

**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC  
DEVELOPMENT COMMITTEE  
REGULAR MINUTES**

**Monday, May 1, 2023  
10:00 AM**

**2180 Milvia Street, 6th Floor - Redwood Room**

Committee Members:

Councilmembers Ben Bartlett, Rigel Robinson, and Mark Humbert  
Alternate: Councilmember Kate Harrison

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

Remote participation by the public is available through Zoom. 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/1603285918>. 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: **160 328 5918**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

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

Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development 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.

# MINUTES

**Roll Call:** 10:03 a.m. Councilmembers Humbert and Robinson present.

Councilmember Bartlett present at 10:08 a.m.

**Public Comment on Non-Agenda Matters:** 1 Speaker

## Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

### 1. Minutes - February 16, 2023

**Action:** M/S/C (Humbert/Robinson) to approve the February 16, 2023 minutes.

**Vote:** All Ayes.

## Committee Action Items

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair 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.*

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

## Committee Action Items

### 2. Referral to City Manager: Tenant Habitability Plan and Amendments to Relocation Ordinance

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

**Referred: October 31, 2022**

**Due: May 14, 2023**

**Recommendation:** 1. Refer to the City Manager and City Attorney to review and develop proposed amendments to the Berkeley Municipal Code to require a Tenant Habitability Plan for major construction or renovation at tenant occupied properties. Proposed language modeled after the City of Los Angeles' Tenant Habitability Plan requirements is attached for consideration. The City Manager should also return with information on the costs and staffing needs for implementation for future budget discussions.

2. Refer to the City Manager and City Attorney recommendations from the 4x4 City Council/Rent Board Joint Committee on Housing for amendments to the City's Relocation Ordinance, BMC Chapter 13.84 to strengthen and improve enforcement of the ordinance.

**Financial Implications:** See report

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

**Action:** 3 speakers. M/S/C (Robinson/Humbert) to forward the item to Council with a positive recommendation that the City Council approve the item with the Author's updated recommendations as follows:

*1) Refer to the City Manager and City Attorney to review and develop proposed amendments to the Berkeley Municipal Code to require a Tenant Habitability Plan for major construction or renovation at tenant occupied properties. Proposed language modeled after the City of Los Angeles' Tenant Habitability Plan requirements is attached for consideration. The City Manager should also return with information on the costs and staffing needs for implementation for future budget discussions. The committee further recommends that the City Manager establish an interdepartmental working group, including staff from Planning, HHCS, and the Rent Board.*

*2) Refer to the City Manager and City Attorney recommendations from the 4x4 City Council/Rent Board Joint Committee on Housing for amendments to the City's Relocation Ordinance, BMC Chapter 13.84 to strengthen and improve enforcement of the ordinance.*

**Vote:** All Ayes.

## Committee Action Items

**3. Budget Referral: Study to support Housing Element commitment to increase housing on higher-resourced commercial avenues of Solano, North Shattuck, and College Avenues.**

**From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**

**Referred: March 29, 2023**

**Due Date: September 25, 2023**

**Recommendation:** Refer \$250,000 to the June 2023 budget process to study and develop options, including but not limited to changes to zoning, incentives/programs/financing mechanisms, and objective design standards for Solano Avenue, North Shattuck, and College Avenue to:

1. Increase housing opportunities for people of all incomes, with an emphasis on housing affordable to households at or below 120% of Area Median Income (AMI);
2. Provide preferences to households previously excluded from residential areas served by these commercial corridors via discriminatory deed restrictions and/or discriminatory lending practices;
3. Provide housing with amenities for seniors, households with children, individuals with disabilities, artists, and other populations with specialized housing needs;
4. Ensure recommendations for zoning and design standards consider unique characteristics of each commercial area, including lot sizes and depths, availability of rear-access to parcels, abutting/neighborhood residential zoning standards, and any other unique characteristics of each commercial district and its surroundings;
5. Enhance the viability of locally-owned and neighborhood-serving commercial uses both during construction and over the long term, including potential reduced rents/right to return for existing establishments, appropriately-sized and accessible commercial spaces, and rent-controlled commercial spaces as a potential community benefit. Examples of such neighborhood serving commercial uses may change as retail trends develop, but could include: grocery/food stores, banks, dry cleaning and shoe repair, hardware stores, wellness and hair salons, restaurants and cafes, fitness centers, clothing and gift shops.

**Financial Implications:** General Fund - \$250,000

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

**Action:** 3 speakers. M/S/C (Robinson/Bartlett) to forward the item to Council with a positive recommendation that the City Council approve the item with the Author's updated subject line and recommendations as follows:

**SUBJECT LINE**

*FY24 Budget Referral: Study to support Housing Element commitment to increase housing and enhance economic vitality on all commercial corridors, with particular attention to the higher-resourced commercial avenues identified in Program 27 of the Housing Element, Solano Avenue, North Shattuck, and College Avenue.*

## Committee Action Items

### RECOMMENDATION

*Refer \$250,000 to the June 2024 budget process to study and develop options for all commercial corridors, with particular attention to the higher-resourced commercial avenues identified in Program 27 of the Housing Element, Solano Avenue, North Shattuck, and College Avenue, including but not limited to changes to zoning, incentives/programs/financing mechanisms, and objective design standards, to:*

- 1. Increase housing opportunities for people of all incomes, with an emphasis on housing affordable to households at or below 120% of Area Median Income (AMI);*
- 2. Provide preferences to households previously excluded from residential areas served by these commercial corridors via discriminatory deed restrictions and/or discriminatory lending practices;*
- 3. Provide housing with amenities for seniors, households with children, individuals with disabilities, artists, and other populations with specialized housing needs;*
- 4. Ensure recommendations for zoning and design standards consider unique characteristics of each commercial area, including lot sizes and depths, availability of rear-access to parcels, abutting/neighborhood residential zoning standards, and any other unique characteristics of each commercial district and its surroundings;*
- 5. Enhance the viability of locally-owned and neighborhood-serving commercial uses both during construction and over the long term, including potential reduced rents/right to return for existing establishments, appropriately-sized and accessible commercial spaces, and rent-controlled commercial spaces as a potential community benefit. Examples of such neighborhood serving commercial uses may change as retail trends develop, but could include: grocery/food stores, banks, dry cleaning and shoe repair, hardware stores, wellness and hair salons, restaurants and cafes, fitness centers, clothing and gift shops.*
- 6. More generally, study potential ground floor uses to support locally-owned commerce, housing, and other potential uses, so long as they do not break necessary continuity of retail.*

**Vote:** All Ayes.

## Unscheduled Items

*These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.*

### 4. **Amending BMC Chapter 13.84 to Expand Relocation Assistance and Conflict Resolution for Tenants**

**From: Councilmember Taplin (Author)**

**Referred: February 8, 2022**

**Due: July 6, 2023**

**Recommendation:** Adopt a first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.84 enacting the following changes to the City's Relocation Ordinance:

1. Section 13.84.010 – Delete language referring to “Relocation Services”;
2. Section 13.84.020 – Create definition of Emergency Relocation to establish process and expectation for owner to provide relocation money for emergency events;
3. Section 13.84.030 – 1) Change title to clarify that tenants are entitled to payments when Relocation applies, rather than “Services or Assistance”. 2) Clarify the type of determination notices that parties would receive from City officials;
4. Section 13.84.040 – Create different procedures for “Planned Relocation” and “Emergency Relocation”. Move “Owner Responsibilities” content to other sections;
5. Section 13.84.050 – 1) Change title to clarify that it is about procedure and not payments. 2) Add Notice and Order to “Determination Notice”. 3) Move Section B and C to Appeals Section;
6. Section 13.84.060 – 1) Change title to clarify Relocation Prompted by owner. 2) Include language to indicate that Relocation can also be requested by owner when there is no building permit application. 3) Clarify in Section E that the “Owner must provide” proof of notice;
7. Section 13.84.070.A – 1) Include Moving and Storage to Short term Relocation entitlements if applicable to the situation. 2) Section 13.84.070.A.3 regarding a tenant’s ability to pay costs up front. 3) 13.84.070.A.4.b – meal allowances. 4) 13.84.070.B.2.b – reimbursement for moving and storage costs changed to pay up front. 5) 13.84.070.B.3 – Changing how Rent Differential is calculated 6) Section 13.84.070.B.4 – Consider specifying different utility costs, such as disconnection and reconnection. 7) 13.84.070.N1 – Consider meals Per Diem rates for what is appropriate for the region. 8) Add Section to speak to replacement unit reservation costs and potential cancellation costs if move back notice is given earlier than expected;
8. Section 13.84.080 – Remove;
9. Section 13.84.100 1) Change Title 2) Change process for receiving notification that Relocation is or is not required. 3) 13.84.100.A.4 Change HAC to Hearing Officer. 3) Section 13.84.100.A.5 - Change appeal timeline from 5 to 10 days. 4) Section 13.84.100.B – Change Language to mirror HAC Process outlined in 19.44.

**Financial Implications:** Staff time.

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

**5. Incentives for Equitable and Affordable Middle Housing**  
**From: Councilmember Taplin (Author), Councilmember Bartlett (Author)**  
**Referred Date: March 6, 2023**  
**Due Date: July 24, 2023**

**Recommendation:** 1. Refer to the City Manager and the Planning Commission to study and return to Council potential amendments to the Berkeley Municipal Code and General Plan to further the City of Berkeley's goals for affirmatively furthering fair housing with additional incentives for affordability and ownership opportunities, including first-time homebuyers and households inheriting properties from relatives, in "Middle Housing" zoning categories. At a minimum, consider:

a. A local density bonus for on-site affordable housing for Middle Housing, including additional dwelling units, Floor Area Ratio, lot coverage, reduced or waived fees, and ministerial approval for projects with on-site deed-restricted units affordable to Low- and Moderate-Income households, and incentives for first-time homebuyer opportunities. Consider regulating maximum buildable width and/or depth to disincentivize higher-cost dwelling units.

b. A density bonus for additional Accessory Dwelling Units in exchange for the inclusion of deed-restricted ADUs on-site affordable to Low- and Moderate-Income households. To the extent feasible, incorporate scope of study with Council's referral to develop an Efficiency Unit Ordinance.

c. A density bonus for Middle Housing residential projects in which an owner-occupier receives a minimum of in-kind compensation for the parcel with on-site ownership unit(s) in the project. Consider standard form agreements and other technical assistance.

d. Pre-approved designs for bonus-compliant projects.

e. Seek to leverage consistency and compatibility with state and regional resources including the Bay Area Housing Finance Authority (BAHFA), MTC/ABAG, AC Boost, and the CA Dream For All program.

2. Refer to the Fiscal Year 25/26 biennial budget process \$250,000 for technical assistance.

**Financial Implications:** See report

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

**6. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**  
**From: Councilmember Harrison (Author)**  
**Referred: July 28, 2020**  
**Due: August 23, 2023**

**Recommendation:** Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

**Financial Implications:** See report

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

## Items for Future Agendas

None

## Adjournment

**Action:** M/S/C (Humbert /Bartlett) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 12:24 p.m.

I hereby certify that the foregoing is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on May 1, 2023.

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Neetu Salwan, Assistant 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).*