmembers Terry Taplin, Ben Bartlett and Kate Harrison (Co-Sponsors)

**Subject:** Restoring and Improving Access to City of Berkeley Website and Archival Materials

**RECOMMENDATION**

Direct the City Manager to:

1. Restore at previous URLs all PDF documents previously hosted on the City of Berkeley website.
2. Create a publicly accessible archival copy of the City's previous website, CityofBerkeley.info, that can be accessed without logins and via internet search engines. Include a prominent disclaimer noting the date the website, page, or document was archived, with links redirecting to the active website or other responsive resource.
3. On the new website, update Commission pages to include a minimum of 2 years of historic agendas and other materials and update City Council and Council Committee pages to include at least 3 years of complete materials.
4. By July 15, 2022 develop and make available to all City staff and to the public training at beginner to expert levels on use of the City's Records Online search function and create more extensive and less technical self-help resources covering basic and expert use.
5. In recognition of increased public traffic, update the Records Online homepage to explain how the portal works and link to more robust self-help resources and alternative search functions.
6. Coordinate with agency staff to include all relevant records (agendas, minutes, etc.) from Rent Board and Housing Authority in Records Online Portal.



7. Update any remaining 404 pages to explain that the City's website has been moved/updated, and provide links to helpful pages, search functions and/or pathways to access responsive materials. As quickly as possible, consider implementing redirects with wildcards to direct as many old links to relevant new website pages in lieu of the standard 404 page. E.g. cityofberkeley.info/planning\* to the Planning Department site map/homepage, or Department Specific 404 page explaining new navigation.

Refer to the City Manager the following additional improvements to Records Online:

1. Within Records Online, provide unique archival/search categories for each City Commission, Board, Committee and Rent Board, and consider other useful categories, to assist users in narrowing results and identifying responsive materials.
2. Allow Records Online search *results* to be sorted by date and by other searchable factors. Consider means to integrate records online into default site search bar.
3. Explore and report back to Council options for improving the scope of Records Online, improving search options and sorting, and making all materials – or materials from January 1, 2000 (or an earlier recommended date) forward, searchable using internet search engines.

### BACKGROUND

The recently launched new City Website has brought many important improvements, in particular with respect to customer/resident services. It's much easier for users to find help with important functions such as requesting a service, reporting a pothole, or paying a bill, and to learn about public-facing services and facilities. It also includes well-organized foundational information about City departments and special projects. All of this represents a huge improvement for these users and uses.

The new website's utility as a resource and archive for specialized or in-depth records and materials, however, has been severely hobbled. Staff has reported that over 15,000 pages were consolidated into 500, in an attempt to focus the website on a particular and important user experience. Unfortunately, other functionalities were severely reduced and users who have long relied on the website to access a broad range of important materials have limited opportunities to search for and find responsive documents.

Another consequence of removing the City's "old" website is that all links in plans such as the Bicycle, Pedestrian, and Vision Zero Plans, Area Plans, the SOSIP Plan, the Climate Action Plan, Electric Mobility Plan - and all other Plans generated prior to launch of the new website - are broken. Links in every item, memorandum, study,

regulation, footnote, press release, health order, or other document or statement generated by the City prior to launch of the new website are also dead.

Materials previously accessible via simple search engine queries are no longer accessible, except via an “old school” portal that requires time and expertise to navigate. Unlike 21st Century search engines, Records Online works best when a user knows exactly what they are looking for, including the title and date a document or topic was generated, severely limiting its utility. Broader searches generate voluminous results that cannot be easily browsed, adding significant time to locate materials that previously could be identified instantaneously. For members of the public curious about a City topic or policy, and in particular for staff and Council Members involved in research or writing memos, policies, programs, plans, and other in depth items, the extra time involved searching for responsive documents can add up to hours, and important documents are likely to be missed.

Compounding this problem, website pages that previously linked to years’ worth of archived documents, press releases, memos, regulations, plans and similar materials either no longer exist, or contain only shallow archives. As a result, a veritable trove of documents and reports important to understanding the history and current status of the City and its programs and policies, while technically still available via expert use of Records Online, are functionally beyond reach.

Addressing the loss of critical transparency and functionality with closure of the City’s previous website requires urgent action. This item requires both interim and long term solutions to be implemented on an expedited basis.

#### FINANCIAL IMPLICATIONS

Significant reduction in staff time across the organization chasing broken links and searching for materials in Records Online. Staff time to implement requested changes and research additional solutions.

#### CURRENT SITUATION AND ITS EFFECTS

The updated website presents significant challenges for important users and uses. Members of the public, staff, and elected officials are no longer able to reliably locate or navigate current and historic materials. Critical transparency is vastly decreased, and user time across the City and among members of the public is increased, rendering both work and public participation more difficult and time consuming.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

N/A

CONTACT PERSON

Councilmember Sophie Hahn      Council District 5      510-981-7150


**ATTACHMENT C:**  
**SCREENSHOT OF INSTRUCTIONS FOR USE OF RECORDS ONLINE**



## Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A "**full text**" query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A "**keywords**" query searches in the specified data fields associated with the document type.
4. \*Asterisks\* around a search term find that term where it is part of the data field (e.g. \*parking\* or \*signs\* or \*sidewalk\*).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the  icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

**Exercise:** searching Records Online

**Focus:** BMASP Off-Agenda from December 13, 2018 (below)

**Results:** 10 attempts. All unsuccessful. Document not found.

*The document being searched for:*



City Manager's Office

December 13, 2018

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Re: Waterfront / Marina Fund Update

**SUMMARY**

The Marina Enterprise Fund – the mechanism for managing all Waterfront revenues and expenditures – cannot support ongoing basic operating costs and overdue maintenance. The fund has annual revenues of approximately \$6.2 million and annual expenditures of approximately \$7.2 million. Years of deferred maintenance have yielded an estimated \$106 million in Marina infrastructure needs, \$10.33 million of which are for immediate concerns. This report updates the Council on the projected insolvency of the Marina Fund, the contributing factors, and potential solutions as we approach the next budget cycle. This report builds on previous reports regarding this issue over the last year<sup>1</sup> and two decades of reports dating back to 1999 documenting a long history of the Marina Fund revenues struggling to cover basic operating costs, leaving little to no room for capital or maintenance work.<sup>2</sup>

Recent safety issues and deteriorating infrastructure have accelerated a fiscal crisis at the Waterfront. There have been sharp declines in berth rental revenue as boat owners have left the Berkeley Marina. Berth occupancy rates declined from 85% in 2016 to 79% in 2018. Lease revenue also fell, with revenue from the Doubletree Hotel down more than 4% in FY18 over the prior year. At the same time, long-deferred infrastructure repairs are rapidly increasing expenditures as pilings, docks, building systems, parking lots and street paving begin to fail.

The combination of falling revenue and increasing expenditure have strained the relatively small Marina Fund to a breaking point:

<sup>1</sup> [July 1, 2018: Off-Agenda Report](#); May 8, 2018: [Worksession Report](#) and [Budget Report: April 12, 2018: Off-Agenda Report; November 7, 2017: Worksession Report](#)

<sup>2</sup> See Council Minutes, Item 38, 11/9/99; Marina Master Plan, 6/1/03, p.61; FY 2006 & FY 2007 Biennial Budget Update – First Quarter, 12/13/05, p.10; Fees: Marina Fee Increases for FY 2007, 6/20/06, p.1; FY 2009 Mid-biennial Budget Update - Pres, 5/6/08, see Slide 21; Fees: Marina Fee Increases for FY 2012, 5/17/11, p.2; Parks, Recreation and Waterfront Department Budget Presentation, 3/5/13, p. 8; Parks, Recreation and Waterfront Department Budget Presentation, 3/5/13, p. 6; Marina Fee Increases, 5/26/15, p.2.

# Search space: All Records Query (Full Text)

## Search Term: waterfront / marina fund update

### Date Range: 11/01/2018 to 12/18/2018

*Search #1 - Begin with wide date range, November through December 2018  
Use exact wording of document subject: waterfront / marina fund update*



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#### Search Tips and Instructions:

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2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. "parking" or "signs" or "sidewalk").
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**  
Public - All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

**Search Term**  
waterfront / marina fund update

**From Date** 11/01/2018 **To Date** 12/18/2018

#### Results

Sc...	Name
	83.3 11/15/2018; CLK - Communication; Public; ; SPECIAL; Communications
	83.3 11/27/2018; CLK - Communication; Public; ; REGULAR; Communications
	82.29 11/15/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Parks, Recreation & Waterfront Dep
	79.39 12/6/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Semi-Annual Report on Measure T1 C
	79.11 12/6/2018; CLK - Communication; Public; ; SPECIAL; Supplemental Communications 3
	78.57 12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process - 2018 Interim Update
	70.38 12/6/2018; CLK - Agenda Packet (Public); City Manager; ; SPECIAL; Update on the Berkeley Strategic Plan
	63.28 11/27/2018; CLK - Agenda Packet (Public); City Manager; ; REGULAR; FY 2018 Year-End Results and FY 2019 First Quarter I
	63.01 11/27/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; REGULAR; Contract No. 10217 Amendment: T
	62.84 11/27/2018; CLK - Minutes; City Council; ; REGULAR;
	62.67 CLK - Voter Information Pamphlet for General 11/6/2018
	62.67 11/13/2018; CLK - Agenda Packet (Public); Finance; ; REGULAR; Contract No. 9821 Amendment: First Alarm Security & Patr
	62.67 12/11/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Confirming the Results of the November 6, 2018, General
	62.67 12/11/2018; CLK - Resolution; City Council; 68704; ; To achieve more resilient and climate-smart, technologically advanced inf
	62.47 12/11/2018; CLK - Agenda Packet (Public); Public Works; ; REGULAR; Contract: Disability Access Consultants for ADA Self E
	62.37 11/27/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Minutes for Approval
	61.38 12/5/2018; CLK - Minutes; Energy Commission; ; ;
	60.32 11/15/2018; CLK - Agenda Packet (Public); Public Works; ; SPECIAL; Update on Department of Public Works Capital Improver
	59.8 12/11/2018; CLK - Resolution; City Council; 68713; ; Contract: Disability Access Consultants for ADA Self Evaluation and Tran
	55.7 12/6/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Semi-Annual Report on Measure T1 C
	55.38 11/13/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Revised Records Retention Schedule
	55.02 11/13/2018; CLK - Resolution; City Council; 68661; ; Revised Records Retention Schedule
	54.56 12/11/2018; CLK - Agenda Packet (Public); District 4; ; REGULAR; Referral to City Manager to establish Recreational Vehicle V

## Search #2 - Same search term. Narrow the date range to December 2018.



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A "**full text**" query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A "**keywords**" query searches in the specified data fields associated with the document type.
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5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S(term); Fuzzy: F(term); Near: N#(term1, term2)
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public - All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

#### Search Term

waterfront / marina fund update

#### From Date

12/01/2018

#### To Date

12/31/2018

#### Results

Sc...	Name
79.39	12/6/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Semi-Annual Report on Measure T1 C
79.11	12/6/2018; CLK - Communication; Public; ; SPECIAL; Supplemental Communications 3
78.57	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process - 2018 Interim Update
70.38	12/6/2018; CLK - Agenda Packet (Public); City Manager; ; SPECIAL; Update on the Berkeley Strategic Plan
62.67	12/11/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Confirming the Results of the November 6, 2018, General I
62.67	12/11/2018; CLK - Resolution; City Council; 68704; ; To achieve more resilient and climate-smart, technologically advanced infr
62.47	12/11/2018; CLK - Agenda Packet (Public); Public Works; ; REGULAR; Contract: Disability Access Consultants for ADA Self Ev
61.38	12/5/2018; CLK - Minutes; Energy Commission; ; ;
59.8	12/11/2018; CLK - Resolution; City Council; 68713; ; Contract: Disability Access Consultants for ADA Self Evaluation and Trans
55.7	12/6/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Semi-Annual Report on Measure T1 C
54.56	12/11/2018; CLK - Agenda Packet (Public); District 4; ; REGULAR; Referral to City Manager to establish Recreational Vehicle V
54.24	12/6/2018; CLK - Agenda Packet (Public); Planning and Development; ; SPECIAL; Climate Action Plan Update
53.99	12/11/2018; CLK - Agenda Packet (Public); Mayor; ; REGULAR; Establishment of Traffic Circle Policy Task Force
53.99	12/11/2018; CLK - Minutes; City Council; ; REGULAR;
53.92	12/4/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassifying the zonin
53.92	12/4/2018; CLK - Communication; Public; ; REGULAR; Supplemental Communications 3
53.92	12/11/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassifying the zon
53.92	12/11/2018; CLK - Resolution; City Council; 68724; ; Referral Response: Reclassifying the Zoning and Amending the Berkeley
53.92	EXPENDITURE Contract - # 9674C - Date Executed: 12/14/2018 - Direct Line Tele Response - After hours answering services
53.85	12/6/2018; CLK - Minutes; City Council; ; SPECIAL;
53.67	12/11/2018; CLK - Agenda Packet (Public); Mayor; ; REGULAR; Establishment of Traffic Circle Policy Task Force - Supp
53.67	12/11/2018; CLK - Communication; Public; ; REGULAR; Supplemental Communications 2
53.17	12/11/2018; CLK - Agenda Packet (Public); Zero Waste Commission; ; REGULAR; Referral Response: Berkeley Single Use Fo

## Search #3 – Update search term to use double quotes to restrict to exact phrase. Still constrained to December 2018



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. "parking" or "signs" or "sidewalk").
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

**Search Term**

"waterfront / marina fund update"

**From Date** 12/01/2018 **To Date** 12/31/2018

#### Results

No documents found.



## Search #4 – Remove the spaces on both sides of forward-slash. Keep double quotes. Still constrained to December 2018



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. \*Asterisks\* around a search term find that term where it is part of the data field (e.g. "parking" or "signs" or "sidewalk").
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

#### Search Term

"waterfront/marina fund update"

#### From Date

12/01/2018

#### To Date

12/31/2018

#### Results

No documents found.



## Search #5 - Try new search term: off-agenda



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. \*parking\* or \*signs\* or \*sidewalk\*).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S(term); Fuzzy: F(term); Near: N#(term1, term2)
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public - All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

**Search Term**

off-agenda

**From Date** 11/01/2018 **To Date** 12/18/2018

#### Results

Sc...	Name
79.36	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process - 2018 Interim Update
78.16	11/15/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Parks, Recreation & Waterfront Dep
77.98	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Short Term Referral Process - Monthly Update
77.26	11/15/2018; CLK - Communication; Public; ; SPECIAL; Communications
77.26	11/27/2018; CLK - Communication; Public; ; REGULAR; Communications
61.04	11/1/2018; CLK - Minutes; Landmarks Preservation Commission; ; ;
61.04	12/4/2018; CLK - Minutes; City Council; ; REGULAR;
60.42	12/6/2018; CLK - Minutes; Landmarks Preservation Commission; ; ;
60.24	11/27/2018; CLK - Agenda Packet (Public); Human Resources; ; REGULAR; Memorandum of Understanding: International Bro
60.24	11/27/2018; CLK - Resolution; City Council; 68670; ; Memorandum Agreement: International Brotherhood of Electrical Workers
60.05	12/11/2018; CLK - Agenda Packet (Public); Human Resources; ; REGULAR; Memorandum of Understanding: Public Employe
60.05	12/11/2018; CLK - Resolution; City Council; 68709; ; Memorandum of Understanding (MOU): Public Employees Union PEU Lo
59.8	12/4/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassifying the zoni
59.8	12/11/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassifying the zor
59.8	12/17/2018; CLK - Minutes; Rent Stabilization Board; ; REGULAR; Minutes
59.68	11/13/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Revised Records Retention Schedule
59.68	11/13/2018; CLK - Resolution; City Council; 68661; ; Revised Records Retention Schedule
59.68	12/11/2018; CLK - Resolution; City Council; 68725; ; Adopt Findings under CA Environmental Quality Act (CEQA) and a mitiga
59.24	11/27/2018; CLK - Communication; Public; ; REGULAR; Supplemental Communications 2
59.24	12/4/2018; CLK - Communication; Public; ; REGULAR; Supplemental Communications 2
57.68	EXPENDITURE Contract - # 31900013 - Date Executed: 11/29/2018 - The Library Corporation - Integrated Library System
56.18	11/13/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Request to Reduce the In-Lieu Provision
56.18	12/4/2018; CLK - Agenda Packet (Public); Community Environmental Advisory Commission; ; REGULAR; Referral Response:



## Search #6 - Add the word 'memo', search term now: off agenda memo



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. "parking" or "signs" or "sidewalk").
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public - All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

**Search Term**

off agenda memo

**From Date** 11/01/2018 **To Date** 12/31/2018

[Search](#) [Reset](#)

#### Results

Sc...	Name
<a href="#">78.49</a>	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process - 2018 Interim U
<a href="#">76.93</a>	11/15/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Parks, Recreation & Wal
<a href="#">76.45</a>	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Short Term Referral Process - Mo
<a href="#">65.14</a>	12/4/2018; CLK - Agenda Packet (Public); City Manager; ; REGULAR; Structure for City Council Standing Policy C
<a href="#">65.14</a>	12/11/2018; CLK - Agenda Packet (Public); City Manager; ; REGULAR; Structure for City Council Standing Policy C
<a href="#">64.37</a>	11/28/2018; CLK - Minutes; Human Welfare and Community Action Commission; ; ;
<a href="#">63.59</a>	11/27/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Amendment: FY 2019 Annual Appropriations C
<a href="#">63.59</a>	11/27/2018; CLK - Communication; Public; ; REGULAR; Supplemental Communications 1
<a href="#">54.15</a>	11/13/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; ZAB Appeal: 3000 Shattuck ,
<a href="#">54.15</a>	11/27/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; ZAB Appeal: 3000 Shattuck ,
<a href="#">49.27</a>	12/11/2018; CLK - Agenda Packet (Public); Human Resources; ; REGULAR; Memorandum of Understanding: Pub
<a href="#">49.27</a>	12/11/2018; CLK - Resolution; City Council; 68709; ; Memorandum of Understanding (MOU): Public Employees Ur
<a href="#">45.47</a>	11/1/2018; CLK - Minutes; Landmarks Preservation Commission; ; ;
<a href="#">45.47</a>	12/4/2018; CLK - Minutes; City Council; ; REGULAR;
<a href="#">45.04</a>	12/6/2018; CLK - Minutes; Landmarks Preservation Commission; ; ;
<a href="#">44.92</a>	11/27/2018; CLK - Agenda Packet (Public); Human Resources; ; REGULAR; Memorandum of Understanding: Inter
<a href="#">44.92</a>	11/27/2018; CLK - Resolution; City Council; 68670; ; Memorandum Agreement: International Brotherhood of Electr
<a href="#">44.62</a>	12/4/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassify
<a href="#">44.62</a>	12/11/2018; CLK - Agenda Packet (Public); Planning and Development; ; REGULAR; Referral Response: Reclassi
<a href="#">44.62</a>	12/17/2018; CLK - Minutes; Rent Stabilization Board; ; REGULAR; Minutes
<a href="#">44.53</a>	11/13/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Revised Records Retention Schedule



*Search #7 - Try new Boolean: off AND agenda AND memo.  
Constrain date to just December 2018*



## Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. **\*parking\*** or **\*signs\*** or **\*sidewalk\***).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

### Search

**Search Type**

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

### Search Term

off AND agenda AND memo

### From Date

12/01/2018

### To Date

12/31/2018

### Results

Sc...	Name
78.49 12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process – 2018 Interim Upda	
76.45 12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Short Term Referral Process – Monthl	

## Search #8 - Try Boolean: waterfront AND marina AND fund AND update. Date range November to December 2018



### Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

#### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. **"parking"** or **"signs"** or **"sidewalk"**).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N# {term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

#### Search

**Search Type**

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

#### Search Term

waterfront AND marina AND fund AND update

#### From Date

11/01/2018

#### To Date

12/31/2018

#### Results

Sc...	Name
83.3	11/15/2018; CLK - Communication; Public; ; SPECIAL; Communications
83.3	11/27/2018; CLK - Communication; Public; ; REGULAR; Communications
82.29	11/15/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Parks, Re
79.39	12/6/2018; CLK - Agenda Packet (Public); Parks Recreation and Waterfront; ; SPECIAL; Semi-Ann
79.11	12/6/2018; CLK - Communication; Public; ; SPECIAL; Supplemental Communications 3
78.57	12/4/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; City Council Referral Process –

*Search #9 - New Boolean: marina AND enterprise AND fund.  
Limit date range to December 2018*



## Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A "**full text**" query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A "**keywords**" query searches in the specified data fields associated with the document type.
4. \*Asterisks\* around a search term find that term where it is part of the data field (e.g. \*parking\* or \*signs\* or \*sidewalk\*).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S(term); Fuzzy: F(term); Near: N#(term1, term2)
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

### Search

#### Search Type

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

#### Search Term

marina AND enterprise AND fund

#### From Date

12/01/2018

#### To Date

12/31/2018

Search

Reset

### Results

Sc...	Name
77.95	12/4/2018; CLK - Agenda Packet (Public); City Manager; ; REGULAR; Amendment: FY 2019 Annual Appropriation
77.95	12/4/2018; CLK - Ordinance; City Council; 7634; ; Amending the Annual Appropriations Ordinance No. 7617-N
73.52	12/11/2018; CLK - Agenda Packet (Public); City Clerk; ; REGULAR; Minutes for Approval

**Search #10 – Try exact phrase in double quotes: “marina fund update”.  
Limit date range to December 2018**



## Welcome to the City of Berkeley's Records Online

Records Online contains Election information, Ordinances, Resolutions, Staff Reports, Meeting Minutes, Contracts, Communications and other City documents. Review the [date ranges](#) of specific document types found in Records Online.

### Search Tips and Instructions:

1. For all date fields, the proper search format is **mm/dd/yyyy**.
2. A **"full text"** query locates a specified search term in the record. The search term can be combined with other data fields associated with the document type.
3. A **"keywords"** query searches in the specified data fields associated with the document type.
4. **"Asterisks"** around a search term find that term where it is part of the data field (e.g. \*parking\* or \*signs\* or \*sidewalk\*).
5. Narrow your search as much as possible by choosing the correct record category (ordinance, contracts, etc.)
6. For full-text queries, you may use the following search tools: Exact Phrase: "term1 term2"; Boolean: term1 AND term2 OR term3 NOT term4; Soundex: S{term}; Fuzzy: F{term}; Near: N#{term1, term2}
7. To open a document in a new window, click the icon.

For assistance in using Records Online, contact the [City Clerk Department](#)

### Search

#### Search Type

Public – All Records Query (Full Text)

Search for documents by entering a search term and any other fields, then click Search.

#### Search Term

"marina fund update"

#### From Date

12/01/2018

#### To Date

12/31/2018

Search

Reset

### Results

No documents found.



**Sophie Hahn**  
**Councilmember**  
**District 5**

**ACTION CALENDAR**  
**September 20, 2022**  
*(Continued from July 26, 2022)*

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Sophie Hahn (Author), Councilmembers Terry Taplin, Ben Bartlett and Kate Harrison (Co-Sponsors)

**Subject:** Restoring and Improving Access to City of Berkeley Website and Archival Materials

**RECOMMENDATION**

Direct the City Manager to:

1. Restore at previous URLs all PDF documents previously hosted on the City of Berkeley website.
2. Create a publicly accessible archival copy of the City's previous website, CityofBerkeley.info, that can be accessed without logins and via internet search engines. Include a prominent disclaimer noting the date the website, page, or document was archived, with links redirecting to the active website or other responsive resource.
3. On the new website, update Commission pages to include a minimum of 2 years of historic agendas and other materials and update City Council and Council Committee pages to include at least 3 years of complete materials.
4. By July 15, 2022 develop and make available to all City staff and to the public training at beginner to expert levels on use of the City's Records Online search function and create more extensive and less technical self-help resources covering basic and expert use.
5. In recognition of increased public traffic, update the Records Online homepage to explain how the portal works and link to more robust self-help resources and alternative search functions.
6. Coordinate with agency staff to include all relevant records (agendas, minutes, etc.) from Rent Board and Housing Authority in Records Online Portal.



7. Update any remaining 404 pages to explain that the City's website has been moved/updated, and provide links to helpful pages, search functions and/or pathways to access responsive materials. As quickly as possible, consider implementing redirects with wildcards to direct as many old links to relevant new website pages in lieu of the standard 404 page. E.g. cityofberkeley.info/planning\* to the Planning Department site map/homepage, or Department Specific 404 page explaining new navigation.

Refer to the City Manager the following additional improvements to Records Online:

1. Within Records Online, provide unique archival/search categories for each City Commission, Board, Committee and Rent Board, and consider other useful categories, to assist users in narrowing results and identifying responsive materials.
2. Allow Records Online search *results* to be sorted by date and by other searchable factors. Consider means to integrate records online into default site search bar.
3. Explore and report back to Council options for improving the scope of Records Online, improving search options and sorting, and making all materials – or materials from January 1, 2000 (or an earlier recommended date) forward, searchable using internet search engines.

### BACKGROUND

The recently launched new City Website has brought many important improvements, in particular with respect to customer/resident services. It's much easier for users to find help with important functions such as requesting a service, reporting a pothole, or paying a bill, and to learn about public-facing services and facilities. It also includes well-organized foundational information about City departments and special projects. All of this represents a huge improvement for these users and uses.

The new website's utility as a resource and archive for specialized or in-depth records and materials, however, has been severely hobbled. Staff has reported that over 15,000 pages were consolidated into 500, in an attempt to focus the website on a particular and important user experience. Unfortunately, other functionalities were severely reduced and users who have long relied on the website to access a broad range of important materials have limited opportunities to search for and find responsive documents.

Another consequence of removing the City's "old" website is that all links in plans such as the Bicycle, Pedestrian, and Vision Zero Plans, Area Plans, the SOSIP Plan, the Climate Action Plan, Electric Mobility Plan - and all other Plans generated prior to launch of the new website - are broken. Links in every item, memorandum, study,

regulation, footnote, press release, health order, or other document or statement generated by the City prior to launch of the new website are also dead.

Materials previously accessible via simple search engine queries are no longer accessible, except via an “old school” portal that requires time and expertise to navigate. Unlike 21st Century search engines, Records Online works best when a user knows exactly what they are looking for, including the title and date a document or topic was generated, severely limiting its utility. Broader searches generate voluminous results that cannot be easily browsed, adding significant time to locate materials that previously could be identified instantaneously. For members of the public curious about a City topic or policy, and in particular for staff and Council Members involved in research or writing memos, policies, programs, plans, and other in depth items, the extra time involved searching for responsive documents can add up to hours, and important documents are likely to be missed.

Compounding this problem, website pages that previously linked to years’ worth of archived documents, press releases, memos, regulations, plans and similar materials either no longer exist, or contain only shallow archives. As a result, a veritable trove of documents and reports important to understanding the history and current status of the City and its programs and policies, while technically still available via expert use of Records Online, are functionally beyond reach.

Addressing the loss of critical transparency and functionality with closure of the City’s previous website requires urgent action. This item requires both interim and long term solutions to be implemented on an expedited basis.

#### FINANCIAL IMPLICATIONS

Significant reduction in staff time across the organization chasing broken links and searching for materials in Records Online. Staff time to implement requested changes and research additional solutions.

#### CURRENT SITUATION AND ITS EFFECTS

The updated website presents significant challenges for important users and uses. Members of the public, staff, and elected officials are no longer able to reliably locate or navigate current and historic materials. Critical transparency is vastly decreased, and user time across the City and among members of the public is increased, rendering both work and public participation more difficult and time consuming.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

N/A

CONTACT PERSON

Councilmember Sophie Hahn      Council District 5      510-981-7150





City Council

CONSENT CALENDAR  
September 20, 2022

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Ben Bartlett,  
Councilmember Sophie Hahn and Councilmember  
Terry Taplin

Subject: Helping Achieve Responsible Development with  
Healthcare and Apprenticeship Training Standards  
(HARD HATS) Referral

RECOMMENDATION

Refer to the City Attorney and City Manager to draft a HARD HATS Ordinance based on the policy terms outlined below and bring the Ordinance back to Council for action on December 13, 2022.

POLICY COMMITTEE REVIEW AND REVISED POLICY TERMS

On May 16, 2019, the Land Use, Housing & Economic Development Committee approved the following motion: M/S/C (Hahn/Arreguín) to send the item to the full Council with a Positive Recommendation. Vote: All Ayes.

The City Council then subsequently referred the item to the Commission on Labor. After the item was sent to the Commission for review, the COVID-19 pandemic hit. The state of emergency and Shelter-In-Place orders to minimize human contact and the spread of the virus resulted in the suspension of certain non-essential Boards and Commissions for over a year. This effectively stalled work by the commission on this item. To facilitate action on this important policy, the authors have worked with City Department staff (City Manager's Office, City Attorney's Office, Planning, HHCS) and stakeholders (labor representatives, contractors, housing developers) to discuss policy terms for a proposed HARD HATS Ordinance, discussing goals as well as implementation issues. This input has helped inform the draft proposal being submitted for Council action. Further review will be undertaken when this item is formally referred for drafting.

The recommended action is to refer the proposal to the City Attorney and City Manager to draft a HARD HATS Ordinance for adoption. The purpose of the ordinance is to address the shortage of qualified local construction workers, rising labor costs, and set a new bar for labor standards in the local construction industry. These measures are intended to improve the recruitment, training, and retention of skilled construction workers.

The ordinance should include the following elements:

1. Scope:
  - a. The City shall require contractor prequalification for covered General Plan Area projects ("Covered Projects"), which are projects consisting of construction, alteration, demolition, installation, remediation, repair, or

remodel of 50,000 square feet or more of floor area.

- b. All contractors or subcontractors of any tier (“Contractors”) entering into a contract on a Covered Project valued in excess of ½ of one percent of the value of the prime contract for the Covered Project must be prequalified.

2. Apprenticeship:

- a. For purposes of the “Covered Project”, each Contractor shall do at least one of the following (and shall sign a statement certifying that on the Covered Project it will do at least one of the following):
  - i. participate in a joint labor-management apprenticeship program;
  - ii. participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated an average of at least thirty (30) apprentices annually for the five (5) years immediately preceding the Covered Project. The Contractor will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5 for the duration of the Covered Project. Any change in program participation must be immediately provided to the City; or
  - iii. make and require its subcontractors to make hourly contributions to the CAC for every apprenticeable craft hour worked on the Covered Project of at least the apprenticeship contribution rate for the classification of “plumber, pipefitter, steamfitter” in Alameda County.<sup>1</sup>
- b. Contributions to an apprenticeship program or the CAC shall not be credited towards compliance with BMC Chapter 13.99 (Minimum Wage).
- c. Upon review of the ordinance after 2 years, the City Council will consider whether to supplement the ordinance with a 180 consecutive day apprenticeship prequalification requirement.

3. Health Care Security:

- a. In order to be prequalified, each Contractor will sign a statement stipulating to and providing documented proof that the Contractor, in addition to the regular hourly wages paid to its construction worker employees (“Covered Construction Workers”), has made Required Health Care Expenditures to or on behalf of each Covered Construction Worker for 180 consecutive days prior to the submission of the prequalification documents, during periods of employment.
  - i. The Required Health Care Expenditure is calculated by multiplying the number of hours worked by the hourly Health Care Expenditure Rate.
  - ii. The Health Care Expenditure Rate shall be determined annually from the “average contribution” based on the City and County of San Francisco Health Service System’s annual 10-County Survey amount for Alameda County for the applicable fiscal year. Such “average contribution” shall be prorated on an hourly basis by dividing the monthly average contribution

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<sup>1</sup> See hourly contribution rate for the “plumber, pipefitter, steamfitter” via <https://www.dir.ca.gov/OPRL/pwappwage/wage/21201583.html?VarWageId=21201583>. The form for making contributions is found here: <https://www.dir.ca.gov/DAS/tf/cac2.asp>.

for Alameda County by one hundred and fifty (150), the typical number of hours worked in a month by a construction worker.

- iii. In the case of a Contractor that has employed no Covered Construction Workers for 180 consecutive days prior to the submission of the prequalification documents, said Contractor must have had an ongoing contractual obligation to hire subcontractors during that period that provide Required Health Care Expenditures.
  - b. For purposes of the Covered Project, each Contractor shall make Required Health Care Expenditures to or on behalf of each Covered Construction Worker in addition to their regular hourly wages during periods of employment (and sign a statement certifying that it will do so on the Covered Project). In the case of a Contractor that will employ no Covered Construction Workers on the Covered Project, said Contractor shall make Required Health Care Expenditures on behalf of the Covered Construction Workers employed by its subcontractor(s) in the event said subcontractor(s) fail(s) to make Required Health Care Expenditures in accordance with this ordinance.
  - c. Required Health Care Expenditures may be made to a health plan in which the Covered Construction Worker is enrolled, to a Covered Construction Worker's health savings account, and/or to a Covered Construction Worker in the form of cash at double the rate of the Required Health Care Expenditures.
  - d. Contractors shall maintain accurate records of the Required Health Care Expenditures, and proof of same, and allow the City reasonable access to such records.
  - e. Required Health Care Expenditures shall not be credited towards compliance with BMC Chapter 13.99 (Minimum Wage).
4. Contractor Commitment Statement:
    - a. Each Contractor will sign a statement stipulating that on the Covered Project it will continue to make contributions to an apprenticeship program or the CAC and Required Health Care Expenditures as set forth above for the duration of the Covered Project.
5. Community Benefits Agreement Exception:
    - a. If an otherwise Covered Project is covered by a Project Labor Agreement (or Community Benefits Agreement or similar labor agreement) with the Building and Construction Trades Council of Alameda County, Contractors will be deemed in compliance with the Apprenticeship and Health Care Security provisions of the ordinance as such agreements already require health care coverage and apprenticeship fund contributions. Such agreements also deter unscrupulous contracting practices by bidders and contractors, promote stable construction careers for trade workers, and increase the capacity of local apprenticeship and training programs.
  6. The final ordinance shall contain severability language.

#### CURRENT SITUATION AND ITS EFFECTS

As the City of Berkeley plans to increase production of housing, commercial buildings, and public facilities, the need for a skilled construction workforce is vital. Shortages of skilled construction workers, particularly residential trade workers, threaten to delay or derail development plans.

The shortages are attributable to factors such as reduced utilization of state-approved apprenticeships, fewer young labor force entrants, dwindling contractor offerings of health and retirement plans, and the related trend of lagging construction productivity growth. These realities have been affecting the land use goals of local jurisdictions. For instance, in San Francisco, many entitled projects with thousands of units awaiting construction are stalled due to skilled labor shortages, diminished contractor productivity, and construction costs that spiked.

The creation and utilization of apprenticeship along with the commitments to paid healthcare act to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors. Requiring contractors on major projects in Berkeley to employ apprentices results in a higher volume of apprentice training, and thus, an increase in the construction labor force available to carry out the construction anticipated by the general plan, and especially that targeted by the Housing Element.

### BACKGROUND

The City's interests in taking action to redress the inadequate status quo condition of construction workforce development are several:

**1. Comply with the RHNA and the General Plan Economic Development & Employment Element.** The goals articulated in the General Plan depend on considerably more construction activity than the local supply of skilled construction workers can support. Moreover, construction projects in Berkeley have to compete with projects in other cities that have a similar problem contributing to a serious overall regional imbalance between demand for construction labor and local supply of skilled construction workers. This puts at risk all kinds of essential work, as construction workers are required to build, alter, maintain, and repair homes, schools, offices, retail stores, manufacturing facilities, laboratories, recreational facilities, and infrastructure for utilities and transportation. Setting a high bar for contractor prequalification will encourage employers to provide benefits and training that increase workforce retention and provide financial security.

Berkeley has been assigned a Regional Housing Needs Assessment (RHNA) of roughly 9,000 units of housing to produce over an eight year period, or over 1,100 units per year. Berkeley does not have an adequate supply of construction workers to build over 1,100 housing units per year while also building, altering, and maintaining public and private commercial nonresidential buildings and infrastructure. Only 1,250 construction sector employees lived in Berkeley in 2018.<sup>2</sup> Applying statewide statistical averages, about 900 of those employees are manual construction, alteration, installation, or repair workers. Given similar needs around the Bay Area and the State of California, Berkeley cannot rely on contractors to reliably import surplus skilled construction workers from other cities. Construction jobs - particularly residential construction jobs - have lost their competitive edge relative to other jobs in the Bay Area regional economy. To meet its General Plan goals, Berkeley should and can create working conditions that will help to overcome the construction labor market's failures to make construction jobs attractive enough to recruit and retain productive trade workers.

**2. Reduce demand-side pressure on Berkeley's — and the region's — affordable housing supply.** Homebuilding is supposed to reduce the number of people waiting in line for housing they can afford. But when the homebuilding industry itself generates excessive very low and low wage construction employment, that just increases the number of people needing

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<sup>2</sup> U.S. Census Bureau LEHD Origin-Destination Employment Statistics, Version 7, Residence Area Characteristics.



subsidies from the taxpayer. Low wage employment is in fact a problem in both the residential and commercial construction markets. Fifty-five percent of Alameda County construction workers' households are Extremely Low Income, Very Low Income, or Low Income.<sup>3</sup>

**3. Promote jobsite health & safety.** Construction trade workers experience exceptionally high rates of serious injury on the job, especially on sites with inadequately trained workers. One of every five serious workers' compensation insurance claims which involve death, permanent total disability or major permanent partial disability - is related to a construction employee, despite the fact that construction jobs account for less than one out of every 25 California jobs. For a working life in construction, the risk of fatal injury is approximately one death per 200 full-time-equivalent employees according to a recent study in the American Journal of Industrial Medicine. A policy that promotes apprenticeship training and higher construction compensation rates will likely reduce the occurrence of non-fatal and fatal injuries on General Plan Area major projects.

A recent Canadian study of workers' compensation claims from 58,837 construction companies found that unionization was associated with a 25% lower incidence of lost-time allowed injury claims, a 23% lower incidence of musculoskeletal lost-time allowed injury claims, and a 16% lower incidence of lost-time allowed critical injury claims. In California too, employers of lower paid construction workers make more serious and non-serious workers compensation claims.<sup>4</sup>

Contractors that invest in their workforce are incentivized to invest in worker health & safety training and in jobsite safety practices in order to reduce the likelihood of injury to their workforce and increase productivity. We expect that this prequalification policy will lead to lower rates of injury - including fatal occupational injury - on major construction project sites.

**4. Promote worker retention by incentivizing provision of health insurance and investment in training.**

Construction employer contributions towards training and health insurance are essential. In order to address housing affordability through increased housing supply, California communities must address broken development and construction systems. A 2020 survey of Bay Area city officials measured the degree to which officials agreed on what factors constrain the creation of new housing. Two-thirds of survey respondents said that construction workforce availability is a constraint, ranking fourth highest among 16 specific potential constraints, just behind "financing/funding for affordable housing" and *ahead* of "land suitability."<sup>5</sup>

Construction workers who live in Alameda County are uninsured at rates 3-4 times higher than the rate of non-construction workers.<sup>6</sup> Incentivizing the provision of health insurance will reduce the number of residents who currently go without and will increase worker retention in the field of residential construction.

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<sup>3</sup> Analysis of U.S. Census, ACS 2015-2019 Microdata.

<sup>4</sup> Workers Compensation Insurance Rating Bureau "Relativity Review Sheets," various years.

<sup>5</sup> Association of Bay Area Governments. Memorandum: "Summary of Local Jurisdiction Survey Results," March 12, 2020, page 5. Downloaded 3/26/2021 via [mtc.legistar.com/gateway.aspx?M=F&ID=6b572dad-e960-4c4f-8bff-27a5650bc534.pdf](https://mtc.legistar.com/gateway.aspx?M=F&ID=6b572dad-e960-4c4f-8bff-27a5650bc534.pdf)

<sup>6</sup> Analysis of U.S. Census, ACS 2015-2019 Microdata.

California residential building was strongest when apprenticeship training was strongest. For example, during the 1970s, when California was producing housing at the average annual rate of 200,000 units, the state reported an average of 9,000 carpenter apprentices. California residential builders utilized apprentices every bit as much as commercial builders, according to a 1976 U.S. Bureau of Labor Statistics report.<sup>7</sup> Between 1973 and 1982, more than 11,000 carpenter apprentices statewide completed their programs. These carpenters were the core of California's trained and skilled residential construction workforce through the 1980s, when housing production continued at a strong pace. De-unionization and the recession of the early 1990s, however, led to sharply reduced utilization of apprentices by residential contractors. Carpenter apprenticeship completions fell by 50 percent between 1996-2005 compared to 1973-1982.<sup>8</sup> Because apprenticeship programs provide a living wage and long-term employment through benefits and ongoing training, promoting apprenticeship in the residential market will retain workers in the residential space and allow their employers to build more housing stock.

### **5. Address inequality as residential developer profit margins continue to increase while labor wages and benefits have remained stagnant.**

According to the State of California's 2014 Affordable Housing Cost Study and Economic Census data specific to California's construction industry, construction labor wages and benefits account for only 15% of total project costs.<sup>9</sup> Meanwhile, since 1992 the industry's basis for profitability has increased 50% more than either construction labor or materials. Despite this increase in profitability, there is still a disconnect between construction workers and apprenticeship and health insurance plans, resulting in a shrinking supply of labor. This has constrained the construction industry's ability to expand in response to the rising construction needs of California and its many cities.

California residential contractors offer fringe benefits at low rates to building trades workers. Only one third of construction workers are policyholders for employment-based health insurance, compared to over half of all other employed male civilian workers, according to data from the Annual Social and Economic Supplement of the U.S. Bureau of Labor Statistics' Current Population Survey (CPS). California construction workers' rate of coverage under any employer- or union-provided health insurance ranks 35th among the states, proximate in rank to Alabama, Colorado, Louisiana, Nevada, and Virginia.

The under-performance of California contractors in providing health care security to employees constrains the supply of skilled construction labor. A peer-reviewed study in 2010 found that only 35 percent of blue-collar construction workers who are not covered by collective bargaining agreements had health insurance paid for at least in part by an employer. This same study found that health insurance funded through collectively bargained employer contributions to plans that are portable within the construction industry increased industry-retention rates by up to 40 percent compared to baseline retention rates of

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<sup>7</sup> U.S. Department of Labor, Bureau of Labor Statistics, Bulletin 1911, "Industry Wage Survey: Contract Construction September 1973," Washington, D.C.: 1976. See Tables 28 & 46. Downloaded via <http://fraser.stlouisfed.org>.

<sup>8</sup> Littlehale, Scott. (2019). *Rebuilding California: The Golden State's Housing Workforce Reckoning*. Smart Cities Prevail. pp. 23-25. Downloaded 3/26/2021 via [https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP\\_HousingReport.0118\\_2.pdf](https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP_HousingReport.0118_2.pdf)

<sup>9</sup> Lantsberg, Alex. (2017). *The Value of Linking Good Construction Jobs to California's Housing Reforms*. Pp. 4-5. Downloaded 3/26/2021 via [http://smartcitiespre.wpengine.com/wp-content/uploads/2017/03/SCP\\_HousingReport.0314.pdf](http://smartcitiespre.wpengine.com/wp-content/uploads/2017/03/SCP_HousingReport.0314.pdf)

construction workers without any health insurance coverage.<sup>10</sup> A City policy to prequalify residential contractors based on their investment in workers' health care security will promote a greater, more stable supply of skilled construction labor.

Thus, it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan. More specifically, the policy will promote the following Plan goals:

- 1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
- 2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.

To increase the prospects for successful implementation and build-out goals of the Plan, it is advised that the City adopt the aforementioned construction workforce development ordinance, known as the HARD HATS Ordinance.

#### OUTREACH OVERVIEW AND RESULTS

In 2019, the Labor Commission held a public hearing on the Council's previous referral and gathered public input. The 2019 Council referral led to a public hearing before the Labor Commission. Subsequently the Building and Construction Trades Council of Alameda County has provided further input leading to the current proposal. Additionally, the author met with local housing developers and contractors to present the proposed policy terms and get input on how it may impact residential construction. The authors also met extensively with the City Attorney's office and City Department staff to get input on the proposal around legality, implementation and enforcement.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley, along with numerous neighboring cities, school districts, special districts and the state of California plans to increase production of housing, commercial buildings, and/or public facilities. Shortages of skilled construction workers, however, will likely prevent many cities from achieving these goals.

This local workforce development ordinance will require contractors to utilize apprentices from state-approved training programs or make CAC contributions; and offer employees an hourly contribution, in addition to the employee's regular hourly wage, paid to a health plan, to an employee savings account, and/or to an employee in the form of cash. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.

#### IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The City Manager and City Attorney will draft the ordinance which will be enforced by the City or through private right of action, consistent with the terms below.

Developers should be made aware of this ordinance during the entitlement process. The City should also attach conditions to zoning permits requiring compliance with the ordinance. Lack of compliance with the HARD HATS ordinance could result in compliance and revocation

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<sup>10</sup> Littlehale, Scott. (2019). *Rebuilding California: The Golden State's Housing Workforce Reckoning*. Smart Cities Prevail. pp. 23-25. Downloaded 3/26/2021 via [https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP\\_HousingReport.0118\\_2.pdf](https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP_HousingReport.0118_2.pdf)

proceedings for entitlements if a verified complaint is brought to the City's Planning Department or Code Enforcement Division.

### **1. Precondition for Building Permits**

As a condition of a zoning entitlement, the City shall issue building permits only where all Contractors meet the prequalification requirements of this Ordinance and submit all required documentation demonstrating compliance. The implementing departments (HHCS, Planning) must verify compliance prior to building permit being issued.

The City may revoke or suspend the applicable building permit where any Contractor is out of compliance with this Ordinance.

### **2. City Enforcement**

While a Covered Project is underway, the City shall issue a citation or stop work order with respect to any Contractor that submitted a false or misleading prequalification questionnaire and/or has not, in fact, complied with the prequalification requirements herein. In the event of a stop work order, such Contractor shall permanently abandon the Covered Project and leave the work site within twenty-four (24) hours of notice by the City.

In the event that any person identifies a Contractor on a Covered Project that submitted a false or misleading prequalification questionnaire and/or has not, in fact, complied with the prequalification requirements herein, the person may file a complaint with the City. Upon receipt of such a complaint, the City shall investigate the complaint and, if a violation is found, issue a citation or stop work order to the Contractor within ten (10) days of the original complaint. In the event of a stop work order, such Contractor shall permanently abandon the Covered Project and leave the work site within twenty-four (24) hours of notice by the City.

If a Contractor subject to a stop work order remains on the Covered Project, the City shall issue a penalty of \$1,000 per day for the first week, doubling for each successive week. If the Contractor has received a citation or stop work order under this Ordinance, or has otherwise been penalized under this Ordinance, within the prior twelve (12) months, the penalty shall be \$2,000 per day for the first week, doubling for each successive week. In that event, the prime contractor shall be jointly and severally liable for the penalty.

### **3. Private Right of Action for Required Health Care Expenditures**

The Ordinance will provide for a private right of action on behalf of Covered Construction Workers who should have received, but did not receive, Required Health Care Expenditures to which they were entitled on a Covered Project. A labor union or a joint labor-management cooperation committee may also bring such a private action on behalf of a Covered Construction Worker who should have received, but did not receive, Required Health Care Expenditures to which they were entitled on a Covered Project.

Persons may file such claims directly against the prime contractor and/or applicable subcontractor in the Superior Court for the County of Alameda. In addition to costs and other expense shifting provisions provided in the Code of Civil Procedure, a prevailing plaintiff shall be entitled to reasonable attorney fees.

### **4. Private Right of Action for Injunctive Relief**

In addition to any other enforcement mechanism available to the City or any member of the public, the Ordinance will provide for a private right of action for a Covered Construction Worker,

a labor union, or a joint labor-management cooperation committee, to seek injunctive relief compelling compliance with the Ordinance and assessment of the penalties therein. Persons may file such claims directly against the prime contractor and/or applicable subcontractor in the Superior Court for the County of Alameda. In addition to costs and other expense shifting provisions provided in the Code of Civil Procedure, a prevailing plaintiff shall be entitled to reasonable attorney fees.

#### **5. Repeat Offender List**

The City shall review the complaints filed under this Ordinance on a monthly basis to determine if any person or entity has been associated with three or more violations of the Ordinance within the last 12 months. Any such person or entity shall be placed on a public list available on the City of Berkeley's website and shall be prohibited from working on Covered Projects for a period of 12 months from their most recent violation.

If the Developer or any Contractor contracts with a person or entity for a Covered Project who is named on the public list ("Repeat Offender"), and the Repeat Offender again violates the Ordinance as determined by the City or the Superior Court, then the Developer or Contractor who contracted with the Repeat Offender shall be jointly and severally liable for any and all penalties, damages, or other financial obligations incurred by the Repeat Offender.

#### FISCAL IMPACTS OF RECOMMENDATION

Costs associated with administering the prequalification compliance documentation.

#### ENVIRONMENTAL SUSTAINABILITY

No negative impact. The use of a skilled and trained workforce is a green building practice which improves the quality and environmental performance of construction.

#### OUTCOMES AND EVALUATION

It is expected that the City Council will refer to the City Manager and City Attorney to create a policy requiring contractors to utilize apprentices from state-approved apprenticeship training programs, and to offer employees employer-paid health insurance plans or a cash alternative adequate to fund high-quality health insurance coverage, consistent with the directives herein.

#### CONTACT PERSON

Mayor Jesse Arreguín

510-981-7100



Upcoming Worksessions and Special Meetings <i>start time is 6:00 p.m. unless otherwise noted</i>	
Scheduled Dates	
Sept. 20	1. Residential Objective Standards for Middle Housing (start time 4:00 p.m.)
October 6*	1. Measure O Report and Update (start time 4:00 p.m.)

*\*If approved by the City Council, the Council meeting of October 6 will be rescheduled to October 11.*

Unscheduled Workshops
None

Unscheduled Presentations (City Manager)
1. Civic Arts Grantmaking Process & Capital Grant Program 2. Fire Facilities Study Report 3. African American Holistic Resource Center (November 15)

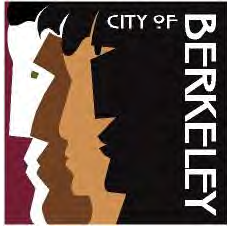
	<b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>
	None



CITY CLERK DEPARTMENT			
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL			
Address	Board/ Commission	Appeal Period Ends	Public Hearing
<b>NOD – Notices of Decision</b>			
<b>Public Hearings Scheduled</b>			
1201-1205 San Pablo Avenue (construct mixed-use building)	ZAB		9/29/2022
2018 Blake Street (construct multi-family residential building)	ZAB		10/6/2022*
1643-47 California St (new basement level and second story)	ZAB		11/3/2022
<b>Remanded to ZAB or LPC</b>			
1205 Peralta Avenue (conversion of an existing garage)			
<b>Notes</b>			
*If approved by the City Council, the Council meeting of October 6 will be rescheduled to October 11.			

8/22/2022





Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** November 10, 2020

**Item Number:** 20

**Item Description:** Annual Commission Attendance and Meeting Frequency Report

**Submitted by:** Mark Numainville, City Clerk

The attached memo responds to issues and questions raised at the October 26 Agenda & Rules Committee Meeting and the October 27 City Council Meeting regarding the ability of city boards and commissions to resume regular meeting schedules.



Office of the City Manager

November 9, 2020

To: Mayor and Council  
From: Dee Williams-Ridley, City Manager  
Subject: Commission Meetings Under COVID-19 Emergency (Item 20)

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This memo provides supplemental information for the discussion on Item 20 on the November 10, 2020 Council agenda. Below is a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration and the data collected by the City Manager on the ability of commissions to resume meetings in 2021.

On March 10, 2020 the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020 the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020 Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to

complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

In response to questions from the Agenda & Rules Committee and the Council, the City Manager polled all departments that support commissions to obtain information on their capacity to support the resumption of regular commission meetings. The information in Attachment 1 shows the information received from the departments and notes each commission's ability to resume a regular, or semi-regular, meeting schedule in 2021.

In summary, there are 24 commissions that have staff resources available to support a regular meeting schedule in 2021. Seven of these 24 commissions have been meeting regularly during the pandemic. There are five commissions that have staff resources available to support a limited meeting schedule in 2021. There are seven commissions that currently do not have staff resources available to start meeting regularly at the beginning of 2021. Some of these seven commissions will have staff resources available later in 2021 to support regular meetings. Please see Attachment 1 for the full list of commissions and their status.

With regards to commission subcommittees, there has been significant discussion regarding the ability of staff to support these meetings in a virtual environment. Under normal circumstances, the secretary's responsibilities regarding subcommittees is limited to posting the agenda and reserving the meeting space (if in a city building). With the necessity to hold the meetings in a virtual environment and be open to the public, it is likely that subcommittee meetings will require significantly more staff resources to schedule, train, manage, and support the work of subcommittees on Zoom or a similar platform. This additional demand on staff resources to support commission subcommittees is not feasible for any commission at this time.

One possible option for subcommittees is to temporarily suspend the requirement for ad hoc subcommittees of city commissions to notice their meetings and require public participation. Ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. If it is the will of the Council, staff could introduce an item to temporarily suspend these

requirements which will allow subcommittees of all commissions to meet as needed to develop recommendations that will be presented to the full commission.

The limitations on the meetings of certain commissions are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Some of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new duties specifically related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council.

Attachments:

1. List of Commissions with Meeting Status
2. Resolution 69,331-N.S.

<u>Boards and Commissions</u>	<u>Meetings Held Under COVID March - Oct</u>	<u>Regular Mtg. Date</u>	<u>Secretary</u>	<u>Dept.</u>	<u>Resume Regular Schedule in January 2021?</u>	<u>Note</u>
Fair Campaign Practices Commission	9	3rd Thur.	Sam Harvey	CA	YES	Have been meeting regularly under COVID Emergency
Open Government Commission	6	3rd Thur.	Sam Harvey	CA	YES	Have been meeting regularly under COVID Emergency
Animal Care Commission	0	3rd Wed.	Amelia Funghi	CM	YES	
Police Review Commission	10	2nd & 4th Wed.	Katherine Lee	CM	YES	Have been meeting regularly under COVID Emergency
Disaster and Fire Safety Commission	4	4th Wed.	Keith May	FES	YES	
Community Health Commission	0	4th Thur.	Roberto Terrones	HHCS	YES	
Homeless Commission	0	2nd Wed.	Josh Jacobs	HHCS	YES	
Homeless Services Panel of Experts	5	1st Wed	Josh Jacobs	HHCS	YES	
Human Welfare & Community Action Commission	0	3rd Wed.	Mary-Claire Katz	HHCS	YES	
Mental Health Commission	1	4th Thur.	Jamie Works-Wright	HHCS	YES	
Sugar-Sweetened Beverage Product Panel of Experts	0	3rd Thur.	Dechen Tsering	HHCS	YES	
Civic Arts Commission	2	4th Wed.	Jennifer Lovvorn	OED	YES	
Elmwood BID Advisory Board	1	Contact Secretary	Kieron Slaughter	OED	YES	
Loan Administration Board	0	Contact Secretary	Kieron Slaughter	OED	YES	
Solano Avenue BID Advisory Board	2	Contact Secretary	Eleanor Hollander	OED	YES	
Design Review Committee	6	3rd Thur.	Anne Burns	PLD	YES	Have been meeting regularly under COVID Emergency
Energy Commission	0	4th Wed.	Billi Romain	PLD	YES	
Landmarks Preservation Commission	6	1st Thur.	Fatema Crane	PLD	YES	Have been meeting regularly under COVID Emergency
Planning Commission	3	1st Wed.	Alene Pearson	PLD	YES	Have been meeting regularly under COVID Emergency
Zoning Adjustments Board	11	2nd & 4th Thur.	Shannon Allen	PLD	YES	Have been meeting regularly under COVID Emergency
Parks and Waterfront Commission	4	2nd Wed.	Roger Miller	PRW	YES	
Commission on Disability	0	1st Wed.	Dominika Bednarska	PW	YES	
Public Works Commission	4	1st Thur.	Joe Enke	PW	YES	
Zero Waste Commission	0	4th Mon.	Heidi Obermeit	PW	YES	
Commission on the Status of Women	0	4th Wed.	Shallon Allen	CM	YES - LIMITED	Secretary has intermittent COVID assignments

<u>Boards and Commissions</u>	<u>Meetings Held Under COVID March - Oct</u>	<u>Regular Mtg. Date</u>	<u>Secretary</u>	<u>Dept.</u>	<u>Resume Regular Schedule in January 2021?</u>	<u>Note</u>
Commission on Aging	0	3rd Wed.	Richard Castrillon	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Housing Advisory Commission	0	1st Thur.	Mike Uberti	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Measure O Bond Oversight Committee	0	3rd Monday	Amy Davidson	HHCS	REDUCED FREQUENCY	Significant Dept. resources assigned to COVID response
Transportation Commission	2	3rd Thur.	Farid Javandel	PW	REDUCED FREQUENCY	Staff assigned to COVID response
Children, Youth, and Recreation Commission	0	4th Monday	Stephanie Chu	PRW	NO - SEPT 2021	Staff assigned to COVID response
Youth Commission	0	2nd Mon.	Ginsi Bryant	PRW	NO - SEPT 2021	Staff assigned to COVID response
Community Environmental Advisory Commission	0	2nd Thur.	Viviana Garcia	PLD	NO - JUNE 2021	Staff assigned to COVID response
Cannabis Commission	0	1st Thur.	VACANT	PLD	NO - JAN. 2022	Staff vacancy
Peace and Justice Commission	0	1st Mon.	VACANT	CM	NO	Staff vacancy
Commission on Labor	0	3rd Wed., alternate mon	Kristen Lee	HHCS	NO	Staff assigned to COVID response
Personnel Board	1	1st Mon.	La Tanya Bellow	HR	NO	Staff assigned to COVID response



## RESOLUTION NO. 69,331-N.S.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

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

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

Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

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

Section 3. City Council


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

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk



Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

From: *Dee* Dee Williams-Ridley, City Manager

Subject: Commission Meetings During COVID-19 Emergency

This memo serves to provide a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration.

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020, Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

Page 2  
October 22, 2020  
Re: Commission Meetings During COVID-19 Emergency

To assist commissions with the development of their work plan and to provide the City Council with a consistent framework to review the work plans, the City Manager has developed the following items to consider in developing the work plan that is submitted to the City Council agenda.

Prompts for Commissions to use in work plan:

- What commission items for 2021 have a direct nexus with the COVID-19 response or are the result of a City Council referral pertaining to COVID-19?
- What commission items for 2021 are required for statutory reasons?
- What commission items for 2021 are required for budgetary or fund allocation reasons?
- What commission items for 2021 support council-adopted or voter-adopted mission critical projects or programs?
- What are the anticipated staff demands (above and beyond baseline) for analysis, data, etc., to support commission work in 2021 (baseline duties = posting agendas, creating packets, attend meetings, minutes, etc.)?

The limitations on commission meetings are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Many of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new specific duties related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager in consultation with Department Heads and the City Council. More frequent meetings by commissions will be permitted as the conditions under COVID-19 dictate.

Thank you for your service on our boards and commissions. The City values the work of our commissions and we appreciate your partnership and understanding as we address this pandemic as a resilient and vibrant community.

Attachments:

1. Resolution 69,331-N.S.
2. List of Commissions with Meeting Data

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

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

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

Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
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Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

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

Section 3. City Council


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

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk







## Hybrid Meeting Policies for City Council Meetings Revised May 2022

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies. These administrative policies supplement the City Council Rules of Procedure and Order.

City Council policy committees and city boards and commissions will continue to meet in a virtual-only setting until the City Council makes the required findings under state law that in-person meetings may resume.

### I. Vaccination Status

Prior to entry, all in-person attendees at the meeting location must present valid proof of “up-to-date” COVID-19 vaccination or a verified negative test conducted within one day prior for an antigen test or two days prior for a PCR test. An attendee is “up-to-date” with their vaccinations if:

- It has been less than 2 months after receiving the initial dose of their Johnson & Johnson Vaccine.
- It has been less than 5 months after receiving the second dose of their two-dose Pfizer or Moderna initial series.
- The attendee has received a booster.

#### *Pre-entry negative testing*

*Definition: Testing must be conducted within one day for an antigen test and within two days for a PCR test prior to entry into an event. Results of the test must be available prior to entry into the facility or venue. Children under 2 years of age are exempt from the testing requirement, consistent with [CDC guidance](#).*

*Verification: See current [CDPH Updated Testing Guidance](#) and [CDPH Over-the-Counter Testing Guidance](#) for acceptable methods of proof of negative COVID-19 test result and information on Over-the-Counter tests. Note: Self-attestation may not be used to verify negative test result, even when using Over-the-Counter (or at home tests) for entry into Indoor Mega Events.*

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>

### II. Health Status Precautions

If a person who desires to attend the meeting in-person is feeling sick, including but not limited to, cough, shortness of breath or difficulty breathing,

fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, they will be advised to attend the meeting remotely.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to attend the meeting remotely.

Close contact is defined as being within approximately 6 feet for greater than 15 minutes over 24 hours within 2 days before symptoms appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

### **III. Face Coverings/Mask**

Face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of the City Council, city staff, and the public are required to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium.

If an attendee at a Council meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

### **IV. Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Council meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. The relevant capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons with a medical status that

requires distancing and for those that choose to distance for personal health reasons.

Conference room capacity is limited to 15 persons.

City staff will present remotely in order to reduce the number of persons in the Boardroom and back conference area.

Distancing is encouraged for the dais and partitions will be used as needed for the seating positions on the dais.

**V. Protocols for Remote Participation by Mayor or Councilmembers**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for members of the Council participating remotely. For the Mayor and Councilmembers participating remotely, the remote location must be accessible to the public and the public must be able to participate and give public comment from the remote location.

- A Councilmember at a remote location will follow the same policies as the Boardroom with regards to vaccination status and testing requirements, health status precautions, and masking requirements.
- A Councilmember at a remote location may impose reasonable capacity limits at their location.

**VI. Hand Washing/Sanitizing**

There are hand sanitizing stations placed at the entry and strategically throughout the Boardroom. The bathrooms have soap and water for handwashing.

**VII. Air Flow/Circulation/Sanitizing**

Berkeley Unified Facilities Staff performs a vigorous cleaning process after each use of the Boardroom. BUSD upgraded all HVAC filtration to MERV13, and with the inclusion of Needlepoint BiPolar Ionization, is achieving a rating that is closer to MERV18. Additionally, BUSD installed indoor air quality monitoring sensors in all facilities that constantly monitor Volatile Organic Compounds, CO<sub>2</sub>, Relative Humidity, and Temperature. The sensors and alarms allow BUSD to ensure that all systems are working properly and as designed. If a sensor trips an alarm, a work order request is generated immediately to ensure the system is repaired expeditiously.

**VIII. Overflow in Gymnasium**

An overflow indoor seating area will be available at the West Campus Gymnasium if staff determines that attendance is likely to exceed the capacity of the Boardroom. The capacity of the gymnasium is 200 persons. The

overflow area will have a broadcast of the meeting in progress to allow participants to follow the proceedings and move to the Boardroom at the appropriate time to provide public comment if desired. This area will be monitored by the BUSD security personnel.

**IX. Food Provided for Elected Officials and Designated Staff**

- No buffet dinner provided. Box lunches only. Maximum of 16 (Mayor & Council [9], City Manager, City Attorney, City Clerk [2], Deputy City Managers [2], BCM Staff)
- Individually packaged snacks will be provided on a common table and drinks will be available in the refrigerator.

**X. In-Meeting Procedures**

**Revised and Supplemental Materials**

All revised and supplemental materials for items on the agenda submitted after 12:00pm (noon) the day prior to the meeting must be submitted to the City Clerk in both paper AND electronic versions.

- Paper: 42 copies delivered to the Boardroom (distributed per normal procedure)
- Electronic: e-mailed to the Agenda Inbox (posted online)

**Communications from the Public**

The public may submit communications in hard copy at the Boardroom or electronically to [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info). To ensure that both in-person and remote Councilmembers receive the communication, the public should submit 10 copies at the Boardroom and send the electronic version to the e-mail listed above.

## Hybrid Meeting Policies for City Council Meetings Revised May 2022

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies.

City Council policy committees and city boards and commissions will continue to meet in a virtual-only setting until the City Council makes the required findings under state law that in-person meetings may resume.

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- Paper: If requested by the Presiding Officer, the document can be displayed in the Boardroom and screen shared on the Zoom.
- Electronic: If requested by the Presiding Officer, the document can be displayed in the Boardroom and screen shared on the Zoom.



Office of the City Attorney

Date: March 3, 2021  
To: Agenda and Rules Committee  
From: Office of the City Attorney  
Re: Continuing Use of Teleconferencing for Public Meetings

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Assembly Bill 361 amended the Ralph M. Brown act to authorize the City to continue to hold teleconferenced meetings during a Governor-declared state of emergency without complying with a number of requirements ordinarily applicable to teleconferencing. For example, under AB 361, the City may hold teleconferenced meetings without:

1. Posting agendas at all teleconference locations
2. Listing each teleconference location in the notice and agenda for the meeting
3. Allowing the public to access and provide public comment from each teleconference location
4. Requiring a quorum of the body to teleconference from locations within City boundaries

(Cal. Gov. Code § 549539(b)(3) & (e)(1).)

Under AB 361, the City can continue to hold teleconferenced meetings without adhering to the above practices as long as the state of emergency continues and either (1) “state or local officials have imposed or recommended measures to promote social distancing,” or (2) the City determines that “meeting in person would present imminent risks to the health or safety of attendees.” (Cal. Gov. Code § 54953(e)(1).)

Every thirty days, the City must review and determine that either of the above conditions continues to exist. (Cal. Gov. Code § 54953(e)(3).) Since September 28, 2021, the City Council has passed a recurring resolution every thirty days determining that both of the above conditions continue to exist and therefore teleconferencing under AB 361 is warranted. The Council may continue to renew the teleconferencing resolution every thirty days, and thereby continue to hold teleconferenced meetings under the procedures it has used throughout the pandemic, until the state of emergency ends. (See Cal. Gov. Code § 54953(e)(3)(A).)

The state of emergency for COVID-19 has been in effect since it was issued by the Governor on March 4, 2020. There is no clear end date for the state of emergency at this time. As recently as February 17, 2022, the Governor stated that, for now, the state will continue to operate under the state of emergency, but that his goal is “to unwind the state

March 2, 2022

Page 2 Re: Continuing Use of Teleconferencing for Public Meetings

of emergency as soon as possible.”<sup>1</sup> Additionally, per a February 25, 2022 *Los Angeles Times* article, Newsom administration officials have indicated that the state of emergency is necessary for the State’s continued response to the pandemic, including measures such as waiving licensing requirements for healthcare workers and clinics involved in vaccination and testing.<sup>2</sup>

On March 15, 2022, the California State Senate Governmental Organization Committee will consider a resolution (SCR 5) ending the state of emergency.<sup>3</sup> Some reporting suggests that the Republican-sponsored resolution is unlikely to pass. Notably, Senate Leader Toni Atkins’ statement on the Senate’s consideration of SCR 5 articulates strong support for the state of emergency.<sup>4</sup>

The Governor has issued an executive order (N-1-22) which extends to March 31, 2022 sunset dates for teleconferencing for state legislative bodies (under the Bagley-Keene Open Meeting Act) and student body organizations (under the Gloria Romero Open Meetings Act).<sup>5</sup> Executive Order N-1-22 does not affect the Brown Act teleconferencing provisions of AB 361, which have a sunset date of January 1, 2024. Therefore, until January 1, 2024, the City may utilize the teleconferencing provisions under AB 361 as long as the state of emergency remains in effect.

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<sup>1</sup> *New York Times*, California Lays Out a Plan to Treat the Coronavirus as a Manageable Risk Not an Emergency (Feb. 17, 2022), <https://www.nytimes.com/2022/02/18/us/california-lays-out-a-plan-to-treat-the-coronavirus-as-a-manageable-risk-not-an-emergency.html>.

<sup>2</sup> *Los Angeles Times*, Newsom scales back some special pandemic rules, but not California’s state of emergency (Feb. 25, 2022), <https://www.latimes.com/california/story/2022-02-25/newsom-scales-back-special-pandemic-rules-but-not-california-state-of-emergency>.

<sup>3</sup> Text of SCR 5 available at: [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SCR5](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SCR5).

<sup>4</sup> Press release: Senator Toni G. Atkins, Senate Leader Atkins Issues Statement on SCR 5 and the State of Emergency (Feb. 17, 2022), <https://sd39.senate.ca.gov/news/20220217-senate-leader-atkins-issues-statement-scr-5-and-state-emergency>.

<sup>5</sup> Text of Executive Order N-1-22 available at: <https://www.gov.ca.gov/wp-content/uploads/2022/01/1.5.22-Bagley-Keene-waiver-EO.pdf>.

## Hybrid Meeting Policies for City Council Meetings Revised April 2022

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies.

### I. Vaccination Status

Prior to entry, all in-person attendees at the meeting location must present valid proof of “up-to-date” COVID-19 vaccination or a verified negative test conducted within one day prior for an antigen test or two days prior for a PCR test. An attendee is “up-to-date” with their vaccinations if:

- It has been less than 2 months after receiving the initial dose of their Johnson & Johnson Vaccine.
- It has been less than 5 months after receiving the second dose of their two-dose Pfizer or Moderna initial series.
- The attendee has received a booster.

#### *Pre-entry negative testing*

*Definition: Testing must be conducted within one day for an antigen test and within two days for a PCR test prior to entry into an event. Results of the test must be available prior to entry into the facility or venue. Children under 2 years of age are exempt from the testing requirement, consistent with [CDC guidance](#).*

*Verification: See current [CDPH Updated Testing Guidance](#) and [CDPH Over-the-Counter Testing Guidance](#) for acceptable methods of proof of negative COVID-19 test result and information on Over-the-Counter tests. Note: Self-attestation may not be used to verify negative test result, even when using Over-the-Counter (or at home tests) for entry into Indoor Mega Events.*

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>

### II. Health Status Precautions

If a person who desires to attend the meeting in-person is feeling sick, including but not limited to, cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell they will be advised to attend the meeting remotely.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they will be advised to attend the meeting remotely.

Close contact is defined as being within approximately 6 feet for greater than 15 minutes over 24 hours within 2 days before symptoms appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment relative to employees' duties and responsibilities).

A voluntary sign in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID contact resulting from the meeting.

### **III. Face Coverings/Mask**

Following the State of California and Local Health Officer Guidance, face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of the City Council, city staff, and the public are required to wear a mask at all times, including when speaking publicly at the meeting.

If an attendee at a Council Meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

### **IV. Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a council meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons with a medical status that requires distancing and for those that choose to distance for personal health reasons.

Conference room capacity is limited to 15 persons. The relevant capacity limits will be posted at the meeting location.

City staff will present remotely in order to reduce the number of persons in the Boardroom and back conference area.

**V. Protocols for Remote Participation by Mayor or Councilmembers**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for members of the Council participating remotely. For the Mayor and Councilmembers participating remotely, the remote location must be accessible to the public and the public must be able to participate and give public comment from the remote location.

- A Councilmember at a remote location will follow the same policies as the Boardroom with regards to vaccination status and testing requirements, health status precautions, and masking requirements.
- A Councilmember at a remote location may impose reasonable capacity limits at their location.

**VI. Hand Washing/Sanitizing**

There are hand sanitizing stations placed at the entry and strategically throughout the Boardroom. The bathrooms have soap and water for handwashing.

**VII. Air Flow/Circulation/Sanitizing**

BUSD Facilities Staff performs a vigorous cleaning process after each use of the Boardroom. BUSD upgraded all HVAC filtration to MERV13, and with the inclusion of Needlepoint BiPolar Ionization, is achieving a rating that is closer to MERV18. Additionally, BUSD installed indoor air quality monitoring sensors in all facilities that constantly monitor VOC's CO2, Relative Humidity, and Temperature. The sensors and alarms allow BUSD to ensure that all systems are working properly and as designed. If a sensor trips an alarm, a work order request is generated immediately to ensure the system is repaired expeditiously.

**VIII. Overflow in Gymnasium**

An overflow indoor seating area will be available at the West Campus Gymnasium for every meeting. The capacity of the gymnasium is 200 persons. The overflow area will have a broadcast of the meeting in progress

to allow participants to follow the proceedings and move to the Boardroom at the appropriate time to provide public comment if desired. The broadcast audio and video will be provided to attendees in the overflow area. This area will be monitored by the BUSD security personnel.

**IX. Food Provided for Elected Officials and Designated Staff**

- No buffet dinner provided. Box lunches only. Maximum of 16 (Mayor & Council [9], City Manager, City Attorney, City Clerk [2], Deputy City Managers [2], BCM Staff)
- Individually packaged snacks will be provided on a common table and drinks will be available in the refrigerator.



## Hybrid Meeting Procedures for BUSD Boardroom (~~November 2021~~February 2022)

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies.

### I. **Vaccination Status**

Prior to entry, all in-person attendees at the meeting location must present valid proof of “up-to-date” COVID-19 vaccination or a verified negative test conducted within one day prior for an antigen test or two days prior for a PCR test. An attendee is “up-to-date” with their vaccinations if:

- It has been less than 2 months after receiving the initial dose of their Johnson & Johnson Vaccine.
- It has been less than 5 months after receiving the second dose of their two-dose Pfizer or Moderna initial series.
- The attendee has received a booster.

~~No requirement for vaccination to attend a Council meeting. Staff and Officials will not inquire about vaccination status for any attendees.~~

### II. **Health ~~Check~~Status Precautions**

If an in-person attendee is feeling sick, including but not limited to, cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell they will be advised to attend the meeting remotely.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they will be advised to attend the meeting remotely.

Close contact is defined as being within approximately 6 feet for greater than 15 minutes over 24 hours within 2 days before symptoms appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment relative to employees’ duties and responsibilities).

~~A walk-up temperature check device will be located at the entry to the in-person meeting location. All persons entering the in-person meeting location are required to perform a temperature check upon entering. A handheld non-touch thermometer will be available for individuals with disabilities. Private security personnel will be at the entry location for the duration of the meeting to monitor the temperature check station and mask requirement.~~

~~Attendees showing a fever will be directed to attend the meeting via remote participation (Zoom). If an attendee refuses to have their temperature~~

## Hybrid Meeting Procedures for BUSD Boardroom (~~November 2021~~February 2022)

~~checked, guidance will be provided to the attendee on the requirement and their options for attending remotely and in-person.~~

~~Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.~~

### III. **Face Coverings/Mask**

Following the State of California and Local Health Officer Guidance, face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting.

If an attendee at a Council Meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Members of the City Council, city staff, and the public are required to wear a mask at all times, including when speaking publicly at the meeting.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

### IV. **Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a council meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons with a medical status that requires distancing and for those that choose to distance for personal health reasons.

~~Relevant CalOSHA requirements for the workplace will be followed as is feasible. Capacity in the audience seating area (including members of the media and staff) at the BUSD Boardroom is limited to 40 persons due to~~

## Hybrid Meeting Procedures for BUSD Boardroom (~~November 2021~~February 2022)

~~uncertainty about vaccination status of attendees and limiting attendance at indoor events to ensure the comfort and safety of attendees.~~ Conference room capacity is limited to ~~42-15~~ persons. The relevant capacity limits will be posted on the city council agenda and at the meeting location.

City staff will present remotely in order to reduce the number of persons in the Boardroom and back conference area.

### V. **Protocols for Remote Participation by Mayor or Councilmembers**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for members of the Council participating remotely. For the Mayor and Councilmembers participating remotely, the remote location must be accessible to the public and the public must be able to participate and give public comment from the remote location.

- A Councilmember at a remote location will follow the same policies as the Boardroom with regards to vaccination status and testing requirements, health status precautions, temperature checks, and masking requirements.
- A Councilmember at a remote location may impose reasonable capacity limits at their location.

### VI. **Hand Washing/Sanitizing**

There are hand sanitizing stations placed at the entry and strategically throughout the Boardroom. The bathrooms have soap and water for handwashing.

### VII. **Air Flow/Circulation/Sanitizing**

BUSD Facilities Staff performs a vigorous cleaning process after each use of the Boardroom. BUSD upgraded all HVAC filtration to MERV13, and with the inclusion of Needlepoint BiPolar Ionization, is achieving a rating that is closer to MERV18. Additionally, BUSD installed indoor air quality monitoring sensors in all facilities that constantly monitor VOC's CO2, Relative Humidity, and Temperature. The sensors and alarms allow BUSD to ensure that all systems are working properly and as designed. If a sensor trips an alarm, a work order request is generated immediately to ensure the system is repaired expeditiously.

## Hybrid Meeting Procedures for BUSD Boardroom (~~November 2021~~February 2022)

### **VIII. Overflow in Gymnasium**

An overflow indoor seating area will be available at the West Campus Gymnasium for every meeting. The capacity of the gymnasium is ~~100~~200 persons. The overflow area will have a broadcast of the meeting in progress to allow participants to follow the proceedings and move to the Boardroom at the appropriate time to provide public comment if desired. The broadcast audio and video will be provided to attendees in the overflow area. This area will be monitored by the BUSD security personnel.

### **IX. Food Provided for Elected Officials and Designated Staff**

- No buffet dinner provided.
- Box lunches only. Maximum of 16 (Mayor & Council [9], City Manager, City Attorney, City Clerk [2], Deputy City Managers [2], BCM Staff)
- Individually packaged snacks will be provided on a common table and drinks will be available in the refrigerator.

## Hybrid Meeting Procedures for BUSD Boardroom (November 2021)

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies.

### **I. Vaccination Status**

No requirement for vaccination to attend a Council meeting. Staff and Officials will not inquire about vaccination status for any attendees.

### **II. Health Check**

A walk-up temperature check device will be located at the entry to the in-person meeting location. All persons entering the in-person meeting location are required to perform a temperature check upon entering. A handheld non-touch thermometer will be available for individuals with disabilities. Private security personnel will be at the entry location for the duration of the meeting to monitor the temperature check station and mask requirement.

Attendees showing a fever will be directed to attend the meeting via remote participation (Zoom). If an attendee refuses to have their temperature checked, guidance will be provided to the attendee on the requirement and their options for attending remotely and in-person.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

### **III. Face Coverings/Mask**

Following the State of California and Local Health Officer Guidance, face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting.

If an attendee at a Council Meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Members of the City Council, city staff, and the public are required to wear a mask at all times, including when speaking publicly at the meeting.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

## Hybrid Meeting Procedures for BUSD Boardroom (November 2021)

### IV. Physical Distancing

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a council meeting. Relevant CalOSHA requirements for the workplace will be followed as is feasible. Capacity in the audience seating area (including members of the media and staff) at the BUSD Boardroom is limited to 40 persons due to uncertainty about vaccination status of attendees and limiting attendance at indoor events to ensure the comfort and safety of attendees. Conference room capacity is limited to 12 persons. The relevant capacity limits will be posted on the city council agenda and at the meeting location.

### V. Protocols for Remote Participation by Mayor or Councilmembers

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for members of the Council participating remotely. For the Mayor and Councilmembers participating remotely, the remote location must be accessible to the public and the public must be able to participate and give public comment from the remote location.

- A Councilmember at a remote location will follow the same policies as the Boardroom with regards to vaccination status, temperature checks, and mask requirements.
- A Councilmember at a remote location may impose reasonable capacity limits at their location.

### VI. Hand Washing/Sanitizing

There are hand sanitizing stations placed at the entry and strategically throughout the Boardroom. The bathrooms have soap and water for handwashing.

### VII. Air Flow/Circulation/Sanitizing

BUSD Facilities Staff performs a vigorous cleaning process after each use of the Boardroom. BUSD upgraded all HVAC filtration to MERV13, and with the inclusion of Needlepoint BiPolar Ionization, is achieving a rating that is closer to MERV18. Additionally, BUSD installed indoor air quality monitoring sensors in all facilities that constantly monitor VOC's CO2, Relative Humidity, and Temperature. The sensors and alarms allow BUSD to ensure that all systems are working properly and as designed. If a sensor trips an alarm, a work order request is generated immediately to ensure the system is repaired expeditiously.

### VIII. Overflow in Gymnasium

An overflow indoor seating area will be available at the West Campus Gymnasium for every meeting. The capacity of the gymnasium is 100 persons. The overflow area will have a broadcast of the meeting in progress

## Hybrid Meeting Procedures for BUSD Boardroom (November 2021)

to allow participants to follow the proceedings and move to the Boardroom at the appropriate time to provide public comment if desired. The broadcast audio and video will be provided to attendees in the overflow area. This area will be monitored by the BUSD security personnel.

### **IX. Food Provided for Elected Officials and Designated Staff**

- No buffet dinner provided.
- Box lunches only. Total of 18 (Mayor & Council [9], City Manager, City Attorney, City Clerk [2], Deputy City Managers [2], BCM Staff, Extras [2])
- Individually packaged snacks will be provided on a common table and drinks will be available in the refrigerator.



# URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: September 28, 2021**

**Item Description: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)**  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)**  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

## **Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

Assembly Bill 361 (Rivas) was signed by the Governor on September 16, 2021. This bill allows local legislative bodies to meet using videoconference technology while maintaining the Brown Act exemptions in Executive Order N-29-20 for noticing and access to the locations from which local officials participate in the meeting. Local agencies may only meet with the exemption if there is a state declared emergency.

The bill also requires that local legislative bodies meeting only via videoconference under a state declared emergency to make certain findings every 30-days regarding the need to meet in a virtual-only setting.

The agenda for the September 28, 2021 was finalized and published prior to the Governor signing AB 361 in to law. Thus, the need to take action came to the attention of the local agency after the agenda was distributed. This item qualifies for addition to the agenda with a two-thirds vote of the Council under Government Code Section 54954.2(b)(2).





Office of the City Attorney

CONSENT CALENDAR  
September 28, 2021

To: Honorable Mayor and Members of the City Council  
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public.

These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on September 28, 2021, the Council will need to review and ratify the resolution by October 28, 2021.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

#### BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

#### RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998  
Mark Numainville, City Clerk, (510) 981-6908

#### Attachments:

1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by October 28, 2021.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination; and

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference; and

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.



OFFICE OF THE GOVERNOR

June 2, 2021

**VIA EMAIL**

Graham Knaus, Executive Director  
CA State Assoc. of Counties  
[gknaus@counties.org](mailto:gknaus@counties.org)

Jean Kinney Hurst, Legislative Advocate  
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RE: Transition Period Prior to Repeal of COVID-related Executive Orders

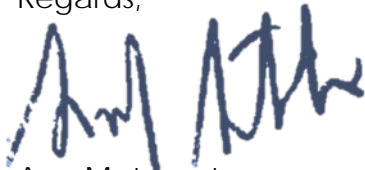
Dear Mr. Knaus, Ms. Miller, Ms. Hurst, Ms. Preston, Ms. Heaton, Ms. King, Ms. Coleman, Ms. Blacet-Hyden, Mr. McCormick, Mr. Anderson, and colleagues,

Thank you for your correspondence of May 18, 2021, inquiring what impact the anticipated June 15 termination of the Blueprint for a Safer Economy will have on Executive Order N-29-20, which provided flexibility to state and local agencies and boards to conduct their business through virtual public meetings during the COVID-19 pandemic.

Please be assured that this Executive Order Provision will not terminate on June 15 when the Blueprint is scheduled to terminate. While the Governor intends to terminate COVID-19 executive orders at the earliest possible date at which conditions warrant, consistent with the Emergency Services Act, the Governor recognizes the importance of an orderly return to the ordinary conduct of public meetings of state and local agencies and boards. To this end, the Governor's office will work to provide notice to affected stakeholders in advance of rescission of this provision to provide state and local agencies and boards time necessary to meet statutory and logistical requirements. Until a further order issues, all entities may continue to rely on N-29-20.

We appreciate your partnership throughout the pandemic.

Regards,

A handwritten signature in blue ink, appearing to read 'Ana Matosantos', written in a cursive style.

Ana Matosantos  
Cabinet Secretary



## NEWS RELEASE

Release  
Number: 2021-58

June 4, 2021

### Standards Board Readopts Revised Cal/OSHA COVID-19 Prevention Emergency Temporary Standards

**The revised Cal/OSHA standards are expected to go into effect no later than June 15**

**Sacramento** — The Occupational Safety and Health Standards Board on June 3 readopted Cal/OSHA's revised COVID-19 prevention emergency temporary standards.

Last year, the Board adopted health and safety standards to protect workers from COVID-19. The standards did not consider vaccinations and required testing, quarantining, masking and more to protect workers from COVID-19.

The changes adopted by the Board phase out physical distancing and make other adjustments to better align with the state's June 15 goal to retire the Blueprint. Without these changes, the original standards, would be in place until at least October 2. These restrictions are no longer required given today's record low case rates and the fact that we've administered 37 million vaccines.

The revised emergency standards are expected to go into effect no later than June 15 if approved by the Office of Administrative Law in the next 10 calendar days. Some provisions go into effect starting on July 31, 2021.

The [revised standards](#) are the first update to Cal/OSHA's temporary COVID-19 prevention requirements adopted in November 2020.

**The Board may further refine the regulations in the coming weeks** to take into account changes in circumstances, especially as related to the availability of vaccines and low case rates across the state.

The standards apply to most workers in California not covered by Cal/OSHA's Aerosol Transmissible Diseases [standard](#). Notable revisions include:

- **Face Coverings:**
  - Indoors, fully vaccinated workers without COVID-19 symptoms do not need to wear face coverings in a room where everyone else is fully vaccinated and not showing symptoms. However, where there is a mixture of vaccinated and unvaccinated persons in a room, all workers will continue to be required to wear a face covering.
  - Outdoors, fully vaccinated workers without symptoms do not need to wear face coverings. However, outdoor workers who are not fully vaccinated must continue to wear a face covering when they are less than six feet away from another person.
- **Physical Distancing:** When the revised standards take effect, employers can eliminate physical distancing and partitions/barriers for employees working indoors and at outdoor mega events if they provide respirators, such as N95s, to unvaccinated employees for voluntary use. After July 31, physical distancing



and barriers are no longer required (except during outbreaks), but employers must provide all unvaccinated employees with N95s for voluntary use.

- **Prevention Program:** Employers are still required to maintain a written COVID-19 Prevention Program but there are some key changes to requirements:
  - Employers must review the California Department of Public Health's [Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments](#).
  - COVID-19 prevention training must now include information on how the vaccine is effective at preventing COVID-19 and protecting against both transmission and serious illness or death.
- **Exclusion from the Workplace:** Fully vaccinated workers who do not have COVID-19 symptoms no longer need to be excluded from the workplace after a close contact.
- **Special Protections for Housing and Transportation:** Special COVID-19 prevention measures that apply to employer-provided housing and transportation no longer apply if all occupants are fully vaccinated.

The Standards Board will file the readoption rulemaking package with the Office of Administrative Law, which has 10 calendar days to review and approve the temporary workplace safety standards enforced by Cal/OSHA. Once approved and published, the full text of the revised emergency standards will appear in the Title 8 sections [3205](#) (COVID-19 Prevention), [3205.1](#) (Multiple COVID-19 Infections and COVID-19 Outbreaks), [3205.2](#) (Major COVID-19 Outbreaks) [3205.3](#) (COVID-19 Prevention in Employer-Provided Housing) and [3205.4](#) (COVID-19 Prevention in Employer-Provided Transportation) of the [California Code of Regulations](#). Pursuant to the state's [emergency rulemaking process](#), this is the first of two opportunities to readopt the temporary standards after the initial effective period.

The Standards Board also convened a representative subcommittee to work with Cal/OSHA on a proposal for further updates to the standard, as part of the emergency rulemaking process. It is anticipated this newest proposal, once developed, will be heard at an upcoming Board meeting. The subcommittee will provide regular updates at the Standards Board monthly meetings.

The [Occupational Safety and Health Standards Board](#), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The Standards Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Standards Board also has the responsibility to grant or deny applications for permanent variances from adopted standards and respond to petitions for new or revised standards.

The California Division of Occupational Safety and Health, or [Cal/OSHA](#), is the division within the Department of Industrial Relations that helps protect California's workers from health and safety hazards on the job in almost every workplace. [Cal/OSHA's Consultation Services Branch](#) provides free and voluntary assistance to employers to improve their health and safety programs. Employers should call (800) 963-9424 for assistance from Cal/OSHA Consultation Services.

**Contact:** Erika Monterroza / Frank Polizzi, [Communications@dir.ca.gov](mailto:Communications@dir.ca.gov), (510) 286-1161.

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The [California Department of Industrial Relations](#), established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the [Labor & Workforce Development Agency](#)



Office of the City Manager

June 1, 2021

To: Agenda & Rules Committee

From: Dee Williams-Ridley, City Manager

Subject: Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies

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### Introduction

This memo responds to the request from the Agenda & Rules Committee on May 17, 2021 for information from the City Manager on the options and timing for a return to in-person meetings for City legislative bodies. The analysis below is a preliminary summary of the considerations and options for returning to in-person meetings.

With the onset of the COVID-19 pandemic, the shelter-in-place order, and the issuance of Executive Order N-29-20 (“Executive Order”) in the spring of 2020, the City quickly adjusted to a virtual meeting model. Now, almost 15 months later, with the Blueprint for a Safer Economy scheduled to sunset on June 15, 2021, the City is faced with a new set of conditions that will impact how public meetings may be held in Berkeley. While the June 15, 2021 date appears to be certain, there is still a great deal of uncertainty about the fate of the Executive Order. In addition, the City is still awaiting concrete, specific guidance from the State with regards to regulations that govern public meetings and public health recommendations that will be in place after June 15, 2021.

For background, Executive Order N-29-20 allows legislative bodies to meet in a virtual setting and suspends the following Brown Act requirements:

- Printing the location of members of the legislative body on the agenda;
- Posting the agenda at the location of members of the legislative body that are remote; and
- Making publicly available remote locations from which members of the legislative body participate.

Meeting Options

There are three groups of City Legislative bodies that are considered in this memo

- City Council;
- City Council Policy Committees; and
- Boards and Commissions.

The three meeting models available are:

- In-person only;
- Virtual only; or
- Hybrid (in-person and virtual).

The scenarios below show the options available for each given set of facts.

Summary Recommendations of Meeting Options	Physical Distancing			No Physical Distancing		
	In-Person	Hybrid	Virtual*	In-Person	Hybrid	Virtual*
	City Council	X	X	X	X	X
Policy Committees			X	X		X
Board and Commissions			X	X		X

\* The ability to hold virtual-only meetings is dependent on the status of Executive Order N-29-20

Currently, the Centers for Disease Control recommends physical distancing for unvaccinated persons. While the City and the community have made tremendous progress with regards to vaccination, the City would use the guidelines for unvaccinated persons when making determinations regarding public meetings.

Meeting Type Considerations

Our previous experience pre-pandemic and our experience over the past 15 months demonstrates that the City can conduct all in-person and all virtual meetings. However, the possibility of hybrid meetings presents new questions to consider. The primary concern for a return to in-person meetings using a hybrid model is the impact on the public experience and the legislative process.

*Will the legislative body be able to provide a transparent, coherent, stable, informative, and meaningful experience for the both the public in attendance and virtually?*

*Will the legislative body be able to conduct the legislative process in an efficient, coherent, and meaningful manner with the members split between in-person and virtual, and considering the additional delays and logistical challenges of allowing for public participation in a hybrid model?*

For the City Council, testing has shown that the larger space and technology infrastructure at the Boardroom will allow the Council to conduct all three types of meetings (in-person, hybrid, virtual).

For Policy Committees and Commissions, only the “all virtual” or “all in-person” meetings are recommended. Preliminary testing has shown that the audio/visual limitations of the meeting rooms available for these bodies would result in inefficient and cumbersome management of the proceedings in a hybrid model. In addition, there are considerations to analyze regarding the available bandwidth in city facilities and all members having access to adequate devices. Continuing the all virtual model for as long as possible, then switching to an all in-person model when conditions permit provides the best access, participation, and legislative experience for the public and the legislative body.

#### Other Considerations

Some additional factors to consider in the evaluation of returning to in-person or hybrid meetings are:

- How to address vaccination status for in-person attendees.
- Will symptom checks and/or temperature checks at entry points be required?
- Who is responsible for providing PPE for attendees?
- How are protocols for in-person attendees to be enforced?
- Physical distancing measures for the Mayor and City Councilmembers on the dais.
- Installation of physical barriers and other temporary measures.
- Will the podium and microphone need to be sanitized after every speaker?
- High number of touch points in meeting rooms.
- Will chairs for the public and staff need to be sanitized if there is turnover during the meeting?
- Determining the appropriate capacity for meeting locations.
- The condition and capacity of meeting room ventilation system and air cycling abilities.
- How to receive and share Supplemental Items, Revisions, Urgent Items, and submissions by the public both in-person and virtually.
- Budget including costs for equipment, physical improvements, A/V, PPE, and sanitization.

Conclusion

As stated above, conditions are changing daily, and there is a high degree of uncertainty surrounding the future guidance, regulations, and actions at the state level. Planning, testing and analysis are already underway to prepare for an eventual return to in-person meetings. Staff will continue to monitor the evolving legislative and public health circumstances and advise the committee at future meetings.

Attachment:

1. Executive Order N-29-20

**EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA**

**EXECUTIVE ORDER N-29-20**

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

**WHEREAS** despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

**WHEREAS** the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

**WHEREAS** time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

**WHEREAS** social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

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

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

**IT IS HEREBY ORDERED THAT:**

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

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

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

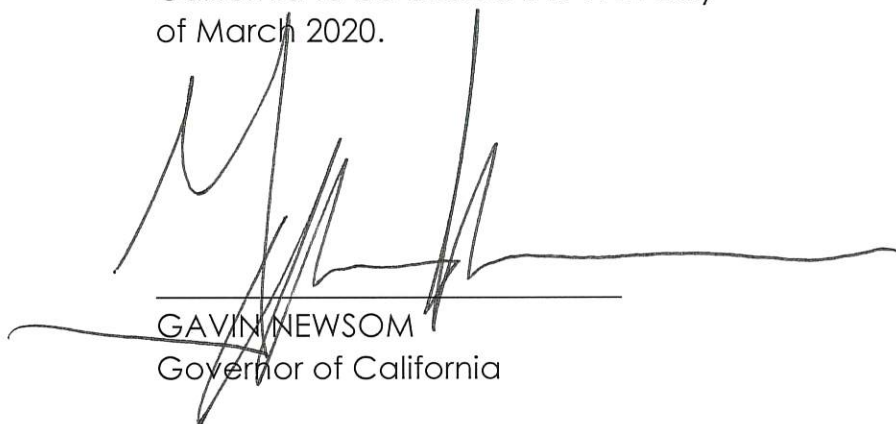


All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency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

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

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

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State

