



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

BERKELEY CITY COUNCIL SPECIAL MEETING

MONDAY, FEBRUARY 25, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: February 11, 2019**
2. **Review and Approve Draft Agendas:**
 - a. 3/12/19 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory Of**

Scheduling

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

Referred Items for Review

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

8. Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers

From: City Manager

Referred: February 19, 2019

Due: June 19, 2019

Recommendation: Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900; Farimah Brown, City Attorney, 981-6950

Adjournment – Next Meeting Monday, March 11, 2019

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

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

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

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

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

*This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.*

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

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



COMMUNICATION ACCESS INFORMATION:

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

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 21, 2019.

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

Mark Numainville, City Clerk



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

**BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES**

**MONDAY, FEBRUARY 11, 2019**

**2:30 P.M.**

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

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**Roll Call:** 2:32 p.m. All present.

**Public Comment** – 5 speakers.

**Review of Agendas**

**1. Approval of Minutes: February 4, 2019**

**Action:** M/S/C (Wengraf/Harrison) to approve the minutes of 2/4/19.

**Vote:** All Ayes.

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

a. 2/26/19 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Wengraf/Arreguin) to approve the agenda of 2/26/19 with the revisions noted below.

**Vote:** All Ayes.

- *Ceremonial Item: Recognition of Jerome Solberg*
- *Item 12 Support AB 5 (Bartlett) – Councilmembers Harrison, Davila, and Hahn added as co-sponsors*
- *Item 13 Support AB 177(Robinson) – Councilmembers Bartlett, Hahn, and Droste added as co-sponsors*
- *Item 26 Referral Response: 1000 Person Plan (City Manager) – Moved to Action Calendar*
- *Item 28 City Auditor's Quarterly Summary Report (City Auditor) – Moved to Action Calendar*

Policy Committee Track Items

- *Item 16 Ad Hoc Committees (Arreguin) – Scheduled for 2/26/19 Action Calendar*
- *Item 17 Excused Absence (Arreguin) – Scheduled for 2/26/19 Consent Calendar*
- *Item 18 Traffic Circle Task Force (Arreguin) – Scheduled for 2/26/19 Consent Calendar; Councilmembers Bartlett, Droste, and Hahn added as co-sponsors*
- *Item 19 Berkeley Flea Market (Bartlett) – Scheduled for 2/26/19 Consent Calendar; Councilmembers Hahn and Davila added as co-sponsors; Revision request to change to "Short term referral..."*
- *Item 20 Open Doors Initiative (Bartlett) – Referred to Land Use, Housing & Economic Development Committee; Councilmember Robinson and Mayor Arreguin added as co-sponsors*
- *Item 21 Affordable Housing Fees (Robinson) – Referred to Land Use, Housing & Economic Development Committee; Councilmember Hahn added as a co-sponsor*
- *Item 22 Missing Middle Initiative (Droste) – Scheduled for 2/26/19 Action Calendar; revised item submitted*

Order of Action Items

- Item 14 Apothecarium
- Item 15 Sanctuary Contracting
- Item 28 City Auditor Report
- Item 26 1000 Person Plan
- Item 22 Missing Middle Initiative
- Item 16 Ad Hoc Committees

3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
  - Selected Item #14 Proposed Location for the Apothecarium Cannabis Retailer
4. **Adjournments In Memory Of - None**

**Scheduling**

5. **Council Worksessions Schedule**
  - Green Stormwater Infrastructure scheduled for June 18, 2019
  - UC Student Housing scheduled for September 17, 2019
6. **Council Referrals to Agenda Committee for Scheduling – received and filed**
7. **Land Use Calendar – received and filed**

**Referred Items for Review**

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

- **None**

**Adjournment**

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

Adjourned at 3:11 p.m.

\* \* \*

I hereby certify that these are the true and correct minutes of the meeting of February 11, 2109.



Mark Numainville, City Clerk

## DRAFT AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, March 12, 2019

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
 TELECONFERENCE LOCATION – 670 RIDGEWOOD DRIVE, CIRCLEVILLE, OH 43113

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

## Preliminary Matters

### Roll Call:

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

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

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

## Consent Calendar

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

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

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

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

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

## Consent Calendar

- 1. Companion Report: Council Referral-Proposed Amendments to Berkeley’s Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,640 amending BMC Chapter 13.27, which proposes: 1. adding a definition of “Department” in Section 13.27.020, 2. limiting new waivers of the LWO to one year in Section 13.27.040, 3. clarifying language related to wages and benefits in the Section 13.27.050 and adding Section 13.27.120 related to severability.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 2. Contract: YMCA of the East Bay for Berkeley’s 2020 Vision’s Early Childhood Trauma and Resiliency Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with the YMCA of the East Bay (YMCA) through June 30, 2021, to operate the Berkeley’s 2020 Vision Early Childhood Trauma and Resiliency Project, as described below, for a total contract amount not to exceed \$334,410.  
**Financial Implications:** Mental Health Services Act Innovations Fund - \$334,410  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000



## Consent Calendar

**3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 12, 2019**

**From: City Manager**

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

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, 981-7300

**4. Adoption of the 2018 Strategic Update to the EveryOne Home Plan to End Homelessness**

**From: City Manager**

**Recommendation:** Adopt a Resolution adopting the 2018 Strategic Update to the EveryOne Home Plan to End Homelessness, and use it as a guide for allocating resources for programs assisting persons experiencing homelessness.

**Financial Implications:** See report

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

**5. Contract: Alameda County Housing and Community Development Department for California Homeless Emergency Aid Program (HEAP)**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and to negotiate and execute a contract with the Alameda County Housing and Community Development Department, in an amount not to exceed \$4,032,711, for Berkeley's share of the California Homeless Emergency Aid Program (HEAP).

**Financial Implications:** See report

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

**6. Contract No. 10904 Amendment: Agreement with Bay Area Community Services (BACS) to Operate the Pathways Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the existing Contract No. 10904 with Bay Area Community Services (BACS) for Pathways STAIR Center operations, adding \$105,603 for a revised total contract amount not to exceed \$2,545,603 and a contract end date of June 30, 2019.

**Financial Implications:** See report

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

## Consent Calendar

### 7. Shelter Plus Care Program Renewal Grants

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the renewal of the following grants: 1. Four Shelter Plus Care grants from U.S. Department of Housing and Urban Development (HUD): a) \$3,594,226 for Tenant-Based Rental Assistance (TBRA) for the period June 1, 2019 through May 31, 2020; b) \$208,051 for sponsor-based rental assistance for the Supportive Housing Network for the period of June 1, 2019 through May 31, 2020, with Resources for Community Development as the project sponsor; c) \$202,376 for sponsor-based rental assistance for the Pathways Project for the period June 1, 2019 through May 31, 2020, with Bonita House, Inc. as the project sponsor; and d) \$749,062 in tenant-based rental assistance for the COACH Project grant for the period of January 1, 2020 through December 31, 2020. 2. One grant from the County of Alameda for \$548,645 to provide tenant-based rental assistance to individuals who have HIV/AIDS and other disabilities from March 1, 2019 through February 28, 2020.

**Financial Implications:** See report

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

### 8. Memorandum of Understanding: Planning Phase for the viability of a potential WETA Ferry Service and Public Recreation Pier at the Berkeley Marina

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the Water Emergency Transportation Authority (WETA) to accept up to \$250,000 in WETA funding for the Planning Phase (technical feasibility study and public engagement process) for the viability of a potential WETA ferry service and public recreation pier at the Berkeley Marina.

**Financial Implications:** See report

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

### 9. Authorizing Rewards of up to \$50,000 for Information in Criminal Investigations

**From: City Manager**

**Recommendation:** Adopt a Resolution increasing the maximum cash reward that the City Manager is authorized to approve from \$15,000 to \$50,000 for information leading to the arrest and conviction of the person or persons responsible for a specific crime or crime series, and rescinding Resolution No. 59,824-N.S.

**Financial Implications:** See report

Contact: Andrew Greenwood, Police, 981-5900

### 10. Authorizing the Addition of 2700 block of Belrose Avenue to the Street Sweeping Program

**From: City Manager**

**Recommendation:** Adopt a Resolution adding the 2700 block of Belrose Avenue to the mechanical street sweeping program.

**Financial Implications:** Minimal

Contact: Phillip Harrington, Public Works, 981-6300

## Consent Calendar

- 11. Measure O Oversight Committee and Measure P Homeless Services Panel of Experts**  
**From: Housing Advisory Commission**  
**Recommendation:** Designate or appoint the independent oversight committee and homeless services panel of experts contemplated under Measures O & P as soon as possible.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400
- 12. Communicating and Meeting with Community Stakeholders on Housing Innovations**  
**From: Housing Advisory Commission**  
**Recommendation:** Authorize the Housing Advisory Commission to correspond in writing and to confer in public session directly with various affordable housing organizations for the limited purposes and time, and with the disclaimer described in the report.  
Direct the City Manager that the City Attorney shall craft an appropriate disclaimer, as described in the report. The Commission will include this disclaimer when corresponding or meeting with these agencies.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400

## Council Consent Items

- 13. Persian New Year Festival: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Harrison**  
**Recommendation:**  
1. Adopt a Resolution co-sponsoring the 20th annual Persian New Year Festival on March 19th, 2019  
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$100 from Councilmember Harrison, to The Persian Center, the fiscal sponsor of the festival, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Harrison and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$100  
Contact: Kate Harrison, Councilmember, District 4, 981-7140

## Council Consent Items

- 14. Letter Requesting Congresswoman Lee's Support of HR. 530 (Eshoo)**  
**From: Councilmember Wengraf**  
**Recommendation:** Send a letter urging U.S. Representative Barbara Lee to co-sponsor H.R. 530 - Accelerating Broadband Development by Empowering Local Communities Act of 2019 which would repeal FCC limits on local regulation of 5G infrastructure.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 15. Camp Kesem Berkeley's Annual Fundraising Gala: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Councilmember Robinson**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$150 per Councilmember including \$150 from Councilmember Robinson, to Camp Kesem Berkeley for their Annual Fundraising Gala to fund summer camp for children whose parents have cancer, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Action Calendar

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

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

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

## Action Calendar – Public Hearings

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

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

## Action Calendar – Public Hearings

*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.*

**16. ZAB Appeal: 2701 Shattuck Ave**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2016-0244 to construct a 5-story, 62-foot tall, mixed-use building with 57 dwelling units (including five Very Low Income units), a 600-square-foot ground-floor quick-service restaurant, and 21 parking spaces, and dismiss the appeal.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, 981-7400

**17. Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, provide direction regarding proposed ordinance language alternatives and adopt the first reading of five ordinances amending the Berkeley Municipal Code (BMC) which would:

1. Clarify cannabis business operational standards and development standards, such as quotas and buffers, for all cannabis business types;
2. Revise ordinance language to reflect State regulations;
3. Create a path to allow a new business type (Retail Nursery Microbusinesses);
4. Protect youth by restricting cannabis advertising within the city; and
5. Allow temporary cannabis events at Cesar Chavez Park.

The ordinances would adopt BMC Chapters 12.21 and 20.40, amend Chapters 12.22, and 23C.25, Sub-Titles 23E and 23F, and repeal Chapters 12.23, 12.25 and 12.27.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

**18. Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus) (Continued from February 19, 2019. Item contains revised material.)**

**From: City Manager**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion, adopt the first reading of Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, 981-7400

## Action Calendar – Old Business

19. **Contract: Pride Industries for Citywide Janitorial Services at Various Locations**  
*(Continued from February 19, 2019)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year contract and any amendments with Pride Industries to provide Citywide Janitorial Services at twenty nine (29) various City locations and facilities for the period May 1, 2019 to April 30, 2022, in an amount not to exceed \$3,725,735, with an option for two (2) one-year extensions for a maximum five (5) year contract for an amount not to exceed \$6,414,881, subject to the City's annual budget appropriation process.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, 981-7300

## Action Calendar – New Business

20. **Presentation: Alameda County Mosquito Abatement District**  
**From: Alameda County Mosquito Abatement District**  
Contact: Ryan Clausnitzer, Alameda County Mosquito Abatement District, (510) 783-7744

## Action Calendar – Policy Committee Track Items

21. **Adopt an Ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**  
**From: Councilmember Harrison**  
**Recommendation:** Adopt an ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of [ ].  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140
22. **Referral to the City Manager to Include in all Appropriate City Forms a Field for Personal Gender Pronouns, and to Amend the Berkeley Municipal Code to Adopt Gender Inclusive Language**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the City Manager to:  
1. Modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other).  
2. Revise the Berkeley Municipal Code, replacing all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Action Calendar – Policy Committee Track Items

23. **Affirming the City of Berkeley’s Support for the People of Tibet**  
**From: Councilmember Robinson**  
**Recommendation:** Adopt a Resolution affirming support to the people of Tibet. Copies of the resolution are to be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland, and His Holiness the Dalai Lama, Dharamsala, India.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Information Reports

24. **Audit Update: Construction Permits: Monitor Performance and Fee Assessments to Ensure Excellent and Equitable Customer Service**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400
25. **Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300
26. **Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300
27. **Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018**  
**From: Rent Stabilization Board**  
Contact: Jay Kelekian, Rent Stabilization Board, 981-7368
28. **Code Enforcement Review Update**  
**From: Housing Advisory Commission**  
Contact: Amy Davidson, Commission Secretary, 981-5400

## 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.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

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

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

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

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

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

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

#### COMMUNICATION ACCESS INFORMATION:

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

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Housing Advisory Commission

CONSENT CALENDAR

March 12, 2019

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission
 Subject: Measure O Oversight Committee and Measure P Homeless Services
 Panel of Experts

RECOMMENDATION

Designate or appoint the independent oversight committee and homeless services panel of experts contemplated under Measures O & P as soon as possible.

FISCAL IMPACTS OF RECOMMENDATION

There will be costs associated with the staffing needed to create the committee and panel of experts.

CURRENT SITUATION AND ITS EFFECTS

Measures O and P passed in the 2018 election cycle provide substantial resources to address housing needs within the City of Berkeley. Each of these measures emphasized the importance of a well thought out and strategized allocation of resources through a committee or panel of experts. Part of the role of the Housing Advisory Commission is to make recommendations to address the housing needs within the City of Berkeley. To expedite many valuable projects' timelines for consideration, the Berkeley City Council should either appoint or designate the committee and panel of experts proposed within Measures O and P as soon as possible. At the January 3, 2018 meeting, the Housing Advisory Commission adopted the following motion:

Action: M/S/C (Johnson/Thomas) to recommend to City Council that the independent oversight committee and Homeless Services Panel of Experts as designated under Measures O & P be created as soon as possible.

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

BACKGROUND

As the City works as quickly as possible to address the housing crisis in the City of Berkeley, it is important to recognize that having more voices at the table is critical to ensuring that everyone has a chance to be heard and included. It was with this idea that Measure O and Measure P were crafted with intention of having "independent oversight committees."

Measure O's ballot language specifically provided that "all expenditures will be subject to oversight by an independent oversight committee, composed of individuals appointed by the City Council, to confirm that Bond expenditures are consistent with the intent of this Measure."

Measure P had similar ballot language, providing that "there shall be established the Homeless Services Panel of Experts to make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support."

The role of the committees is to make sure that the parts of our community with the most pressing needs and challenges are prioritized. In addition, they will help to ensure that the goals laid out in Measures O and P are achieved. The sooner that these independent bodies are brought together, the sooner that there can be a comprehensive plan for how to allocate the additional resources brought in by Measure O and Measure P. In addition, with a comprehensive plan in place this will give the City the opportunity to more clearly define its objectives and goals, and to receive proposals which better achieve those goals.

ENVIRONMENTAL SUSTAINABILITY

There is no environmental impact to creating the oversight committee or panel of experts recommended from Measures O and P.

RATIONALE FOR RECOMMENDATION

Taking the step of appointing or designating the Homeless Services Panel of Experts and the independent oversight committee will build the required input and feedback into the funding process for housing and homelessness projects utilizing Measure O and Measure P funds.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report. Staff concur with the sentiment of this report and recognize the timing of appointing the respective bodies is at Council's discretion.

CONTACT PERSON

Amy Davidson, Commission Secretary, HHCS, (510) 981-5406



[Commission Name]

CONSENT CALENDAR

March 12, 2019

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission

Subject: Communicating and Meeting with Community Stakeholders on Housing Innovations

RECOMMENDATION

Authorize the Housing Advisory Commission to correspond in writing and to confer in public session directly with various affordable housing organizations for the limited purposes and time, and with the disclaimer described below.

Direct the City Manager that the City Attorney shall craft an appropriate disclaimer, as described below. The Commission will include this disclaimer when corresponding or meeting with these agencies.

SUMMARY

The Commission wishes to explore *innovative* ways to expand the Small Sites housing program, to implement a Tenants Option to Purchase ordinance, and to advance region-wide goals – the “three Ps” – to protect tenants, preserve affordable housing, and produce new housing.

We are interested, for example, in looking beyond conventional City loans and grants for new ways to help finance affordable housing projects. We are interested in streamlining the purchase of small sites while addressing the property management issues associated with such streamlining. We wish to identify promising project ownership structures, democratic management structures, and flexible alternatives to conventionally written deed restrictions.

A variety of outside agencies are potentially appropriate discussion partners for this work (see under “Background”, subsection “A tentative list of agencies”, below). As required by the Commissioners’ Manual, we seek authorization to pursue discussion with them. We are additionally asking that the City Attorney provide us with a suitable disclaimer to use in such discussions, to avoid inadvertent legal risk to the City (see under “Background”, subsection “Disclaimer”, below).

FISCAL IMPACTS OF RECOMMENDATION

There is a presumably modest cost associated with asking the City Attorney to prepare a suitable disclaimer for the Commission to use in its communications.

CURRENT SITUATION AND ITS EFFECTS

The Commission has previously received briefings from the Health, Housing, and Community Development staff regarding the Small Sites and Tenants' Option to Purchase programs. These presentations included information about obstacles and limitations encountered in other jurisdictions that have already implemented such programs.

The Commission has received a similar presentation from representatives of the Sustainable Economies Law Center, the East Bay Community Law Center, and the Northern California Land trust.

The rules set forth in the Commissioners Manual sharply limit the Commission's ability to further engage as a body with these and other agencies to continue the conversation. The rules will allow the Commission to move forward with Council authorization.

In June and September of 2018, the Commission adopted a work plan item titled "*Democratized housing innovations summit*", which this referral helps to implement.

The Housing Advisory Commission voted on January 3, 2019 to make this referral to City Council. The action is recorded as follows:

Discussion and Possible Recommendation to Council on the Housing Advisory Commission's Communicating and Meeting with Community Stakeholders on Housing Innovations

Action: M/S/C (Lord/Johnson) to recommend to City Council to authorize the Housing Advisory Commission to:

Communicate directly, in writing, with various affordable housing organizations for the limited purposes and with the disclaimer described below;

- To receive, and place on the record, written replies and replies spoken to the Commission in session;
- To ask the City Manager and City Attorney to craft the disclaimer we describe below and provide a proper version to the Commission;
- To have the option to schedule (in cooperation with the Commission Secretary) up to one (1) additional meeting of the Housing Advisory Commission prior to June 2020, a Special Meeting to which these organizations may be invited to discuss the issues described below; and
- With none of these authorizations extending beyond June 2020 without further review by City Council.

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

BACKGROUND

Small Sites

The City of Berkeley has created a pilot "small sites acquisition" program, aimed at helping non-profit organizations and the City itself to acquire, rehabilitate, preserve, or create affordable housing. Berkeley's program places an emphasis on land-trust and cooperatively managed housing.

City staff have researched similar programs in other jurisdictions and have informed the Housing Advisory Commission of some of the practical limitations encountered by similar programs in San Francisco and Washington D.C.

The Housing Advisory Commission is interested in exploring innovative ways to reduce or avoid those limitations.

Tenants Right to Purchase

At Council's direction, the City is working towards implementing a Tenants' Right to Purchase Ordinance which would give tenants a first option to purchase an apartment building they occupy. Such an option might also be transferable to the City itself. Here again, practical limitations have been encountered in other cities. Here again, the Housing Advisory Commission is interested in innovative ways to reduce or avoid those limitations.

The Three P's

The Metropolitan Transportation Commission and Association of Bay Area Governments have generated considerable interest and policy momentum around the concepts they call the "three Ps":

- Protecting tenants
- Preserving affordable housing
- Producing housing, including affordable housing

The Housing Advisory Commission sees these broadly defined goals as wholly compatible with Small Sites and Tenants' Option to Purchase policies. We believe there may be an opportunity to advance housing affordability and housing justice consistently with these emerging regional planning concepts.

Example Areas for the Commission to Explore with Outside Organizations

- One problem encountered in Small Sites and Tenants' Right to Purchase programs is the need to act quickly – to lock in a purchase faster than an outside agency or the tenants of a building may be prepared to act.

- *The Commission has explored and would like to further explore the possibility of direct purchases by the City or a City franchise, when fast-tracking a purchase is necessary.*
- *This raises a critical question of property management. In the case of a quick City purchase, who will initially manage the property?*
- Another area of concern is that land-trust and co-op models may be difficult to finance. Acquisitions of this sort often do not qualify for the same kinds of financing assistance available to conventional non-profit developers.
 - *How can City of Berkeley housing policies help gain access to alternative forms of financing, beyond City provided loans and grants?*
- The land-trust and co-op models can suffer limitations of scale. When each property is its own legal entity, opportunities for cross-subsidy and achieving economies of scale are lost.
 - *Is it sensible to try to consolidate ownership of small sites and sites purchased via a tenants' option?*
 - *How can a larger portfolio of such housing be cooperatively managed?*
 - *Are there alternatives to customary AMI-tied deed restrictions for preserving affordability while being able to dynamically adjust to needs and operate on self-financing basis?*

The Purposes of Communications with External Agencies

In short, we would like to invite various stakeholders to contribute to the Commission's understanding and brainstorming around questions like those above.

In part we hope to learn from these organizations. Perhaps we might even help them to organize and cooperate to advance an innovative program here in Berkeley.

A Tentative List of Agencies to Contact

We ask the right to add to this list but we have identified stakeholders with relevant interests:

- BACLT
- BUSD
- Berkeley Federation for Teachers (BFT)
- East Bay Permanent Real Estate Cooperative
- NCLT
- POCSHN (People of Color Sustainable Housing Network)
- RCD
- SAHA
- Sustainable Economies Law Center (SELC)
- UC Berkeley Co-op
- UC Berkeley Grad Student Union

Disclaimer

The Commission suspects but does not know for certain that any communication we make directly should clearly state that:

- We speak only for the Commission.
- We are not announcing any City Program or soliciting bids or proposals.
- We are only seeking voluntarily given advice and consultation.

We believe the City Attorney is the appropriate official to provide us with suitable language for this disclaimer.

ENVIRONMENTAL SUSTAINABILITY

No impact.

RATIONALE FOR RECOMMENDATION

Passage of this recommendation will empower the Commission to better pursue its duties under Berkeley Municipal Code Title 19.44.020(B)(10) as amended by the passage Measure U1 (2016):

The Housing Advisory Commission shall review and advise the City Council on housing policy, housing programs, and related issues. In particular, the Commission shall make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. These recommendations may be made annually or biannually, as the Commission deems appropriate in light of the City's budget cycle and other relevant funding cycles. The Commission's recommendations shall be promptly published on the City's web site and transmitted to the City Council. The City Council shall consider, but need not follow, the Commission's recommendations, and shall annually inform the Commission as to the extent to which it has implemented the recommendations.

The Commission is obligated to seek the City Council's authorization by the rules set forth in the Commissioner's Manual (see "Alternative Actions Considered" for further details).

ALTERNATIVE ACTIONS CONSIDERED

The Commission considered "informally" corresponding with and inviting these organizations to discussions. Concerns were raised, however, that the Commission could not engage in such communication as a *body* without violating the rules set forth in the Commissioners' Manual, which clearly states:

Unless specifically authorized by the Council, commissions may not represent the City or its policies or positions to outside agencies either on their own behalf or of the City. (Chapter III, Part C, section 2).

We interpret that to mean that for the Commission to represent *its own agreed upon views and questions* to these agencies, the Council must consent. We seek this consent. In seeking this consent, we are sensitive to the concern that we will not officially state City of Berkeley policy and that we will not be announcing any City programs or funding opportunities.

CITY MANAGER

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

The Housing Advisory Commission does not need Council authorization to host a special meeting but does require authorization to invite additional organizations to participate. Approval of this item will allow the Commission to proceed with its outreach to community organizations, and to move forward with determining the specific schedule, agenda, and participant list for the meeting. If this exceeds regular staff capacity associated with the Commission, staff may return to Council for guidance and approval. Otherwise, the authority granted with approval of this item will allow the Commission to hold the proposed meeting.

CONTACT PERSON

Amy Davidson, Commission Secretary, HHCS, (510) 981-5406



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
March 12th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Kate Harrison
 Subject: Persian New Year Festival: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

1. Adopt a Resolution co-sponsoring the 20th annual Persian New Year Festival on March 19th, 2019
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$100 from Councilmember Harrison, to The Persian Center, the fiscal sponsor of the festival, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Harrison and any other Councilmembers who would like to contribute.

BACKGROUND

For the past 20 years, The Persian Center in Berkeley has held a Persian New Year Festival to celebrate the East Bay's Persian community, facilitate new cultural experiences for all Berkeley residents, and commemorate the vernal equinox and Persian New Year.

The Persian Center is a space where Iranians, Iranian descendants, and all interested in Persian Culture come together to celebrate traditional Persian festivals and attend classes, workshops, book readings, and more. It was incorporated in 1992 and moved into its permanent home on Durant Avenue in 2000. The Persian New Year Festival is one of their most popular events, bringing participants from across the Bay Area.

The Persian New Year Festival is also called Chaharshanbeh Souri, which means "Eve of Wednesday" because the festival is held on the last Tuesday of winter. All are invited to jump over a bonfire to shake off the darkness of winter and welcome the lightness of spring, a Persian ritual passed down since Zoroastrian times.

We are proposing that City Councilmembers make individual grants of up to \$500 to The Persian Center to support the continued success of the Persian New Year Festival. The event is being held on March 19th.

FISCAL IMPACTS OF RECOMMENDATION

No impact to the General Fund.

ENVIRONMENTAL SUSTAINABILITY

Minimal.

CONTACT PERSON

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

Attachments:

- 1: Resolution for City Sponsorship
- 2: Resolution for Council Expenditures

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

CITY SPONSORSHIP OF PERSIAN NEW YEAR FESTIVAL

WHEREAS, the Persian New Year Festival will take place on March 19th, 2019; and

WHEREAS, the Persian New Year Festival has for twenty years been a fun and enriching way to celebrate the advent of spring and the Persian New Year; and,

WHEREAS, the Persian New Year Festival will enrich the City and people of Berkeley through Persian cultural education, crafts, food, music and dancing;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors the Persian New Years Festival, and The Persian Center has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkeley as a co-sponsor solely for the purpose of the City indicating its endorsement of the event.

BE IT FURTHER RESOLVED that this co-sponsorship does not: (1) authorize financial support, whether in the form of fee waivers, a grant or provision of City services for free; (2) constitute the acceptance of any liability, management, or control on the part of the City for or over the Persian New Year Festival; or (3) constitute regulatory approval of the event.

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

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

WHEREAS, Councilmember Kate Harrison has surplus funds in her office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, The Persian Center, seeks funds to provide public services to publicly commemorate and honor the Persian New Year; and

WHEREAS, the celebration will include invaluable educational benefits for the people of Berkeley presented by members of The Persian Center;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$500 per office shall be granted to The Persian Center to fund the celebration of the Persian New Year and related cultural activities.



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
March 12, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Susan Wengraf
Subject: Letter Requesting Congresswoman Lee's Support of HR. 530 (Eshoo)

RECOMMENDATION

Send a letter urging U.S. Representative Barbara Lee to co-sponsor H.R. 530 - *Accelerating Broadband Development by Empowering Local Communities Act of 2019* which would repeal FCC limits on local regulation of 5G infrastructure.

FINANCIAL IMPLICATIONS

None

BACKGROUND

Rep. Anna Eshoo (CA-18) introduced H.R. 530 - *Accelerating Broadband Development by Empowering Local Communities Act of 2019*, to overturn the FCC's order preempting local authority over small cell wireless infrastructure. The FCC's regulations sharply limit the type and amount of fees cities and states may charge for profit-generating use of public property, set "shot clocks" as low as 60 days for cities and states to conduct all necessary inspections and authorize proposals, and drastically limit non-fee requirements that cities and states may impose.

While H.R. 530 would not preclude future FCC or congressional preemption of cities on wireless infrastructure, it would halt the FCC's restrictive preemption order, which ignored the input of hundreds of local governments. The bill also complements ongoing efforts to overturn the FCC order in federal courts, and the investigation by congressional leaders into alleged attempts by the FCC to thwart that litigation.

The FCC allowed the telecommunications industry to write these regulations without sufficient input from local leaders. This has led to regulations that restrict cities from requiring carriers to meet the needs of communities in which they want to operate. The FCC's order unnecessarily complicates existing agreements and negotiations between cities and wireless providers by imposing a one-size-fits-all preemption of existing state and local policies. The FCC's limits on fees for use of publicly owned property by private companies is an extreme overreach by the federal government, forcing cities to subsidize development at the cost of other critical local services.

The following leaders in Congress have signed on as co-sponsors:

[Rep. Speier, Jackie \[D-CA-14\]*](#)
[Rep. Bonamici, Suzanne \[D-OR-1\]](#)
[Rep. McGovern, James P. \[D-MA-2\]](#)
[Rep. Swalwell, Eric \[D-CA-15\]](#)
[Rep. Suozzi, Thomas R. \[D-NY-3\]](#)
[Rep. Grijalva, Raul M. \[D-AZ-3\]](#)
[Rep. Blumenauer, Earl \[D-OR-3\]](#)
[Rep. DeSaulnier, Mark \[D-CA-11\]](#)

ENVIRONMENTAL SUSTAINABILITY

Unknown

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Letter to Barbara Lee

2. [Text of H.R. 530](#)



The Honorable Barbara Lee
United States House of Representatives
2470 Rayburn House
Office Building
Washington, DC 20515

Dear Representative Lee:

On behalf of the City of Berkeley we are writing to express our support of H.R. 530, the *Accelerating Wireless Broadband Development by Empowering Local Communities Act of 2019*, and urge you to co-sponsor this bill. H.R. 530 repeals recent harmful FCC regulations limiting the ability of local governments to regulate the deployment of 5G wireless infrastructure.

Last year, the FCC adopted regulations limiting the authority of cities and states to regulate small cell sites (e.g., attachments to street light and utility poles) needed for the deployment of 5G. The FCC's regulations sharply limit the type and amount of fees cities and states may charge for profit-generating use of public property, set "shot clocks" as low as 60 days for cities and states to conduct all necessary inspections and authorize proposals, and drastically limit non-fee requirements cities and states may institute. The regulations began taking effect on January 14, 2019.

The FCC allowed the telecommunications industry to write these regulations without sufficient input from local leaders. This has led to regulations that restrict cities from requiring carriers to meet the needs of communities in which they want to operate. The FCC's order unnecessarily complicates existing agreements and negotiations between cities and wireless providers by imposing a one-size-fits-all preemption of existing state and local policies. The FCC's limits on fees for use of publicly owned property by private companies is an extreme overreach by the federal government, forcing cities to subsidize development at the cost of other critical local services.

We all want to ensure efficient, safe, and appropriate deployment of new broadband technology. However, this sweeping regulation is not the best approach. The City of Berkeley urges you to support and co-sponsor H.R. 530, and to work together with local governments to find the best solution for effective 5G deployment that meets the diverse needs of our nation's many unique communities.

Sincerely,

The Berkeley City Council

CC: Sam Caygill, East Bay Division, League of California Cities, scaygill@cacities.org
League of California Cities (cityletters@cacities.org)

H. R. 530

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Ms. ESHOO (for herself and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

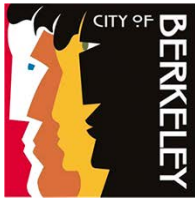
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Accelerating Broadband Development by Empowering Local Communities Act of 2019”.

SEC. 2. PRESERVATION OF RIGHTS OF STATE AND LOCAL GOVERNMENTS.

Actions by the Federal Communications Commission in “Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” (83 Fed. Reg. 51867) and the Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18–111) shall have no force or effect.



CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

CONSENT CALENDAR
March 12, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Rigel Robinson
Subject: Camp Kesem Berkeley’s Annual Fundraising Gala: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$150 per Councilmember including \$150 from Councilmember Robinson, to Camp Kesem Berkeley for their Annual Fundraising Gala to fund summer camp for children whose parents have cancer, with funds relinquished to the City’s general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.

BACKGROUND

Camp Kesem Berkeley is an organization that provides free summer camps to support children who have been impacted by a parent’s cancer. This camp is staffed by highly trained college students who want to give back to their community and give a safe space for children going through similar experiences. Whether they have lost a parent to cancer or have a parent undergoing cancer treatment, Camp Kesem gives these children a community of support through this hardship. In order to give these children a wonderful camp experience at no cost to the families Camp Kesem will be holding an Annual Fundraising Gala this spring on March 16th at the California Memorial Stadium. Councilmembers support would help fund this camp service and support Bay Area families that suffer from cancer.

FINANCIAL IMPLICATIONS

No General Fund impact; \$150 is available from Councilmember Robinson’s Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

No Impact

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

- 1: Resolution for Council Expenditures

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

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

WHEREAS, Councilmember Rigel Robinson has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, Camp Kesem Berkeley, seeks funds in the amount of \$150, through their event Camp Kesem Berkeley - Make the Magic FY 2019, to support bay area children through and beyond their parent's cancer; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose: Camp Kesem organizes and funds summer camp proگرامing providing the highest level of support and service for Bay Area children through their parent's cancer at no cost to the families

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$150 per office shall be granted to Camp Kesem Berkeley, through their event Camp Kesem Berkeley - Make the Magic FY 2019, to support Camp Kesem and their programs for Bay Area Children.



Kate Harrison
Councilmember District 4

ACTION CALENDAR
March 12, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Harrison, Davila and Bartlett
Subject: Adopt an Ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings

RECOMMENDATION

Adopt an ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of [].

PROPOSED POLICY COMMITTEE TRACK

Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee

BACKGROUND

The Community Environmental Advisory Commission (CEAC) unanimously recommended prohibiting natural gas in buildings in 2016.¹ That year, Council endorsed the recommendation and directed the CEAC and the Energy Commission to “develop and evaluate a proposal for requiring installations of new cooking, water heating, and/or building heating systems to use technologies which do not burn natural gas.”²

The Berkeley Energy Commission subsequently investigated adopting a ‘reach’ building ordinance mandating use of more efficient electric heat-pump water heaters in new construction, which would have the effect of phasing out natural gas for that purpose, but concluded that California Energy Commission (CEC) policies at the time precluded doing so because of the difficulty of proving that the proposed new requirement will be both cost effective and at least as efficient as the existing state and federal standards.³

¹ Phasing Out Natural Gas for Heating and Cooking, Community Environmental Advisory Commission, November 1, 2016, https://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/2016-11-01_Item_10_Phasing_Out_Natural_Gas.aspx.

² Annotated Agenda Berkeley City Council Meeting, City Clerk’s Office, November 1, 2016, http://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/11-01_Annotated.aspx.

³ Response to Referral to Community Environmental Advisory Committee (CEAC) and the Berkeley Energy Commission to Evaluate Phasing-out Natural Gas, CEAC, December 19, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-19_Item_17_Response_to_Referral_to_CEAC_and_BEC.aspx. See also, Local Ordinances Exceeding the 2016 Building Energy Efficiency Standards, California Energy Commission, <https://www.energy.ca.gov/title24/2016standards/ordinances/>; See also, CA Public Resources Code Section 25402.1(h)2,

Berkeley's proposed reach heat pump code could not pass the cost effectiveness test due to an outdated federal baseline for efficiency calculations. Consequently, at the time it was determined infeasible to adopt such a reach code under Title 24 Part 6 of the 2016 state Energy Code. Since then, Berkeley's Office of Energy and Sustainable Development (OESD) has been actively lobbying the CEC to adopt energy code amendments that facilitate all-electric designs, and the California Public Utilities Commission (CPUC) to adopt regulations allowing utility incentives to subsidize fuel-switching in existing buildings.⁴

This ordinance differs in its approach by acting within the City's authority to prohibit installation of harmful gas infrastructure when issuing building permits for new buildings, and as a result avoids CEC regulations associated with asking to amend efficiency standards. It also avoids the jurisdiction of the California Building Code Commission because this ordinance does not interfere with existing building standards as laid out in the 2016 California Energy Code and as defined by California Building Standards Law Health and Safety Code.⁵ Finally, it avoids the jurisdiction of the CPUC. Although the legislature empowered the Commission to "require each gas corporation to provide bundled basic gas service to all core customers in its service territory," it did not require customers to establish gas service with a gas corporation, or preclude cities from prohibiting gas infrastructure associated with connection to that service.⁶

This new approach also has the endorsement of the present Berkeley Energy Commission. In December 2018, the Energy Commission presented a draft response to the Council's June 2018 Fossil Free Resolution. As part of a broader strategy to eschew fossil fuels from Berkeley, it recommended that the Council "[p]rohibit gas cooktops and dryers in new residences or a moratorium on new gas hook ups if possible."⁷ Adoption of this ordinance would fulfil this recommendation.

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=25402.1.; CA Building Energy Efficiency Standards Section 10-106

<https://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>

⁴ Berkeley Support to Phase Out Fossil Fuels with Clean Electrification, OESD, CEC Docket 18-IEPR-09, June 28, 2018, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC2018-07-25_Item%207c-Combined_Comments%20to%20CEC%20and%20CPUC.pdf.

⁵ California Building Standards Law Health and Safety Code, Division 13, Part 2.5 § 18909, http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=18909

⁶ California Code, Public Utilities Code - PUC § 963, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&art=1.&chapter=4.5.&article=2.

⁷ Fossil Free Berkeley Subcommittee Draft Report for 12/5/2018 Commission Meeting, Berkeley Energy Commission, December, 5, 2018, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-

In June 2018 the Berkeley City Council declared a city-wide Climate Emergency (Resolution No. 68,486-N.S.), aimed at reviewing the City's greenhouse gas emission reduction strategies, commitments and progress in light of recent political, scientific and climatic developments.⁸ A 2018 UN Intergovernmental Panel on Climate Change (IPCC) report suggested that in order to keep warming under 1.5 degrees Celsius, governments must initiate a dramatic 45% cut in global carbon emissions from 2010 levels by 2030 and reach global 'net zero' around 2050. The time for incremental emissions reduction strategies is over—policymakers must begin implementing “far-reaching and unprecedented changes in all aspects of society.”⁹

Berkeley became a climate leader when voters overwhelmingly passed Measure G (Resolution No. 63,518-N.S.) in 2006, calling for the City to reduce greenhouse gas emissions by 33% below 2000 levels by 2020, and 80% by 2050.¹⁰ Measure G resulted in the City Council adopting the 2009 Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), which was written through a community-wide process.¹¹ The plan identified buildings as major contributors to greenhouse gas emissions, representing 26% of community-wide emissions, and recommended the implementation of aggressive building codes favoring low carbon space and water heating appliances/infrastructure in new buildings.¹² A 2018 Climate Action Plan progress update presented by Berkeley's OESD reported that “[c]ombustion of natural gas within Berkeley buildings accounted for 27% of total GHG emissions in 2016 and 73% of building sector GHG emissions.”¹³

[_Commissions/Commission_for_Energy/FFB%20Draft%20report%20for%20Dec%205%202018%20Commission%20Meeting%20Final.pdf](#)

⁸ Resolution Endorsing a Climate Emergency, Berkeley City Council, June 12, 2018,

[https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_](https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf)

[_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf](#)

⁹ IPCC Press Release, Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C approved by Governments, 8 October 2018,

http://www.ipcc.ch/pdf/session48/pr_181008_P48_spm_en.pdf

¹⁰ Resolution Submitting Measure G, Berkeley City Council, July 18, 2006,

<https://www.cityofberkeley.info/citycouncil/resos/2006/63396.pdf>; Ballotpedia, Berkeley Greenhouse

Gas Emissions, Measure G (November 2006), November 7, 2006,

[https://ballotpedia.org/Berkeley_Greenhouse_Gas_Emissions,_Measure_G_\(November_2006\)#cite_note-quotedisclaimer-1](https://ballotpedia.org/Berkeley_Greenhouse_Gas_Emissions,_Measure_G_(November_2006)#cite_note-quotedisclaimer-1)

¹¹ Office of Energy & Sustainable Development, Berkeley Climate Action Plan Information Page,

<https://www.cityofberkeley.info/climate/>.

¹² City of Berkeley, Berkeley Climate Action Plan, June 2009,

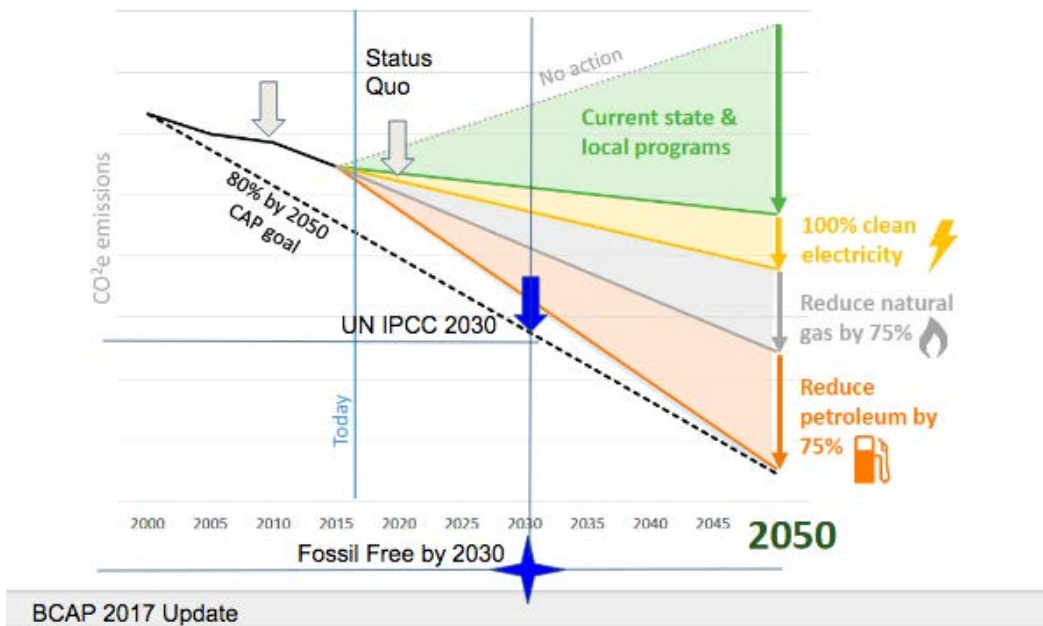
[https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf)

[_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf](#), p. 59.

¹³ 2018 Berkeley Climate Action Plan Update, Office of Energy and Sustainable Development, December 6, 2018, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-

According to OESD, the latest and best available data suggest that Berkeley’s 2016 community-wide GHG emissions, including emissions from transportation, building energy use, and solid waste disposal, are approximately 15% below 2000 baseline levels, despite a population increase of approximately 18% in that same time period. Therefore, according to 2016 data, the City is approximately 18% behind its 2020 goal.

Strategies to Achieve 80% by 2050



Specifically, progress towards lowering emissions in new buildings has been encouraging but incremental. To date, the federal, state and local approach to energy use in new buildings has largely been to mandate greater building efficiency and energy conservation, which indirectly results in lower emissions, but does not directly phase out fossil fuel consumption in new buildings. With regard to energy efficiency, Berkeley is in the process of adopting the ambitious, but voluntary, Green Building Standards. In addition, the Planning Department is actively lobbying various California state agencies to level the regulatory playing field for all-electric buildings vis-à-vis gas by developing all-electric codes and lobbying the CPUC to expand utility incentives for fuel switching.¹⁴ In short, while both initiatives facilitate the electrification and energy efficiency in new buildings, they do not explicitly and directly prohibit builders from constructing buildings

Energy and Sustainable Development/2017-12-07%20WS%20Item%20001%20Climate%20Action%20Plan%20Update.pdf, p. 10.

¹⁴ *Id.*, p. 12.

with natural gas infrastructure, a potent and persistent source of greenhouse gas pollution.¹⁵

According to the November 2017 Planning Department Bi-Annual Housing Pipeline Report, the City approved building permits for 525 residential units between January 1, 2014 and November 2017. An additional 952 units received their certificate of occupancy during the same period.¹⁶ Presumably, the vast majority of these units feature natural gas infrastructure. This gas-related emissions problem has been compounded by regional population and job growth coinciding with a considerable 18% rise in Berkeley's population since 2000 as well as the multi-decade useful life of natural gas appliances.¹⁷ As a result, the city has 'locked in' decades of additional carbon pollution, and stands to continue doing so with each new building permit application. The persistence of fossil fuel industry marketing, the regional housing affordability crisis and the associated effort to expand the housing stock will continue to drive local and regional increases in natural gas infrastructure and consumption unless we act now.

This ordinance recognizes that all-electric heating technologies, are cost competitive substitutes to their natural gas counterparts (especially when installed during new construction), and seeks to halt the expansion of natural gas into new buildings in order to stave off the risk of locking in significant additional greenhouse emissions. In the interim between adoption and the effective date, City staff can continue to design and seek approval of all-electric codes to help guide home builders in constructing new buildings with emissions and efficiency best practices.¹⁸

This approach is borne out by recent economic analysis. For example, the Rocky Mountain Institute's 2018 report entitled *The Economics of Electrifying Buildings: How Electric Space and Water Heating Supports Decarbonization of Residential Buildings* considered the carbon emissions reduction opportunities and cost effectiveness associated with all-electric space and water heating in new single-family construction in Oakland.¹⁹ As a direct neighbor, the Oakland study is a useful reference point as

¹⁵ The forthcoming 2019 California Energy Code allows for significant natural gas usage.

¹⁶ Referral Response: Bi-Annual Housing Pipeline Report, Planning Department, November 11, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-28_Item_21_Referral_Response_Bi-Annual.aspx

¹⁷ 2018 Berkeley Climate Action Plan Update, p. 1.

¹⁸ OESD reported in December 2018 that "Berkeley has worked with other local governments to create a joint cost-effectiveness study request for the California Codes and Standards Program, seeking the maximum cost-effective efficiency for mixed-fuel and all-electric new construction over a representative sample of building sizes and uses...The findings from this cost-effectiveness study request are expected in early 2019 and will be shared with the Energy Commission and other stakeholders, to evaluate options and opportunities for local amendments to promote deep energy savings and electrification." See, 2018 Berkeley Climate Action Plan Update, p. 12.

¹⁹ Sherri Billimoria, Mike Henchen, Leia Guccione, and Leah Louis-Prescott, *The Economics of Electrifying Buildings: How Electric Space and Water Heating Supports Decarbonization of*

Berkeley shares many of its characteristics, including its climate, architecture, the electric and natural gas utility, the Pacific Gas and Electric Company, and membership in East Bay Community Energy.

The report found that “[i]n Oakland, [electric] heat pumps produce universally less carbon emissions compared to natural gas systems.”²⁰ Heat pumps are functionally air conditioners that operate in reverse; they capture ambient heat from the air and transfer it inside the building where it can be used to heat water and space. They generate renewable solar energy from the air, and they are so efficient that the Rocky Mountain Institute argues that heat pumps are superior to natural gas appliances on all electric grids except those with the highest coal power content.²¹ Fortunately, the California grid does not run on coal and features relatively low greenhouse gas emissions.²² Therefore, heat pumps offer exponential emissions reduction potential in both new and existing buildings, and they are poised to result in additional benefits overtime as tomorrow’s electricity becomes substantially less carbon intensive due to market forces, implementation of California State Senate Bill 100 and wider adoption of Community Choice Aggregator renewable electricity services.

The report also found that for new buildings in Oakland, “[electric] heat pumps are universally more cost-effective” than natural gas space and water heaters due to their superior energy efficiency, cost-competitiveness, built-in air conditioning capability, and the avoided cost of connecting to the Pacific Gas & Electric Company’s procurement and natural gas distribution system.²³ Specifically, the report found that new single family developments avoiding gas could “save \$1,000 to more than \$24,000 per single-family home, with a median value of \$8,800.”²⁴ Similarly, in 2017 Stone Energy Associates and Redwood Energy submitted letters to the CEC advising the commission of the significant net cost savings per unit in multifamily projects due to avoiding costly trenching and gas infrastructure.²⁵

The Berkeley’s Office of Energy and Sustainable Development (OESD) shares the Rocky Mountain Institute’s general outlook on heap pump technology, having years ago

Residential Buildings. Rocky Mountain Institute, June 14, 2018, https://rmi.org/wp-content/uploads/2018/06/RMI_Economics_of_Electrifying_Buildings_2018.pdf

²⁰ *Id.*, p. 29

²¹ *Id.*,

²² *Id.*, p. 9

²³ *Id.*

²⁴ *Id.*, p. 47

²⁵ CEC Docket No. 17-BSTD-01, Letter from Sean Armstrong, Redwood Energy, to CEC Re: 2019 Building Energy Efficiency Standards Pre-Rulemaking, October 11, 2017; CEC Docket No. 16-BSTD-06, Letter from Nehemiah Stone, Stone Energy Associates, to CEC Re: 2019 Building Energy Efficiency Standards Development, April 4, 2017.

officially endorsed heat pumps as a critical means of meeting the goals of envisioned by city's climate action plan.²⁶

The Environmental Protection Agency, Rocky Mountain Institute, and Berkeley's OESD staff, also emphasize the carbon emissions associated with natural gas stemming from methane leaks. For example, methane gas is released into the atmosphere through hydraulic fracking and other drilling methods.²⁷ Transporting and distributing natural gas through pipelines also can lead to additional leaks, explosions and fires.²⁸ According to the EPA, "[p]ound for pound, the comparative impact of CH₄ [methane] is more than 25 times greater than CO₂ over a 100-year period." Consequently, the Rocky Mountain Institute report called upon cities to immediately "[s]top supporting the expansion of the natural gas distribution system, including for new homes." Furthermore, the report cautioned that natural gas "infrastructure will be obsolete in a highly electrified future, and gas ratepayers face significant stranded asset [financial] risk" by staying on natural gas.²⁹

The proposed ordinance prohibits home builders from applying for building permits that include establishing new or connecting to existing gas utility service for heat water, space, food etc. This legislation will have the effect of ushering in all-electric new buildings in the City of Berkeley, avoiding significant new greenhouse emissions and diverting City attention and resources to other critical sources of emissions. The ordinance will also improve indoor and outdoor air quality by eliminating toxic byproducts of natural gas combustion and will help prevent deadly home fires that start from an open flame and are fueled by gas lines. For example, the City of Santa Rosa is actively reconsidering the role of natural gas in new buildings because of the destructive 2017 Tubbs firestorm.³⁰

²⁶ Residential Heat Pump Water Heaters: Replacing a Gas Water Heater, OESD, <https://www.cityofberkeley.info/HPWH/>. According to OESD, heat pumps "use electricity instead of gas and therefore have the potential to use renewable energy...[and] work like a refrigerator in reverse — they use electricity and a refrigerant to take heat from the air and transfer" it to the hot water tank or heating ducts.

²⁷ The Economics of Electrifying Buildings, p. 26.

²⁸ See e.g., Rebecca Bowe, Lisa Pickoff-White, Five Years After Deadly San Bruno Explosion: Are We Safer?, KQED, September 8, 2015, <https://www.kqed.org/news/10667274/five-years-after-deadly-san-bruno-explosion-are-we-safer>; See also, David Siders, Jerry Brown declares emergency around Southern California gas leak, January 6, 2016, <https://www.sacbee.com/news/politics-government/capitol-alert/article53353615.html>.

²⁹ The Economics of Electrifying Buildings, p. 10.

³⁰ Will Schmitt, Santa Rosa council considers requirement for new homes to be independent of natural gas, Press Democrat, November 10, 2018, <https://www.pressdemocrat.com/news/8899687-181/santa-rosa-council-considers-requirement>.

Rapid improvements in electric cooktop technology suggest that the City of Berkeley can simultaneously maintain its rich culinary culture while taking action to reduce fossil fuel emissions.³¹

Emergency action and leadership is needed to prevent the locking in of additional natural gas greenhouse gasses from new buildings. By adopting this ordinance, the City of Berkeley has an opportunity to make further progress towards delivering upon its responsibilities under Measure G, the 2009 Climate Action Plan, Fossil Fuel Berkeley Resolution (as referred), and the Climate Emergency Declaration.

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new building permit regulations.

ENVIRONMENTAL SUSTAINABILITY

Prohibiting natural gas infrastructure in new buildings will prevent the release of significant additional natural gas-related greenhouse gasses from new buildings.

CONTACT PERSON

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

Attachments:

1. Proposed Ordinance Adding BMC Chapter 19.84

³¹ While natural gas ranges are often regarded by home cooks as superior to electric ranges, modern induction range technology offers a cooking experience that arguably provides faster heat response, easier clean up and more temperature precision than gas. See e.g., Cooktop Showdown – Gas vs. Electric vs. Induction, A Finer Touch Construction, <https://aftconstruction.com/cooktop-showdown-electric-vs-gas-vs-induction/>. Appliance manufacturer Samsung introduced a new induction cooktop featuring a “virtual” LED flame that mimics the visual response of a gas flame. See also, 36" Induction Cooktop with Virtual Flame™, Samsung US, <https://www.samsung.com/us/home-appliances/cooktops-and-hoods/induction-cooktops/36--built-in-induction-cooktop-with-flex-cookzone-nz36k7880ug-aa/>.

ORDINANCE NO. –N.S.

ADDING A NEW CHAPTER 19.84 TO THE BERKELEY MUNICIPAL CODE
PROHIBITING NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS EFFECTIVE



BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 19.84 of the Berkeley Municipal Code is added to read as follows:

Chapter 19.84

PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS

Sections:

19.84.010 Findings and Purpose.

19.84.020 Applicability.

19.84.030 Definitions.

19.84.040 Prohibited Natural Gas Infrastructure in New Buildings

19.81.050 Exception.

19.81.060 Severability.

19.81.070 Effective Date.

19.84.010 Findings and Purpose.

The Council finds and expressly declares as follows:

- A. Available scientific evidence suggests that natural gas combustion, procurement and transportation produces significant greenhouse gas emissions that contribute to global warming and climate change.
- B. The following addition to the Berkeley Municipal Code is reasonably necessary because of local climatic conditions as listed below.
 - (1) As a coastal city located on the San Francisco Bay, Berkeley is vulnerable to sea level rise, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, which contribute to melting of glaciers and thermal expansion of ocean water – resulting in rising sea levels.
 - (2) Berkeley is already experiencing the repercussions of excessive greenhouse gas emissions as rising sea levels threaten the City’s shoreline and infrastructure, have caused significant erosion, have increased impacts to infrastructure during extreme tides, and have caused the City to expend funds to modify the sewer system.
 - (3) Berkeley is situated along a wildland-urban interface and is extremely vulnerable to wildfires and firestorms, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons—all of which contribute to the likelihood and consequences of fire.
 - (4) Some subpopulations of Berkeley residents are vulnerable to heat events.
 - (5) Berkeley residents disproportionately suffer from asthma and other health conditions associated with poor air quality due to the combustion of fossil fuel.
- C. The people of Berkeley, as codified through Measure G (Resolution No. 63,518-N.S.), the City of Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), and Berkeley Climate Emergency Declaration (Resolution No. 68,486-N.S.) all recognize that rapid, far-reaching and unprecedented changes in all aspects of society are required to limit global warming and the resulting environmental threat posed by climate change, including the prompt phasing out of natural gas as a fuel for heating and cooling infrastructure in new buildings.
- D. Substitute electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure.
- E. All-electric building design benefits the health, welfare, and resiliency of Berkeley and its residents.
- F. The most cost-effective time to integrate electrical infrastructure is during building construction because workers are already on-site, utility service upgrade costs are lower, permitting and administrative costs are lower, natural gas piping costs are avoided, and it is more cost-effective to include such systems in construction financing.
- G. It is the intent of the council to eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated, thereby reducing the

environmental and health hazards produced by the consumption and transportation of fossil fuel.

19.84.020 Applicability.

- A. The requirements of this Chapter shall apply to all building permit applications for New Buildings proposed to be located in whole or in part within the City. However, it shall not apply to agencies that are not subject to City authority.
- B. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking and heating.

19.84.030 Definitions.

- A. "Greenhouse Gas Emissions" mean gases that trap heat in the atmosphere.
- B. "Gas Service" shall have the same meaning as specified in the Pacific Gas and Electric Company's 2017-2018 Electric & Gas Service Requirements (TD-7001M) Greenbook.
- C. "Natural Gas" shall have the same meaning as "Fuel Gas" as defined in section 208.0 of the California Plumbing Code.
- D. "Natural Gas Infrastructure" shall be defined as new natural gas piping and equipment associated with establishing new, or connecting to existing Gas Service, and appliances fueled by Natural Gas.
- E. "New Building" shall be defined as a new buildings or accessory buildings associated with a valid building permit application on or after the effective date of this chapter.

19.84.040 Prohibited Natural Gas Infrastructure in New Buildings

No building permit shall be issued for the construction of a New Building featuring the installation of new Natural Gas Infrastructure associated with new Gas Service or connection to existing Gas Service.

19.84.050 Exception.

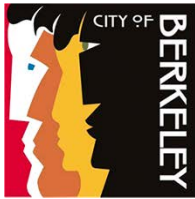
Notwithstanding the requirements of this chapter and the Greenhouse Gas Emissions associated with natural Gas Service and infrastructure, the City Manager or their authorized representative may issue a building permit provided that a majority of the Mayor and Council finds that the permit serves the public interest.

19.84.060 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed 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 City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

19.84.070 Effective date.

The provisions of this chapter shall become effective on [].



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 March 12, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Referral to the City Manager to Include in all Appropriate City Forms a Field for Personal Gender Pronouns, and to Amend the Berkeley Municipal Code to Adopt Gender Inclusive Language

RECOMMENDATION

Refer to the City Manager to:

1. Modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other).
2. Revise the Berkeley Municipal Code, replacing all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

BACKGROUND

In recent years, broadening societal awareness of transgender and gender-nonconforming identities has brought to light the importance of non-binary gender inclusivity. Therefore, it is both timely and necessary to make the environment of City Hall and the language of city legislation consistent with the principles of inclusion.

In a commendable first step, as of February 2019, the City has extended the option to all employees to receive a name badge with preferred pronouns printed alongside professional category.

In following this trend, an optional field for personal pronouns should also be included on any form that is used by the public or new employees. In all instances where such a form currently requires selection of "Female," "Male," or "Decline to State," this designation should be eliminated and replaced with "She/Her," "He/Him," "They/Them," or "Other _____". Forms used by the public or new employees which do not currently have a form for indicating gender should be assessed to determine whether such a field should be added.

The five current Sections of the Berkeley Municipal Code regarding the interpretation of gendered pronouns are inconsistently worded, and three are constructed with an

exclusionary interpretation of gender as binary. Suggested amendments to correct Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 are attached.

Additionally, all instances of personal pronouns throughout the Berkeley Municipal Code should be changed to the neutral gender. For the Charter and those parts of the Code requiring ballot measures to amend, it shall be City policy that any and all revisions placed before the voters of Berkeley for other reasons shall also include amendments to adopt the neutral gender.

FINANCIAL IMPLICATIONS

Limited cost of staff time to implement.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Mars Svec-Burdick, (510) 981-7170

Attachments:

1: Ordinance

2: Merriam-Webster Definition of "they,"

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY MUNICIPAL CODE TO ADOPT GENDER INCLUSIVE LANGUAGE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 1.04.020 is amended to read as follows:

Section 1.04.020 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City of Berkeley:

- A. Gender. The ~~masculine~~ gender neutral pronoun includes the feminine and ~~masculine~~neuter genders, ~~and the neuter gender includes the masculine and feminine.~~
- B. Pronoun Singularity~~Singular and plural.~~ "They/them" shall indicate a singular individual, unless the context indicates the contrary. In most cases, tThe singular number includes the plural and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- D. Use of words and phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

Section 2. That Berkeley Municipal Code Section 4.36.110 is amended to read as follows:

Section 4.36.110 Gender.

"Gender." Whenever a personal pronoun is used in the neutral masculine gender, it shall be deemed to include the feminine and masculine also.;
"They/them" shall indicate a singular individual, unless the context indicates the contrary.

Section 3. That Berkeley Municipal Code is amended to read as follows:

Section 4.38.110 Gender.

"Gender." Whenever a personal pronoun is used in the neutral masculine gender, it shall be deemed to include the feminine and masculine also.

"They/them" shall indicate a singular individual, unless the context indicates the contrary.

Section 4. That Berkeley Municipal Code is amended to read as follows:

Section 4.39.110 Gender.

"Gender." Whenever a personal pronoun is used in the neutral masculine gender, it shall be deemed to include the feminine and masculine also. "They/them"; shall indicate a singular individual, unless the context indicates the contrary.

Section 5. That Berkeley Municipal Code is amended to read as follows:

Section 11.08.050 Construction of genders.

The neutral masculine gender includes the feminine and masculine; ~~the feminine, the masculine and neuter; the neuter, the masculine and feminine.~~ "They/them" shall indicate a singular individual, unless the context indicates the contrary.

Section 6. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

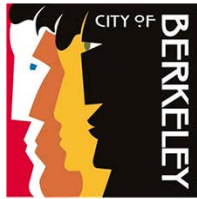
Merriam-Webster Definition of They

they pronoun, plural in construction

\ 'thā \

Definition of they (Entry 1 of 2)

1.
 - a. those ones —used as third person pronoun serving as the plural of he, she, or it or referring to a group of two or more individuals not all of the same sex
 - i. they dance well
 - b. HE entry 1 sense 2 —often used with an indefinite third person singular antecedent
 - i. everyone knew where they stood — E. L. Doctorow
 - ii. nobody has to go to school if they don't want to — N. Y. Times
2.
 - a. PEOPLE sense 2 —used in a generic sense
 - i. as lazy as they come



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 March 12, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Affirming the City of Berkeley's Support for the People of Tibet

RECOMMENDATION

Adopt a resolution affirming support to the people of Tibet. Copies of the resolution are to be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland, and His Holiness the Dalai Lama, Dharamsala, India.

BACKGROUND

The City of Berkeley has a diverse population including many Tibetan Americans. A large part of this population is concerned about human rights and freedom in the United States and around the world. Tibetan Americans, including those residing in the City of Berkeley, have expressed concern at the Chinese Government's (1) travel restrictions against Tibetans and United States citizens; (2) restrictive regulations on religious affairs in Tibet; (3) censorship of Buddhist literature and information in Tibet; (4) demolition of Tibetan Buddhist sites; (5) imprisonment of Tibetan prisoners of conscience; and (6) declarations that "Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China"

On March 10, 2019, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will gather to commemorate the 60th anniversary of the Tibetan National Uprising against the Chinese invasion and occupation of Tibet.

The United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107-228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity.

The City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014.

This resolution would establish March 10th, 2019 as "Tibet Day" in Berkeley, acknowledging the struggles and hardships for Tibetan residents of the City of Berkeley.

[Title of Report]

CONSENT CALENDAR
March 12, 2019

It would also recognize and support current and historic Congressional initiatives on Tibet.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Resolution

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

AFFIRMING THE CITY OF BERKELEY'S SUPPORT FOR THE PEOPLE OF TIBET

WHEREAS, On March 10, 2019, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will gather to commemorate the 60th anniversary of the Tibetan National Uprising against Chinese invasion and occupation of Tibet; and

WHEREAS, the City of Berkeley has a diverse population, including many Tibetan Americans, who are concerned about human rights and freedom in the United States and throughout the world; and

WHEREAS, the United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107-228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity; and

WHEREAS, on October 17, 2007, His Holiness the 14th Dalai Lama was awarded the Congressional Gold Medal in recognition of his many enduring and outstanding contributions to peace, nonviolence, human rights, and religious understanding; and

WHEREAS, the City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014; and

WHEREAS, The State Department's 2017 Country Reports on Human Rights Practices said of the situation in Tibet: "The most significant human rights issues included: disappearances; torture by government authorities; arbitrary detentions, including political prisoners; and government curtailment of the freedoms of speech, religion, association, assembly, and movement"; and

WHEREAS, Tibetan Americans, including those residing in Berkeley City, have been expressing concern at the Chinese Government's:

- (1) travel restrictions against Tibetans and United States citizens;
- (2) restrictive regulations on religious affairs in Tibet;
- (3) censorship of Buddhist literature and information in Tibet;
- (4) demolition of Tibetan Buddhist sites;
- (5) imprisonment of Tibetan prisoners of conscience; and
- (6) declarations that "Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China"; and

WHEREAS, Tibetan Americans residing in California have been facing discriminations at the hands of Chinese consulates while applying for visas to visit Tibet; and

WHEREAS, the Reciprocal Access to Tibet Act (passed by Congress) signed into law by on December 19, 2018 highlights China's attempts to isolate Tibet and seeks to promote access for United States diplomats and other officials, journalists, and other citizens, including Tibetan Americans, to Tibet; and

WHEREAS, since 2009, 155 Tibetans have self-immolated to protest against China's rule in Tibet and most Tibetans publicly call for the return of the Dalai Lama to Tibet;

WHEREAS, the city of Berkeley has a long history of support for Tibet and the Tibetan people; and

WHEREAS, The Berkeley City Council affirms the determination of the Tibetan people in Tibet and outside, including the Tibetan Americans, to retain their heritage and protect it from destruction against overwhelming odds through non-violent and peaceful means.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that March 10, 2019, the 60th anniversary of the Tibetan national uprising, shall be officially recognized as "Tibet Day" and the Tibetan flag shall be raised at the City Hall.

BE IT FURTHER RESOLVED that the Berkeley City Council supports the initiatives on Tibet in the United States Congress.

BE IT FURTHER RESOLVED, that the City of Berkeley stands in solidarity with His Holiness the Dalai Lama, the Tibetan people and their just, peaceful and non-violent movement to remind the world of the occupation and ongoing suppression of human rights and freedom in Tibet and the continuous degradation of culture, religion, land and identity of the Tibetan people by China.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland, and His Holiness the Dalai Lama, Dharamsala, India.



Rent Stabilization Board

INFORMATION CALENDAR

DATE: March 12, 2019

To: Honorable Mayor and Members of City Council

From: Jay Kelekian, Rent Board Executive Director

Subject: Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018

BACKGROUND

On July 25, 2017 Council passed Resolution 68,132 providing a transfer of \$300,000 per year to the Rent Board for fiscal years 2018 and 2019 to amend the Rent Board’s long-standing contracts with the Eviction Defense Center (“EDC”) and the East Bay Community Law Center (“EBCLC”). The additional funding was authorized for the purpose of assisting Berkeley tenants via advocacy and counseling so as to prevent displacement. The funding was earmarked for assistance to tenants categorized with extremely low, very low, low and moderate income.

Council also requested that the Rent Board administer the contract and provide updates on how the additional funding was being utilized and what additional services were being provided to Berkeley residents. This report quantitatively and qualitatively describes the changes in services provided during FY 2018.

HISTORY

With the passage of the Costa-Hawkins Rental Housing Act in 1995, rents began to rise dramatically in Berkeley and neighboring communities as landlords were now given the right to set new tenancies at full market rate. Due to these substantial rent increases,

and the allure of market-rate rents, Council members received numerous reports from constituents that many rent-controlled tenants in Berkeley found themselves being coerced and harassed out of their long-term homes, often through technical and/or “pretextual” evictions.

Starting in 1996 with the East Bay Community Law Center and 2001 for the Eviction Defense Center, the Berkeley Rent Board has been contracting with these two non-profits for the dual purpose of preserving the integrity of the Rent Control Ordinance and preventing unlawful evictions of Berkeley’s most vulnerable low-income tenants. These tenants otherwise would generally not have access to legal services.

In FY 2018, the Rent Board awarded \$142,500 for the EBCLC and \$140,000 for the EDC. The scope of services for the providers as it relates to their contracts with the Rent Board is to provide assistance to low-income tenants in the following manner; eviction defense legal representation, representation at Rent Board proceedings, in-depth legal counseling on local law, and clinics informing tenants of their rights under the rent ordinance.

With the passage of Measure U1, City Council has been able to prioritize measures seeking to preserve affordable housing, prevent homelessness and tackle the displacement of long-term, low and moderate income tenants throughout the city. Resolution 68,132 was passed in furtherance of these goals.

CHANGES IN SERVICES

Prior to the passage of the resolution, Rent Board and city staff met with the contract providers to identify issues and areas of concern that tenants were experiencing when in conflict with their landlords. It was determined that, under the contract with the Rent Board, while the EBCLC and EDC were providing core services in the way of counseling and legal assistance, there was a need for more in-depth, targeted assistance. Outreach to non-English speaking tenants was also identified as a need as was the expansion of the level of full-scale representation for tenants that were either subject to eviction or subject to harassment and/or coercion by their landlord. After extensive consultation with the providers it was determined that while there was benefit in increasing the number of residents served, there was also benefit in greatly expanding the scope and depth of the services provided. It is the offering of this greater depth of assistance that explains why the total of low and moderate income has increased but not doubled.

With the increase in funding, the EDC and EBCLC have now expanded both the breadth of services and the volume of assistance provided to Berkeley tenants. The added funding has also allowed the providers to serve the additional clientele of moderate income tenants and tenants who live in units that are partially exempt from

the Rent Ordinance (i.e. Section Eight, Shelter Plus). As shown below, each provider has not only increased the number of tenants served, but has substantially expanded the level of services provided.

Under the City-funded components of the contract, the EBCLC is now representing tenants in Berkeley Housing Authority and Shelter Plus administrative proceedings, providing assistance to and direct representation of tenants with issues pertaining to the buyout provisions of the Tenant Protection Ordinance (B.M.C. §13.79 et seq.) and assistance and representation for tenants impacted by the Short-term Rental Ordinance (B.M.C. §23C.22.050). As a result of the additional City funding, the EBCLC has increased its staffing for Berkeley tenants by adding one Full-Time Equivalent (1 FTE) staff attorney and roughly .25 FTE for additional administrative and clerical support.

The additional City funding has enabled the EDC to hire one new full-time attorney as well as establish a Berkeley satellite office that now provides instant mobile access and a Berkeley hotline phone number. They have also increased their already robust bi-lingual assistance. The two charts below reflect the services to be provided under the original contract (Rent Board funding) and the revised/expanded contract (City funding).

The numbers in the charts below reflect both the original and revised minimum deliverables for each agency. For ease of comparison, we have revised the categories of services so that the same terms are used when describing each agency's deliverables (actual contract language varies slightly). It should be noted that the charts on the following page have services listed by least labor (*pre-litigation services*) intensive to more/most labor intensive (*L'td scope assistance and full direct representation*). Service providers have reported that cases often flow from a less labor intensive category to a higher category as the case progresses. When this occurs, cases are not double counted and the service agency gets credit in only one reporting category (the most labor-intensive level). The two organizations collaborate very well together and sometimes refer clients to each other in an effort to serve as many meritorious clients as possible. During our monthly review and site visits, we look for overlap of service. If a client is reflected in the same level of service for both agency (generally for *pre-litigation services*), we only count that individual once. If however, a client is reflected in different level of service categories (*pre-litigation services* for Agency A and *L'td scope assistance* for Agency B), we will count it once for each agency because it generally reflects a referral or transfer between agencies.

<u>EBCLC</u>	<u>Original Services With Rent Board Funding</u>	<u>Expanded Services With City Funding (supplemental services/added)</u>
		limited to low-income tenants covered by Rent Control Ordinance
Funding	\$142,500	\$292,500
Pre-litigation services	300 clients per year	320 clients per year
Lt'd Scope/Pro-per Assistance	36 cases	156 cases
Direct Representation	18 cases	58 cases

<u>EDC</u>	<u>Original Services With Rent Board Funding</u>	<u>Expanded Services With City Funding (supplemental services/added)</u>
		limited to low-income tenants covered by Rent Control Ordinance
Funding	\$140,000	\$290,000
Pre-litigation services	50 clients per year	50 clients per year
Lt'd Scope/Pro-per Assistance	250 cases	430 cases
Direct Representation	60 cases	60 cases
In depth/Resource intensive/ Short of representation		15 (ongoing) cases In-depth services/resource intensive
		**Berkeley satellite office/ Hot-line/increased outreach to non- **English speaking community

TRACKING AND AUDITING OF PROVIDERS

Prior to the additional City funding provided to the EDC and EBCLC, the Rent Board had been monitoring these contracts since their inception. During the course of FY 2018, Rent Board staff monitored the contracts to ensure that the providers were meeting their newly targeted and contracted service levels. The EDC provides monthly reports and the EBCLC provides quarterly reports, both of which provide detailed activity of actual services provided. Prior to payment, the Rent Board reviews these reports for accuracy and to ensure that contract goals are being met. In addition, the Board reviews the invoices and detailed reports to ensure that there is no duplication of services between the providers. Rent Board staff conducts site visits to review case files to ensure contract compliance and validate the accuracy of the reported services. Both the EBCLC and the EDC met their service deliverable goals for FY 2018 and are continuing their reporting into FY 2019.

DEMOGRAPHICS FOR FY 2017/18

Below are demographics showing the diversity of the population that has been served under the contracts during FY 2017/18.

	EDC	EBCLC
African-American	42%	39%
Latino	16%	8%
Asian	9%	4%
Elderly	25%	29%
Disabled	38%	15%
Minor in Household	27%	not reported
Long-term Tenant	54%	not reported

Several councilmembers have asked for examples of the types of services provided under the contracts. The following is a small sample of some of the cases where the EDC and EBCLC reported having provided representation/assistance.

EDC #1: Mr. B. (81) and Ms. W (75)

In one case, the Eviction Defense Center [EDC] received an urgent phone call from a Berkeley public health care provider. The woman was alarmed after seeing a very disabled 75 year old woman with an 81 year old partner in her clinic. She believed that the very elderly and frail couple was being evicted from their home of 16 years for hoarding, and the Berkeley Fire Department was inspecting the premises in three days.

The EDC immediately dispatched an attorney and caseworker to meet with the clients. After gaining the trust of the clients they were able to see the apartment, which was in an extremely dangerous and unhealthy condition. All pathways, windows, doors, and heaters were blocked. Neighboring tenants expressed their concern about the extreme fire hazard and their sympathy for the elderly and disabled tenants. They also explained that the landlord had tried everything to get the premises under control, but was at his wits' end.

After intense counseling sessions, the EDC was able to get the clients' permission to do a full clean-up operation starting the next morning and within 48 hours, three dumpsters were filled and carted off the premises. The neighboring tenants and the landlord were extremely relieved when the premises passed the Fire Department Inspection the next day.

The EDC conducted regular home visits and mini-clean ups at the premises to ensure the health and safety of all tenants in the building. Most importantly, the efforts of the EDC have helped keep two very elderly and disabled long term tenants in their home.

EDC #2: Ms. G.

Ms. G came to the EDC with an eviction notice for nuisance. After over an hour meeting with an EDC attorney, it became apparent that she was suffering from PTSD. The attorney was able to gain her trust and confidence enough to discover that she was a rape and domestic violence survivor. The nuisance behavior appeared to be related to her PTSD symptoms.

The EDC immediately reached out to the attorney representing the landlord and made a written reasonable accommodation request. The landlord's attorney admitted that they did not want to evict Ms. G because they could tell she was suffering from mental illness, but her behavior was leaving them no choice.

Because of an excellent working relationship with this particular landlord and their attorney, the EDC was able to obtain additional time to resolve this case. During this time, the EDC was able to foster a strong client relationship, by having consultations with Ms. G a minimum of three times each week regarding legal issues pertaining to her housing.

Within a week, the attorney for the landlord reached out and said "I don't know what you are doing...but keep doing it! Since your agency got involved, she has not been bothering anyone! We are rescinding the eviction notice."

For the next several months, EDC staff worked with Ms. G with routine check-ins. As a result, her housing is no longer in jeopardy. The staffing needed to provide this type of

ongoing support to one of the most vulnerable members of the Berkeley community, is made possible by the City Council grant.

EDC #3: **Mr. R.**

Mr. R was a long-term tenant paying \$760.00 per month and who was being evicted for non-payment of rent. His management company was well known in Berkeley for engaging in predatory practices, especially directed towards vulnerable and long-term tenants.

Mr. R., who was in his late 70's, had just finished treatments for cancer and during this time, fell behind in rent. The treatments had left him weak and easily confused.

The EDC immediately reached out to EBCLC for a rent grant and reached out to the attorney for the other side and offered to pay all of the rent. The attorney for the landlord responded that the only settlement option would be if Mr. R vacated.

After extensive litigation which lasted several months, EBCLC had the rent grant approved, but the landlord refused to accept it and kept insisting that Mr. R leave his home. After the 3rd court appearance and on the eve of jury trial and after almost 100 attorney hours, the landlord finally agreed to let Mr. R. stay in his home. A stipulation was drafted, rent was paid, and the case was dismissed. The EDC still keeps in touch with Mr. R on a regular basis to make sure that he is doing well.

The following is a sample of some of the cases where the EBCLC has assisted and represented tenants:

EBCLC #1: **Ms. A.**

Ms. A is a 75-year-old disabled woman who has been living in her apartment for 18 years. Her only source of income is social security and she would be homeless if she lost her affordable housing. In September 2017 she was removed from the property by the police and involuntarily hospitalized due to erratic behavior that was disturbing the neighbors. While she was in the hospital, the landlord filed an eviction lawsuit against her and took a default judgment, obtaining a writ of eviction to be executed by the sheriff. After being notified of the case, EBCLC was able to locate Ms. A at a hospital in Hayward. EBCLC filed an application to stay (delay) the eviction to give them time to investigate. After considerable collaboration with the tenant's medical providers, EBCLC discovered that the tenant's disturbing conduct was related to a change in her medications. EBCLC successfully moved the court to set aside the default judgment and then negotiated a settlement allowing Ms. A to return to her home and continue her tenancy after she was stabilized and released from the hospital.

EBCLC #2: Ms. D.

Ms. D is an 81-year-old African American woman who has lived in her apartment for more than 30 years. Her landlord served her with a notice of lease violation and threatened her with eviction due to excessive clutter in her rental unit allegedly causing a fire hazard. EBCLC staff visited the property and found that the tenant's personal property, accumulated over the course of 30 years, had filled the small apartment nearly to the ceiling in every room. EBCLC attorneys negotiated with the landlord for an extension of time to remedy the situation and assigned a social worker to work with the tenant. The social worker and EBCLC staff have been helping Ms. D. over the course of several weeks to sort her possessions and bring the apartment into compliance with applicable codes. They are also working with her to secure continuing appropriate services to allow this senior to remain in her home and continue to live independently. The eviction lawsuit has been averted and the tenancy has been preserved.

EBCLC #3: Mr. H.

Mr. H is a 69 year old disabled veteran living in a single room occupancy hotel. His only source of income is veterans' benefits and he is at high risk of homelessness if he were evicted from his home. His landlord filed an eviction lawsuit against him claiming he was making too much noise but never served him with the summons and complaint. Because he was never served with the lawsuit, he did not legally respond and the landlord obtained a default judgment and writ of eviction.

The first notice that he received of the eviction was the notice posted on his door by the Alameda County Sheriff's office, stating that they would be removing him from the premises in eleven days. EBCLC helped him file a motion to delay the sheriff's lockout by 40 days. This allowed the EBCLC to file another motion to overturn the default judgment. After prevailing on that motion, EBCLC filed an answer on the tenant's behalf. Finally, EBCLC filed a motion which resulted in the landlord dismissing the case, thus preserving his tenancy.

CONCLUSION

With the passage of Resolution 68,132, the City has not only made necessary legal

services more available to tenants but has expanded the breadth and scope of those services so as to enable those who are most at risk of losing their relatively affordable housing maintain their homes.

The funding provided by the City covers fiscal years 2017/18 and 2018/19. While this report only covers the period through June 30, 2018, both agencies have met their targeted service goals for last fiscal year. The Rent Board's Eviction Committee met with the service providers last spring to discuss how the changes to the contract worked in FY 2018 and if any modifications were desired for the current fiscal year. The committee, staff and both of the service providers agreed to continue with no modifications in FY 2019. The Rent Board will continue to monitor the contract and services and provide additional updates as appropriate.



[Commission Name]

INFORMATION CALENDAR

March 12, 2019

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission

Subject: Code Enforcement Review Update

INTRODUCTION

The Housing Advisory Commission wishes to inform the City Council that Jenny McNulty, as the new Resilient Buildings Program Manager, has graciously committed to attending a future Housing Advisory Commission Meeting or Housing Advisory Subcommittee meeting (to be determined) to discuss:

- The Commission's code enforcement oversight role with respect to the code enforcement responsibilities of the Housing Inspection Section and Community Services.
- The new manager's views on how the Commission can best implement that role with respect to the code enforcement responsibilities of the Housing Inspection Section and Community Services.
- The City Council referral to strengthen the Residential Housing Safety Program
- The Seismic Retrofit program

The meeting will occur within approximately the first three months of the new Manager's tenure. The details of scheduling the meeting will be worked out with the help of the Commission Secretary in consultation with the Commission.

CURRENT SITUATION AND ITS EFFECTS

With this action, the Commission is beginning to implement its code enforcement oversight duties as defined in the ordinance that establishes the Commission. See below for more details.

The Commission supported sending this information item with the following vote:

Action: M/S/C (Lord/Johnson) to send an information report to the City Council regarding the Commission's upcoming meeting with the Resilient Buildings Program Manager to discuss:

- The Commission's code enforcement oversight role;
- The new manager's views on how the Commission can best implement that role;

- The City Council referral to strengthen the Residential Housing Safety Program; and
- The Seismic Retrofit program.

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

BACKGROUND

Berkeley Municipal Code 19.44.020(B) items (5) and (6) assign limited oversight duties to the Housing Advisory Commission:

5. The Commission shall make recommendations to the City Council regarding code enforcement priorities.

6. The Commission shall monitor code enforcement procedures to ensure adherence to Council policies and shall make recommendations for changes in such procedures to the City Council.

The Commission has no currently established practice for performing those duties, and has begun the work of creating such a practice.

"Code enforcement" related to housing extends beyond just the activities that will be overseen by the new Resilient Buildings Program Manager, but that manager will oversee some critical activities.

Our hope in meeting with the new manager is to share our perspectives, develop mutual understandings, and to begin to establish an efficient, effective, mechanism by which the Commission can *"monitor code enforcement procedures to ensure adherence to Council policies and shall make recommendations for changes in such procedures to the City Council."*

ENVIRONMENTAL SUSTAINABILITY

No significant impact.

POSSIBLE FUTURE ACTION

This activity may later result in recommendations to the City Council on the basis of the Commission's findings from reviews of code enforcement procedures.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Possible indirect benefit from helping to ensure code enforcement activities are appropriately prioritized.

CONTACT PERSON

Amy Davidson, Commission Secretary, HHCS, (510) 981-5406

Upcoming Workshops – <i>start time is 6:00 p.m. unless otherwise noted</i>	
Scheduled Dates	
March 19	<ol style="list-style-type: none"> 1. FY 2020 – FY 2021 Budget Update 2. Crime Report 3. Qualified Opportunity Zones
May 7	<ol style="list-style-type: none"> 1. Proposed FY 2020 – FY 2021 Budget 2. Zero Waste Rate Review 3. Bond Disclosure Training
June 18	<ol style="list-style-type: none"> 1. Transfer Station Feasibility Study 2. Green Stormwater Infrastructure
Sept. 17	<ol style="list-style-type: none"> 1. Vision Zero Action Plan 2. UC Berkeley Student Housing Plan

Unscheduled Workshops
<ol style="list-style-type: none"> 1. Cannabis Health Considerations

Unscheduled Presentations (City Manager)
<ol style="list-style-type: none"> 1. Measure T1 Project Prioritization (Action Calendar) 2. Parks, Recreation, and Waterfront CIP Update (Budget Presentation) 3. Public Works CIP Update (Budget Presentation) 4. AC Mosquito Abatement District (presentation by the District, March 12 - tentative) 5. East Bay Municipal Utility District (presentation by the District, May 28 - tentative)

	City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling
1.	<p>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley <i>(Referred from the July 24, 2018 agenda)</i> From: Housing Advisory Commission Recommendation: That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley. Financial Implications: See report Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley <i>(Referred from the July 24, 2018 agenda)</i> From: City Manager Recommendation: Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley. Financial Implications: See report Contact: Dee Williams-Ridley, City Manager, 981-7000</p>
2.	<p>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance <i>(Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.)</i> From: Councilmember Worthington Recommendation: Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties. Financial Implications: Minimal Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>
3.	<p>4. Disposition of City-Owned, Former Redevelopment Agency Properties at 1631 Fifth Street and 1654 Fifth Street <i>(Referred from the September 25, 2018 agenda)</i> From: City Manager Recommendation: 1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF). 2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale. Financial Implications: See report Contact: Kelly Wallace, Housing and Community Services, 981-5400</p>

CITY CLERK DEPARTMENT				
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL				
Address	Board/ Commission	Appeal Period Ends	Determination on Appeal Submitted	Public Hearing
NOD – Notices of Decision				
Public Hearings Scheduled				
2701 Shattuck Ave (construct 5-story mixed-use building)	ZAB			3/12/2019
1722 Walnut St (permit a ninth dwelling unit)	ZAB			3/26/2019
1050 Parker St (Medical Office Building/Initial Study-Mitigated Negative Declaration)	ZAB			4/30/2019
2700 Tenth St (Pardee Parking Lot)	ZAB			4/30/2019
1444 Fifth St (construct four single-family dwellings)	ZAB			5/14/2019
Remanded to ZAB or LPC				
1155-73 Hearst Ave (develop two parcels) 90-Day Deadline: April 29, 2019	ZAB			
Notes				

Last Updated: 2/20/2019



Office of the City Manager

ACTION CALENDAR
February 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk
Farimah Brown, City Attorney

Subject: Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers

RECOMMENDATION

Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This report responds to a short term referral that originally appeared on the agenda of the September 13, 2018 Council meeting and was sponsored by Councilmember Wengraf, Mayor Arreguin, and Councilmember Hahn.

The referral requested that the City Manager consider the following suggestions for eligibility requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations.

- Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment.
- City government experience
- Council District residency
- Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required in the City Charter for City Councilmembers.
- In addition, consider requiring Councilmembers to nominate three people in a single action.

The proposed policy in the attached resolution incorporates all of these suggestions except for the requirement for Council District residency. The requirement for district residency was not included as it would conflict with the state codes governing standby

officers. The code allows for standby officers to be residents of another political subdivision. The reason for this is that a severe local emergency event that results in the unavailability of a Councilmember will have a higher likelihood of impacting the availability of a standby officer if that standby officer is from the same immediate area.

California Government Code Section 8639

The qualifications of each standby officer should be carefully investigated, and the governing body may request the Director of Emergency Services to aid in the investigation of any prospective appointee. No examination or investigation shall be made without the consent of the prospective appointee.

Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship. Standby officers may be residents or officers of a political subdivision other than that to which they are appointed as standby officers.

The policy includes trainings in the same areas as trainings that Councilmembers receive: AB1234 (Ethics), Harassment prevention, Brown Act, Conflict of Interest, and roles and responsibilities in an emergency.

The policy also now requires that the standby officer be 18 years of age or older and a registered voter.

If the updated policy is adopted by the Council, the City Clerk Department, City Attorney's Office, and the Human Resources Department will coordinate to ensure that the eligibility criteria are met and that the background checks and trainings are completed.

Previously approved standby officers will be required to meet all training requirements of the updated policy.

BACKGROUND

On March 14, 1995, the Council adopted Resolution No. 57,906-N.S., designating a procedure for the selection of Standby Officers for City Councilmembers in the event of an emergency. This procedure is part of the City's emergency preparedness planning and ensures that in the case of a disaster or other catastrophic emergency causing the unavailability of one or more members of the Council (or Standby Officers where a Councilmember is unavailable), government can continue to function. Under state law, a Councilmember or Standby Officer is "unavailable" when he or she is "either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform his [or her] duties." (Govt Code § 8636.)

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This recommendation is in response to a referral from the City Council. Standby Officers are an essential part of any fully developed emergency plan in order maintain the continuity of government in an emergency.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900
Farimah Brown, City Attorney, 981-6998

Attachments:

1: Resolution

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

DESIGNATING PROCEDURE FOR SELECTION OF STANDBY OFFICERS FOR CITY COUNCILMEMBERS IN THE EVENT OF A DISASTER AND RESCINDING RESOLUTION NO. 57,906-N.S.

WHEREAS, the California Emergency Services Act, Government Code sections 8550, et seq., which sets out basic state procedures for declaration of emergency, includes a section "Preservation of Local Government," which provides various methods of insuring that in the case of a catastrophic emergency, in which it is possible that members of a governing body become unavailable, government can be reconstituted and continue until regular elections can be held; and

WHEREAS, the Act envisions reconstitution of the governing body through the predesignation of three standby officers for each Councilmember which may be appointed by the City Council, and who may substitute for the elected official if he or she were unavailable; and

WHEREAS, the Act provides some procedures but does not spell out the method of selection and ratification in all respects; and

WHEREAS, the Act further provides that the qualifications of each standby officer should be carefully investigated but does not mandate what the qualifications should be.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the following procedure for appointment of Standby officers is adopted:

1. No person who has been convicted of the crimes of bribery, malfeasance in office, violation of Government Code Section 1090 or the Political Reform Act shall be eligible to be a Standby Officer.

2. Each Councilmember shall identify three potential standby officers for that Councilmember, shall obtain written consent for each person being named, shall designate each proposed officer as No. 1, 2 or 3, and shall submit the name of each person to the City Manager by April 30, 2019.

3. The initial nomination of all three standby officers must be done in a single action.

4. The City Manager shall investigate the qualification of each proposed standby officer, and shall submit the names of those proposed standby officers as to whom the investigation verified their qualifications to the City Council.

5. The names of the proposed, investigated and approved standby officers shall be submitted to the City Council as a whole for final approval.

6. In addition, the standby officer must possess city government experience, be 18 years of age or older and a registered voter, and complete the following trainings within six months of his or her approval by the City Council:
 - a. Training in roles and responsibilities to serve as a standby officer.
 - b. Training in Ethics as mandated by AB 1234
 - c. Training in Conflict of Interest restrictions and disclosures
 - d. Training in the requirements of the Brown Act
 - e. Training in Workplace Harassment Prevention.

BE IT FURTHER RESOLVED that Resolution No. 57,906-N.S. is hereby rescinded.

