



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

**MONDAY, JANUARY 24, 2022**

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

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/81774958455>. 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: **817 7495 8455**. 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: January 10, 2022**
- 2. Review and Approve Draft Agenda:**
  - a. 2/8/22 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

## **Scheduling**

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

## **Referred Items for Review**

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

## **Unscheduled Items**

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

## **Items for Future Agendas**

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

## Adjournment – Next Meeting Tuesday, February 8, 2022

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

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

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

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

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

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

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



#### COMMUNICATION ACCESS INFORMATION:

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

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 20, 2022.



Mark Numainville, City Clerk

### **Communications**

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



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

**MONDAY, JANUARY 10, 2022**

**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**

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To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **835 5002 2282**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

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# AGENDA

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

**Public Comment** – 9 speakers.

## Review of Agendas

**1. Approval of Minutes: January 4, 2022**

**Action:** M/S/C (Hahn/Wengraf) to approve the 1/4/22 minutes.

**Vote:** All Ayes.

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

a. 1/25/22 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Hahn) to approve the 1/4/22 minutes.

- *Item Added: Grant Application (City Manager)*
- *Item 7 Cannabis Cultivation (Arreguin) – Councilmember Kesarwani added as a co-sponsor*
- *Item 11 Artist Live-Work (Hahn) – Councilmembers Taplin, Harrison, and Wengraf added as co-sponsors; Scheduled for 1/25/22 Consent Calendar*
- *COVID-19 Update Presentation scheduled for 1/25/22 Action Calendar*

Order of Action Calendar

Item 10 Surveillance Report

COVID-19 Response Presentation

**Vote:** All Ayes.

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

- None Selected

**4. Adjournments In Memory – None**

## Scheduling

**5. Council Worksessions Schedule**

- COVID 19 Response rescheduled to 1/25 Regular Meeting

**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:** 2 speakers. City Manager noted that COVID-19 response for omicron surge may impact staffing for commission meetings.

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

**Action:** 2 speakers. No action taken.

**Unscheduled Items**

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

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

**Items for Future Agendas**

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

**Adjournment**

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

**Vote:** All Ayes.

Adjourned at 3:31 p.m.

I hereby certify that the forgoing is a true and correct record of the Agenda & Rules Committee meeting held on January 6, 2022.

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Mark Numainville, City Clerk

**Communications**

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# DRAFT AGENDA

02a



## BERKELEY CITY COUNCIL MEETING

Tuesday, February 8, 2022  
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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*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. Commission Reorganization: Creating the Environment and Climate Commission**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,796-N.S. adding Berkeley Municipal Code Chapter 3.82 to create the Environment and Climate Commission (ECC).  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report.  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 2. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,797-N.S. a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report.  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 3. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, November 9, 2021, and December 14, 2021.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, (510) 981-6950

## Consent Calendar

- 4. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021 November 16, 2021, December 14, 2021, and January 10, 2022.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 8, 2022**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** \$4,468,611.  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 6. Contract - O2X for Public Safety Wellness Programming**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with O2X Human Performance LLC (Contractor) to provide a physical and mental wellness program for the Berkeley Fire & Police Departments (Departments) for a four (4) year base contract period that starts February 9, 2022 and ends on February 8, 2026 in an amount not to exceed \$2,712,145 with an option to extend for up to six (6) additional years in two (2) year increments for a total of ten (10) years and not to exceed a total contract amount of \$7,948,612.  
**Financial Implications:** See report.  
Contact: Abe Roman, Fire, (510) 981-3473

## Consent Calendar

- 7. Contract – Wildland Res Mgmt. for Community Wildfire Protection Plan (CWPP)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Wildland Res Mgmt. (Contractor) to provide Community Wildfire Protection Plan and associated analytics for the Berkeley Fire Department (Department) for an initial base contract period of one year, from February 9, 2022 to February 8, 2023 in an amount not to exceed \$200,000 with an option to extend for an additional four years in two-year increments and a total not to exceed \$400,000.  
**Financial Implications:** See report.  
Contact: Abe Roman, Fire, (510) 981-3473
- 8. Adopt a Resolution Approving Exception to the 180-Day Waiting Period to Hire a CalPERS Retired Annuitant in Accordance With Government Code Sections 7522.56 And 21224**  
**From: City Manager**  
**Recommendation:** Staff respectfully recommends that the City Council adopt a resolution approving an exception to the 180- day waiting period for hiring a retired annuitant as an extra-help employee.  
**Financial Implications:** See report.  
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
- 9. Contract No. 31900207 Amendment: Recruiting Advertising and Marketing Strategy for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900207 with Epic Recruiting, to provide additional recruiting and advertising services for police and professional staff vacancies, in an amount not to exceed \$120,000 for a total contract amount not to exceed \$310,000, and extending the term through April 30, 2023.  
**Financial Implications:** General Fund - \$120,000  
Contact: Jennifer Louis, Police, (510) 981-5900
- 10. Resolution supporting immigration reform for the U.S.**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a Resolution: 1. Urging President Biden to honor his promise for a humane immigration policy; 2. Calling for a departure from the previous administration’s cruelty toward migrant, for protections from deportation, and for a path to permanent residency for protected groups including beneficiaries of DACA, TPS, and DED; 3. Requesting closure of three California ICE detention facilities cited for many rights violations. Copies of this resolution should be sent to President Biden and Berkeley’s congressional delegation.  
**Financial Implications:** None  
Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

## Consent Calendar

### 11. Resolution in Support of Justice for Haitian Refugees

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution calling for an end to all U.S. government deportation efforts against Haitian refugees. Send a letter with the enclosed resolution to President Biden, Senators Feinstein and Padilla, and Congresswoman Barbara Lee.

**Financial Implications:** Staff time.

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

### 12. Normalize Diplomatic and Economic Relations with Cuba

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution supporting normalization of diplomatic and economic relations between the U.S. and Cuba, initiated by Cuba solidarity organizations in the U.S. Send a letter with the enclosed resolution to President Biden, Secretary of State Antony Blinken, Senators Feinstein and Padilla, and Congresswoman Barbara Lee.

**Financial Implications:** Staff time.

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

### 13. Japanese American Day of Remembrance

**From: Peace and Justice Commission**

**Recommendation:** 1. Adopt a Resolution calling on leaders to denounce anti-Asian racism, and for the City to collaborate with AAPI communities and community-based organizations to promote community building and safety, and to address systemic barriers for reporting anti-Asian hate crimes. 2. Adopt in perpetuity February 19 as the Japanese American Day of Remembrance in Berkeley in recognition of the mass incarceration of Japanese Americans and Japanese Latin Americans during World War II.

**Financial Implications:** Staff time.

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

## Council Consent Items

### 14. Budget Referral and Resolution Establishing City Process for Siting and Developing Public Electric Vehicle DC Fast Charging Hubs From: Councilmember Harrison (Author)

#### Recommendation:

1. Adopt a Resolution in support of a non-binding term sheet between the City of Berkeley and East Bay Community Energy (EBCE) to establish a network of publicly available electric vehicle (EV) fast charging hubs in municipally-owned parking lots and garages in areas with a dense concentration of multifamily housing.
2. Refer to the June, 2022 FY 23-24 budget process between \$685,210 to \$897,759 in General Fund revenues to fund Berkeley's annual maximum Service Fee of \$100,000 per hub across three hubs for 10 years, reduced by any Site License Revenue remitted by EBCE to the City. Under both low and high hub utilization scenarios, EBCE estimates the City will likely recoup its entire investment after 10 years, and would likely see net profits from Site License Revenue estimated at between \$13,000 and \$800,000. In addition, EBCE estimates that the prior citywide decision to upgrade community accounts to Renewable 100, and the ongoing growth in EV adoption will bring an additional \$400k-\$600k in Utility User Tax proceeds annually over next 2-3 years, and up to \$1.3 million per year by 2025 if Berkeley meets its EV adoption goals.

**Financial Implications:** See report.

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

## 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

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

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

## 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.*

### 15. ZAB Appeal: 2956 Hillegass Avenue Use Permit #ZP2021-0068

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Zoning Permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of an existing three-story 2,834 square foot single-family dwelling on a 2,754 square foot lot that is non-conforming to lot coverage.

**Financial Implications:** None

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

## Information Reports

### 16. Update on Berkeley's Redistricting Process for City Council Districts

**From: City Manager**

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

### 17. Healthy Checkout Ordinance Protocols

**From: City Manager**

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

## Public Comment – Items Not Listed on the Agenda

## Adjournment

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

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

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

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

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Peace and Justice Commission

02a.10

CONSENT CALENDAR

February 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Peace and Justice Commission  
Submitted by: George Lippman, Chair, Peace and Justice Commission  
Subject: Resolution supporting immigration reform for the U.S.

RECOMMENDATION

Adopt a Resolution:

1. Urging President Biden to honor his promise for a humane immigration policy.
2. Calling for a departure from the previous administration's cruelty toward migrant, for protections from deportation, and for a path to permanent residency for protected groups including beneficiaries of DACA, TPS, and DED.
3. Requesting closure of three California ICE detention facilities cited for many rights violations.

Copies of this resolution should be sent to President Biden and Berkeley's congressional delegation.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

Refugees fleeing dire situations in their home countries are receiving inhumane treatment upon arriving at the borders of the United States. President Biden has retained Donald Trump's Title 42 policy, which misuses public health authority to violate refugee law, block asylum at U.S. ports of entry, and expel people seeking refuge from danger.

At its regular meeting of November 1, 2021, the Peace and Justice Commission adopted the attached resolution:

M/S/C: (Bohn/Meola)

Ayes: Bohn, Gussman, Jacquilin, Lee, Leon-Maldonado, Lippman, Maran, Meola, Morizawa, Rodriguez.

Noes: None.

Abstain: None.

**BACKGROUND**

When entering office, President Biden promised a humane immigration policy and a departure from the previous administration's cruelty toward migrants, specifically pledging to pursue policies that safeguard our security, provide a fair and just system that helps to grow and enhance our economy, and secure our cherished values.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects related to the recommendation in this report.

**RATIONALE FOR RECOMMENDATION**

When entering office, President Biden promised a humane immigration policy and a departure from the previous administration's cruelty toward migrants, but has not made adequate changes.

**ALTERNATIVE ACTIONS CONSIDERED**

None

**CITY MANAGER**

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

**CONTACT PERSON**

Okeya Vance-Dozier, Peace and Justice Commission Secretary, City Manager's Office,  
(510) 529-5376

Attachment

1: Resolution

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

SUPPORT IMMIGRATION REFORM FOR THE U.S.

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

WHEREAS, when entering office, President Biden promised a humane immigration policy and a departure from the previous administration's cruelty toward migrants, pledging specifically to pursue the following policies that safeguard our security, provide a fair and just system that helps to grow and enhance our economy, and secure our cherished values:

- Take urgent action to undo Trump's damage and reclaim America's values
- Modernize America's immigration system
- Welcome immigrants in our communities
- Reassert America's commitment to asylum-seekers and refugees
- Tackle the root causes of irregular migration
- Implement effective border screening;<sup>1</sup> and

WHEREAS, many months into the Biden Administration, migrants continue to face mass deportation and detention camps operated under Trump have been reopened;<sup>2</sup> and WHEREAS, Congressmembers Zoe Lofgren and Lou Correa led an additional 22 Members of the California Delegation, including U.S. Senator Alex Padilla, in sending a letter to the Department of Homeland Security Secretary Alejandro Mayorkas urging the immediate closure of two privately owned and operated ICE detention facilities, Adelanto ICE Processing Center and Otay Mesa Detention Facility, and an end to the Intergovernmental Service Agreement (IGSA) between ICE and Yuba County Jail, the last ICE contract with a public facility in California, all cited by courts and ICE itself for multiple constitutional violations;<sup>3</sup> and

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<sup>1</sup> "The Biden Plan for Securing Our Values as a Nation of Immigrants," 2020, <https://joebiden.com/immigration/>

<sup>2</sup> "Biden and the Border: Immigration and Border Policy Under Biden," Institute for Policy Studies, October 19, 2021, <https://ips-dc.org/events/biden-and-the-border-immigration-and-border-policy-under-biden/> and

"We're done:' Immigration advocates stage walkout on Biden administration," [Politico, October 16 2021, https://www.politico.com/news/2021/10/16/immigration-advocates-walk-out-biden-516122,](https://www.politico.com/news/2021/10/16/immigration-advocates-walk-out-biden-516122)

<sup>3</sup> California Collaborative for Immigrant Justice, October 21, 2021, <https://ccijjustice.org/breaking-24-members-of-congress-led-by-lofgren-and-correa-urge-closure-of-3-ice-detention-centers-in-ca/>

WHEREAS, on October 15, 2019, the Council of the City of Berkeley adopted a resolution in support of protections from deportation and a path to permanent residency for beneficiaries of Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), and Deferred Enforced Departure (DED);<sup>4</sup> and

WHEREAS, according to Human Rights First, “President Biden’s administration continues to embrace and defend, rather than end, the Trump administration’s ‘Title 42’ policy, which misuses public health authority to violate refugee law, block asylum at U.S. ports of entry, and expel people seeking refuge from danger. The suffering of families, adults, and children subjected to this policy continues to mount, with at least 7,647 kidnappings and other attacks on people blocked or expelled under Title 42 [or other U.S. immigration programs] since President Biden took office.” In September 2021 alone, “the Biden administration used this policy to illegally expel nearly 8,000 Haitians to life-threatening insecurity in Haiti. The U.S. Department of State’s top legal expert, former Yale Law School Dean Harold Koh, resigned from the Department in October 2021 after concluding that the Biden administration’s continued use of Title 42 to expel people seeking protection is illegal and inhumane;”<sup>5</sup> and

WHEREAS, United States government documents detail over 160 internal reports of misconduct and abuse of asylum seekers at the hands of U.S. officials, Human Rights Watch said in a report released October 21. The documents report abuse by Customs and Border Protection (CBP) officers, Border Patrol agents, and Immigration and Customs Enforcement (ICE) officials, primarily between 2016 and 2021.<sup>6</sup>

THEREFORE BE IT RESOLVED that the Council of the City of Berkeley requests the City Clerk to send a copy of this resolution to President Biden to urge him to honor his promise for a humane immigration policy and a departure from the previous administration’s cruelty toward migrants, support of protections from deportation, and a path to permanent residency for beneficiaries of Deferred Action for Childhood Arrivals, Temporary Protected Status, and Deferred Enforcement Departure, and for the closure

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<sup>4</sup> “Resolution: Protect from deportation beneficiaries of DACA, TPS, and DED,” Berkeley City Council, October 15, 2019, [https://www.google.com/url?client=internal-element-cse&cx=017385055954264103894:kn5xiwd8ubm&q=https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Item\\_16\\_Resolution\\_Protect\\_from\\_Deportation.aspx&sa=U&ved=2ahUKEWj684yr9d7zAhVZpnIEHVT6COUQFnoECAQQAg&usg=AOvVaw2qNYQATN\\_6gYxkGET-Gw\\_k](https://www.google.com/url?client=internal-element-cse&cx=017385055954264103894:kn5xiwd8ubm&q=https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Item_16_Resolution_Protect_from_Deportation.aspx&sa=U&ved=2ahUKEWj684yr9d7zAhVZpnIEHVT6COUQFnoECAQQAg&usg=AOvVaw2qNYQATN_6gYxkGET-Gw_k)

<sup>5</sup> “‘Illegal and Inhumane:’ Biden Administration Continues Embrace of Trump Title 42 Policy as Attacks on People Seeking Refuge Mount,” Human Rights First, October 2021, <https://www.humanrightsfirst.org/sites/default/files/IllegalandInhumane.pdf> “

<sup>6</sup> “US Records Show Physical, Sexual Abuse at Border: Newly Obtained Documents Reveal Urgent Need for Justice, Reform,” <https://www.hrw.org/news/2021/10/21/us-records-show-physical-sexual-abuse-border>

of ICE detention facilities Adelanto ICE Processing Center and Otay Mesa Detention Facility, and the Yuba County Jail, and that copies of this resolution also be sent to Senator Dianne Feinstein, Senator Alex Padilla, and Representative Barbara Lee.







Peace and Justice Commission

02a.11

CONSENT CALENDAR  
February 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Peace and Justice Commission  
Submitted by: George Lippman, Chair, Peace and Justice Commission  
Subject: Resolution in Support of Justice for Haitian Refugees

RECOMMENDATION

Adopt a Resolution calling for an end to all U.S. government deportation efforts against Haitian refugees.

Send a letter with the enclosed resolution to President Biden, Senators Feinstein and Padilla, and Congresswoman Barbara Lee.

BACKGROUND

On September 19, 2021 images emerged “which appear to show border agents on horseback driving migrants [from Haiti] back to a river;”<sup>1</sup> according to the BBC, and “Border Patrol agents on horseback [hounded] Haitian migrants near the US-Mexico border, more than 14,000<sup>2</sup> of whom were camped under the Del Rio bridge....” according to Vox.com.

According to Vox.com, “Haitians have sought asylum at US borders for decades, but every presidential administration since the 1970s has treated Haitians differently than other migrant groups, rejecting asylum claims, holding them longer in detention, and making it harder for them to settle down in safety.”<sup>3</sup>

At its regular meeting of October 4, 2021, the Peace and Justice Commission unanimously proposed the attached resolution for the City Council to condemn the policy and tactics of deporting Haitian immigrants underway on American soil.

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<sup>1</sup> <https://www.bbc.com/news/world-us-canada-58637116>: “The pictures taken by AFP photographer Paul Ratje show Haitians going back and forth across the border to get food for their families, and finding themselves blocked by the horses.” <https://www.vox.com/22689472/haitian-migrants-asylum-history-violence>: “The uniformed men swung their long horse reins — which many interpreted as whips — to keep the migrants from crossing into Texas. In one photo, an agent grabbed the T-shirt of a migrant, while another shouted in a video, “Get out now! Back to Mexico!”

<sup>2</sup> <https://www.nytimes.com/2021/09/23/us/haitian-migrants-texas-camp.html>

<sup>3</sup> <https://www.vox.com/22689472/haitian-migrants-asylum-history-violence>

M/S/C: (Tregub/Rodriguez)

Ayes: Gussman, Jacquelin, Lee, Lippman, Maran, Meola, Morizawa, Perry, Rodriguez, Tregub

Noes: None.

Abstain: None.

FISCAL IMPACTS OF RECOMMENDATION

Minimal staff time associated with the sending of a letter.

CURRENT SITUATION AND ITS EFFECTS

The Haitian refugee crisis is rooted in recent as well as historical events. The current wave of migrants is fleeing a nation that just this summer experienced both a magnitude 7.2 earthquake and storm that killed approximately 2200 people and the assassination of Haiti's former president, which exacerbated violence and instability, all while the nation has yet to recover from a 2010 earthquake that affected three million people and irreparably destroyed infrastructure.<sup>4</sup>

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Both the Peace and Justice Commission and City Council have a long history of standing up for the rights of refugees, and the City of Berkeley has been proud to be designated a sanctuary city since the 1970s. Regardless of which presidential administration is in power, this recommendation is consistent with numerous resolutions and letters sent by the City of Berkeley on similar subject over the course of several decades.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

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

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<sup>4</sup> <https://www.vox.com/22689472/haitian-migrants-asylum-history-violence>

CONTACT PERSON

George Lippman, Chair, Peace and Justice Commission.

Okeya Vance-Dozier, Peace and Justice Commission Secretary, City Manager's Office,  
(510) 529-5376.

Attachments:

1. Resolution

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

SUPPORT OF JUSTICE FOR HAITIAN REFUGEES

WHEREAS on September 19, 2021 images emerged “which appear to show border agents on horseback driving migrants [from Haiti] back to a river;”<sup>[1]</sup> according to the BBC, and “Border Patrol agents on horseback [hounded] Haitian migrants near the US-Mexico border, more than 14,000<sup>[2]</sup> of whom were camped under the Del Rio bridge...” according to Vox.com; and

WHEREAS according to Vox.com, “Haitians have sought asylum at US borders for decades, but every presidential administration since the 1970s has treated Haitians differently than other migrant groups, rejecting asylum claims, holding them longer in detention, and making it harder for them to settle down in safety;”<sup>[3]</sup> and

WHEREAS the wave of Haitian migrants is fleeing a nation that just this summer experienced both a magnitude 7.2 earthquake and storm that killed approximately 2200 people and the assassination of its Haiti’s former president which exacerbated violence and instability, all while the nation has yet to recover from a 2010 earthquake that affected 3 million people and irreparably destroyed infrastructure.<sup>[4]</sup>

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley condemns the policy and tactics of deporting Haitian immigrants that are underway on American soil, is pained at the parallels between the images that came to light on September 19, 2021 and the tumultuous and traumatic past of American slavery, and questions the stark contrast between the treatment of migrants from Haiti and those seeking asylum from many other countries.

BE IT FURTHER RESOLVED that the City of Berkeley shall send to President Biden, Senators Feinstein and Padilla, and Congresswoman Barbara Lee a copy of this resolution along with a call to cease all deportation efforts against our fellow humans and respect their right to seek asylum in this country.



Peace and Justice  
Commission

02a.12

CONSENT CALENDAR  
February 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Peace and Justice Commission  
Submitted by: George Lippman, Chairperson, Peace and Justice Commission  
Subject: Normalize Diplomatic and Economic Relations with Cuba

RECOMMENDATION

Adopt a Resolution supporting normalization of diplomatic and economic relations between the U.S. and Cuba, initiated by Cuba solidarity organizations in the U.S.

Send a letter with the enclosed resolution to President Biden, Secretary of State Antony Blinken, Senators Feinstein and Padilla, and Congresswoman Barbara Lee.

FISCAL IMPACTS OF RECOMMENDATION

Minimal impact to staff time.

CURRENT SITUATION AND ITS EFFECTS

The Trump administration imposed 243 new sanctions upon Cuba. Despite campaign promises, President Biden has failed to reverse the sanctions that former President Trump imposed on Cuba. Travel by American citizens to Cuba remains restricted, and Cuba remains on the state sponsors of terrorism list where Trump placed it.

The embargo continues to inflict extreme hardship on the Cuban people by creating shortages of food and medicine, severely restricting financial and trade opportunities and has even prevented Cuba from obtaining medical equipment and supplies to address the COVID-19 pandemic.

A majority of House Democrats wrote President Biden on December 16, 2021, led by four members including Rep. Barbara Lee, asking him to suspend U.S. regulations that prevent food, medicine, remittances, and other humanitarian assistance from reaching the Cuban people.

At its regular meeting of December 13, 2021, the Peace and Justice Commission unanimously proposed the attached resolution for the City Council to call for normalization of diplomatic and economic relations between the U.S. and Cuba.

M/S/C: (Bohn/Morizawa)

Ayes: Bohn, Gussman, Lippman, Maran, Morizawa, Rodriguez

Noes: None.

Abstain: None.

### BACKGROUND

Beginning in October 1960, the United States government imposed an economic, commercial and financial embargo on Cuba that not only prevents most engagement and trade with the United States, but also punishes other countries that continue to engage with Cuba.

This embargo continues to inflict extreme hardship on the Cuban people by creating shortages of food and medicine, severely restricting financial and trade opportunities and has even prevented Cuba from obtaining medical equipment and supplies to address the COVID-10 pandemic.

In December 2014, U.S. President Barack Obama and Cuban President Raúl Castro announced that they would begin normalizing relations between the two countries and would establish diplomatic relations, an agreement that was enthusiastically embraced by the Cuban people.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No identifiable impact.

### RATIONALE FOR RECOMMENDATION

The Peace and Justice Commission is charged in its mandate to “advise the City Council and Berkeley Unified School District on all matters relating to peace and social justice...support for human rights and self-determination around the world...help develop proposals for the City Council and the School Board for actions in furtherance of the goals of peace and justice, and help publicize such actions in the community...initiate and develop cultural and educational foreign exchange.” It is time for the people of the U.S. and Cuba to replace embargo, sanction, and blockade with positive international exchange.

### ALTERNATIVE ACTIONS CONSIDERED

None

### CITY MANAGER

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

CONTACT PERSON

Okeya Vance-Dozier, Peace and Justice Commission Secretary, City Manager's Office,  
(510) 529-5376

Attachments:

1: Resolution

Exhibit A: Cuba Fact Sheet

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

NORMALIZE DIPLOMATIC AND ECONOMIC RELATIONS WITH CUBA

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

WHEREAS, beginning in October 1960, the United States government imposed an economic, commercial and financial embargo on Cuba that not only prevents most engagement and trade with the United States, but also punishes other countries that continue to engage with Cuba; and

WHEREAS, this embargo continues to inflict extreme hardship on the Cuban people by creating shortages of food and medicine, severely restricting financial and trade opportunities and has even prevented Cuba from obtaining medical equipment and supplies to address the COVID-19 pandemic;<sup>1</sup> and

WHEREAS, both the Cuban government and the United Nations have estimated that the embargo has cost the Cuban economy \$130 billion over six decades;<sup>2</sup> and

WHEREAS, in December 2014, President Barack Obama and Cuban President Raúl Castro announced that they would begin normalizing relations between the two countries and would establish diplomatic relations, an agreement that was enthusiastically embraced by the Cuban people;<sup>3</sup> and

WHEREAS, President Obama removed Cuba from the United States state sponsors of terrorism list; and

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<sup>1</sup> "Amnesty International Urges End to US Embargo on Cuba," February 19, 2011, <https://medicc.org/ns/amnesty-international-urges-end-to-us-embargo-on-cuba-cites-medicc/>

<sup>2</sup> "U.S. trade embargo has cost Cuba \$130 billion, U.N. says," Reuters, May 8, 2018, <https://www.reuters.com/article/us-cuba-economy-un/u-s-trade-embargo-has-cost-cuba-130-billion-u-n-says-idUSKBN11A00T>

<sup>3</sup> "McGovern, Meeks, Lee, Rush Lead 114 Members of Congress Calling for Biden Administration to Support Human Rights & Humanitarian Needs in Cuba," December 16, 2021, <https://mcgovern.house.gov/news/documentsingle.aspx?DocumentID=398780>



WHEREAS, most Americans, including Cuban Americans, oppose the United States embargo and tens of thousands have visited the island when travel restrictions were relaxed;<sup>4</sup> and

WHEREAS, the Trump administration imposed 243 new sanctions upon Cuba, including restrictions on Cuban-Americans to send remittances to families and businesses in Cuba, and reinstated Cuba to the state sponsor of terrorism list; and

WHEREAS, for each of the last 29 years, the United Nations General Assembly has overwhelmingly voted to support the end of the United States blockade against Cuba; and

WHEREAS, despite campaign promises, President Biden has failed to reverse the sanctions that former President Trump imposed on Cuba.<sup>5</sup>

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council urges President Biden to restore diplomatic relations with Cuba, including restoring the full operations of the United States Embassy in Havana; and that the well-being of the Cuban people shall be the centerpiece of United States policies towards Cuba.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges President Biden and Congress to remove Cuba from the United States list of state sponsors of terrorism; and to immediately close the United States military base at Guantanamo Bay and return the occupied territory in Guantanamo to Cuba.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges President Biden and Congress to immediately reverse all sanctions against Cuba by the United States and end all aspects of the United States embargo against Cuba, including restrictions on travel to Cuba by U.S. citizens and residents, so that the peoples of Cuba and the United States can freely travel between the countries.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley asks the City Clerk send a copy of this resolution to President Joseph R. Biden, Secretary of State Antony J. Blinken, Senators Dianne Feinstein and Alex Padilla, and Representative Barbara Lee.

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<sup>4</sup> "Most Americans Support Ending Cuba Embargo Times Poll Finds," New York Times, March 21, 2016, <https://www.nytimes.com/interactive/projects/cp/international/obama-in-cuba/most-americans-support-ending-cuba-embargo-nyt-poll-finds>

<sup>5</sup> McGovern letter

**EXHIBIT A****Fact Sheet on U.S.-Cuba Relations****THE U.S. ECONOMIC BLOCKADE AGAINST CUBA**

The U.S. embargo and policies operate as a blockade against Cuba. It creates shortages of food, medicine, financial and trade opportunities and continues to inflict hardship on the men, women, and children of Cuba.

In 1960, the United States government imposed an economic, commercial, and financial embargo against Cuba. The 1996 Helms Burton Act extended the extraterritorial application of the initial embargo to apply to foreign companies trading with Cuba.

On December 17, 2014, U.S. President Barack Obama and then Cuban President Raul Castro announced a new era of relations between the two countries and agreed to reestablish diplomatic relations. Accordingly, Cuba and the U.S. re-opened their respective embassies in 2015.

The Trump administration reversed course and tightened the blockade by instituting 243 additional sanctions, including many during the pandemic. In the final days of his term, Trump placed Cuba back on the "State Sponsors of Terrorism" list. Being placed on this list exposes countries to numerous other sanctions, including restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions.

Despite campaign promises, the Biden administration has failed to reverse any of Trump's actions and has done nothing to alleviate hardship.

On June 23, 2021, in the United Nations General Assembly a total of 184 countries supported Cuba's motion for the end of the U.S. blockade. It was the 29th year that the vote to end the embargo was overwhelming supported by the world's delegates. Only the U.S. and Israel voted to maintain the U.S. embargo. The majority of the people of the United States and the world believe this embargo is ineffective, inhumane and in violation of U.S. laws and international conventions.

**CUBA'S HISTORY OF MEDICAL ACHIEVEMENTS AND INTERNATIONAL AID TO OTHER COUNTRIES**

Cuba has a long history of providing international medical aid to other countries. Many of its medical personnel are directly involved in the fight against COVID-19 as members of the specially trained Henry Reeve International Medical Brigade against Disasters and Serious Epidemics. One of the first countries to offer aid to the U.S. after Hurricane

Katrina, Cuba offered to send 1,586 doctors and 26 tons of medicine. This aid was rejected by the State Department.

Over the past year alone, Cuba has sent 3,700 health workers in 52 international medical brigades to 39 countries overwhelmed by the pandemic. Cuba's international medical brigades have treated patients and saved lives for the past 15 years in 53 countries confronting natural disasters and serious epidemics, such as the Ebola crisis in West Africa. It has assisted in many epidemics around the world, including dengue fever, HIV, swine flu, and hepatitis. Despite the importance of international Cuban medical assistance, the U.S. has attempted to stop other countries from accepting Cuban medical brigades, even claiming that Cuba's medical brigades represent a form of human trafficking.

In 2015 the World Health Organization recognized Cuba's medical system as a worldwide leader in biotechnology, and Cuba has made significant contributions to the international medical field, including a drug that prevents 77% of diabetic amputations.

Early in the pandemic, Cuba developed effective treatment regimens for patients and prevention protocols for health workers, including its drug Interferon Alpha 2B Recombinant and community-based treatment and contact tracing.

Cuba has developed five internationally recognized candidate COVID-19 vaccines. By the end of October 2021 more than 98% of Cuba's 11.3 million people had received at least a first shot of a three-dose immunization regimen with Cuban-made vaccines (Abdala, Soberana-2 and Soberana-plus). More than 60% of the population, ages 2 and older, had been fully vaccinated. Cuba is very likely to reach its goal of 98% fully vaccinated by December 2021. Cuba also plans to produce millions of doses of its vaccines, beyond what is needed domestically, to meet its commitment to sharing its low-cost vaccines with poor countries in the developing world.

There is precedent for collaborative initiatives between Cuba and U.S. cities. A few examples include San Francisco CA, Seattle WA, Minneapolis MN, Chicago IL, Pittsburgh PA, Cambridge, MA, which all overwhelmingly passed a resolution supporting medical collaboration.

There have also been multi-year joint ventures between Cuba's Center for Molecular Immunology and Buffalo's Roswell Park Comprehensive Cancer Center in developing CIMAvax, the Cuban lung cancer vaccine, as well as a collaboration between medical personnel from Cuba and the University of Illinois on infant mortality in Chicago.

The U.S. blockade of Cuba has severely restricted collaboration on scientific and medical research. The blockade not only causes great harm to Cuba, it also denies U.S. citizens access to Cuban medical technology such as the diabetes drug Heberpot-P, vaccines for meningitis B and hepatitis B, monoclonal antibodies for kidney transplants, as well as the

only therapeutic vaccine in the world against advanced lung cancer, called CIMA V AX-EGF.

### **EFFORTS IN THE U.S. TO END THE BLOCKADE AND PROVIDE HUMANITARIAN RELIEF TO CUBA**

There are hundreds of organizations throughout the world that are working to end the blockade against Cuba. In the U.S., the National Network on Cuba (NNOC) and its 58 local, state and national organizations throughout the country stand in solidarity with Cuba and have been working diligently to end the blockade:

- Over 40 resolutions have been passed by churches, city councils, labor unions, state legislators and school boards to call for the end of the U.S. blockade against Cuba. These resolutions represent the will of 41 million people in the United States.
- Car and bike caravans in support of Cuba occur monthly in Miami and other cities across the U.S. and around the world.
- The University of Minnesota leaders commenced and continue formal medical collaboration with Cuba to battle COVID-19.
- Federal legislation to end the embargo (S.249, H.R.3625) and other bills in support of Cuba (S.1694, H.R.198) is pending,
- U.S. residents generously donated more than \$680,000 to send over 6 million syringes to Cuba to enable Cuba to administer its COVID-19 vaccines to its people
- U.S. residents are providing humanitarian aid to Cuba by raising funds to purchase and ship food and medical supplies to counter the shortages caused by the blockade and Trump sanctions.
- IFCO/Pastors for Peace, Code Pink, Altruistas, Marazul Tours, and Building Relations with Cuban Labor have regular delegations to Cuba so that U.S. residents can experience Cuba themselves and see how the U.S. blockade affects the people of Cuba.

Rev.20211108

Sources:

National Network on Cuba

<http://nnoc.info>

IFCO-Pastors for Peace

<https://ifconews.org>



Peace and Justice  
Commission

02a.13

CONSENT CALENDAR  
February 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Peace and Justice Commission  
Submitted by: George Lippman, Chairperson, Peace and Justice Commission  
Subject: Japanese American Day of Remembrance

RECOMMENDATION

Adopt a Resolution calling on leaders to denounce anti-Asian racism, and for the City to collaborate with AAPI communities and community-based organizations to promote community building and safety, and to address systemic barriers for reporting anti-Asian hate crimes.

Adopt in perpetuity February 19 as the Japanese American Day of Remembrance in Berkeley in recognition of the mass incarceration of Japanese Americans and Japanese Latin Americans during World War II.

FISCAL IMPACTS OF RECOMMENDATION

Minimal impact to staff time.

CURRENT SITUATION AND ITS EFFECTS

On the 80<sup>th</sup> anniversary of Executive Order 9066, it is important to remember the unconstitutional and ethnically discriminatory incarceration of 120,000 people of Japanese ancestry at the onset of World War II.

Up to the present day, the U.S. government has failed to meet international obligations to make reparation for wartime human rights violations to over 2200 Japanese Latin Americans forcibly deported to the U.S.

The incarceration of Japanese Americans and Japanese Latin Americans is part of a long history of racial prejudice and hate that continues to today. In 2020, there was a rise in anti-Asian hate and violence across the United States, resulting in people of AAPI ancestry being killed, beaten, and harassed without provocation.

At its regular meeting of December 13, 2021, the Peace and Justice Commission unanimously proposed the attached resolution for the City Council to address anti-Asian racism, and to adopt in perpetuity February 19 as the Japanese American Day of Remembrance in Berkeley.

M/S/C: (Morizawa/Rodriguez)

Ayes: Bohn, Gussman, Lippman, Maran, Morizawa, Rodriguez

Noes: None.

Abstain: None.

### BACKGROUND

On February 19, 1942, President Franklin Roosevelt signed Executive Order 9066, which resulted in the federal government forcibly removing and incarcerating around 120,000 people of Japanese ancestry, including 75,000 United States citizens and 1,300 Berkeley residents solely because of their Japanese ancestry.

Despite thousands of Japanese Americans losing their homes and economic livelihoods, many thousands of young Japanese American people bravely took up arms and sacrificed their lives to defend this country which wrongly incarcerated them.

The US government instituted an extraordinary rendition program during World War II whereby over 2200 people of Japanese ancestry were seized from 13 Latin American countries, transported to the US and interned in Department of Justice camps, and over 800 were used in hostage exchanges for US citizens.

The Civil Liberties Act of 1988, signed into law by President Ronald Reagan, states that the United States apologizes for the forced removal and incarceration of the Japanese Americans.

In 2017, the City of Berkeley acknowledged a day of remembrance for those affected by Japanese American mass incarceration and recognized the Japanese community's rich history and profound contributions to the City of Berkeley.

While racism and scapegoating increased in 2020-21, it is not new and is part of an over 150-year history of violence and hate against AAPI people and even longer for other communities who continue to be marginalized.

The unjust incarceration of around 120,000 Japanese Americans without charge or a fair hearing must serve as a potent reminder that this nation's character is reflected in how it treats its citizens, immigrant residents, and those seeking safety and refuge from violence, hate, and climate change.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No identifiable impact.

RATIONALE FOR RECOMMENDATION

The Peace and Justice Commission is charged in its mandate to “advise the City Council and Berkeley Unified School District on all matters relating to peace and social justice...support for human rights and self-determination around the world...help develop proposals for the City Council and the School Board for actions in furtherance of the goals of peace and justice, and help publicize such actions in the community...initiate and develop cultural and educational foreign exchange.”

Reconciliation must come from speaking truth. Without recognition of the human rights violations that our government committed against Japanese Americans 80 years ago, we cannot hope to end the continuing pattern of anti-Asian racism in the community.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

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

CONTACT PERSON

Okeya Vance-Dozier, Peace and Justice Commission Secretary, City Manager’s Office, (510) 529-5376

Attachments:

1: Resolution

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

JAPANESE AMERICAN DAY OF REMEMBRANCE

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

WHEREAS, 80 years ago, on February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, which resulted in the federal government forcibly removing and incarcerating around 120,000 people of Japanese ancestry, including 75,000 United States citizens and 1,300 Berkeley residents solely because of their Japanese ancestry; and

WHEREAS, this Executive Order was in violation of United States Constitutional rights and human rights, the government removed and incarcerated an entire ethnicity claiming it was on the grounds of national security and military necessity; and

WHEREAS, despite thousands of Japanese Americans losing their homes and economic livelihoods, many thousands of young Japanese American people bravely took up arms and sacrificed their lives to defend this country which wrongly incarcerated them; and

WHEREAS, the US government instituted an extraordinary rendition program during World War II whereby over 2200 people of Japanese ancestry were seized from 13 Latin American countries, transported to the US and interned in Department of Justice camps, and over 800 were used in hostage exchanges for US citizens;<sup>1</sup> and

WHEREAS, after WWII, while most interned Japanese Latin Americans were forcibly deported to US-occupied Japan, over 300 were able to remain in the US, some in the San Francisco Bay Area, including in the city of Berkeley; and

WHEREAS, in 1983, the federal Commission on the Wartime Relocation and Internment of Civilians found that the incarceration of Japanese Americans was not justified by military necessity and were not based in military analysis; instead, the unjust incarceration was based on "race prejudice, war hysteria, and a failure of political leadership;" and

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<sup>1</sup> For more information see "Americans Forgotten Internment," *Politico*, December 5, 2021, <https://www.politico.com/news/magazine/2021/12/05/japanese-latinos-us-war-hostages-history-523711>



WHEREAS, the Civil Liberties Act of 1988, signed into law by President Ronald Reagan, states that the United States apologizes for the forced removal and incarceration of the Japanese Americans; and

WHEREAS, the US government failed to include Japanese Latin American internees in its initial redress bill and continues to disregard the 2019 decision of the Inter-American Commission on Human Rights (a body of the Organization of American States) affirming its obligation to make reparation for both “material and moral dimensions” of wartime human rights violations perpetrated against Japanese Latin Americans; and

WHEREAS, in 2017, the City of Berkeley acknowledged a day of remembrance for those affected by Japanese American mass incarceration and recognized the Japanese community’s rich history and profound contributions to the City of Berkeley; and

WHEREAS, the incarceration of Japanese Americans and Japanese Latin Americans is part of a long history of racial prejudice and hate that continues to today; in 2020, there was a rise in anti-Asian hate and violence across the United States, resulting in people of AAPI ancestry being killed, beaten, and harassed without provocation; and

WHEREAS, this rise in racial prejudice and hate was due to the media and rhetoric used by past political leaders resulting in the first spike in hate crimes in March and April 2020, whereas the reported hate crimes against AAPI people in 16 of the United States’ largest cities and counties were up 145% in 2020.<sup>2</sup>

WHEREAS, Stop AAPI Hate, a national coalition aimed at addressing anti-Asian discrimination amid the pandemic, documented 10,370 incidents of hate incidents from March 19, 2020, to September 30, 2021; and

WHEREAS, while racism and scapegoating increased in 2020-21, it is not new and is part of an over 150-year history of violence and hate against AAPI people and even longer for other communities who continue to be marginalized; and

WHEREAS, for decades, systemic oppression and implicit bias against people of AAPI ancestry has resulted in the silencing of AAPI voices, the stifling of careers, and contributing to the invisibility of AAPI achievements and struggles; and

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<sup>2</sup> Center for the Study of Hate and Extremism at California State University, San Bernardino.  
<https://search.yahoo.com/yhs/search?hspart=mnet&hsimp=yhs-001&type=type9099612-spa-3503-84593&param1=3503&param2=84593&p=Center+for+the+Study+of+Hate+and+Extremism+at+California+State+University%2C+San+Bernardino>

WHEREAS, in 1882, the Chinese Exclusion Act banned all Chinese people from immigrating to the United States, which led to the Immigration Act of 1924, which banned immigration from all Asian or Pacific countries; and

WHEREAS, throughout the United States' history, this prejudice, discrimination, and violence have impacted all people of AAPI descent; and

WHEREAS, the U.S. government, including law enforcement, has discriminated against the AAPI, Black, Latin, Native American, LGBTQ+ and other marginalized communities, escalating the hate and violence they are supposed to prevent; and

WHEREAS, the incarceration of around 120,000 Japanese Americans without charge or a fair hearing must serve as a potent reminder that this nation's character is reflected in how it treats its citizens, immigrant residents, and those seeking safety and refuge from violence, hate, and climate change; and

WHEREAS, the Berkeley Chapter of the Japanese American Citizens League and the UC Berkeley Nikkei Student Union have requested that the Berkeley City Council take this action.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Berkeley calls on local and national media outlets, elected officials, and community leaders to denounce racial discrimination, white supremacy, and xenophobia and continue to highlight stories of achievements and experiences of hate crimes, violence, and harassment based on one's ancestry or appearance.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Berkeley collaborate with AAPI communities, including Pacific Islanders, Native Hawaiians, and all immigrant communities, as well as all marginalized communities to create community programs and advocate for policy and legislation that will support community building and safety.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Berkeley collaborate with community-based organizations to address systemic barriers for reporting anti-Asian hate crimes by mitigating language or cultural barriers, or fear of immigration status repercussions.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Berkeley adopt in perpetuity February 19 as the Japanese American Day of Remembrance in recognition of Japanese Americans and Japanese Latin Americans who were victims of mass incarceration in this country; and in 2022 urge Berkeley residents to tour the UC Bancroft Library exhibit, *Uprooted: The Incarceration of Japanese Americans* and attend the UC Berkeley Nikkei Student Union (<https://nsu.berkeley.edu/>) and the Bay Area annual Day of Remembrance ([njahs.org](http://njahs.org)) commemorations.



02a.14

Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
February 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Harrison  
Subject: Budget Referral and Resolution Establishing City Process for Siting and Developing Public Electric Vehicle DC Fast Charging Hubs

RECOMMENDATION

1. Adopt a Resolution in support of a non-binding term sheet between the City of Berkeley and East Bay Community Energy (EBCE) to establish a network of publicly available electric vehicle (EV) fast charging hubs in municipally-owned parking lots and garages in areas with a dense concentration of multifamily housing.
2. Refer to the June, 2022 FY 23-24 budget process between \$685,210 to \$897,759 in General Fund revenues to fund Berkeley's annual maximum Service Fee of \$100,000 per hub across three hubs for 10 years, reduced by any Site License Revenue remitted by EBCE to the City. Under both low and high hub utilization scenarios, EBCE estimates the City will likely recoup its entire investment after 10 years, and would likely see net profits from Site License Revenue estimated at between \$13,000 and \$800,000. In addition, EBCE estimates that the prior citywide decision to upgrade community accounts to Renewable 100, and the ongoing growth in EV adoption will bring an additional \$400k-\$600k in Utility User Tax proceeds annually over next 2-3 years, and up to \$1.3 million per year by 2025 if Berkeley meets its EV adoption goals.

PROPOSED POLICY COMMITTEE

Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The world is facing a grave climate emergency, requiring municipalities to transition to a zero-carbon economy by 2030. According to Berkeley's 2019 greenhouse gas emissions (GHGs) inventory, 60% of Berkeley's sector-based<sup>1</sup> emissions result from

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<sup>1</sup> Emissions created in the City, as opposed to consumption-based emissions, i.e., those created by the goods Berkeleyans consume.

transportation.<sup>2</sup> In addition to public transportation, walking, biking and scooters, replacing gas-powered cars with EVs will be a major factor in reducing emissions. EVs are significantly less carbon intensive to operate. They also represent an increasing share of registered vehicles as a result of market forces and regulations. Most major automobile manufacturers in the United States plan to offer full lines of battery electric vehicles (BEVs) this decade. The latest BEV models featuring extended battery ranges rivalling gas-powered vehicles and competitive pricing (especially when considering federal and state incentives and avoided gasoline savings). The California Air Resources Board is expected to develop regulations to mandate that 100 percent of in-state sales of new passenger cars and trucks are zero-emission by 2035.

According to U.S. Department of Energy data from 2020, 42% of all EVs in the United States are registered in California.<sup>3</sup> BEV sales in Alameda County have increased nearly 430% since 2015, and for the first three quarters of 2020, Alameda County saw approximately 8,624 BEV sales.<sup>4</sup> By the end of 2020 in Alameda County there were approximately 46,239 BEV and plug-in hybrid vehicles (PHEV), or approximately 4% of all existing countywide vehicles.<sup>5</sup> According to EBCE data, as of late 2021 approximately 3,657 electric vehicles were registered in Berkeley. Berkeley's Electric Mobility Roadmap sets a goal of 15,229 BEVs by 2025, which California Energy Commission modeling estimates would require approximately 282 public DC fast charging ports.

One of the last remaining hurdles to wider adoption is the availability of reliable charging infrastructure at apartments, homes, and businesses. For example, installing level 2<sup>6</sup> charging infrastructure in a home garage may require an expensive panel upgrade and, for homes without garages, the process of installing curbside charging is cumbersome and extremely expensive. Moreover, the absence of charging in multi-unit buildings is a significant equity issue. For renters in multi-family and single-family homes, it is not possible to install charging infrastructure without the owner's consent. Furthermore, the most rapid charging, critical for commuters, visitors, and businesses, Level 3,<sup>7</sup> is not

<sup>2</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2021-11-30%20Item%2032%20Berkeley%E2%80%99s%202019%20Community-Wide%20Greenhouse%20Gas%20Emissions%20Inventory.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2021-11-30%20Item%2032%20Berkeley%E2%80%99s%202019%20Community-Wide%20Greenhouse%20Gas%20Emissions%20Inventory.pdf)

<sup>3</sup> <https://afdc.energy.gov/data/10962>

<sup>4</sup> <https://www.energy.ca.gov/data-reports/energy-insights/zero-emission-vehicle-and-charger-statistics>

<sup>5</sup> As part of its Electric Mobility Roadmap report, the City's Office of Energy and Sustainable Development estimated that 3.7% of registered vehicles in Berkeley were EVs as of late 2018. EBCE reports that Berkeley internal combustion vehicle count is approximately 61,000 based on 2020 DMV data.

<sup>6</sup> AC Level 2 EV charging offers charging through 240V or 208V electrical service (like a dryer plug) at 12-80 amps (typically 32 amps). For every hour, Level 2 EV charging can provide about 10-20 miles of range. (See Berkeley Electric Mobility Roadmap, p. 10).

<sup>7</sup> Level 3 chargers facilitate long distance or last-minute travel as they can, provide certain vehicles with up to 200 miles of range within approximately 15-30 minutes as compared to lower-level chargers that require multiple hours or overnight charging to reach capacity. Direct-current (DC), fast-charging

economically or physically feasible for most homes and businesses. Therefore, public charging infrastructure is critical.

Berkeley lacks significant capacity in terms of level 3 DC fast charging stations. Currently there are only two public DC fast charging stations in Berkeley (a total of 4 ports) at each of Berkeley's Whole Foods Market locations.<sup>8</sup>

Level 3 chargers are more expensive to construct and site since they provide a substantial amount direct current to vehicles. Private entities have been relatively reluctant to build out this critical infrastructure in Berkeley and across California. The City of Berkeley and its utility partner, EBCE, are well positioned to fill this gap by partnering to provide cleaner, cost effective, accountable, equitable and centrally located fast charging stations.

Years of coordination between EBCE and the City of Berkeley have resulted in the proposed non-binding term sheet under which EBCE will develop, operate and market up to three charging hubs in exchange for the City providing EBCE with access and use of public land for the hubs and a portion of debt service payments minus Berkeley's portion of Net Operating Income.

## BACKGROUND

Community Choice Aggregators (CCAs) like EBCE were authorized by the state, with the goal of buying less carbon intensive energy at competitive prices. CCAs appoint municipal leaders instead of private shareholders to oversee procurement and energy-related policy-making.

Until June 2018, when Berkeley joined neighboring cities to establish EBCE as the default electricity provider, the default provider of electricity in Berkeley was PG&E. The new agency was created to provide significant advantages, including less carbon intensive energy at, local economic development opportunities at competitive prices and oversight by local jurisdictions instead of private shareholders. EBCE can reinvest profits into expanding carbon-free options, including through its Local Business Development Plan, and into vehicle and building electrification.

As Berkeley's alternate and appointee to the EBCE Board of Directors, Vice Mayor Harrison's office and the City's Office of Energy and Sustainable Development have

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equipment, sometimes called Level 3, enables rapid charging at a rate of at least 40 kW, with newer chargers rated up to 350 kW. Depending on rated power and the vehicle's battery size, DCFC can often enable an 80% charge in 20-30 minutes. Currently, there are three types of DCFCs: SAE Combo (known also as Combined Charging System or CCS), CHAdeMO, and Tesla. (See Berkeley Electric Mobility Roadmap, p. 10).

<sup>8</sup>[https://afdc.energy.gov/fuels/electricity\\_locations.html#/analyze?fuel=ELEC&location\\_mode=address&location=2180%20milvia%20st.&radius=2&ev\\_levels=1&ev\\_levels=2&ev\\_levels=legacy](https://afdc.energy.gov/fuels/electricity_locations.html#/analyze?fuel=ELEC&location_mode=address&location=2180%20milvia%20st.&radius=2&ev_levels=1&ev_levels=2&ev_levels=legacy)

been engaged in multiyear conversations with EBCE staff to explore options for equitably provide Berkeley residents with affordable electric vehicle charging infrastructure. This work occurred alongside ongoing efforts by EBCE to help the City electrify its municipal fleet and building stock, and the recently adopted Council policy to upgrade citywide accounts to 100% renewable electricity.

In the summer of 2021, EBCE presented Vice Mayor Harrison with a potential partnership proposal to site a number of level 3 DC fast charging hubs at to be determined city-owned locations. EBCE has provided a non-binding term sheet (non-comprehensive and subject to change pursuant to ongoing conversations between the City and EBCE) outlining the respective proposed responsibilities of both parties. Adopting the term sheet will facilitate a subsequent binding Service Agreement.

EBCE intends to work with the City to site EV Fast Charge Hubs in areas with a dense concentration of multifamily housing to ensure renters, who represent nearly 50% of the population in EBCE's service territory, have equitable access to the benefits of EVs. To date, these areas are significantly underserved by charging infrastructure; this represents a critical barrier in achieving the State of California's and Berkeley's EV adoption goals. Each EV Fast Charge Hub will consist of 10-15 dual-port fast charging stations (up to 30 ports total). EBCE intends to develop up to three (3) EV Fast Charge Hubs per JPA member community at an approximate cost to EBCE of \$2 million per hub (\$6 million investment per jurisdiction). As proposed, the project could provide up to 90 fast charging ports representing *nearly a third* of the ports needed as estimated by the CEC to support Berkeley's 2025 goal.

EBCE reports that other cities are in preliminary conversations with EBCE about siting such hubs, but Berkeley would likely be the first move forward with a non-binding term sheet.

#### **Overview of Non-binding Term Sheet**

Building EV Fast Charging Hubs across EBCE's service territory will require significant project capital. EBCE seeks to raise this capital using a *public-public partnership* with member communities providing a revenue guarantee, or "backstop," to cover project debt service (described below). This backstop will yield a lower cost of capital and can provide dividends to our City and County partners through profit-sharing.

Under the draft proposal, EBCE would develop, interconnect, own, operate and maintain EV Fast Charge Hubs. They would also finance the project with their own capital, private equity and debt. EBCE will book, claim and sell Low Carbon Fuel Standard credits (provided by the state to such clean energy developments through the state's cap and trade program) to fund project operations.

In addition, EBCE will be responsible for procuring wholesale renewable electricity (e.g., Renewable 100) for each charging station and associated rate structures to encourage maximum utilization. EBCE will also market the charging hubs across its territory, and will partner with private sector stakeholders to increase EV adoption and EBCE EV Fast Charge Hub utilization.

At the same time, the City of Berkeley would be responsible for signing a Service Agreement with EBCE and provide them with an annual Service Fee of \$100,000 per EV Fast Charging Hub, less the Site License Revenue. Berkeley’s maximum \$100,000 annual payment per hub will help EBCE cover its debt service to develop and operate the project (equates to 35-40% of project debt service costs). EBCE defines project Net Operating Income as the sum total of electricity sales and LCFS revenue minus operating costs such as electricity procurement, operations and maintenance.

If hub utilization increases overtime, as expected, Site License Revenues could zero out the need for the City’s backstop Service Fee, resulting in net annual revenue to the City. The City will also receive additional Utility Users Tax revenue and any sales tax associated with related economic activity.

Importantly, EBCE proposes to pay the City of Berkeley an annual Site License fee once Net Operating Income exceeds EBCE’s cost to service debt as demonstrated by low and high utilization cases provided by EBCE.

Under the Low Utilization Case, the City pays EBCE a total of \$897,769 in Service Fees over ten years and receives \$911,155 in revenues, for a net investment gain or profit of approximately \$13,386. Under a high utilization scenario, the City only pays EBCE \$685,210 for a net investment gain or profit of \$860,339. Under both scenarios provided by EBCE, the City recoups its initial investment.

The City’s Site License Revenue is represented by the following formula:

|                                                                                              |                                                                                                    |
|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Once 'year N' Project Net Operating Income > EBCE Annual Project Debt Service payment, then: |                                                                                                    |
| <b>Berkeley Site License Revenue (year N+1)</b>                                              | <b>= 40% * [Net Operating Income (year N) – EBCE Annual Project Debt Service payment (year N)]</b> |

For example, for a hypothetical year ten under the high utilization scenario: assuming project total debt service is \$707,409 (including interest and principal) and net project operating revenue is \$1,424,227, the City’s profit share (40%) would be estimated at more than \$200,000 for year ten.

The City’s total revenue is represented by the following formula:

|                               |          |                                                    |
|-------------------------------|----------|----------------------------------------------------|
| <b>Berkeley Total Revenue</b> | <b>=</b> | <b>Site License Revenue + Marginal UUT Revenue</b> |
|-------------------------------|----------|----------------------------------------------------|

As part of the Service agreement, the City will provide EBCE access and use of City parking lots and/or garage real estate to site and operate EV Fast Charge Hubs. EBCE also proposes that each Fast Charge Hub will have a minimum of 10 charging stations and each dual port fast charging station will require two parking spaces. Each allocated parking space must be EV Only for charging, and each EV Fast Charge Hub will require compliance with the Americans with Disability Act (ADA). The City would also provide free access to lots/garages to EV drivers for a minimum of one hour for the use of EV charging.

The City would work with EBCE to expedite permitting of the EV Fast Charge Hub(s). It would also commit to increase awareness of EV Fast Charge Hub availability to residents, businesses and visitors.

Finally, after EBCE’s technical assessment of proposed sites, should any of the City of Berkeley lot/garage(s) be determined infeasible for project deployment, the City would assist EBCE with connecting with other public agency and/or private sector stakeholders who own strategic real estate assets suitable for EV Fast Charge Hub development.

**Overview of Process for Supporting Non-Binding Term Sheet, Negotiating Service Agreement, and Budgeting for Berkeley’s Expected Service Fee**

As Berkeley’s EBCE Board representative, Vice Mayor Harrison’s Office plans to convene a series of meetings between EBCE leadership and staff, the City Manager’s Office, OESD, and the City Attorney’s Office to potentially amend and finalize the scope of the non-binding term sheet.

This item requests that the non-binding term sheet be referred to the FITES Committee to hold at least two public hearings to consider this item and the term sheet, for submission to Council’s for consideration in March, 2022. Council approval of the term sheet at that time will provide direction about the allocation to be referred to the budget process and will provide EBCE and City staff with direction to negotiate and finalize a Service Agreement following adoption of the FY 23-24 budget. A final Service Agreement would be submitted by staff for Council adoption.



Council adoption of this item and Resolution in support of the term sheet is a good faith effort towards partnership and reaching a binding agreement; however, it does not bind the City to any terms, agreements, or budgetary allocations.

### **Budgetary Considerations and Opportunities**

EBCE forecasts that through the recent citywide decision to upgrade community accounts to Renewable 100 and the ongoing adoption of EVs, UUT revenues could increase by \$400k-\$600k annually over next 2-3 years. This does not include any additional revenue resulting from the operation of proposed charging hubs.

EBCE estimates that UUT revenues from existing Berkeley residents charging on Renewable 100 would generate approximately \$105,000 per year based on 2021 EV registration figures. Therefore, a General Fund allocation of \$100,000 times three hubs per year could be justified on existing and projected UUT income from EVs alone. Further, EBCE estimates that Berkeley's ambitious goal of 15,000 EVs by 2025 could generate approximately \$1.3 million in UUT per year, plus any additional revenue from visitors who charge their EVs in Berkeley.

The City's engagement in this partnership represents an innovative and bold realization of the original promise EBCE's founding—providing residents with affordable and clean publicly-procured energy and reducing emissions. It also furthers the City's goals of equity and equality by providing access to renewable transportation energy to the city's multi-family residential residents, and could significantly reduce GHGs in Berkeley's transportation sector.

### **ALTERNATIVES CONSIDERED**

The City could try to raise capital to fund the station its own and receive the LCFC credits, but would not enjoy the same initial level of capital access as EBCE. The City also lacks certain expertise in terms of operating utility-level services.

The City could also wait for the private market to build level 3 charging infrastructure. However, there are no guarantees that this will materialize in a timely fashion. Private charging stations will also likely cost more given profit requirements, and will not necessarily be sited in convenient or equitable locations serving multi-family residents. The City would forgo the benefits to residents of early adoption and associated revenues.

### **JUST TRANSITION**

Substituting automobile vehicle miles travelled with low-carbon mobility can help reduce greenhouse gas emissions and air pollution, which disproportionately impact frontline communities.

The item considers prioritizing charging hubs in denser multi-family neighborhoods, which likely assist lower-income residents transition to EVs.

Consistent with City values and equity initiatives, the City should strive with EBCE to ensure that project investments support prevailing wage and other labor standards, and minority-owned contractors.

FINANCIAL IMPLICATIONS

This item would result in a one-time investment of between \$685,210 to \$897,759 from the General Fund to fund Berkeley's annual maximum Service Fee of \$100,000 per hub across three hubs for 10 years, reduced by any Site License Revenue fees remitted by EBCE to the City. Under both low and high hub utilization scenarios, EBCE estimates the City will likely recoup its entire investment after 10 years. The City would likely see net profits from Site License Revenue estimated at between \$13,000 and \$800,000. In addition, EBCE estimates that the prior citywide decision to upgrade community accounts to Renewable 100, and the ongoing growth in EV adoption will bring an additional \$400k-\$600k in Utility User Tax proceeds annually over next 2-3 years, and up to \$1.3 million per year by 2025 if Berkeley meets its EV adoption goals.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Supporting incentives for building decarbonization will complement and accelerate Berkeley's ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan, Climate Emergency Declaration, and Electric Mobility Roadmap.

CONTACT PERSON

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

ATTACHMENTS

1. Resolution

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

RESOLUTION ESTABLISHING CITY PROCESS FOR SITING AND DEVELOPING  
PUBLIC ELECTRIC VEHICLE DC FAST CHARGING HUBS

WHEREAS, the world is facing a grave climate emergency, requiring municipalities to rapidly and justly transition towards a zero-carbon economy by 2030; and

WHEREAS, 60% of Berkeley's sector-based greenhouse gas (GHG) emissions as of 2019 result from the transportation sector, and in addition to public transportation, walking, biking and scooters, replacing internal combustion vehicles with electric vehicles will be a major factor in reducing emissions; and

WHEREAS, transitioning Berkeley's economy will require significant investment on the part of both government and residents and low-carbon technology, including electric vehicle charging infrastructure, which is underdeveloped in Berkeley and can often be out of reach for many households; and

WHEREAS, the primary hurdle to widespread electric vehicle adoption moving forward will be the availability of reliable and convenient fast charging infrastructure for residents who are renters who do not have access to charging at home and commuters, visitors and businesses; and

WHEREAS, City's Electric Mobility Roadmap and Climate Action goals provides a goal of having 15,000 electric light-duty vehicles registered in Berkeley by 2025, which according to California Energy Commission modeling would require a significant investment in public direct current fast charging (DCFC) ports; and

WHEREAS, Alameda County's default public power provider, East Bay Community Energy (EBCE), is proposing a public-public partnership with the City to develop and operate up to three DCFC hubs, that EBCE will own and operate, across Berkeley in areas with a dense concentration of multifamily housing that are near amenities desired by drivers; and

WHEREAS, the proposed public-public partnership would provide Berkeley residents and visitors with state-of-the-art fast charging infrastructure, enabling the transition from internal combustion vehicles for those who were not early adopters and reducing GHG emissions from the transportation sector; and

WHEREAS, EBCE and the City of Berkeley have developed the proposed non-binding term sheet describing how EBCE would develop, operate and market up to three DCFC hubs under a Service Agreement.

WHEREAS, in parallel EBCE will negotiate a Site License Agreement with the City providing EBCE with access and use of public land for EBCE's DCFC hubs, and once the project is generating revenues above EBCE's annual project costs, EBCE will share revenue with the City via the Site License Agreement; and

WHEREAS, The Site License Agreement revenue payments and Utility Users Tax proceeds, resulting from increased electricity consumption as a transportation fuel at EBCE's DCFC hubs, can provide the City of Berkeley with new revenue sources; and

WHEREAS, it is in the public interest for the City to proceed to negotiate a Service Agreement with EBCE as generally proposed by the non-binding term sheet.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to negotiate a Service Agreement with EBCE subject generally to the non-binding terms included in the attached term sheet and any subsequent amendments or modifications thereto, as the City and EBCE may deem appropriate, and that execution of the Service Agreement is contingent upon Council allocation of funding for the City's Service Fee as part of the FY 2023-2024 budget process and subsequent adoption of the Service Agreement by Council.

Attachment:

A: Non-binding Public Electric Vehicle DC Fast Charging Hub Term Sheet between EBCE and the City of Berkeley

| Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                 |
|-------------------------------------------------------------------------------|-------------------------------------------------|
| Scheduled Dates                                                               |                                                 |
| January 27                                                                    | Tenant Opportunity to Purchase Act (TOPA)       |
| February 15                                                                   | 1. Homeless Services and Mental Health Services |
| March 15                                                                      | 1. Housing Element Update                       |
| April 19                                                                      | 1. Fire Department Standards of Coverage Study  |

| Unscheduled Workshops                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. Alameda County LAFCO Presentation</li> <li>3. BART Development (January or February)</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Civic Arts Grantmaking Process &amp; Capital Grant Program</li> <li>2. Civic Center – Old City Hall and Veterans Memorial Building (Tentative: Action Item)</li> <li>3. Mid-Year Budget Report FY 2022</li> </ol> |

|    | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers</b> <i>(Continued from February 25, 2020. Item contains revised and supplemental materials) (Referred from the May 12, 2020 agenda.)</i></p> <p><b>From: City Manager</b></p> <p><b>Recommendation:</b> 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><b>Financial Implications:</b> None</p> <p>Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000</p> <p><b>Note:</b> <i>Referred to Agenda &amp; Rules for future scheduling.</i></p> |
| 2. | <p><b>Berkeley's 2019 Community-Wide Greenhouse Gas Emissions Inventory</b> <i>(Referred from the November 30, 2021 meeting)</i></p> <p><b>From: City Manager</b></p> <p>Contact: Jordan Klein, Planning and Development, (510) 981-7400</p> <p><b>Note:</b> <i>Referred to the Agenda &amp; Rules Committee for future scheduling.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| <b>CITY CLERK DEPARTMENT</b>                                                        |                              |                               |                           |
|-------------------------------------------------------------------------------------|------------------------------|-------------------------------|---------------------------|
| <b>WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br/>BEFORE THE CITY COUNCIL</b> |                              |                               |                           |
| <b>Address</b>                                                                      | <b>Board/<br/>Commission</b> | <b>Appeal Period<br/>Ends</b> | <b>Public<br/>Hearing</b> |
| <b>NOD – Notices of Decision</b>                                                    |                              |                               |                           |
| 2212 Fifth Street (Landmark application)                                            | LPC                          | 1/25/2022                     |                           |
| 1325 Arch Street (Landmark application)                                             | LPC                          | 1/25/2022                     |                           |
| 1960 University Ave (structural alteration)                                         | LPC                          | 1/25/2022                     |                           |
| 1120 Second Street (structural alteration)                                          | LPC                          | 1/25/2022                     |                           |
| <b>Public Hearings Scheduled</b>                                                    |                              |                               |                           |
| 1527 Sacramento St (second story addition)                                          | ZAB                          |                               | 2/22/2022                 |
| 2956 Hillegass Ave (addition to lawful non-conforming structure)                    | ZAB                          |                               | 2/8/2022                  |
| 1643-47 California St (new basement level and second story)                         | ZAB                          |                               | TBD                       |
| <b>Remanded to ZAB or LPC</b>                                                       |                              |                               |                           |
| 1205 Peralta Avenue (conversion of an existing garage)                              | ZAB                          |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
| <b>Notes</b>                                                                        |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |

1/20/2022



Office of the City Manager

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

**Meeting Date:** November 10, 2020

**Item Number:** 20

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

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

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





Office of the City Manager

November 9, 2020

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

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

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

Category B

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

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

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

Section 3. City Council


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

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

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

Noes: None.

Absent: None.

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

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





Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

From: *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.

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

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

Prompts for Commissions to use in work plan:

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

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

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

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

Attachments:

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

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Boards and Commissions

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

Design Review Committee  
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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

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Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
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Homeless Services Panel of Experts  
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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

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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







# URGENT ITEM AGENDA MATERIAL

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

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

**Meeting Date: September 28, 2021**

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

This item is submitted pursuant to the provision checked below:

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

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

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

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

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

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





Office of the City Attorney

CONSENT CALENDAR  
September 28, 2021

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

From: Farimah Faiz Brown, City Attorney

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

RECOMMENDATION

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

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

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

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

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

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

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

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

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

#### BACKGROUND

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

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

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

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

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

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

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

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

RESOLUTION NO. –N.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



OFFICE OF THE GOVERNOR

June 2, 2021

**VIA EMAIL**

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RE: Transition Period Prior to Repeal of COVID-related Executive Orders

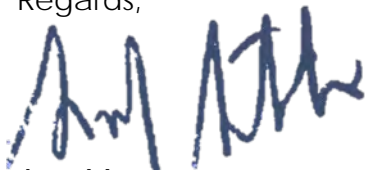
Dear Mr. Knaus, Ms. Miller, Ms. Hurst, Ms. Preston, Ms. Heaton, Ms. King, Ms. Coleman, Ms. Blacet-Hyden, Mr. McCormick, Mr. Anderson, and colleagues,

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

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

We appreciate your partnership throughout the pandemic.

Regards,

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

Ana Matosantos  
Cabinet Secretary



## NEWS RELEASE

Release  
Number: 2021-58

June 4, 2021

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



Office of the City Manager

June 1, 2021

To: Agenda & Rules Committee

From: Dee Williams-Ridley, City Manager

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

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### Introduction

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

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

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

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

Meeting Options

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

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

The three meeting models available are:

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

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

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

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

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

Meeting Type Considerations

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

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

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

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

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

#### Other Considerations

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

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

Conclusion

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

Attachment:

1. Executive Order N-29-20

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-29-20

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

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

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

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

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

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

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

**IT IS HEREBY ORDERED THAT:**

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

otherwise-applicable Medicaid time limits in emergency situations.

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

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

In particular, any otherwise-applicable requirements that

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

are hereby suspended.

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

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

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

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

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

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

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

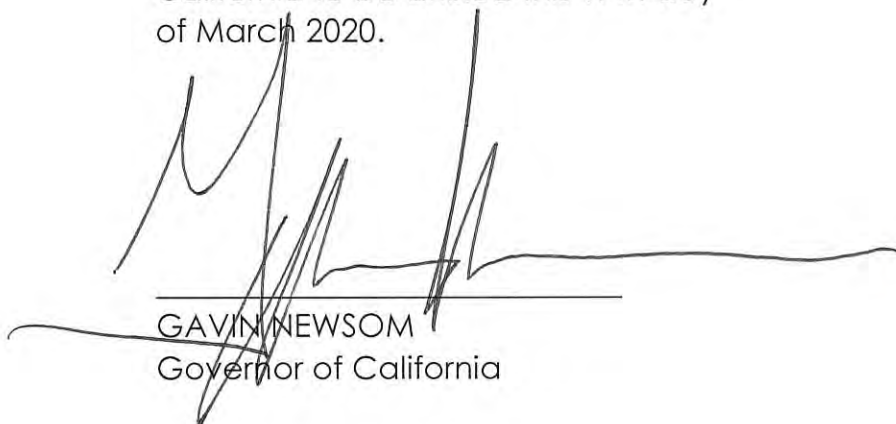


All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency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

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

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

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



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

**ATTEST:**

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