



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

**TUESDAY, JUNE 1, 2021
2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf
Alternate: Councilmember Lori Droste

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Agenda & Rules Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/85944483096>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and Enter Meeting ID: **859 4448 3096**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: May 17, 2021**
2. **Review and Approve Draft Agenda:**
 - a. 6/15/21 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory**

Scheduling

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

Referred Items for Review

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

Unscheduled Items

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

Items for Future Agendas

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

Adjournment – Next Meeting Monday, June 14, 2021

~~~~~

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

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

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

*If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

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

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting.*

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



### **COMMUNICATION ACCESS INFORMATION:**

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

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 27, 2021.



Mark Numainville, City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



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

**MONDAY, MAY 17, 2021**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Agenda & Rules Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/82547047106>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and Enter Meeting ID: **825 4704 7106**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

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

**Public Comment** – 6 speakers

## **Review of Agendas**

**1. Approval of Minutes: May 10, 2021**

**Action:** M/S/C (Wengraf/Hahn) to approve the minutes of 5/10/21.

**Vote:** All Ayes.

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

a. 6/1/21 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Hahn) to approve the agenda of 6/1/21 with the changes noted below.

- *Item Added: Bay Area Community Land Trust (Arreguin)*
- *Item Added: Civic Center (Arreguin) – Councilmember Hahn added as co-sponsor*
- *Item Added: Berkeley Rep (Hahn) – Mayor Arreguin added as a co-sponsor*
- *Item 6 AB 1139 (Arreguin) – Revised item submitted; Councilmembers Wengraf and Hahn added as co-sponsors*
- *Item 7 Anti-Displacement (Arreguin) – Councilmembers Hahn, Bartlett, and Harrison added as co-sponsors*
- *Item 8 Landlord Incentives (Arreguin) – Councilmembers Harrison, Kesarwani, and Taplin added as co-sponsors*
- *Item 13 Gas Shut Off Valves (Commission) – Moved to Consent Calendar*
- *Item 15 Street Maintenance (Harrison) – Revised item submitted; Councilmembers Bartlett and Taplin added as co-sponsors*
- *Item 16 Housing Authority (Arreguin) – Moved to Consent Calendar*
- *Item 17 Electrification (Harrison) – Councilmember Bartlett added as a co-sponsor; referred to the Budget & Finance Committee*

Order of Items on Action Calendar

Item 10 Budget Public Hearing

Item 11 ZAB Appeal Public Hearing

Item 12 Police Board

Item 14a/b Sugar-Sweetened Beverages

Item 15 Street Maintenance

**Vote:** All Ayes.

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

- None selected

**4. Adjournments In Memory**

- Marin Avenue Fatal Crash Victims Anthony Rollins and Ruby Edwards

## Scheduling

**5. Council Worksessions Schedule**

- Added a tentative presentation from the Bay Restoration Authority on 12/7/21

**6. Council Referrals to Agenda Committee for Scheduling – received and filed**

**7. Land Use Calendar – received and filed**

## Referred Items for Review

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

**Action:** 4 speakers. No action taken.

**9. Discussion of the Implementation of Appendix D of the City Council Rules of Procedure**

**Action:** 1 speaker. Discussion held. No action taken.

## Unscheduled Items

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

## Items for Future Agendas

- Request to add an item on the June 1 agenda related to holding in person meetings of city legislative bodies.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 3:42 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on May 17, 2021.

---

Mark Numainville  
City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



## DRAFT AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, June 15, 2021  
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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

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

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: <<INSERT MEETING ID HERE>>. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

### Roll Call:

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

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

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

## Consent Calendar

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

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

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

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

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

## Consent Calendar

- 1. Lease Agreement: 2010 Addison Street at Center Street Garage with Vito Loconte and Alexie LeCount DBA Lexie's Frozen Custard**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,763-N.S. authorizing the City Manager to execute a lease agreement for 2010 Addison Street at the Center Street Garage with Vito Loconte and Alexie LeCount DBA Lexie's Frozen Custard, a sole proprietorship, for an initial term of ten (10) years with one optional five-year lease extension AND approve payment of a commission of \$9,331.23 to Colliers International for commercial brokerage fees for locating a tenant for the premises.  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300
- 2. Amend BMC 14.72.105**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,764-N.S. amending BMC 14.72.105 Neighborhood-Serving Community Facility Permits, to allow a broader range of community facilities to be eligible for parking permits.  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## Consent Calendar

- 3. Referral Response: Path to Permanence: Outdoor Dining and Commerce in the Public Right-of-Way**  
**From: City Manager**  
**Recommendation:** Take the following actions to allow for increased outdoor dining and commerce to be permitted permanently in the public right-of-way:

  1. Adopt first reading of an Ordinance revising BMC Section 14.48.190 Parklets and BMC Section 16.18 Right of Way Encroachments and Encroachment Permits to simplify the permitting process for the conversion of temporary parklets and outdoor commerce installations after a declared local emergency; and
  2. Adopt first reading of an Ordinance revising BMC Section 14.48.150 Sidewalk Seating to expand the areas and scope of activities that may be permitted via a sidewalk seating permit (a type of engineering permit) after a declared local health emergency, implement a new fee for the use of parking spaces for commercial activity; and
  3. Adopt a Resolution empowering the City Manager to implement a fee schedule for structures and activities permitted in the public right of way permitted under BMC Sections 14.48.190 Parklets, 14.48.150 Sidewalk Seating after the declaration of a local emergency lapses or is revoked. The resolution extends the current fee waivers for application, review, and use fees for structures and activities permitted in the public right of way permitted under BMC Sections 14.48.190 Parklets, 14.48.150 Sidewalk Seating and 13.44 Street Events and Block Parties from June 30, 2021, to instead coincide with the cessation of the declared local health emergency.

**Financial Implications:** See Report  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 4. Temporary Appropriations FY 2022**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2021, until the effective date of the FY 2022 Annual Appropriations Ordinance.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 5. FY 2022 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0059%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 6. FY 2022 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0135%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. FY 2022 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0088%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 8. FY 2022 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for Business License Tax on large non-profits at \$0.7041 (70.41 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. FY 2022 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at an annual rate of \$0.1047 (10.47 cents) per square foot of improvements and \$0.15705 (15.705 cents) for the 18-month period from January 1, 2021 to June 30, 2022.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300, Abe Roman, Fire, (510) 981-3473
- 10. FY 2022 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1896 (18.96 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 11. FY 2022 Special Tax Rate: Fund the Provision of Library Services**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding the provision of Library Services in the City of Berkeley at \$0.2402 (24.02 cents) per square foot for dwelling units and \$0.3632 (36.32 cents) per square foot for industrial, commercial, and institutional buildings.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 12. FY 2022 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding the provision of emergency services for the disabled at \$0.02378 (2.378 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 13. FY 2022 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0170%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 14. FY 2022 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0077%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 15. FY 2022 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.06151 (6.151 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.09308 (9.308 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 16. FY 2022 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2022 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0412 (4.12 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 17. Designate the Line of Succession for the Director of Emergency Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the designated line of succession to the position of Director of Emergency Services in the event of an officially declared disaster, and rescinding Resolution No. 69,245-N.S.  
**Financial Implications:** None  
Contact: Abe Roman, Fire, (510) 981-3473
- 18. Revenue Grant: Funding Support from Alameda County to Public Health Infrastructure Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to Alameda County, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Public Health Infrastructure Program in the projected amount of \$32,080 for Fiscal Year (FY) 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

- 19. Housing Trust Fund Predevelopment Loan Advance for Maudelle Miller Shirek Community (2001 Ashby Avenue)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing an advance of \$1.5 million in Measure O funds to Maudelle Shirek L.P. for costs related to predevelopment of the Maudelle Miller Shirek Community, located at 2001 Ashby Avenue. 2. Clarifying that the City may execute the development contract for Maudelle Miller Shirek Community for the remaining Measure O funds prior to the second issuance of the bond. 3. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 20. Contract No. 31900254 Amendment: Easy Does It to Provide Emergency Disability Services and Audit Recommendation Update for Fiscal Year 2022 – 2023**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving an amendment to Contract No. 31900254 to continue funding for Easy Does It (EDI) for Fiscal Year (FY) 2022 and FY 2023 using Measure E funds to provide emergency disability services. The City Manager will include language in the contract that stipulates that any outstanding recommendations from the May 1, 2018 report from the City of Berkeley Auditor, Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons, must be implemented and that if EDI does not satisfactorily implement and sustain the audit recommendations, the City reserves the right to not recommend continued funding to EDI and may release a new request for proposals for Measure E funds.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 21. Revenue Grant Agreement: Funding Support from the State of California for the Tuberculosis Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to the State of California, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Tuberculosis Control Program in the projected amount of \$14,000 for Fiscal Year (FY) 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400



## Consent Calendar

- 22. Revenue Contract: Community Services Block Grant Discretionary Funding for Contract Number 21F-4403 to Provide Services for Low-Income People**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Accept the Community Services Block Grant (CSBG) Contract Number 21F-4403 for the amount of \$28,250 to provide services for low-income people for the period June 1, 2021 through May 31, 2022, and 2. Execute one or more expenditure contracts totaling \$28,250 assistance and services for homeless households, including flexible funding for rental assistance, move-in costs for clients assisted with rental assistance, hygiene services and supports such as portable toilets and handwashing stations or shower and laundry services, supplies for unhoused residents distributed by outreach teams, and/or other COVID-19-related services for low-income individuals as needed.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 23. Contract No. 32100044 Amendment: Renne Public Law Group LLP for Chief Labor Negotiator Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 321000444 increasing contract amount by \$100,000 with Renne Public Law Group LLP for Chief Labor Negotiator services, for a revised total contract amount not to exceed \$150,000.  
**Financial Implications:** General Fund - \$100,000  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 24. Contract No. 10851 Amendment: Bryce Consulting, Inc. for Professional Classification Studies, Compensation Surveys and Desk Audits**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10851 increasing the contract amount by \$53,000 with Bryce Consulting, Inc. for Professional Classification Studies, Compensation Surveys and Desk Audit services, for a revised total contract amount not to exceed \$102,999 through December 31, 2023.  
**Financial Implications:** General Fund - \$53,000  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 25. Contract No. 9649D Amendment: Sloan Sakai, LLP for Chief Labor Negotiator Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9649 increasing the contract amount by \$215,000 with Sloan Sakai, LLP for Chief Labor Negotiator services, for a revised total contract amount not to exceed \$665,000.  
**Financial Implications:** General Fund - \$215,000  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

## Consent Calendar

- 26. Contract: Get IT Tech for a New Electronic Gate System at the Waterfront**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Get IT Tech to provide a new electronic gate system at the Waterfront in an amount not-to-exceed of \$73,458, which includes a contract amount of \$61,215 and a 20% contingency in the amount of \$12,243.  
**Financial Implications:** Marina Fund - \$73,458  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 27. Contract: Community Conservation Centers, Inc. for Processing and Marketing Services of Recyclable Materials**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a new Contract with Community Conservation Centers, Inc. (CCC) for the sorting and marketing of residential and commercial curbside collected recyclables, and the recycling drop-off and buyback centers. The contract term is five (5) years, commencing July 1, 2021 through June 30, 2026, with an option to extend by mutual agreement for another five (5) years, commencing July 1, 2026 through June 30, 2031, for a total contract amount not to exceed \$30,080,793 for a ten year period.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300
- 28. Contract: Ecology Center, Inc. for the Residential Curbside Recycling Collection**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a new contract with Ecology Center, Inc. for the collection of residential curbside recycling and delivery of these recyclable materials to Berkeley Recycling for processing and marketing. The contract term is five (5) years, commencing July 1, 2021 through June 30, 2026, with an option to extend by mutual agreement for another five (5) years, commencing July 1, 2026 through June 30, 2031, for a total contract not to exceed amount of \$54,528,752 for the ten year period.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300

## Consent Calendar

- 29. Contract No. 111976-1 Amendment: HF&H Consultants, LLC for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 111976-1 with HF&H Consultants, LLC to increase the current contract by \$50,000 for a total not to exceed amount of \$250,000 and to extend the contract term to June 30, 2023 for the Development and Update of a Zero Waste Rate Model.  
**Financial Implications:** Zero Waste Fund - \$50,000  
Contact: Liam Garland, Public Works, (510) 981-6300
- 30. Contract No. 120470-1 Amendment: Fairbanks Scales, Inc. for Preventative Maintenance and Repairs at the City's Solid Waste Management and Transfer Station**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No.120470-1 with Fairbanks Scales, Inc. for preventative maintenance and repairs on the various scales at the City's Solid Waste Management and Transfer Station, extending the contract term by two years to June 30, 2025, and increasing the contract amount by \$150,000 for a total contract amount not to exceed \$340,000.  
**Financial Implications:** Zero Waste Fund - \$150,000  
Contact: Liam Garland, Public Works, (510) 981-6300
- 31. Support of Assembly Bills 881, 1454 & 1276**  
**From: Zero Waste Commission**  
**Recommendation:** 1. Support Assembly Bill 881 (Plastic Waste Exports) which closes an existing loophole in California law that allows mixed plastic exports to be counted as recycling regardless of their ultimate destination, which is often overseas landfills, incinerators, or waterways, and send a letter expressing the City Council's support to Assemblymember Gonzalez.  
2. Support Assembly Bill 1454 (Bottle Bill Modernization) which helps keep recycling centers open and provides much-needed support for new centers to open in areas where there are not enough centers to serve consumers, including rural and urban areas, and send a letter expressing the City Council's support to Assemblymember Bloom.  
3. Support Assembly Bill 1276 (Unnecessary Food Serviceware) which expands plastic straws upon-request law to include other single-use food accessories, other food facilities, and third-party delivery platforms – including food that is taken away, delivered, or served on-site - and send a letter expressing the City Council's support to Assembly Member Carrillo.  
**Financial Implications:** None  
Contact: Heidi Obermeit, Commission Secretary, (510) 981-6300

## Council Consent Items

- 32. Support for AB-279 (Muratsuchi) Intermediate care facilities and skilled nursing facilities: COVID-19**  
**From: Councilmember Bartlett (Author), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** That the Mayor and Council adopt a Resolution in support of AB-279 (Muratsuchi) Intermediate care facilities and skilled nursing facilities: COVID-19, the Council should send copies of the Resolution Supporting AB-279 and letters supporting AB-279 to the Senate Health Committee, Senator Skinner, Assemblymembers Muratsuchi, Santiago, Wicks, and Governor Newsom.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 33. Letter of Opposition Unless Amended on SB 9**  
**From: Councilmember Wengraf (Author), Councilmember Harrison (Author)**  
**Recommendation:** Pass a resolution and send a letter to Senators Atkins, Caballero, Rubio, Wiener and Skinner, Assemblymember Wicks and Governor Newsom, expressing the Berkeley City Council's concerns about SB 9: Housing development: Approvals (Atkins) as drafted, and state our opposition to the bill unless it is amended to address these specific concerns.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## 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 use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

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

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

## 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.*

- 34. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.  
**Financial Implications:** None  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 35. Levy and Collection of Fiscal Year 2022 Street Lighting Assessments**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion adopt two Resolutions confirming the assessment for the Berkeley Street Lighting Assessments District No. 1982-1 and the Street Lighting Assessment District 2018, approving the Engineer's Reports, and authorizing the levying and collection of assessments in Fiscal Year 2022.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300

## Action Calendar – Old Business

- 36. Systems Alignment Proposal (Continued from May 18, 2021)**  
**From: City Manager**  
**Recommendation:** Review the proposal for systems alignment and provide edits and suggestions in order to compile Council feedback for the purpose of drafting a revised proposal for adoption.  
**Financial Implications:** See report  
**Contact:** Dave White, City Manager's Office, (510) 981-7000

## Action Calendar – Old Business

- 37. Commission Reorganization for Post-COVID19 Budget Recovery** *(Reviewed by the Agenda & Rules Committee) (Continued from May 25, 2021)*  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.  
Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report table. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.  
2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.  
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.  
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.  
5. Refer to City Manager and Commissions the following additional considerations:  
a. Federal, state or other external mandates that might be impacted, and determine how to handle. b. Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted c. What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter. d. Whether the merged Commission might include 9, or a greater number of members. e. The possibility of requiring specific qualifications for appointment to the merged Commission. f. The possibility of recommended or required Standing Committees of the Merged Commission g. Volunteer workload and capacity given scope of Commission's charter.  
*Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop*

## Action Calendar – Old Business

*recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations”*

*- Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission’s charter.*

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

## Action Calendar – New Business

- 38. City Council Comments on the FY 2022 Proposed Biennial Budget**  
**From: City Manager**  
**Recommendation:** Provide comments on the FY 2022 & FY 2023 Proposed Biennial Budget.  
**Financial Implications:** See report  
Contact: Rama Murty, Budget Office, (510) 981-7000

## Information Reports

- 39. City Council Short Term Referral Process – Quarterly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 40. Update on the Implementation of FIP Task Force Recommendations**  
**From: City Manager**  
Contact: Jennifer Louis, Police, (510) 981-5900
- 41. Animal Care Commission 2021/2022 Work Plan**  
**From: Animal Care Commission**  
Contact: Amelia Funghi, Commission Secretary, (510) 981-6600

## Information Reports

### 42. Planning Commission Work Plan 2021-2022

From: Planning Commission

Contact: Alene Pearson, Commission Secretary, (510) 981-7400

## 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 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 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>

#### COMMUNICATION ACCESS INFORMATION:

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



Captioning services are provided at the meeting, on B-TV, and on the Internet.  
~~~~~




Zero Waste Commission

CONSENT CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council

From: Zero Waste Commission

Submitted by: Christienne de Tournay Birkhahn, Chairperson, Zero Waste Commission

Subject: Support of Assembly Bills 881, 1454 & 1276

RECOMMENDATION

1. Support Assembly Bill 881 (Plastic Waste Exports) which closes an existing loophole in California law that allows mixed plastic exports to be counted as recycling regardless of their ultimate destination, which is often overseas landfills, incinerators, or waterways, and send a letter expressing the City Council's support to Assemblymember Gonzalez.
2. Support Assembly Bill 1454 (Bottle Bill Modernization) which helps keep recycling centers open and provides much-needed support for new centers to open in areas where there are not enough centers to serve consumers, including rural and urban areas, and send a letter expressing the City Council's support to Assemblymember Bloom.
3. Support Assembly Bill 1276 (Unnecessary Food Serviceware) which expands plastic straws upon-request law to include other single-use food accessories, other food facilities, and third-party delivery platforms – including food that is taken away, delivered, or served on-site - and send a letter expressing the City Council's support to Assembly Member Carrillo.

SUMMARY

At its April 26, 2021 meeting, the Zero Waste Commission voted unanimously to recommend the City Council support three current environmental bills in the State Assembly: AB 881 (Plastic Waste Exports), AB 1454 (Bottle Bill Modernization), and AB1276 (Unnecessary Food Serviceware). Letters to Assemblymembers in support of the individual bills are attached to this recommendation. Support of these bills fits into the City's Strategic Plan Priority, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. There is no cost for implementation of the recommended action.

The current situation and background for these bills is as follows: (1) California has established a policy goal to divert 75% of the state's generated solid waste through source reduction, recycling, and composting by 2020, and is a major exporter of mixed plastic waste. **AB 881** closes an existing loophole in California law that allows mixed plastic exports to be counted as recycling regardless of their ultimate destination, which is often overseas landfills, incinerators, or waterways. (2) Container recycling rates are dropping - statewide beverage container recycling rates have fallen below 70% for the first time in 13 years, with containers ending up in landfill. Outdated laws have led to recycling center closures: more than 1000 community-based recycling centers have closed since 2015 because of outdated statutory requirements for calculating compensation. **AB 1454** will help keep recycling centers open and provide support for new centers to open in areas where there are not enough centers to serve consumers. (3) Each year an estimated 561 billion disposable foodware items are used, resulting in a whopping 4.9 million tons of waste. Unused food accessories including utensils, straws, and other items clog landfills, complicate recycling, and pollute our communities. **AB 1276** expands plastic straws upon-request law to include other single-use food accessories, other food facilities, and third-party delivery platforms – including food that is taken away, delivered, or served on-site. This bill is based on Berkeley's 2019 Single-Use Foodware & Litter Reduction ordinance.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to this recommendation.

CURRENT SITUATION AND ITS EFFECTS

AB 881: California has established a policy goal to divert 75% of the state's generated solid waste through source reduction, recycling, and composting by 2020. Communities achieve disposal and diversion rates when waste isn't littered, dumped, or sent to landfills.

California is a top exporter of plastic waste to other countries around the world. Manufacturers purchase this plastic waste and pick out the valuable pieces to use for raw materials to make new products; they do not use all of the waste because it may be the wrong material for their needs and/or it costs too much to process to make it worthwhile for them to use. Unfortunately, when California exports worthless mixed plastic waste to other countries, CalRecycle and local jurisdictions do not count the material as being "disposed;" even though that is exactly what happens to much of that waste. For purposes of assessing how the state is meeting its 75% solid waste "diversion" goal, CalRecycle assumes that exported waste is recycled regardless of what actually happens to it -- even if that waste is simply landfilled, dumped, or incinerated in another country.

AB 1454: Container recycling rates are dropping - statewide beverage container recycling rates have fallen below 70% for the first time in 13 years, meaning that too many bottles and cans are ending up in landfills or as litter. Data from CalRecycle

demonstrates that there aren't enough locations or opportunities for people to return these containers for recycling. Outdated laws have led to recycling center closures: more than 1000 community-based recycling centers have closed since 2015 because of outdated statutory requirements for calculating compensation. Record low global prices for scrap materials have compounded the problem.

The decades old Bottle Bill program has relied on a rigid "Convenience Zone" definition to determine where new recycling centers are located and which centers can receive supplemental recycling incentives. CalRecycle clearly needs greater flexibility and authority to define and establish Convenience Zones, and provide resources to regions that need centers.

AB 1276: Every year in the United States, an estimated 561 billion disposable foodware items are used, resulting in a whopping 4.9 million tons of waste. Unused food accessories including utensils, straws, napkins, condiment packages, and other items clog landfills, complicate recycling, and pollute streets and waterways in our communities.

The COVID-19 pandemic has increased takeout and food delivery, which restaurants are relying upon to stay afloat. The use of disposable food accessories has contributed to a 250-300% increase in single-use plastics and a 30% increase in waste. Currently, many food facilities and food delivery services provide single-use food and beverage accessories regardless of whether or not they are needed. Most customers do not want them or have reusable items at home and/or in their workspaces. As a result, these accessories are usually discarded without being used. Furthermore, global health experts and U.S health officials agree that there's no evidence that COVID-19 can spread through food or food packaging.

Local governments and taxpayers spend over \$428 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks and waterways. Recyclers are now faced with a worsened crisis, as the vast majority of these non-recyclable single-use food accessories debase recycling systems and can contaminate many commercial compost facilities. This increases costs to collection, sorting, processing and disposal for cities and ratepayers. Many of these food accessories are made of plastic, and the increasing surge in plastic use exacerbates health risks predominantly in communities of color and/or low-income communities.

At its meeting on April 26, 2021, the Zero Waste Commission passed a motion to recommend sending letters of support for the following California legislation: AB 881, AB 1454, and AB 1276. (M/S/C: Stein/de Tournay. Ayes: de Tournay, Poliwka, Doughty, Schueler, Curtis, Stein, Ulakovic, Grubb; Noes: None; Abstain: None; Absent; None.)

BACKGROUND

Support of these three bills fits into the City's Strategic Plan Priority advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

AB 881 would reclassify the export of mixed plastic waste as disposal, while allowing truly recyclable plastic to continue to be counted towards California recycling goals. To be counted as diversion through recycling, rather than disposal, it would require the export to:

- Be a readily recyclable plastic type or mixture. The Basel Convention identifies polyethylene (PE), polypropylene (PP) and polyethylene terephthalate (PET) as allowable exports without stricter regulation due to their easy recyclability, provided they are destined for separate recycling of each material. AB 881 would allow these exports to be counted as diversion through recycling.
- Not be prohibited by an applicable law in the country of destination. Basel Convention signatory countries may establish their own accepted level of contamination and may require prior agreements for the import of plastic scrap.

AB 1454 makes the Bottle Bill program more efficient and effective through the following modifications:

- Provides targeted increase in payments to recycling centers to better reflect the actual average cost of diverse (small, medium & large) community-based recycling centers based on CalRecycle's 2020 cost survey.
- Reestablish Plastic Quality Incentive Payments to further enable the state's achieving its minimum recycled content requirements on plastic beverage containers.
- Expands Convenience Zone recycler incentive eligibility beyond Supermarket parking lots to any recycler willing to open in a currently unserved zone.
- Provides start-up financing (up to \$25,000 per location) to any certified entity that opens and operates a recycling center in one of the 400-600 unserved/underserved areas. Authorizes loan forgiveness after 18 months of successful operation.
- Right-sizes Convenience Zones to meet community needs based on CalRecycle recommendations.

AB 1276 expands the plastic straws upon-request law to include other single-use food accessories, other food facilities, and third-party delivery platforms - including food that is taken away, delivered, or served on-site. Additionally, for specified restaurants, this bill will require reusable food serviceware for on-site dining. This bill is based on the City

of Berkeley's landmark Single-Use Foodware & Litter Reduction ordinance passed in early 2019.

ENVIRONMENTAL SUSTAINABILITY

Each bill would enhance the environmental sustainability of our community by decreasing landfilled materials and greenhouse gases from food waste therein.

RATIONALE FOR RECOMMENDATION

The Zero Waste Commission finds that passing the current bills would be effective in helping the City achieve its goal of zero waste by 2020.

ALTERNATIVE ACTIONS CONSIDERED

The alternative of inaction has been considered and was found to be detrimental to zero waste goals.

CITY MANAGER

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

CONTACT PERSON

Heidi Obermeit, Recycling Program Manager (510) 981-6357

Attachments:

- 1: AB 881 Letter of Recommendation - Plastic Waste Exports
- 2: AB 1454 Letter of Recommendation - Bottle Bill Modernization
- 3: AB 1276 Letter of Recommendation - Unnecessary Food Serviceware

The Honorable Lorena Gonzalez
California State Assembly, 80th District
State Capitol, Room 2114
Sacramento, CA 95814

SUBJECT: AB 881 (Gonzalez): Recycling Export Reform - SUPPORT

Dear Assembly Member Gonzalez:

We, the Berkeley City Council, are writing in support of Assembly Bill 881 (Gonzalez), which would close the loophole in California law that enables exported mixed plastic waste to be deemed recycled even when it is landfilled, burned, dumped, or otherwise improperly managed.

Traditionally the United States has been a major exporter of plastic scrap, with approximately half of our plastic waste exported to China and Hong Kong until 2017. In 2018, China implemented the National Sword policy to severely restrict the level of contamination accepted, which drastically reduced the amount of foreign waste imported. Since then, other countries have begun implementing additional policies to reduce the import of plastic waste, most recently with the ratification of the Basel Convention by 187 parties. Under the Basel Convention, plastic scrap and waste exports are only allowed with prior written consent from the importing country. Certain specified plastic that is more readily recyclable can be traded under the Basel Convention without prior written consent, but must meet strict criteria, including a low contamination rate and requirement to be recycled in an environmentally sound manner. The United States has not yet ratified the Basel Convention.

Still, California continues to be a top plastic waste exporter in the country. When worthless mixed plastic waste is exported, CalRecycle and local jurisdictions do not count the material as being "disposed," in effect assuming it is all recycled regardless of its actual fate.

Increasingly, evidence shows US plastic is being exported to countries where the material ends up inadequately disposed of, through incineration and dumping. As plastic is mismanaged, it further pollutes the environment and health of people nearby. Fumes from incineration can cause respiratory problems, while dumping or open landfilling can lead to pollution in both marine and land-based habitats. As plastic then breaks down into microplastics, they concentrate toxic chemicals and contaminate food and drinking water sources. Exposure to these plastics and associated toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption and other serious health problems.

Additionally, the fact that both truly recyclable and worthless mixed plastics continue to be shipped overseas lets manufacturers off the hook from using sustainable packaging and building robust recycling markets.

When Californians sort their waste for disposal, recycling, and compost, they assume that what is sorted for recycling will be properly recycled into new goods. Californians also assume that the disposal and recycling data presented by CalRecycle and their local jurisdictions reflect what is actually recycled. However, this is not the case.

AB 881 would reclassify the export of mixed plastic waste as disposal, while allowing truly recyclable plastic to continue to be counted towards our recycling goals. This bill will increase transparency in our waste management practices, and help prevent California from simply exporting our environmental problems.

For these reasons, we strongly support AB 881 and thank you for championing this important issue.

Sincerely,

The Honorable Wendy Carrillo
California State Assembly, 51st District
State Capitol, Room 4167
Sacramento, CA 95814

Re: AB 1276 (Carrillo) – Unnecessary Food Service Ware – STRONG SUPPORT

Dear Assembly Member Carrillo,

On behalf of the Berkeley City Council, we strongly support AB 1276 (Carrillo,) as proposed to be amended, which will significantly reduce unnecessary waste and save businesses and local governments money. With the increase in takeout and food delivery as a result of the covid-19 pandemic, also comes an increase in the amount of unused food and beverage accessories. These items including utensils, straws, napkins, condiment packages clog landfills, complicate recycling, and pollute streets and waterways. Pollution of these items isn't limited to when they're disposed of, but also negatively affects communities and ecosystems further upstream during resource extraction, production, and manufacturing.

The use of disposable food accessories has contributed to a 250-300% increase in single-use plastics and a 30% increase in waste. California's local governments and taxpayers spend over \$428 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks and waterways. Additionally, California recyclers are now faced with a worsened crisis, as the vast majority of these non-recyclable single-use food accessories debase recycling systems and can contaminate many commercial compost facilities. This adds costs to collection, sorting, processing and disposal for cities and ratepayers.

Restaurants in the U.S. spend \$19 billion purchasing disposable food ware items. California restaurants that have voluntarily made the transition to a combination of by request and reusable food ware have been proven to save between \$3,000 and \$21,000 per year, while reducing waste and greenhouse gas emissions. Additionally, reuse creates as many as 30 times more jobs than landfills.

In order to address this issue, AB 1276 expands the plastic straws upon request law to include other single-use food accessories, other food facilities, and third-party delivery platforms - including food that is taken away, delivered, or served on-site. Additionally, for specified restaurants, reusable food service ware is required for on-site dining (as proposed to be amended.)

Experts agree that upstream reduction of unnecessary packaging is by far the most efficient and cost-effective way to protect resources and communities, and help California reach its waste reduction and climate goals. Reducing unnecessary food service ware is a simple solution and a win-win for reducing waste in the first place, saving businesses money, and relieving recyclers, composters and local governments from the complications and costs associated with it.

Sincerely,

The Honorable Richard Bloom
California State Assembly, 50th District
California State Capitol, Room 2003
Sacramento, CA 942849

The Honorable Patrick O'Donnell
California State Assembly, 70th District
California State Capitol, Room 4001
Sacramento, CA 942849

RE: AB 1454 (Bloom & O'Donnell): Bottle Bill Modernization – SUPPORT

Dear Assemblymembers Bloom and O'Donnell,

We, the Berkeley City Council, write to express our strong support of the provisions of Assembly Bill 1454 (Bloom & O'Donnell). This measure will modernize and simplify the state's Beverage Container Recycling Program (Bottle Bill), while re-investing unredeemed funds to increase recycling, create market resiliency, expand consumer convenience, and match collection program output with California's circular economy objectives.

As recently as 2013, the Bottle Bill was achieving near best in the nation recycling rates of 85%. But an outdated payment system and resulting recycling center closures has caused Statewide rates to drop below 70% for the first time in 13 years. However, the fundamentals of the program remain sound. Regions of the state that have maintained their recycling infrastructure, such as Los Angeles County, and the 13 County San Joaquin Valley, continue to achieve better than 85% recycling rates. At the same time, in the 11 County Bay Area, where there remains just one center per 105,000 population, the recycling rate has dropped to just 54%.

We can fix this with existing resources and more nimble program administration. CalRecycle data demonstrates a clear correlation between lack of community recycling centers and below average recycling rates. This lack of recycling opportunity can be traced to outdated statutory requirements which fails to cover the cost of recycling for the vast majority of recycling centers, according to CalRecycle's 2020 cost survey. This, compounded with record low market scrap prices, has resulted in over 1,000 community-based recycling centers to close since 2014.

CalRecycle's 2020 AB 54 Report to the Legislature makes a thoughtful and persuasive case for greater flexibility and authority to redefine Convenience Zones and prioritize re-investment of existing resources. Unserved and underserved areas of the state could be covered by as few as 400-600 thoughtfully located community-based recycling centers.

Additionally, some outdated and unnecessarily rigid statutory requirements for the establishment of recycling enterprises have hampered the department's ability to certify and support innovative and convenient recycling opportunities such as mobile recycling, Bottle Drop and Reverse Vending Machines.

Understanding these technical and specific statutory roadblocks, AB 1454 proposes to provide immediate stabilization to the recycling infrastructure, provide incentives to expand convenient consumer recycling in unserved/underserved areas, support innovative and nimble responses to evolving market conditions, and update rules and incentives for processors to support the quality demands of a circular economy.

More specifically, AB 1454 will:

- Provide targeted increase in payments to recycling centers to better reflect the actual average cost of diverse (small, medium & large) community-based recycling centers based on CalRecycle's 2020 cost survey.

- Reauthorize Plastic Quality Incentive Payments, upon Legislative authority, to further enable the state's achieving its minimum recycled content requirements on plastic beverage containers.
- Expand Convenience Zone recycler incentive (Handling Fee) eligibility beyond Supermarket parking lots to any recycler willing to open in a currently unserved zone.
- Provide start-up financing (up to \$25,000 per location) to any certified entity that opens and operates a recycling center in one of the 400-600 unserved/underserved areas, and authorize loans forgiveness after 18 months of successful operate.
- Right-size Convenience Zones to meet community needs based on recommendations in CalRecycle's AB 54 Report to the Legislature.
- Establish a Beverage Container Stakeholder Advisory Board to provide CalRecycle with real time guidance on market conditions and administrative changes.

With implementation of these well-understood and supported updates, California can stabilize the existing infrastructure and return to 80% or better recycling rates in 12-18 months.

For these reasons, we strongly support the provisions of AB 1454, and thank you for authoring this important measure.

Sincerely,

CONSENT CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmembers Ben Bartlett (Author), Kate Harrison (Co-Sponsor),

Subject: Support for AB-279 (Muratsuchi) Intermediate care facilities and skilled nursing facilities: COVID-19

RECOMMENDATION

That the Mayor and Council adopt a Resolution in support of AB-279 (Muratsuchi) Intermediate care facilities and skilled nursing facilities: COVID-19, the Council should send copies of the Resolution Supporting AB-279 and letters supporting AB-279 to the Senate Health Committee, Senator Skinner, Assemblymembers Muratsuchi, Santiago, Wicks, and Governor Newsom.

BACKGROUND

For decades, one of the most severe threats facing residents at senior care facilities in cities throughout the state has been the trauma of forced involuntary transfer to locations away from friends, families, and advocates. During the COVID-19 pandemic, the situation has gotten worse.

According to the California Department of Public Health Records, statewide, there have been 200 improper and illegal discharges of patients from senior care facilities. Facilities across the state have failed to observe legal protections given to residents to prevent traumatic involuntary transfers. There could not be a worse time for such misconduct and risking the health and safety of Seniors. Current restrictions on visitation make it nearly impossible for residents and their families to assess the safety and care at new facilities.

Currently, seniors at the Sakura Intermediate Care Facility (ICF) located near historic Little Tokyo in the City of Los Angeles were under threat of eviction due to the facility owner's intentions to shut down the ICF to make way for unaffordable housing units. Sakura ICF is the only facility of its kind offering sensitive bilingual and bi-cultural care that has been an invaluable resource for the Los Angeles area Japanese American community for nearly 50 years.

In addition, during the weeks leading up to the State of Emergency Declaration due to the COVID 19 pandemic, in the City of San Pablo, seniors at Brookdale were facing evictions as the facility operators and owners wanted to close and sell the facility. To endanger the lives of seniors to move to a facility not providing these essential services, especially during a pandemic, is unconscionable.

AB 279 (Muratsuchi), an urgency measure, would protect seniors at all ICF's and SNF's in CA, prohibiting such facilities from terminating, transferring, or significantly altering the conditions of residential care services during the State of California's COVID-19 state of emergency period. This bill would establish a six-month advance notice to every resident, at the end of the State of Emergency, of any proposed sale or termination of licensed facility operations. This bill also requires that all conditions of operation imposed by the Attorney General as conditions of sale for assets from a non-profit to a for-profit entity remain in effect and unchanged.

AB 279 is supported by: Alameda County Democratic Party; California Democratic Party; California Advocates for Nursing Home Reform; Los Angeles County Supervisor Hilda Solis; AARP; Advocacy, Inc.; Asian Americans Advancing Justice – Los Angeles; California Alliance

for Retired Americans; California Association of Long Term Care Medicine; California Health Advocates; California Retired Teachers Association; Chinatown Community for Equitable Development; Consumer Federation of California; Essential Caregivers Association; Florin Japanese American Citizens League - Sacramento Valley; Gray Panthers of San Francisco; Health Care for All – Los Angeles Chapter; Japanese American Bar Association; Japanese American Citizens League, Twin Cities Chapter; Keiro Pacifica Community Advisory Board; Koreisha Senior Care & Advocacy; National Association of Social Workers, California Chapter; National Health Law Program; Nikkei Progressives; Progressive Asian Network for Action; Sakura ICF Family Council; Save our Seniors Network; SEIU California; and countless individuals.

The State Assembly recently passed AB 279 by 58 yes votes to overcome the two-thirds requirement as an urgency measure. AB 279 is on its way to being heard at the Senate Health Committee; the Committee meets every Wednesday at 1:30 p.m.

Letters of Support for AB 279 are due by 3:00 p.m. seven calendar days before the scheduled hearing to be officially listed in the Senate Health Committee bill analysis.

Letters can be sent to the Committee by:

1. Using the Advocacy Portal at this link: <https://calegislation.lc.ca.gov/Advocates/>
2. Mailed to: Senate Health Committee, State Capitol Room 2191, Sacramento, CA 95814.

Cities, organizations, elected officials, and community leaders throughout the state should be united to protect our seniors' health and safety. Let's send resolutions and letters in support of AB 279!

FINANCIAL IMPLICATIONS

No financial implications to send the resolution to Legislators.

ENVIRONMENTAL SUSTAINABILITY

Protecting our seniors during this climate and health crisis is an act of environmental sustainability.

CONTACT PERSONS

Councilmember Ben Bartlett	510-981-7130
James Chang	510-981-7131

ATTACHMENTS:

1. Resolution
2. Sample Letter to Elected Officials
3. AB 279:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB279

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,
SUPPORTING AB-279 INTERMEDIATE CARE FACILITIES AND SKILLED NURSING
FACILITIES

WHEREAS, one of the most serious threats facing residents at senior care facilities in cities throughout the state has been the trauma of forced involuntary transfer to locations away from friends, families, and advocates. During the COVID-19 pandemic, the situation has gotten worse; and

WHEREAS, According to the California Department of Public Health Records, statewide, there have been 200 improper and illegal discharges of patients from senior care facilities. Facilities across the state have failed to observe legal protections given to residents to prevent traumatic involuntary transfers. There could not be a worse time for such misconduct and risking the health and safety of Seniors. Current restrictions on visitation make it nearly impossible for residents and their families to assess the safety and care at new facilities; and

WHEREAS, seniors at the Sakura Intermediate Care Facility (ICF) located near historic Little Tokyo in the City of Los Angeles were under threat of eviction due to the facility owner's intentions to shut down the ICF to make way for unaffordable housing units. Sakura ICF is the only one of its kind offering sensitive bilingual and bi-cultural care that has been an invaluable resource for the Los Angeles area Japanese American community for nearly 50 years; and

WHEREAS, during the weeks leading up to the State of Emergency Declaration due to the COVID 19 pandemic, in the City of San Pablo, seniors at Brookdale were facing evictions as the facility operators and owners wanted to close and sell the facility. To endanger the lives of seniors to move to a facility not providing these essential services, especially during a pandemic is unconscionable; and

WHEREAS, AB 279 (Muratsuchi), an urgency measure, would protect seniors at all ICF's and SNF's in CA, prohibiting such facilities from terminating, transferring, or significantly altering the conditions of residential care services during the State of California's COVID-19 state of emergency period. This bill would establish a six-month advance notice to every resident, at the end of the State of Emergency, of any proposed sale or termination of licensed facility operations. This bill also requires that all conditions of operation imposed by the Attorney General as conditions of sale for assets from a non-profit to a for-profit entity remain in effect and unchanged; and

WHEREAS, AB 279 is supported by: Alameda County Democratic Party; California Democratic Party; California Advocates for Nursing Home Reform; Los Angeles County Supervisor Hilda Solis; AARP; Advocacy, Inc.; Asian Americans Advancing Justice – Los Angeles; California Alliance for Retired Americans; California Association of Long Term Care Medicine; California Health Advocates; California Retired Teachers Association; Chinatown Community for Equitable Development; Consumer Federation of California; Essential Caregivers Association; Florin Japanese American Citizens League - Sacramento Valley; Gray Panthers of San Francisco; Health Care for All – Los Angeles Chapter; Japanese American Bar Association; Japanese American Citizens League, Twin Cities Chapter; Keiro Pacifica Community Advisory Board; Koreisha Senior Care & Advocacy; National Association of Social Workers, California Chapter; National Health Law Program; Nikkei Progressives; Progressive Asian Network for Action;

Sakura ICF Family Council; Save our Seniors Network; SEIU California; and countless individuals

WHEREAS, The State Assembly recently passed AB 279 by 58 yes votes to overcome the two-thirds requirement as an urgency measure. AB 279 is on its way to being heard at the Senate Health Committee; the Committee meets every Wednesday at 1:30 p.m.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that it stands in full support of AB 279 to protect the health and safety of our seniors during this COVID 19 pandemic.

BE IT FURTHER RESOLVED, that copies of the Resolution Supporting AB 279 be sent to the Senate Health Committee, Senator Skinner, Assemblymembers Muratsuchi, Santiago, Wicks, and Governor Newsom.

Sample Letter

RE: Support Assembly Bill #279

Dear [Name of Official],

On behalf of the City of Berkeley, California, we are writing to voice our support for Assembly Bill 279. This proposal would protect vulnerable seniors in Immediate Care and Skilled Nursing Facilities from being transferred away from their loved ones into new locations or being expelled in the midst of a pandemic.

The Sakura Intermediate Care Facility (ICF) example proves that the crisis of transfers and expulsions from facilities serving elders has become untenable. At the Sakura ICF, located near historic Little Tokyo in the City of Los Angeles, seniors were under threat of eviction due to the facility owner's intentions to shut down the ICF to make way for unaffordable housing units. Sakura ICF is the only one of its kind offering sensitive bilingual and bi-cultural care that has been an invaluable resource for the Los Angeles area Japanese American community for nearly 50 years. To endanger the lives of seniors to move to a facility not providing these essential services, especially during a pandemic, is unconscionable.

AB 279 (Muratsuchi), an urgency measure, would protect seniors at all ICF's and SNF's in CA, prohibiting such facilities from terminating, transferring, or significantly altering the conditions of residential care services during the State of California's COVID-19 state of emergency period. This bill would establish a six-month advance notice to every resident, at the end of the State of Emergency, of any proposed sale or termination of licensed facility operations. This bill also requires that all conditions of operation imposed by the Attorney General as conditions of sale for assets from a non-profit to a for-profit entity remain in effect and unchanged.

This urgency measure is needed now to protect the health and safety of our seniors in California during a pandemic. It is supported by organizations from the American Association of Retired Persons to California Retired Teachers Association to SEIU California, and many more.

At a time when the Asian American and Pacific Islander community faces extraordinary trauma from the exponential rise in hate incidents and crimes, and, recognizing that many seniors were once before forcibly removed from their homes and communities - we respectfully request your SUPPORT on AB 279.

Sincerely,
[Mayor of Berkeley and Members of the City Council]

AMENDED IN ASSEMBLY APRIL 15,
2021

AMENDED IN ASSEMBLY MARCH 25,
2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 279

Introduced by Assembly Members Muratsuchi and Santiago

January 21, 2021

An act to add and repeal Section 1287 of the Health and Safety Code, relating to care facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 279, as amended, Muratsuchi. Intermediate care facilities and skilled nursing facilities: COVID-19.

(1) Existing law requires the State Department of Public Health to license, inspect, and regulate intermediate care facilities (ICF) and skilled nursing facilities (SNF). Existing law generally requires an ICF or SNF to comply with certain procedures and disclosures when transferring ownership or management of the facility, as specified. Existing law imposes criminal penalties on a person who violates the requirements imposed on these facilities.

This bill would prohibit an ICF or SNF, as defined, from terminating or making significant *quality-of-care* changes to its skilled nursing or supportive care services, or from transferring a resident to another ~~facility, ICF or SNF~~, during any declared state of emergency relating to the coronavirus disease 2019 (COVID-19), except if the owner files a bankruptcy petition. ~~The~~ *Besides the exception of a bankruptcy petition, the* bill would authorize a resident transfer *during the state of emergency* only if the transfer is deemed medically necessary by ~~a government agency, an attending physician, as specified~~, or the impacted resident or their representative provides written consent, as specified.

The bill would require, for one year after termination of the same type of state of emergency, the owner of an ICF or SNF to issue a 6-month advance notice of any proposed sale or termination of the licensed operation of the facility to each resident and their representatives before the sale or termination goes into effect. The bill would also prohibit, during the same type of state of emergency, any changes in all conditions for the sale of assets imposed by the Attorney General, except if the owner of an ICF or SNF files a bankruptcy petition.

During the same type of state of emergency, if a resident of an ICF or SNF, or an individual temporarily transferred to an ICF or SNF, has tested positive for COVID-19 within the previous 14

calendar days, the bill would require the ICF or SNF to notify all residents and their representatives about the existence of a new case of COVID-19, as specified, subject to state and federal privacy laws.

By expanding the requirements and prohibitions imposed on a licensee of an ICF or SNF, and thereby expanding the scope of a crime, this bill would impose a state-mandated local program. The bill would repeal these provisions on January 1, 2026.

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

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

(3) This bill would declare that it is to take effect immediately as an urgency statute.

DIGEST KEY

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1287 is added to the Health and Safety Code, to read:

~~1287. (a) Unless the owner of the facility files a bankruptcy petition under Title 11 of the United States Code or any other laws of the United States, a facility shall not terminate or make significant changes to its skilled nursing or supportive care services or transfer a resident to another facility during any state of emergency declared pursuant to Section 8625 of the Government Code relating to the coronavirus disease 2019 (COVID-19). A resident transfer may occur only if either of the following is met:~~

1287. (a) A facility shall not terminate or make significant quality-of-care changes to its skilled nursing or supportive care services, or transfer a resident to another facility except as described in subdivision (b), during any state of emergency declared pursuant to Section 8625 of the Government Code relating to the coronavirus disease 2019 (COVID-19), unless the owner of the facility files a bankruptcy petition under Title 11 of the United States Code or under any other federal bankruptcy laws.

(b) A resident transfer under the conditions described in subdivision (a) may occur only if any of the following is met:

(1) The transfer is deemed medically necessary by ~~a government agency.~~ an attending physician approved by the impacted resident or their legally authorized representative, if applicable.

(2) The impacted resident or their legally authorized representative, if applicable, provides written consent after being informed of their right to refuse the transfer in writing and in a language and manner that they understand.

(3) The owner of the facility files a bankruptcy petition as described in subdivision (a).

~~(b)~~

(c) For one year after termination of any state of emergency declared pursuant to Section 8625 of the Government Code relating to COVID-19, the owner of a facility shall issue a six-month advance notice of any proposed sale or termination of the licensed operation of the facility to each resident and their representatives before the sale or termination goes into effect.

~~(e)~~

(d) Unless the owner of a facility files a bankruptcy petition under Title 11 of the United States Code or ~~any other laws of the United States,~~ under any other federal bankruptcy laws, both of the following apply during any state of emergency declared pursuant to Section 8625 of the Government Code relating to COVID-19:

(1) All conditions of operation imposed by the Attorney General as conditions for the sale of assets from a nonprofit entity to a for-profit entity shall remain in effect and unchanged.

(2) All conditions for the sale of assets imposed by the Attorney General that are in effect at the beginning of the state of emergency shall remain in effect.

~~(d)~~

(e) During any state of emergency declared pursuant to Section 8625 of the Government Code relating to COVID-19, if a resident of a facility, or an individual temporarily transferred to a facility from another facility or any other type of health facility, has tested positive for COVID-19 within the previous 14 calendar days, the facility of that resident or where that individual is transferred shall do both of the following, subject to state and federal privacy laws, as instructed by the department:

(1) Notify all other residents of the facility and their representatives about the existence of a new case of COVID-19, without disclosing the identity of the resident or other individual who has tested positive.

(2) In the case of a resident who has tested positive for COVID-19, notify the representatives of that resident about their COVID-19 case. In the case of an individual temporarily transferred to the facility and who has tested positive for COVID-19, if the individual becomes a resident of the facility, notify the representatives of that individual about their COVID-19 case.

~~(e)~~

(f) The protections provided under this section are in addition to, and not exclusive of, any other protections for facility residents regarding transfer and discharge.

~~(f)~~

(g) For purposes of this section, the following definitions apply:

(1) Except as described in paragraph (2), "facility" means an intermediate care facility, as defined in subdivision (d) of Section 1250, or a skilled nursing facility, as defined in subdivision (c) of Section 1250, but does not include either of the following:

(A) Licensed beds in any facility specified in Section 4100 of the Welfare and Institutions Code or any other facility operated by the State Department of State Hospitals.

(B) Any facility operated by the State Department of Developmental Services, including, but not limited to, any Stabilization, Training, Assistance and Reintegration (STAR) home, developmental center, or community facility.

(2) "Health facility" has the same meaning as defined in Section 1250.

~~(g)~~

(h) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To protect the residents of intermediate care facilities or skilled nursing facilities and their continued residence in their supportive environment and to prevent foreseeable homelessness of this vulnerable population during the crisis of the coronavirus disease 2019 (COVID-19) state of emergency, it is necessary for this act to take effect immediately.



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
June 15, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmembers Susan Wengraf and Kate Harrison (authors)
Subject: Letter of Opposition Unless Amended on SB 9

RECOMMENDATION

Pass a resolution and send a letter to Senators Atkins, Caballero, Rubio, Wiener and Skinner, Assemblymember Wicks and Governor Newsom, expressing the Berkeley City Council's concerns about SB 9: Housing development: Approvals (Atkins) as drafted, and state our opposition to the bill unless it is amended to address these specific concerns.

FISCAL IMPACTS

None

CURRENT SITUATION AND ITS EFFECTS

SB 9, as drafted, by Senator Toni Atkins, circumvents local planning and zoning control and public input by *mandating* local approval of lot splits and the ministerial approval of the development of two residential units on each lot without a public hearing. The proposed bill also bypasses the California Environmental Quality Act (CEQA), which was established to require the thoughtful consideration of the impact of development on the environment and infrastructure. It also bypasses the [California Coastal Act of 1976](#), which recognizes that there are unique zoning and land management needs in coastal areas of our state. In addition, there are no provisions for affordability of new units constructed under SB 9 and the definition of transit adjacency is over-broad. As stated by the League of California Cities, " SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements that are certified by the California Department of Housing and Community Development (HCD)."

BACKGROUND

The City of Berkeley is committed to creating more housing across all income levels and shares the intent and goals of SB 9 to increase housing production. We understand that homes are out of reach for many people and housing is not being built fast enough to meet the current or projected needs of people living in California. Cities lay the groundwork for housing production by planning and zoning new projects in their

communities based on extensive public input and engagement. As a result, Berkeley has built and entitled thousands of housing units during the past several years and plans to build thousands more, with the support of our community.¹

SB 9, as currently drafted, has no provision for local flexibility or decision-making and does not recognize the important value of public engagement in developing and adopting zoning ordinances and housing policies. In forwarding its own proposal for upzoning to the Planning Commission, the Berkeley City Council thoughtfully foreswore ministerial approval, recognizing the need for community standards and review while recommitting itself to reducing delays in application processing.

Under SB 9, a minimum of four and potentially six residential units (with an ADU) could be mandated to replace a single unit. Local objective design standards related to density or solar access for adjoining properties would be precluded if those standards meant one of the units would be less than 800 square feet. Maximum rear setbacks of four feet would be mandated, reducing climate-need green space and water absorption, and limitations would only apply in Cal Fire districts and not allowed in high fire areas identified by the city of Berkeley. By proposing a "one formula fits all" approach to zoning, the bill ignores the unique characteristics and needs of the hundreds of different cities in California.

SB 9's current allowance for local governments to impose a one-year occupancy period when a lot is split is insufficient to protect against flipping properties. In addition, that provision would sunset after five years. The legislation does not require that any of the resulting units be affordable and does not provide what is most needed for affordable housing: state funding. Even Plan Bay Area 2020 finds that the upzoning envisioned in SB 9 would not facilitate production of affordable housing.²

Many elements of SB 9 are ambiguous. We request the following amendments in order to address these concerns:

- Clarify that a property owner using SB 9 is limited to requiring construction of two residential units on each parcel;
- Allow cities to determine a range of lot sizes suitable for SB 9 development projects;
- Allow local governments to regulate adequate access for police, fire and other public safety vehicles and equipment and to limit application of SB 9 in very high fire hazard severity zones;

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-28_Item_45_Annual_Housing_Pipeline_Report.aspx

² Plan Bay Area 2050 Regional Growth Forecast.

- Include a stronger provision to ensure speculators and investors do not exploit SB 9 by buying, splitting and flipping parcels.
- Better define what is meant by "transit" and remove the "parked" car share qualification;
- Apply current or future CEQA regulations;
- Honor the California Coastal Act of 1976; and
- Ensure HCD provides Regional Housing Needs Allocation (RHNA) credit for production of SB 9 units.

ENVIRONMENTAL SUSTAINABILITY

SB 9 pre-empts the California Environmental Quality Act (CEQA) and the 1976 California Coastal Act which were established to require the thoughtful consideration of development of the environment and infrastructure. This item seeks to reinstate CEQA and California Coastal Act review in SB 9.

CONTACT PERSON

Councilmember Susan Wengraf

District 6

510-981-7160

Attachments:

1: Letter

2: Resolution

3: Detailed Analysis by Dan Carrigg, Renne Policy Group

4: [SB 9](#)

May 11, 2021

The Honorable Toni Atkins
California Senator
State Capitol, Room 205
Sacramento, CA 95814

**RE: SB-9 (Atkins) "Housing development: approvals"
Opposition Unless Amended from the Berkeley City Council**

Dear Senator Atkins,

The City Council of the City of Berkeley officially expresses our opposition unless amended to SB-9 (Atkins), Housing development: approvals.

The City of Berkeley is committed to creating more housing across all income levels and shares the intent and goals of SB 9 to increase housing production. We understand that homes are out of reach for many people and housing is not being built fast enough to meet the current or projected needs of people living in California. Cities lay the groundwork for housing production by planning and zoning new projects in their communities based on extensive public input and engagement. As a result, Berkeley has built and entitled thousands of housing units during the past several years and plans to build thousands more, with the support of our community.

SB 9, as currently drafted, has no mandate for affordability, no provision for local flexibility or local decision-making or community input nor does it recognize the important value of extensive public engagement associated with developing and adopting zoning ordinances and housing policies. By proposing a "one formula fits all" approach to zoning, the bill ignores the unique characteristics and needs of the hundreds of different cities in California.

The City of Berkeley requests the following amendments in order to address our concerns:

- Clarify that a property owner using SB 9 is limited to constructing two residential units on each parcel;
- Allow cities to determine a range of lot sizes suitable for SB 9 development projects;
- Allow local governments to regulate adequate access for police, fire and other public safety vehicles and equipment;
- Strengthen provisions to ensure speculators and investors do not exploit SB 9 by buying, splitting and flipping parcels.

- Apply current or future CEQA regulations;
- Honor the California Coastal Act of 1976;
- Better define what is meant by "transit" and remove the "parked" car share qualification; and
- Ensure HCD provides Regional Housing Needs Allocation (RHNA) credit for production of SB 9 units.

The City of Berkeley is committed to being part of the solution to the affordable housing shortage and will continue to work collaboratively with you to encourage creation of much needed housing. Thank you for considering the above amendments.

Sincerely,

Berkeley City Council

CC: Senator Anna Caballero
Senator Susan Rubio
Senator Scott Wiener
Senator Nancy Skinner
Assemblymember Buffy Wicks
Governor Gavin Newsom

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

OPPOSITION TO SB-9 UNLESS AMMENDED

WHEREAS, The City of Berkeley is committed to creating more housing across all income levels and shares the intent and goals of SB 9 (Atkins) to increase housing production; and

WHEREAS, As currently drafted, SB 9 has no mandate for affordability, no provision for local flexibility or local decision-making, bypasses the California Environmental Quality Act (CEQA), and the [California Coastal Act of 1976](#) ; and

WHEREAS, Amendments to the bill would reduce the probability of unintended consequences, such as exacerbating fire evacuation issues or speculator exploitation; and

WHEREAS, SB 9 should clarify that a property owner using SB 9 is limited to constructing two residential units on each parcel; and

WHEREAS, SB 9 should allow local governments to regulate adequate access for police, fire and other public safety vehicles and equipment; and

WHEREAS, The bill should prohibit SB 9 in very high fire hazard severity zones; and

WHEREAS, SB 9 should honor the California Coastal Act of 1976; and

WHEREAS, The bill should allow cities to determine a range of lot sizes suitable for SB 9 development projects; and

WHEREAS, SB 9 should better define what is meant by "transit" and remove the "parked" car share qualification; and

WHEREAS, The bill should ensure HCD provides Regional Housing Needs Allocation (RHNA) credit for production of SB 9 units; and

WHEREAS, SB 9 should allow local governments to take into account local conditions such as hillsides, lot dimensions, natural hazards, available infrastructure, etc.; and

WHEREAS, SB 9 should Include a provision to ensure speculators and investors do not exploit SB 9 by buying, splitting and flipping parcels.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it registers its opposition to SB 9 unless amended.

Senate Bill (SB) 9 (Atkins) Detailed Analysis

*Prepared by RPPG Senior Policy Advisor,
Dan Carrigg*

SB 9 (Atkins) Statewide Rezoning of Single-Family Neighborhoods & Urban Parcel Splits

Rezones by state statute virtually all parcels within single-family residential zones¹ in California allowing for the creation of (when combined with state Accessory Dwelling Unit (ADU) law) up to six,² eight³ or even 10⁴ units; and further authorizes urban parcel splits⁵⁶, without any local discretionary hearing or review, including compliance with the California Environmental Quality Act (CEQA)⁷, as follows:

- 1.** US Census data indicates there are nearly 6.9 million detached homes in California. State and local historic zones are proposed to be exempted, but most other limitations are of relatively minor impact to the massive and sweeping scope of this bill. This measure is silent on how/if it applies to homes within common interest developments, or homeowner's associations, where development is tightly regulated by codes, covenants, and restrictions (CC&R's) that are agreed to by contract and administered by local association boards under the Davis-Stirling Act. California homeowners can take little comfort in the reliability of any potential exceptions in this bill. The Legislature's objective of eliminating single-family zoning statewide is clear, so this law can be expected to be amended in the future to further its intent. The passage of multiple bills in recent years to expand ADU laws are an example of how the Legislature can be expected to quickly widen this law once it is established.
- 2.** At a minimum a developer could create six units by doing the following: (1) First add a junior and separate accessory dwelling units as permitted by recently-enacted state ADU law; then (2) use Sec. 65852.21 in SB 9 to split the single-family home into two units; then (3) apply for an urban parcel split under Sec. 66411.7 of SB 9, and build an additional two units on the newly created parcel.
- 3.** A developer could potentially create even two more accessory dwelling units connected to the subdivision of the original single-family home if the division of the main dwelling is considered a condominium. It could then be argued that each condominium is a separate "lot," so each separate unit is entitled to the development of both junior and separate ADU's. While such an interpretation may seem far-fetched, SB 9 only says (Sec. 6582.21 (e)) that ADU's need not be permitted by a local agency when the developer also proposes the parcel to be split. However, the urban parcel split section of SB 9 (Sec. 66411.7) contains no mention of Section 65852.21-, or single-family homes, or ADU's that may be

on the parcel prior to a proposed split. Thus, a savvy developer can exploit this by first maximizing and completing development of the parcel prior to requesting a split. Given SB 9's objective is to preempt local zoning, and prohibit related local public hearings and discretionary decisions, the total amount of allowed units on a parcel will likely trigger litigation over how to interpret SB 9's interactions between dividing single-family homes, adding ADU's and splitting parcels.

4. Yes, potentially 10 units. There is an omission in the draft of SB 9 that raises the question whether a developer could create two junior accessory dwelling units in addition to the two new dwelling units on the split parcel, because Section 67411.7 (h) in SB 9 only refers to a prohibition on accessory dwelling units per Sec. 65852.2, which applies to accessory dwelling units, but does not also reference Sec. 65852.22 which specifically applies to junior accessory dwelling units. This concern is further bolstered by language in SB 10 (Wiener) which implies that each section contains separate authority and reads as follows:

“(2) Paragraph (1) shall not apply to a project to create no more than two accessory dwelling units and no more than two junior accessory dwelling units per parcel pursuant to Sections 65852.2 and 65852.22 of the Government Code.”

5. SB 9 prohibits local agencies from requiring the dedication of a right of way to a newly created parcel created in a backyard. Easements for public services and facilities, or access to a public right of way may be required. Presumably, for a parcel with no access to the street, the residents would park on the street and cross the front parcel on a path along the property line.

6. Section 66411.7 in SB 9, which enables urban parcel splits, contain no reference to single family homes, thus enabling a multifamily parcel to be also split.

7. It is hard to imagine a bigger CEQA exemption than proposed by SB 9. If a city or county proposed such zoning changes locally CEQA analysis would apply. SB 9 is designed to work around environmental analysis by dictating specific zoning criteria in state statute, and requiring locals to approve applications “ministerially” without public review. Thus, the state Legislature is avoiding environmental reviews in a proposal that rezones virtually all of the single-family lots in the state.

- **Single-Family Residential Zones:** Permits the division, partial or full tear down of an existing single-family home to create two separate residential units, eligible to be sold separately⁸. Since SB 9 also operates in conjunction with ADU law, it will allow even more units to be built on the parcel without public review. All local ordinances⁹ that would physically preclude construction of the two units cannot be enforced. ADU law has separate authority enabling the construction of additional units. Parking is limited to one space per unit¹⁰, and must be eliminated entirely if within one-half mile of transit or if there is a car share vehicle within one

- **Urban Parcel Splits:** Permits urban lot splits in residential zones to create two equal parcels of a minimum of 1,200 square feet¹¹. Prohibits the application of local requirements that would physically preclude the construction of two units to be built on each split (Applies to all residential parcels, not just single-family)¹²
- **Area Limitations:** Parcels must be located in a US Census designated urban area or urban cluster.¹³ Parcels within the Coastal Zone are also included¹⁴. Parcels cannot be located within a fire hazard zone¹⁵, hazardous waste site, on land designated for conservation, or within a historic district, as those various terms are defined. If parcel is located in an earthquake fault zone, floodplain or regulatory floodway, the development shall be constructed in compliance with applicable state and local requirements.
- **Parcel Occupancy Limitations:** The affected development cannot affect units occupied by a tenant within the prior three years,¹⁶ units subject to local rent control, units that have been withdrawn (Ellis Act) from rental housing within the prior 15 years, or units restricted by covenant for low- and moderate-income
- **Single-Family Home Demolishing:** A single family home may be demolished entirely if a tenant has not lived in the home during the prior three years, otherwise only 25 percent may be demolished, unless a greater percentage is allowed by local
- **Setbacks:** Provides that local building setbacks cannot be greater than what is applied to an existing structure and requires those same setbacks to be applied to a structure constructed in the same location and the same dimension as the existing structure.¹⁷ Related conditions include:
 1. Stipulates that a proposal shall not be rejected solely because it proposes adjacent or connected structures that meeting building code safety standards and are sufficient to allow a separate ¹⁸
 2. Permits local governments to require four-foot setbacks from the rear and side lot lines in other ¹⁹
 3. Requires units that are proposed to be connected to an on-site waste treatment system to have a percolation test completed within the prior five years, or if percolation has been recertified, within 10 year.
- **Parking:** Authorizes a local agency to require parking of one space per unit, but prohibits a parking requirement if:

1. The project is within one-half mile of a high-quality transit corridor or a major transit stop, as defined²⁰.
 2. There is a car-share vehicle²¹ located within one block of the parcel.
- **Zoning:** Authorizes the proposed development to comply with local “objective” zoning, subdivision, and design standards, but states that such standards cannot have the effect of precluding²² the development of two units. Defines these terms to mean standards that are uniformly verifiable by reference to an external and uniform benchmark or criterion and involve no personal and subjective judgement by a public official. Stipulates that local agencies shall require that any units constructed under this provision that are to be rented shall be for a term longer than 30 days. (Avoids vacation rentals)²³
 - Prohibits a local agency from being required to permit an accessory dwelling unit on parcels where an applicant constructs units in compliance with this section and also subdivides the lot into two separate ²⁴
 - Authorizes a local agency to adopt an ordinance to implement these provisions but stipulates that the adoption of the ordinance shall not be considered a project under the California Environmental Quality Act (CEQA).²⁵

8. It is not legally necessary to formally divide the parcel to create two units. Condominiums or townhouses could be created that can be sold separately.

9. Many local ordinances that can be ignored by developers under this law can result in significant environmental and community impacts. Applying such an edict statewide with no understanding of the myriad of conditions that may apply to an individual existing parcel makes no sense. For example, some communities have ordinances seeking to preserve heritage trees, maintain views, or allow space for a community bike path. SB 9 preempts the application of such any such ordinances that physically preclude the development of units.

10. Vehicle ownership in the US average two cars per household. Under SB 9, a developer is able to tear down and convert an existing garage as part of dividing a single-family home into two units. If the developer decides to also build ADU’s then this could result in eight or more cars parking on the street. Not requiring adequate parking for new units or eliminating parking entirely will impose a significant burden on adjacent homeowners when residents of the new units’ park in front of neighboring properties. Allowing for such major impacts on adjacent property owners statewide in violation of local zoning without opportunity for a public discussion and due process will exacerbate political tensions.

11. Major social equity issues are raised with this provision. 1,200 square foot parcels are shockingly small and will be further limited by four-foot setbacks for ingress and fire access. This will result in rental units crammed together with no green space and certainly no parking. This small square footage will have the most impact in poor neighborhoods that are already densely developed. Executive homes on larger parcels, however, will be less impacted. For instance, a half-acre parcel that is split in half, will still enable separation between units, and areas for greenspace and parking.

12. SB 9 prohibits a lot that has been split pursuant to its provisions from being split again. It also prohibits an owner of a parcel, or, and any person acting in concert with the owner, to split adjacent lots. These provisions are of absolutely no comfort to those concerned about retaining neighborhood integrity. Unlike a local city or county, the Legislature is removed from any direct implications from what this bill actually means to a neighborhood or a homeowner. If SB 9 is allowing parcels as small as 1,200 square feet, why wouldn't legislators entertain changes next year to this provision on behalf of developers who have their eyes on larger lots? Also, for those who think that 1,200 square feet is a minimum, consider that SB 9 requires locals to allow two units on that lot. Also, the limitation on a developer splitting adjacent lots enables multiple work arounds for savvy investors and attorneys who can maintain separate ownership of adjacent parcels, and nothing stops an investor from freely targeting every other parcel for this activity. And other investors can focus on the rest.

13. This exception will increase demand for living on rural parcels outside of these urban census tracts and contribute to further sprawl. Those that have more resources will likely pay a premium to live on parcels not subject to the uncertainties of SB 9. Realtors will likely have to disclose whether a property is within an SB 9 zone.

14. It is surprising that the Coastal Act is included in this bill. How this measure interacts with the application of the Coastal Act, approved by the voters, deserves additional examination.

15. There are various exceptions to this prohibition where state building standards and state fire hazard mitigation measures have been applied. The cross-referenced definition reads as follows: *“Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.”*

16. This limitation is of minor relevance. The economic potential offered by SB 9, far exceeds the impacts of purchasing a desired property and living in for several years, while plans to develop it are prepared. Still given the delay, developers will likely avoid a rental occupied home in a neighborhood and focus on owner-occupied homes, which will accelerate the conversion of a neighborhood to rental properties.

17. This allows for the full teardown, including the garage.
18. “Conveyance” in real estate terminology means “sale.”
19. This allows the entire back half of the property to be used without any open space, other than walking paths. This also will create privacy issues when windows look onto adjoining properties, or other disputes when building remove heritage trees and block views.
20. Corridor with bus service at 15-minute intervals during peak commute hours, and includes existing rail or bus transit stations, ferry terminals served by bus or rail transit, or major transit stops included in regional transportation plan. These distances bear no real correlation with reality. Most residents living in units subject to SB 9 will have cars. Most Californian’s need cars to get to work, take children to school, shop, visit doctor’s offices etc. In most areas of California, outside of urban core areas, transit is insufficient for the variety of most needs. Many also consider transit to be unsafe, and (more recently with COVID) unhealthy.
21. This reference in the bill only mentions a “car share vehicle” within one block but does not mention a car share parking space. A clever developer could park a car share vehicle permanently on the property, or on the street in front of it, and argue that no other parking is required.
22. There is no way of fulling knowing what this exemption from applicable local ordinances really means. Such an exemption means that the laws of a community will apply unequally. For instance, a family that wants to add more room to an existing house cannot do so because of a view ordinance, but a developer who buys the property next door is free to use SB 9 to split the lot and put multiple units on the property blocking the views of others in violation of the ordinance. How is this equitable?
23. Likely difficult to enforce with numerous tenants inhabiting properties.
24. Footnotes 2, 3 and 4 describe ways this can be worked around.
25. Locals are provided little real authority in this measure. No doubt, they will be heavily blamed by residents for the widespread impacts of SB 9 and the absence of any due process for those affected.

Dan Carrigg is a Senior Policy Advisor with the Renne Public Policy Group. As the retired Deputy Executive and Legislative Director with the League of California Cities, Carrigg brings a wealth of experience to the firm in legislative analysis, policy development, strategy, and advocacy on a wide range of issues affecting local government. His expertise in California housing and land use policy is truly unmatched—having spent nearly 30 years as a land use legislative advocate and former Assembly Housing and Community Development Policy Committee Consultant.

AMENDED IN SENATE APRIL 27, 2021

AMENDED IN SENATE APRIL 05, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 9

Introduced by Senators Atkins, Caballero, Rubio, and Wiener
(Coauthors: Senators ~~Gonzalez~~ Cortese, Gonzalez, and McGuire)
~~(Coauthor: Assembly Member Robert Rivas)~~ (Coauthors: Assembly Members Robert Rivas
and Wicks)

December 07, 2020

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low

income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a ~~city or county~~ *local agency* to ministerially approve a parcel map ~~or tentative and final map~~ for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a *single-family* residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill, until January 1, 2027, would prohibit a local agency from imposing an owner occupancy requirement on applicants unless specified conditions are met.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local ~~government~~ *agency* from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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

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

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO

ENACT AS FOLLOWS:

SECTION 1.

Section 65852.21 is added to the Government Code, to read:

65852.21.

(a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a ~~city~~ city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a ~~city or county~~ *local agency* may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The ~~city or county~~ *local agency* shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local ~~government~~ *agency* may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last ~~five~~ *5* years, or, if the percolation test has been recertified, within the last 10 years.

(d) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(e) Notwithstanding Section ~~65852.2, 65852.2 or 65852.22~~, a local agency shall not be required to permit an accessory dwelling unit *or a junior accessory dwelling unit* on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(f) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(g) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(h) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a ~~city or county~~, *local agency*, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(i) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local ~~government~~ *agency* shall not be required to

hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2.

Section 66411.7 is added to the Government Code, to read:

66411.7.

(a) Notwithstanding any other provision of this division and any local law, a ~~city or county~~ *local agency* shall ministerially approve, as set forth in this section, a parcel map ~~or tentative and final map~~ for an urban lot split ~~that~~ *only if the local agency determines that the parcel map for the urban lot split* meets all the following requirements:

(1) The parcel map ~~or tentative and final map~~ subdivides an existing parcel to create *no more than* two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a *single-family* residential zone.

(B) The parcel subject to the proposed urban lot split is located within a ~~city~~ *city*, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for *a parcel map for* an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for *a parcel map for* an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map ~~or tentative and final map~~ for an urban lot ~~split~~. *split pursuant to this section.*

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a ~~city or county~~ *local agency* may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local ~~government~~ *agency* may require a setback of up to four feet from the side and rear lot lines.

(d) In addition to any conditions established in accordance with ~~subdivision (c)~~, *this section*, a local agency may require any of the following conditions when considering an application for *a parcel map for* an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(e) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(f) (1) A local agency may impose an owner occupancy requirement on an applicant for an urban lot split that meets one of the following conditions:

(A) The applicant intends to occupy one of the housing units as their principal residence for a minimum of one year from the date of the approval of the urban lot split.

(B) The applicant is a “qualified nonprofit corporation.” A “qualified nonprofit corporation” means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under either of the following:

(i) Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(ii) Section 214.18 of the Revenue and Taxation Code for properties owned by a community land trust.

(2) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(3) This subdivision shall become inoperative on January 1, 2027.

(g) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(h) A local agency shall not require, as a condition for ministerial approval of a ~~permit~~ *parcel map* application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(i) (1) Notwithstanding any provision of Section 65852.2, Section 65852.21, Section 65852.22, Section 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(j) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(k) Local agencies shall include the number of applications for *parcel maps for* urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(l) For purposes of this section, *both of the terms “objective following shall apply:*

(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a ~~city or county~~, local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(m) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(n) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local ~~government~~ agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3.

Section 66452.6 of the Government Code is amended to read:

66452.6.

(a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4.

The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Lori Droste
Berkeley Vice Mayor

ACTION CALENDAR

June 15, 2021

(Continued from May 25, 2021)

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste (Author), Councilmembers Rigel Robinson (Co-Sponsor), Rashi Kesarwani (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

Subject: Commission Reorganization for Post-COVID19 Budget Recovery

RECOMMENDATION

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

New Commission Name	Former Commissions to be Reorganized
Commission on Climate and the Environment	Zero Waste, Energy, Community Environmental Advisory, and Animal Care

Parks, Recreation, Waterfront (special Marina subcommittee)	Children, Youth, and Recreation and Parks and Waterfront
Peace, Justice, and Human Welfare ¹	Peace and Justice and Human Welfare, Community Action Commissions
Public Health Commission & Sugar Sweetened Beverage Panel of Experts	Community Health Commission and Sugar Sweetened Beverage Panel of Experts
Housing Advisory Commission	Measure O and Housing Advisory Commission
Homeless Services Panel of Experts	Homeless Commission and Measure P Homeless Services Panel of Experts
Public Works and Transportation	Public Works and Transportation
Planning	Planning and Cannabis
<p>All other commissions will maintain their current structure: Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p>	

2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
5. Refer to City Manager and Commissions the following additional considerations:
 - Federal, state or other external mandates that might be impacted, and determine how to handle.
 - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted

¹ Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751.

- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

Policy Committee Oversight ²	Commissions
Agenda and Rules	<ol style="list-style-type: none"> 1. Fair Campaign Practices/Open Government Commission 2. Personnel Board
Budget and Finance	(Any legislation that requires funding)
Public Safety	<ol style="list-style-type: none"> 1. Disaster and Fire Safety Commission 2. Police Accountability Board/Police Review Commission 3. Reimagining Public Safety Task Force
Facilities, Infrastructure, Transportation and the Environment	<ol style="list-style-type: none"> 1. Commission on the Environment 2. Parks, Recreation and Waterfront with Marina subcommittee 3. Public Works and Transportation
Land Use and Economic Development	<ol style="list-style-type: none"> 1. Measure O Housing Commission 2. Planning Commission 3. Labor 4. Civic Arts Commission
Health, Equity, Life Enrichment, and Community	<ol style="list-style-type: none"> 1. Peace, Justice, and Civil Rights 2. Health and Sugar Sweetened Beverage Panel of Experts 3. Homeless Services Panel of Experts 4. Mental Health Commission (state/federal mandate) 5. Commission on the Status of Women 6. Disability Commission

² Primary policy committee oversight but legislation may be referred to multiple policy committees.

Other Commissions: Zoning Adjustments Board (DRC), Landmarks Preservation, Board of Library Trustees, BIDs, Independent Redistricting Commission, Loan Administration Board

POLICY COMMITTEE RECOMMENDATION

On April 5, 2021, the Agenda and Rules Committee made a qualified positive recommendation to City Council to:

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.

As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

New Commission Name (suggested)	Former Commissions to be Reorganized
Commission on Climate and the Environment	Zero Waste, Energy, Community Environmental Advisory, and Animal Care
Parks, Recreation, Waterfront (special Marina subcommittee)	Children, Youth, and Recreation and Parks and Waterfront
Peace, Justice, and Human Welfare	Peace and Justice Commission and Human Welfare and Community Action Commission
Public Health Commission & Sugar Sweetened Beverage Panel of Experts	Community Health Commission and Sugar Sweetened Beverage Panel of Experts
Housing Advisory Commission	Measure O and Housing Advisory Commission
Homeless Services Panel of Experts	Homeless Commission and Measure P Homeless Services Panel of Experts

Public Works and Transportation	Public Works and Transportation
Planning	Planning and Cannabis
<p>All other commissions will maintain their current structure: Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p>	

2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions.

3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.

4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.

5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees.

6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations”

- Federal, state or other external mandates that might be impacted, and determine how to handle
- Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

PROBLEM/SUMMARY STATEMENT

Commissions provide an important mechanism for residents to shape public policy and provide input on City business. However, the City of Berkeley maintains far more commissions than other cities of similar size, with a significant investment of City resources to staff all 37 commissions. Some commission secretaries report spending upwards of 20+ hours per week on commission business, which takes valuable time away from addressing other pressing City priorities. The local public health emergency created by the global COVID-19 pandemic has required City staff to shift to new roles and maintain an Emergency Operations Center since January 2020; recovery from the pandemic will continue to demand the full attention of our City staff for the foreseeable future. Given the uncertainties that our City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on our City staff, it is an appropriate time to consider how best to consolidate our commissions in a manner that helps the City to achieve its core mission.

REITERATION OF PRINCIPLES

Commissions are a fundamental part of the City's policymaking process. Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services. Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

- The Public Works Commission, for example, develops the City's five year paving plan which they then present to City Council for approval. Through extensive community outreach and research, the Commission identifies the streets most in need of repaving.
- With the passage of Measure D in 2014, a Panel of Experts on Sugar-Sweetened Beverages has guided the City's spending of over \$5 million in revenue generated from the Measure. Those dollars have bolstered local public campaigns and education initiatives.

These are merely two examples of the powerful role that Commissions play in City policymaking.

CURRENT SITUATION AND ITS EFFECTS

Current Commission Structure

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter)Police Review Commission (ballot measure)
12. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

The Importance of Commissions

Commissions serve a vital role in the City of Berkeley’s rich process of resident engagement. An analysis of agendas over the past several years shows that the commissions have created policy that have benefited the community in meaningful and important ways. In 2020, 14 of the 16 commission items submitted to Council passed. From 2016-2020, an average of 34 items were submitted by commissions to Council for consideration.

The City’s Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley’s size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

Commission Structures in Neighboring Jurisdictions

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

Comparable Bay Area City	Population (est.)	Number of Commissions	Links
Berkeley	121,000	37	https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf
Antioch	112,000	6	https://www.antiochca.gov/government/boards-commissions/
Concord	130,000	14	https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi
Daly City	107,000	7	http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm
Fairfield	117,000	7	https://www.fairfield.ca.gov/gov/comms/default.asp
Fremont	238,000	15	https://www.fremont.gov/76/Boards-Commissions-Committees
Hayward	160,000	12	https://www.hayward-ca.gov/your-government/boards-commissions

Richmond	110,000	29	https://www.ci.richmond.ca.us/256/Boards-and-Commissions
San Mateo	105,000	7	https://www.cityofsanmateo.org/60/Commissions-Boards
Sunnyvale	153,000	10	https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804
Vallejo	122,000	17	http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

Staffing and Resources Supporting Berkeley’s Current Commission Structure

Commission Name	Overseeing Department (Total Commissions in Department)
Animal Care Commission	City Manager (8)
Civic Arts Commission	City Manager (8)
Commission on the Status of Women	City Manager (8)
Elmwood BID Advisory Board	City Manager (8)
Loan Administration Board	City Manager (8)
Peace and Justice Commission	City Manager (8)
Solano Ave BID Advisory Board	City Manager (8)
Cannabis Commission	Planning (7)
Community Environmental Advisory Commission	Planning (7)
Design Review Committee	Planning (7)
Energy Commission	Planning (7)
Landmarks Preservation Commission	Planning (7)
Planning Commission	Planning (7)
Zoning Adjustments Board	Planning (7)

Children, Youth, and Recreation Commission	Parks (3)
Parks and Waterfront Commission	Parks (3)
Youth Commission	Parks (3)
Commission on Aging	Health, Housing, and Community Services (HHCS) (10)
Commission on Labor	HHCS (10)
Community Health Commission	HHCS (10)
Homeless Commission	HHCS (10)
Homeless Services Panel of Experts	HHCS(10)
Housing Advisory Commission	HHCS (10)
Human Welfare & Community Action Commission	HHCS (10)
Measure O Bond Oversight Committee	HHCS (10)
Mental Health Commission	HHCS (10)
Sugar-Sweetened Beverage Product Panel of Experts	HHCS (10)
Disaster and Fire Safety Commission	Fire (1)
Commission on Disability	Public Works (4)
Public Works Commission	Public Works (4)
Transportation Commission	Public Works (4)
Zero Waste Commission	Public Works (4)
Fair Campaign Practices Commission/Open Government Commission	City Attorney (1)
Personnel Board	Human Resources (1)

Police Review Commission/Police Accountability Board	Police Review Commission/Police Accountability Board Staff
Reimagining Public Safety Task Force	City Manager *(8) and BPD (2)
Board of Library Trustees	Library (1)

Gray=charter
 Red=state/federal mandate
 Yellow=quasi-judicial
 Blue=ballot initiative
 Orange=state/federal mandate and quasi-judicial
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (7 commissions), and the City Manager’s department (8 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

Policy Committee Structure Expands Opportunities for Public Input

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

Department and Policy Committee alignment

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

Staffing Costs

Based upon preliminary calculations of staff titles and salary classifications, the average commission staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work

anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

Commission	Step 5 Rate of Pay	Reported Hours a Month	Total Direct Cost of Commission per Month
Animal Care	\$70.90	8	\$567.20
Landmarks Preservation Commission	\$57.96	80	\$4,636.80
Design Review Commission	\$52.76	60	\$3,165.60
Peace and Justice	\$60.82	32	\$1,946.24

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

Productivity Losses and Administrative Burden

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley’s main homeless outreach workers staffed a commission within the City Manager’s department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach.

RATIONALE FOR RECOMMENDATION

At a time when the City needs to demonstrate efficiency and fiscal restraint, the current commission structure is costly and duplicative. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.

FISCAL IMPACTS

Significant savings associated with reduced staffing.

CONTACT

Vice Mayor Lori Droste 510-981-7180



Office of the City Manager

INFORMATION CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Dr. Diane Sequoia, Chair, Animal Care Commission
 Subject: Animal Care Commission 2021/2022 Work Plan

INTRODUCTION

In a general meeting held on April 21st, 2021 the Animal Care Commission adopted a work plan for 2021 - 2022 which is presented below.

CURRENT SITUATION AND ITS EFFECTS

The top priorities of the Animal Care Commission (ACC) for 2021/ 2022 are as follows:

- A. Help keep people with their pets. Continue to support Animal Services and City efforts to ensure that wanted and well cared for pets are not separated by adverse circumstances from their humans. Assist in making available pet food and other pet supplies to enable all (responsible) Berkeley residents to keep and care for their pets particularly during times of stress. Prioritize low income, elderly and unhoused individuals.
- B. Help promote pet-friendly housing. Make available informational resources on finding and keeping housing for people with pets. Also make available informational resources to landlords on the advantages of renting to responsible pet-owners. Posting such informational resources on the Animal Services webpage and possibly the City office of housing services and/or other appropriate City divisions; including links to other organizations that have successful/robust pet-friendly policies or programs (an example being SFSPCA).
- C. Increase Berkeley residents' awareness of urban wildlife and promote knowledge of means of coexistence. Assist Animal Services in making urban wildlife awareness and means of coexistence available to the general public in Berkeley. This can be done by continuing and expanding on the information posted on the Animal Services webpage and on-going partnering with other urban wildlife awareness/co-existence organizations. Cross posting information and/or links on the City webpages of Vector Control and Public Health could also reach a wider group of Berkeley residents seeking information on or assistance in living with our resident urban wildlife.

- D. Actively support and promote increased and on-going adequate City funding of Animal Services and its vital programs supporting the Berkeley community, many of which are unrecognized by both the general public and by the City administration and elected officials.

Animal Services provides extensive community services to Berkeley including maintaining the municipal animal shelter and the animals housed there, reuniting lost pets with their people, providing animal related infrastructural support services, follow-up training for dogs adopted out, animal related advice and information to the public, assistance to low income residents with pets and pet and animal related community outreach.

The ACC will work with other commissions, including Parks & Waterfront Commission, the Public Works Commission, and non-profit organizations involved in these issues in Berkeley.

BACKGROUND

The Animal Care Commission meets six (6) times per year with the mission of overseeing the treatment of animals in all shelters established within Berkeley. The ACC advises the council on the care, treatment and control of animals.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

The ACC and the Animal Services Manager will research options and associated costs to establish an area suitable for training and exercising shelter dogs. The ACC will research ways to assist homeless pet owners to secure housing. The ACC will also research and implement practical means to increase pet-friendly housing in Berkeley.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The ACC will research information regarding the cost of establishing an area suitable for training and exercising shelter dogs as well as possible sources of funding.

CONTACT PERSON

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



Planning Commission

INFORMATION CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council

From: Planning Commission

Submitted by: Shane Krpata, Vice-Chair, Planning Commission and Jeff Vincent, Work Plan Subcommittee of the Planning Commission

Subject: Planning Commission Work Plan 2021-2022

INTRODUCTION

The City of Berkeley Planning Commission (PC) hereby submits its work plan for Fiscal Year 2021, pursuant to the Berkeley City Council's request.

CURRENT SITUATION AND ITS EFFECTS

Unlike other City commissions, the PC's workload is almost exclusively dictated by referrals from the City Council. In recent years, the Council conducted an annual referral ranking process, which shaped the prioritization of work for the PC. Thus, by design, the PC has far less latitude than other city commissions in establishing and prioritizing its workload. As of February 2021, the PC has a workload of more than 45 referrals from the City Council.

The PC's work plan organizes the referrals around three strategic areas of PC interest/outcome, as described below. Across these strategic outcome areas, the PC aims to **demonstrate state-wide leadership in promoting social equity, affordability, and climate resilience issues.**

Increasingly, new state laws – particularly on housing-related issues – require that the City update/amend its code to be in compliance with State legislation. Thus, the Planning Commission must prioritize agendaing these items so that a timely recommendation can be sent to City Council. On some of these issues, the Planning Commissioners agreed to go “beyond” state laws and recommend local land use policy policies that the PC feels will achieve more equitable results than what state laws are requiring.

Similarly, some referrals include the City hiring outside consultants on certain items under specific timelines, which requires attention and action by both PC and the Planning Department.

Strategic Outcome Areas:

1. **Increase affordable housing.** This includes retaining and expanding the stock of affordable housing available throughout the city. The commission has identified three mechanisms by which we can advance this strategic outcome:
 1. Modify development standards to create more affordable housing;
 2. Revise administrative procedures and levels of discretion to streamline affordable housing;
 3. Develop community benefits and other value capture mechanisms in order to maximize affordability in new development.
2. **Promote healthy, livable communities.** This includes ensuring Berkeley residents live in safe, healthy, and accessible communities with parks, schools, local businesses, and cultural institutions, and promoting healthy mobility options for all residents.
3. **Support community economic development and commercial vitality.** This includes preserving and enhancing Berkeley's thriving neighborhood commercial areas and ensuring a vibrant downtown.

Resources: Significant staff time is required to conduct the research, write reports, and draft zoning language. In some cases, consultants are brought on board to assist staff.

Activities: For each referral, the PC's action requires staff time for substantive reports on each topic within each referral as well as developing draft zoning language changes. Often the draft zoning language goes through multiple revisions across multiple PC meetings.

Outputs: On nearly all referrals, the PC output consists of recommendations to the City Council.

BACKGROUND

City Council has requested that each commission provide a work plan that explains the mission and goals of each appointed body. The mission of the PC, as outlined in the City Charter, reads:

"The Commission recommends modifications to the City of Berkeley General Plan and related policy documents. All Zoning Ordinance amendments are developed through this Commission and recommended to the City Council. Other purviews include subdivision map consideration and review and comments on substantial projects from surrounding jurisdictions."

Members of the PC have discussed their goals and prioritized three strategic outcomes to guide their 2021-2022 work as described above: 1) Increase affordable housing; 2)

Promote healthy, livable communities; and 3) Support community economic development and commercial vitality.

At its meeting of March 17th, 2021, the PC voted to adopt this work plan with Commissioner Krpata's edits and send it to City Council. (Vote: 8,0,0,1; Ayes: Wiblin, Schildt, Lacey, Beach, Kapla, Krpata, Hauser, Ghosh. Noes: None. Abstain: None. Absent: Vincent. Motion/Second: Krpata/Beach.)

The attached Planning Commission Work Plan Table 2020-2021 (see Attachment 1) shows started referrals, referrals awaiting action from other commission(s), referrals ranked by City Council that are awaiting PC action (but require additional resources or staff capacity), and referrals not yet ranked by City Council. The table also includes projects that are required for compliance with State law and/or projects underway with the help of consultants or staff from other divisions and departments.

The PC's pace in working through City Council referrals is determinant on staff support. The Long Range Policy Group currently has five fulltime equivalent (FTE) employees (two Principal Planners, one Associate Planner, and two Assistant Planners) and is in the process of hiring one Senior Planner. Additional staff resources would allow the Long Range Policy Group to move through their workload more efficiently.

ENVIRONMENTAL SUSTAINABILITY

The PC's work plan aids in advancing the city's goals around sustainability and greenhouse gas reduction.

CONTACT PERSON

Alene Pearson, Commission Secretary, Land Use Planning Division, (510) 981-7489

Attachments:

1: Planning Commission Work Plan Table 2021-2022

	Referral	STATUS: Started OR RRV-HAP Rank		Estimated Completion	Staff Lead	STRATEGIC OUTCOME AREAS			Special Considerations	
						1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality		
1	Student Housing:	C-T: Community Benefits (focus on Labor Practice and AH)	started	3	2nd Quarter 2022	Justin Horner	X	X	X	
2		Increase 20' height and FAR in SS	started			Justin Horner	X			
3		Convert Groundfloor Com to Res in SS	started			Justin Horner	X	*		
4		C-T: Pilot Density Bonus (DB Phase 2)	started			Justin Horner	X			
5		More Student Housing Now & SB1227	started	4		Justin Horner	X			
6	Active Long Range and Special Projects	ADU Ordinance - Local Updates	ST		3rd Quarter 2021	Katrina Lapira	X	X		mandated by ADU state law
7		Adeline Implementation	started		ongoing	Alisa Shen	X	X	X	
8		Bayer Development Agreement	started		4th Quarter 2021	Leslie Mendez			X	
9		BART Zoning // AB 2923	started		4th Quarter 2021	Alisa Shen	X	X		mandated by state law (AB 2923)
10		Gentrification/Displacement Study	started		4th Quarter 2021	HAC & PC	X	X	X	
11		Rezone Parcels Adjacent to the ACP Area	started		3rd Quarter 2021	Alisa Shen	x	X	X	
12		ZORP Phase 1 - New Baseline ZO (BZO)	started		3rd Quarter 2021	Justin Horner				customer service improvements
13	Housing Element Related Work	2020 Annual Progress Report HE	started		annual	Katrina Lapira	X			mandated by HE state law
14		2020 Annual Progress Report General Plan	started		annual	Katrina Lapira	X	X	X	mandated by HE state law
15		Housing Element (HE) Update	started		1st Quarter 2023	Alene Pearson	X	*		mandated by HE state law
16		1. Density by parcel; 2. Healthy/safety detriments; 3. Design review; 4. View-shadow impacts (DB Phase 3/JSISHL)	started	5	3rd Quarter 2022	Alene Pearson	X	X		mandated by state law (HAA, SB 330, SB-35)
17		Implement State Law HAA & SB-35	started		3rd Quarter 2022	Alene Pearson	X	*		mandated by state law (HAA, SB 330, SB-35)
18		ZORP Phase 2 - Substantive Changes	started		3rd Quarter 2022	Justin Horner		*		customer service improvements
19		Guide Development on San Pablo	6		4th Quarter 2025	Alene Pearson	X	X	X	required by ABAB/MTC
20		Missing Middle Housing Report	2		3rd Quarter 2022	Alene Pearson	X	*		supports HE Update / supported by CC
21		Resolution to End Exclusionary Zoning			3rd Quarter 2022	Alene Pearson	X	*		supports HE Update / supported by CC
22		Expand Non-commercial Groundfloor Uses		18		not assigned	X			
23		Flex Conversion to Mini Dorms	NR			not assigned	X			
24	Housing Pipeline Report	cc request		annual	Katrina Lapira	X				
25	Business-Related Referrals	ZOAs Part 2: Sign Ordinance	started		3rd Quarter 2021	Paola Boylan			X	
26		Expand Downtown Arts District	started		1st Quarter 2022	Katrina Lapira			X	
27		Arcades in the Elmwood	started		3rd Quarter 2021	Paola Boylan			X	
28		R&D Definition	started		4th Quarter 2021	Katrina Lapira			X	
29		ZOAs Part 2	started			not assigned			X	
30		Development Agreements	10			not assigned			X	
31		Beer and Wine in the M-District	46			not assigned			X	
32	Fees and Nexus Studies	Fix LLA loophole & revise IHO	started		4th Quarter 2021	Alisa Shen	X			
33		Reform AHMF (fees per unit vs gfa)	started		4th Quarter 2021	Alisa Shen	X			
34		Demolition Ordinance	started	16	1st Quarter 2022	Planning & RSB	X			
35		Decrease AHMF for TIC conversions	started		4th Quarter 2021	Alisa Shen	X			
36		Inclusionary Units for Live Work	started		4th Quarter 2021	Alisa Shen	X			
37	Analyze feasibility of onsite affordable units vs payment of AHMF	started		4th Quarter 2021	Alisa Shen	X				

	Referral	STATUS: Started OR RRV-HAP Rank	Estimated Completion	Staff Lead	STRATEGIC OUTCOME AREAS			Special Considerations
					1. Increase Affordable Housing	2. Promote Healthy, Livable Communities	3. Support Economic Development and Commercial Vitality	
38	WB Service Center	NR		Alene Pearson	X			
39	Opportunity Zone Overlay (OED lead)	NR					X	
40	Alta Bates Zoning	----		Steve Buckley		X	X	
41	Other Long Range // Special Projects Pacific Steel Visioning	---		Steve Buckley			X	
42	UC Berkeley LRDP (City Attorney lead)	----		Shannon Allen	X			
43	Berkeley Marina Master Plan (PRW lead)	----		Shannon Allen		X		
44	TIF / TSF Nexus Fee (Transportation lead)			not assigned		X		
45	Berkeley Transfer Station (PW lead)	----		not assigned		X		
46	Cannabis Equity: Cannabis Equity (feb 19, 2019)	ST		not assigned		X	X	
47	Modify Live Work to allow Cannabis	NR		not assigned			X	
48	Green Stormwater Requirements	CEAC started		not assigned		X		
49	Urban Forestry Ordinance	15		not assigned		X		
50	Develop Pay Transparency Permit Conditions	26		not assigned			X	
51	Lower Discretion for Internal Remodeling	42		not assigned		*		customer service improvements
52	Miscellaneous Air Pollution Performance Standards	49		not assigned		X		
53	Deny Permits to Applicants with Code Violations	52		not assigned		*		strengthen enforcement
54	Bird Safe Construction	NR		not assigned		X		
55	Update Short Term Rental Ordinance	started	4th quarter 2021 (partial)	Steve Buckley	X		X	
56	TDM Review	NR		not assigned		X	*	
57	Home Occupation Class 3 Expansion	NR		not assigned			X	

ABBREVIATIONS

- | | | |
|---|---|--|
| X = Directly Related | * = Indirectly Related | |
| AHMF = Affordable Housing Mitigation Fund | MSHN = More Student Housing Now | SS = Southside |
| cc = City Council | jsis/JSISHL = Joint Subcommittee for Implementation of State Housing Laws | |
| EIR = Environmental Impact Report | NR = not ranked | ST = Short Term Referral |
| GF = groundfloor | pc = Planning Commission | TDM = Transportation Demand Management |
| HAA = Housing Accountability Act | PDA = Priority Development Area | TIF = Transportation Impact Fee |
| HAP = Housing Action Plan | ph = public hearing | TSF = Transportation Service Fee |
| HTF = Housing Trust Fund | RFP = Request for Proposals | WB = West Berkeley |
| IHO = Inclusionary Housing Ordinance | RRV = Reweighted Range Voting | wg = working group |
| LLA = Lot-line adjustment | sc = Subcommittee of the Planning Commission | ws = work session |
| | | ZORP = Zoning Ordinance Revision Project |

Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i>	
Scheduled Dates	
July 20	<ol style="list-style-type: none"> 1. Bayer Development Agreement 2. Measure FF and Fire Prevention
Sept. 21	<ol style="list-style-type: none"> 1. Housing Element
Oct. 19	<ol style="list-style-type: none"> 1. Update: Zero Waste Rates & Priorities 2. Berkeley Police Department Hiring Practices 3. Crime Report
Dec. 7	<ol style="list-style-type: none"> 1. Review and Update on City's COVID-19 Response 2. WETA / Ferry Service at the Marina 3. Presentation by Bay Restoration Authority

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

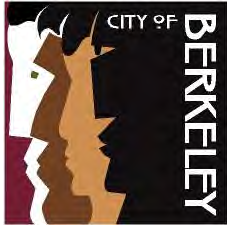
Unscheduled Presentations (City Manager)
<ol style="list-style-type: none"> 1. Civic Arts Grantmaking Process & Capital Grant Program

	City Council Referrals to the Agenda & Rules Committee and Unfinished Business for Scheduling
1.	<p>47. Amending Chapter 19.32 of the Berkeley Municipal Code to Require Kitchen Exhaust Hood Ventilation in Residential and Condominium Units Prior to Execution of a Contract for Sale or Close of Escrow <i>(Reviewed by Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee) (Referred from the January 21, 2020 agenda)</i></p> <p>From: Councilmember Harrison</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.32 to require kitchen exhaust ventilation in residential and condominium units prior to execution of a contract for sale or close of escrow. 2. Refer to the City Manager to develop a process for informing owners and tenants of the proper use of exhaust hoods. <p>Financial Implications: See report Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140 <i>Note: Referred to Agenda & Rules for future scheduling.</i></p>
2.	<p>25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers <i>(Continued from February 25, 2020. Item contains revised and supplemental materials) (Referred from the May 12, 2020 agenda.)</i></p> <p>From: City Manager</p> <p>Recommendation: Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.</p> <p>Financial Implications: None Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000 <i>Note: Referred to Agenda & Rules for future scheduling.</i></p>
3.	<p>17. Objective Standards Recommendations for Density, Design and Shadows <i>(Item contains supplemental material.) (Referred from the March 23, 2021 agenda.)</i></p> <p>From: Joint Subcommittee for the Implementation of State Housing Laws</p> <p>Recommendation: Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.</p> <p>Financial Implications: See report Contact: Alene Pearson, Commission Secretary, (510) 981-7400 <i>Note: Referred to Agenda & Rules for future scheduling.</i></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				
0 Latham Lane (75 Latham) (construct a new two story single-family)	ZAB	5/25/2021		
0 Latham Lane (65 Latham) (construct a new two story single-family)	ZAB	5/25/2021		
1241 Ashby Avenue (construct detached two story dwelling unit)	ZAB	5/25/2021		
1730 Blake Street (construct one, three-story, single-family dwelling)	ZAB	6/8/2021		
Public Hearings Scheduled				
2421 Fifth Street (construct two residential buildings)	ZAB			6/1/2021
2943 Pine Street (construct second story on existing one story)	ZAB			9/28/2021
1205 Peralta Avenue (conversion of an existing garage)	ZAB			10/12/2021
Remanded to ZAB or LPC				
Notes				

5/26/2021



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: November 10, 2020

Item Number: 20

Item Description: Annual Commission Attendance and Meeting Frequency Report

Submitted by: Mark Numainville, City Clerk

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



Office of the City Manager

November 9, 2020

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachments:

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

**November 10, 2020 - Item 20
Supplemental Information**

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

**November 10, 2020 - Item 20
Supplemental Information**

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

RESOLUTION NO. 69,331-N.S.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

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

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

Category B

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

Transportation Commission
Youth Commission
Zero Waste Commission
Loan Administration Board

Section 2. City Council Policy Committees

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

Section 3. City Council


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

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

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

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk



Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

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

Subject: Commission Meetings During COVID-19 Emergency

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

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

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

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

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

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

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

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

Prompts for Commissions to use in work plan:

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

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

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

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

Attachments:

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

cc: Mayor and City Councilmembers
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

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

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

Category B

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

Transportation Commission
Youth Commission
Zero Waste Commission
Loan Administration Board

Section 2. City Council Policy Committees

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

Section 3. City Council


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

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

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

Noes: None.

Absent: None.




Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk

<u>Boards and Commissions</u>	<u>Meetings Held Under COVID Emergency (through 10/11)</u>	<u>Scheduled Meetings in October</u>	<u>Regular Mtg. Date</u>	<u>Secretary</u>	<u>Department</u>
Zoning Adjustments Board	10	1	2nd & 4th Thur.	Shannon Allen	PLD
Police Review Commission	9	1	2nd & 4th Wed.	Katherine Lee	CM
Fair Campaign Practices Commission	8	1	3rd Thur.	Sam Harvey	CA
Design Review Committee	5	1	3rd Thur.	Anne Burns	PLD
Landmarks Preservation Commission	5	1	1st Thur.	Fatema Crane	PLD
Open Government Commission	5	1	3rd Thur.	Sam Harvey	CA
Homeless Services Panel of Experts	4	1	1st Wed	Brittany Carnegie	HHCS
Disaster and Fire Safety Commission	3	1	4th Wed.	Keith May	FES
Parks and Waterfront Commission	3	1	2nd Wed.	Roger Miller	PRW
Planning Commission	3		1st Wed.	Alene Pearson	PLD
Public Works Commission	3	1	1st Thur.	Joe Enke	PW
Civic Arts Commission	2		4th Wed.	Jennifer Lovvorn	OED
Solano Avenue BID Advisory Board	2		Contact Secretary	Eleanor Hollander	OED
Elmwood BID Advisory Board	1		Contact Secretary	Kieron Slaughter	OED
Joint Subcom. on Implementation of State Housing Laws	1		4th Wed.	Alene Pearson	PLD
Mental Health Commission	1		4th Thur.	Jamie Works-Wright	HHCS
Personnel Board	1		1st Mon.	La Tanya Bellow	HR
Transportation Commission	1	1	3rd Thur.	Farid Javandel	PW
Animal Care Commission	0		3rd Wed.	Amelia Funghi	CM
Cannabis Commission	0		1st Thur.		PLD
Children, Youth, and Recreation Commission	0		4th Monday	Stephanie Chu	PRW
Commission on Aging	0		3rd Wed.	Richard Castrillon	HHCS
Commission on Disability	0		1st Wed.	Dominika Bednarska	PW
Commission on Labor	0		3rd Wed., alternate mo	Nathan Dahl	HHCS
Commission on the Status of Women	0		4th Wed.	Shallon Allen	CM
Community Environmental Advisory Commission	0		2nd Thur.	Viviana Garcia	PLD
Community Health Commission	0		4th Thur.	Roberto Terrones	HHCS
Energy Commission	0		4th Wed.	Billi Romain	PLD
Homeless Commission	0		2nd Wed.	Brittany Carnegie	HHCS
Housing Advisory Commission	0		1st Thur.	Mike Uberti	HHCS
Human Welfare & Community Action Commission	0		3rd Wed.	Mary-Claire Katz	HHCS
Loan Administration Board	0		Contact Secretary	Kieron Slaughter	OED
Measure O Bond Oversight Committee	0		3rd Monday	Amy Davidson	HHCS
Peace and Justice Commission	0		1st Mon.	Nina Goldman	CM
Sugar-Sweetened Beverage Product Panel of Experts	0		3rd Thur.	Dechen Tsering	HHCS
Youth Commission	0		2nd Mon.	Ginsi Bryant	PRW
Zero Waste Commission	0		4th Mon.	Heidi Obermeit	PW



No Material
Available for
this Item

There is no material for this item.

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

City of Berkeley Agenda & Rules Committee Agenda Index Webpage:
https://www.cityofberkeley.info/Clerk/City_Council/Policy_Committee_Agenda_Rules.aspx

