BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING

MONDAY, SEPTEMBER 18, 2023

2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

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

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - https://cityofberkeley-info.zoomgov.com/j/1611095018. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter Meeting ID: **161 109 5018.** If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@cityofberkeley.info.

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

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: September 5, 2023**
2. **Review and Approve Draft Agenda:**
   a. 10/3/23 – 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

8a. Discussion of Potential Changes and Enhancements to the City Council Legislative Process including the concepts referred by Council at the March 14, 2023 meeting

8b. Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)

Unscheduled Items

9. **Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
10. **Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
11. **Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment – Next Meeting Tuesday, September 26, 2023

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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:
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I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, September 14, 2023.

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@berkeleyca.gov.

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

TUESDAY, SEPTEMBER 5, 2023
2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf
Alternate: Councilmember Ben Bartlett

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Roll Call: 2:34 p.m. Present: Wengraf, Hahn; Absent: Arreguin

Public Comment – 3 speakers.

Review of Agendas

1. **Approval of Minutes: August 28, 2023**
   Action: M/S/C (Wengraf/ Hahn) to approve the minutes of 8/28/23.
   Vote: Ayes – Wengraf, Hahn; Noes – None; Abstain – None; Absent – Arreguin.

2. **Review and Approve Draft Agenda:**
   a. 9/19/23 – 6:00 p.m. Regular City Council Meeting
   Action: M/S/C (Wengraf/ Hahn) to approve the agenda of 9/19/23 with the changes noted below.
   - *Item Added: Amicus Brief (Arreguin) – Added to Action Calendar; Councilmember Wengraf added as a co-sponsor*
   - *Item 14 Berkeley Food Network (Arreguin) – Councilmembers Harrison and Hahn added as co-sponsors*
   - *Item 16 Lease Extension (City Manager) – Moved to Consent Calendar*
   - *Item 17 Rodeway Inn (City Manager) – Moved to Consent Calendar*
   - *Item 18 Rezone Gilman Street (Kesarwani) – Moved to 9/19 Action Calendar; Councilmembers Robinson and Wengraf added as co-sponsors*

   Order of Action Items
   Item 15 Public Hearing
   Time Critical Item – Amicus Brief
   Item 18 Rezone Gilman Street

   Vote: Ayes – Wengraf, Hahn; Noes – None; Abstain – None; Absent – Arreguin.

3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
   - None Selected

4. **Adjournments In Memory** – None

Scheduling

5. **Council Worksessions Schedule** – received and filed

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

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

Referred Items for Review

8a. Discussion of Potential Changes and Enhancements to the City Council Legislative Process including the concepts referred by Council at the March 14, 2023 meeting

8b. Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)

Action: Councilmember Hahn will work with the City Manager and City Clerk to work on a draft presentation to be previewed at the Agenda & Rules Committee prior to the October 10 meeting.

Unscheduled Items

9. Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)

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

11. Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Hahn/Wengraf) to adjourn the meeting.
Vote: Ayes – Wengraf, Hahn; Noes – None; Abstain – None; Absent – Arreguin.

Adjourned at 3:08 p.m.

I hereby certify that the forgoing is a true and correct record of the Agenda & Rules Committee held on September 5, 2023.

_____
Mark Numainville, City Clerk

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DRAFT AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, October 3, 2023
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

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 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <<INSERT ZOOM for GOV URL HERE>>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **<<INSERT MEETING ID HERE>>**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@berkeleyca.gov.

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. 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:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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 or Information 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. Utility Easement: Bolivar Drive – East Bay Municipal Utility District
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,883–N.S. authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

2. Police Accountability Board – Appointment of New Member
Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Robinson.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900

3. Revenue Contract with City of Emeryville for Animal Care Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a revenue contract and all necessary amendments with the City of Emeryville for a term of 33 months (Oct 6, 2023 – June 30, 2026) at a total amount not to exceed $235,548.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000

4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 3, 2023
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

5. Contract No. 9791 Amendment: Environmental Systems Research Institute, Inc. (ESRI) for Enterprise Graphical Information Systems (GIS) Software License Maintenance and Support
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9791 with Environmental Systems Research Institute, Inc. (Esri) for Enterprise GIS software license maintenance and support, increasing the amount by $279,750 for a not- to-exceed total of $900,750 for the period of July 1, 2023 through June 30, 2026.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

6. Contract No. 114382-1 Amendment: M.C. Dean for UPS Maintenance
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 114382-1 with M.C. Dean, Inc. for Uninterrupted Power Supply (UPS) maintenance, increasing the amount by $115,016 for a total not to exceed $261,922 from July 1, 2014 to June 30, 2026.
Financial Implications: IT Cost Allocations Fund - $115,016.
Contact: Kevin Fong, Information Technology, (510) 981-6500

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 – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, 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.

When applicable, 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.

7. Ambulance Transport Fee Increase
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective July 1, 2023, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 70,726–N.S.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Action Calendar – Old Business

8. Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention *(Continued from June 27, 2023)*
From: City Manager
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

Information Reports

9. Sanctuary City Contracting Compliance Report for FY 2023
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300

10. Update on the Implementation of Fair and Impartial Policing Task Force Recommendations
From: City Manager
Contact: Jennifer Louis, Police, (510) 981-5900

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

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

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

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

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

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Upcoming Worksessions and Special Meetings *start time is 6:00 p.m. unless otherwise noted*	
Scheduled Dates	
Sept 26	1. ZAB Appeals: 705 Euclid Avenue and 1598 University Avenue
Oct 10 (4:00pm)	1. Potential Changes & Enhancements to the City Council Legislative Process
Nov 2 (Thurs)	1. Draft Waterfront Specific Plan

Unscheduled Workshops and Special Meetings
None

Unscheduled Presentations (City Manager)
1. Re-Imagining Public Safety Update (proposed date: December 5, 2024 regular meeting) 2. Fire Dept Standards of Coverage and Community Risk Assessment 3. Dispatch Needs Assessment Presentation 4. Presentation on Homelessness/Re-Housing/Thousand-Person Plan

	City Council Referrals to the Agenda & Rules Committee and Unfinished Business for Scheduling
	None

CITY CLERK DEPARTMENT

WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL

Address	Board/ Commission	Appeal Period Ends	Public Hearing
NOD – Notices of Decision			
Public Hearings Scheduled			
705 Euclid Avenue (new single family dwelling)	**ZAB**		**9/26/2023**
1598 University Avenue - (construct 8-story mixed-use building)	**ZAB**		**9/26/2023**
3000 Shattuck Avenue - (construct 10-story mixed-use building)	**ZAB**		**TBD**
Remanded to ZAB or LPC			
Notes			

8/21/2023

Major Item Legislative, Budgeting & Implementation Systems Redesign

FIRST SKETCH OF DRAFT #1

Presented to Agenda & Rules Committee

June 12, 2023

Goal

Sketch a
PROCESS OVERVIEW
for the introduction, vetting, passage,
funding, and implementation of
Major Council Items

Terminology

MAJOR ITEMS

are items meeting the *current/existing definition* of Policy Committee Track Items:

Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts

Big Ideas

City Clerk - Consistency in process of how Major Items are developed, budgeted and implemented

City Manager - Help the Organization deliver without overwhelm; allow staff to be successful in their work

Council/Mayor - Successfully implement state of the art and/or innovative programs and policies to serve Berkeley, and to model best practices for other Cities/States

Yearly Cycle:

Built around June 30 Budget Adoption/Update

July – September

COUNCIL: Finalization of Y2 Items
CITY MANAGER: Implement Y1 Items

October – March

Committee Season

April – June

Council + Budget Season

Legislative Session:
One Cycle – Benefits

- Every Year, opportunity to Submit and have Council hear/vote on Major Items
- Four subject matter Committees only meet during a Committee Season (except if emergency or special reason to convene), reducing time commitment by Councilmembers and staff.
- Staff can turn to implementation during “off season,” and Councilmembers can work on the next year’s items.

Major Item Development & Submission

All Year → End of September

- Must use Major Item Guidelines Format
- September 30 submission deadline
- Major Items can be submitted prior to September 30 but won't be assigned to Committees
- Timeline allows for Councilmembers to work all year on items
- Staff input at Pre-submission = high level/conceptual

Agenda Committee

October

Review & Assign Major Items to Committees

- Early October special meeting(s)
- Review Major Items for compliance with Guidelines
  (Could also do this on rolling basis as items come in)
- Assign *compliant* Major Items to Policy Committees
- Send *non-compliant* Major Items back to Authors for resubmission by End of October

Policy Committees

October - March

- Organizing meeting(s) Mid-October
- Major Items heard by Committee and move out on Rolling Basis, October - March
- Committees may also prioritize/score items they review
- All Major Items OUT of Policy Coms by March 30

City Council

April

- Vote on all Major Items, as reviewed and sent forward by Committees, no later than April 30
- May require special meeting(s) in April
- City Attorney must sign off on legal conformity of Ordinances
- Council - Approved items sent to Budget Committee

Budget Prioritization

*Early May**

- All Major Items that have been passed by Council, both NEW and PENDING/previously unfunded, to be prioritized by Councilmembers
- Prioritization due May 15/second Friday in May

**Not the same as all-item prioritization*

Budget Committee

May - June

- Council [and Committee?] Prioritizations provided to Budget Committee as guides, but not binding
- Budget Committee makes recommendations to full Council along with Budget
- Budget passed; Major Items funded move forward to Implementation
- ROLLOVER: Major Items passed by Council but NOT funded get automatically rolled-over to future funding opportunities

Implementation

July +

- Implementation Lead assigned by City Manager
- Implementation Team assembled by Lead + CM
- Meet with Author(s) to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares
  - Launch Plan
  - Operating Plan
- Program/Policy is Launched + Implemented

OVERRIDE

for Time Sensitive Items to respond to unforeseen events

- Rules of Procedure and Order already provide Override:

  An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item

- Time Critical definition – may need to be amended
- May still go to a Policy Committee or directly to Council, per A&R
- [Possible Add: Council-level override/appeal if Author doesn't agree with the A&R decision on Time Critical nature of a Major Item].

Special Topic:

Pre-Submission

- Guidelines mandatory for Major Items
- Only Authors (no Co-Sponsors) allowed at Pre-Submission and Committee stages, to reduce Brown Act issues
- Available: Pre-Submission Consult with City Manager to recommend internal subject matter experts for high level input
- Available: Pre-Submission Consult with City Attorney
- Consider a more formalized role for COMMISSIONS in Pre-Submission

Special Topic:

Strengthen Committee Process

Enhanced Review

Develop checklist of what must be reviewed and addressed

- Relevance to existing Strategic Priorities or Current needs/Events
- Added value of program/policy
- Potential opportunities/costs of Program/Policy to community and COB
- Alternative means to achieve same or similar goals
- Phasing/timelines for implementation
- Staffing and Resources needed to Launch and Operate
- Evaluation/metrics/Enforcement
- Rate items as they go to Council?
- Increase options re: positive and negative recommendations?
- Other?

Public & Staff input @ Committee

- Specific Outreach to Identifiable Stakeholders
- Several Opportunities for Comment
  (items heard more than once)

- Clarify staff's role
- Schedule will help get the right staff to meetings
- Empower staff to participate more fully in discussions, even if formal reports are not available

Special Topic: Prioritization *Backlog*

Need a process to "clear the backlog" of items *currently* in the queue.

Send all pending (but not initiated) items to Policy Committees for review to suggest:

- Folding items together and/or updating referrals
- Re-approval of items "as is"
- Sunsetting/removal of moot items
- Recommend disposition of all items, ranked within each Lead Department
- Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
- May need some criteria - to ensure all council members get at least some of their priorities addressed
- May also want to integrate an RRV-type ranked prioritization?

Special Topic: Prioritization

Regular/Ongoing

- Long Term, enhanced process should result in fewer or no backlogs and items implemented in a reasonable timeframe
- "Prioritization" becomes less of a BIG ISSUE.

Prioritization in a rationalized new Legislative system should result naturally from:

- More fully conceived and vetted items
- Better review at Committee, including merger of similar items to avoid piecemeal legislation
- Fewer, more impactful/comprehensive items moving forward

Special Topic:

Need Process & Criteria for funding Items at AA01 and AA02

Suggestions - this question needs discussion/input from Budget & Finance Committee

- ? Only Time Critical and Rollover (previously approved but unfunded) items considered at these junctures - same rule for Council and City Manager items
- ? Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council initiatives
- ? AA01 and 02 only for one-time and/or time sensitive expenses

Special Topic:

Implementation

Once Major Item is passed + funded, move to Implementation Process

- Implementation Lead is assigned by City Manager – *Single Individual* Responsible for managing and ensuring implementation
- Implementation Team assembled by Lead + City Manager
- Consult with Author(s) to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares LAUNCH and OPERATING Plans
  - Launch is a unique undertaking requiring special/one-time work
- LAUNCH elements + Timeline
- OPERATING Plan
  - Long term/ongoing operation of program/policy

DISCUSSION + QUESTIONS

MAJOR ITEM LEGISLATIVE, BUDGETING & IMPLEMENTATION SYSTEMS REDESIGN

Goal:
Sketch a full process for introduction, vetting, passage, funding, and implementation of Major Council Items and initiatives.

Terminology:
"Major Items" are items meeting the current definition of *Policy Committee Track Items*:

> "Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts."

Big Ideas for Major Items:

City Clerk - Consistency in process of how Major Items are developed, budgeted and implemented
City Manager - Help the Organization deliver without overwhelm; allow staff to be successful in their work
Council/Mayor - Successfully implement state of the art and/or innovative programs and policies to serve Berkeley, and to model what's possible for other Cities/States

OVERVIEW: YEARLY CYCLE - BUILT AROUND JUNE BUDGET ADOPTION/UPDATE:

1. **Major Item Development & Submission Cut Off - All Year - End of September**
    a. Must use Major Item Guidelines Format
        i. Guidelines prompt meaningful research, consult with experts and community, etc.
    b. September 30 Major Item submission deadline
        i. Agenda Committee requests updates if not compliant with Guidelines
        ii. 3rd Friday of October updated submissions, if any, due (as may be required by Agenda Committee)
    c. Major Items can be submitted prior to September 30 but won't be assigned to Committees
    d. Timeline allows for Councilmembers to work all year on items, including over the summer, and to submit after Council resumes for the Fall.
    e. Staff input at Presubmission = high level/conceptual

2. **Agenda Committee - October**
    a. Early October special meeting(s)
    b. Review for compliance with Guidelines
        i. Items not fulfilling Major Items Guidelines sent back to Authors for Resubmission at “late” deadline, or in future year, per Authors’ choice
    c. Review and assign compliant Major Items to Policy Committees

3. **Policy Committees - October - March**
    a. Organizing meeting(s) Mid-October
        i. Create Calendar/agree on schedule for Items to be heard
        ii. Group similar/topical items together
        iii. Other organizing/housekeeping per Committee
    b. Major Items heard by Committee and move out on Rolling Basis, October - March
        i. Review of items includes Enhanced Review *(See below)*
        ii. Staff input more specific/involved but not requiring significant research
            1. If areas of significant unknowns are implicated, referral for item should include funds to support future research
        iii. Input from City Attorney’s Office as appropriate - Review ordinances
    c. [Committees may also be asked to prioritize/score items they review]
    d. All Major Items OUT of Policy Coms by March 30.

4. **Council - April**
    a. Vote on all Major Items, as reviewed by Committees, no later than April 30
    b. May require special meetings in April
    c. City Attorney must sign off on legal conformity of Ordinances
    d. Approved items sent to Budget Committee so they are aware of them

5. **Budget Prioritization - Early May**
(not the same as all-item prioritization)
    a. All Major Items that have been passed by Council, both new and pending/previously unfunded, to be prioritized by Councilmembers
    b. Council scoring due the second week of May

6. **Budget Committee - May - June**
    a. Council [and Committee?] Prioritizations provided to Budget Committee as guides, but not binding
    b. Budget Committee makes recommendations to full Council along with Budget
    c. Budget passed; Major Items funded move forward to Implementation *(details below)*
    d. ROLLOVER: Major Items passed by Council but NOT funded get automatically rolled-over to future funding opportunities, to be considered with other rollover (and new) items until funded or retired/removed.

7. **Implementation - July +++**
    a. Implementation Lead assigned by City Manager
    b. Implementation Team assembled by Lead + CM
    c. Meet with Author(s) to establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc.
    d. Implementation Team prepares
        1. Launch Plan
        2. Operating Plan
    e. PROGRAM/POLICY is LAUNCHED

Legislative Session: One Cycle - Benefits

1. Every Year, opportunity to Submit and have Council hear/vote on Major Items
2. Four subject matter Committees only meet during a Committee Season (except if emergency or special reason to convene), reducing time commitment by Councilmembers and staff.
3. Staff can turn to implementation during "off season," and Councilmembers can work on the next year's items.
4. Override for Time Sensitive Items provided for, to respond to unforeseen events:
    a. Rules of Procedure and Order already provide Override:
        i. "An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item."
        ii. Time Critical definition - may need to be amended to add criteria to accept a Major Item later than the September 30 submission deadline).
        iii. May still go to a Policy Committee or directly to Council, per A&R.
    b. [Possible Add: Council-level override/appeal if the Author doesn't agree with the Agenda & Rules Committee decision on Time Critical nature of a late Major Item].

SPECIAL TOPIC: Pre-Submission - Details:

1. Guidelines mandatory for Major Items
    a. Review Guidelines for update/Adoption by Council (change name?)
    b. Clerk to make new Major Item submission templates and provide adopted requirements for research and writing of Major Items
2. Only Authors (no Co-Sponsors) allowed at Pre-Submission and Committee stages, to reduce Brown Act issues
3. Available: Pre-Submission Consult with City Manager to recommend internal subject matter experts for high level input
    a. Staff available for High Level input on Major Items
4. Available: Pre-Submission Consult with City Attorney
    a. Identify possible Legal Issues early

b. If Ordinance needed, discuss drafting and review

5. Consider a more formalized role for Commissions in Pre-Submission. [Councilmembers can go directly to Chairs to request items be placed on Commission agenda to receive feedback on a legislative proposal?]

SPECIAL TOPIC: Strengthen Committee Process - Enhanced Review

1. Policy Committees meet during a "season" (except Agenda & Budget)
    i. Likely need to meet more frequently during the season
    ii. Can be convened at other times (outside of the "season") for special circumstances
2. First Committee Meeting(s) in October
    i. Organize and Publish Committee Calendar
        1. Group similar items together
        2. Decide what to hear first/in what order to take up items
        3. Plan at least two hearings for each Major Item
        4. Identify stakeholders/special communities for outreach to participate
3. Clarify Committee tasks *(to be further defined)*
    i. Develop checklist of what must be reviewed and addressed
        1. Relevance to existing Strategic Priorities or Current needs/Events
        2. Added value of program/policy
        3. Potential opportunities/costs of Project/Policy to community and to COB
        4. Alternative means to achieve same or similar goals
        5. Phasing/timelines for implementation
        6. Staffing and Resources needed to Launch and Operate
        7. Evaluation/metrics
        8. Enforcement
    4. Staff input at Committee level *(to be further defined)*
        1. Clarify staff's role at Committees
        2. Get the right people to meetings, based on schedule
        3. Empower staff to participate more fully in discussions, even if formal reports are not available
        4. Etc.
    ii. Committee Evaluation of Merits/Relative Merits of items
        1. Ask Committees to rate items as they go to Council?
            a. Urgency, added value, cost/complexity, etc.?
        2. Increase options re: positive and negative recommendations?
        3. Other?
    5. Items passed out of Committee to be updated by Author and re-submitted to Clerk in both original format and format passed by the Committee, for inclusion on Council agenda. *Clerk adds Committee recommendation.*
        i. Clerk to provide clear process/direction on resubmission requirements, including timelines
            1. Original item included
            2. Redlined updated item with Committee-approved changes

3. ADD CO-SPONSORS
4. Possible proposed additional changes/final version from Author(s)?

ii. Deadline to resubmit updated items April 10 (most items will leave Committees before the March 30 deadline)

iii. April special meeting agendas reserved for Major Items

6. Allow CO-SPONSORS after items leave Committees and go to Council - Author(s) can add via Resubmission of item and/or via Supplemental process

SPECIAL TOPIC: Prioritization of Items for Budgeting and Implementation

1. **ONE-TIME - TO CLEAR CURRENT BACKLOG:**

Need a process to “clear the pile” of items currently in the queue.

a. This should be “One time” to clear current backlog
   i. May take a few years, but not necessary after that
b. Send all pending (but not initiated) items to appropriate Policy Committees for review to suggest:
   i. Folding items together and/or updating referrals
      1. Consolidate similar referrals
      2. Restate and/or strengthen referral language
      3. Update budget requests
      4. Etc.
   ii. Re-approval of items “as is”
      1. Some items are still fresh, relevant
   iii. Sunsetting/removal of moot items
      1. Moment has passed/No longer a priority
      2. Other similar work in progress
      3. Etc.
c. Recommend disposition of all items, ranked within each LEAD DEPARTMENT
d. Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
e. *May need some criteria - to ensure all council members get at least some of their priorities addressed*
f. May also want to integrate an RRV-type ranked prioritization, but this may not be necessary after items are culled down, merged, removed, and prioritized by Lead Department

DRAFT

2. **POST-BACKLOG/REGULAR PRIORITIZATION PROCESS :**
   Long Term, enhanced process should result in fewer or no backlogs and Council items actually being implemented in a reasonable timeframe; “Prioritization” becomes less of a Big Issue.
   i. Prioritization in a rationalized new system should result naturally from:
      1. More fully conceived and vetted items being submitted
      2. Items better vetted and formed at Committee, including merger of similar items to avoid piecemeal of smaller similar items
      3. Fewer, more impactful/comprehensive items moving forward
   ii. Some Prioritization still may be necessary
      1. Possibly have Committees rank all items they reviewed in their session, and/or rank with previous items in their purview that have not been initiated
      2. Possibly have Council engage in a ranking process - RRV or similar
      3. All rankings, whatever the system, are non-binding and will be reviewed and finalized by Council

SPECIAL TOPIC: Process & Criteria for Items to be funded at AAO1 and AAO2

[Suggestions - this question needs input from Budget & Finance Committee]

1. Only Time Critical and Rollover (previously approved but unfunded) items considered at these junctures - same rule for Council *and City Manager* items
2. Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council/CM initiatives
3. AA01 and 02 for one-time and/or time sensitive expenses

SPECIAL TOPIC: Post-Approval Launch of new Initiatives/Policies/Programs:

Once a Major Item is passed and funded, move to Implementation Conference with Author(s) and City Manager

1. Implementation Lead is assigned by City Manager
   a. Responsible for managing and ensuring implementation
      i. Need project management, implementation, and communications expertise - do not necessarily have to be *subject matter* experts
2. Implementation Team assembled by Lead + CM
   a. Meets with Author(s) to establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc.
   b. Implementation Team prepares Launch and Operating Plans
      i. Launch Plan - Launch is a unique undertaking requiring special/one-time works products

1. Launch elements determined
    a. Staffing
    b. Communications/events
    c. Online & Paper information/forms/processes
    d. Education
2. Timeline for Launch

ii. Operating Plan

1. Long term/ongoing operation of program/policy
2. Staffing/Systems
3. Benchmarks for progress
4. Evaluation/Updates/Continuous Improvement
5. Enforcement

DRAFT

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide "additional analysis" if the item as submitted evidences a "significant lack of background or supporting information" or "significant grammatical or readability issues."

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
   a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
   b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
   c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
   d. Fiscal impacts of the recommendation;
   e. A description of the current situation and its effects;
   f. Background information as needed;
   g. Rationale for recommendation;
   h. Alternative actions considered;
   i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
   j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

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1. Title

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

2. Consent/Action/Information Calendar

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

3. Recommendation

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

4. **Summary Statement/ "Current situation and its effects"**
   A short resume of the circumstances that give rise to the need for the recommended action(s).
   - Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
   - Example (fictional):
     Winter rains are lasting longer than expected. Berkeley's winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley's winter shelters open until the end of April, and refers to the Budget Process $40,000 to cover costs of an additional two months of shelter operations.

5. **Background**
   A full discussion of the history, circumstances and concerns to be addressed by the item.
   - For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

6. **Review of Existing Plans, Programs, Policies and Laws**
   Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

   Review of all pertinent/applicable sections of:
   - The City Charter
   - Berkeley Municipal Code
   - Administrative Regulations
   - Council Resolutions
   - Staff training manuals

   Review of all applicable City Plans:
   - The General Plan
   - Area Plans
   - The Climate Action Plan
   - Resilience Plan
   - Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan
Review of similar legislation previously introduced/passed by Council
Review of County, State and Federal laws/policies/programs/plans, if applicable

7. <u>Actions/Alternatives Considered</u>

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

8. <u>Consultation/Outreach Overview and Results</u>

- Review/list external and internal stakeholders that were consulted
  - **External**: constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal**: staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

9. <u>Rationale for Recommendation</u>

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

10. **Implementation, Administration and Enforcement**
    Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

11. **Environmental Sustainability**
    Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

12. **Fiscal Impacts**
    Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

13. **Outcomes and Evaluation**
    State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

14. **Contact Information**

15. **Attachments/Supporting Materials**

Lori Droste
Councilmember, District 8

On March 14, 2023, the City Council referred the relevant concepts of this item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process.

Action Calendar
March 14, 2023

To: Honorable Mayor Jesse Arreguín and Members of the City Council

From: Councilmember Lori Droste

Subject: Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)

Recommendation

In order to ensure that the City focuses on high-priority issues, projects, and goals and affords them the resources and funding such civic efforts deserve, the City Council should consult with the City Manager's Office to develop and adopt a suite of revisions to the City Council Rules of Procedure and Order that would implement the following provisions:

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may **not** submit budget referrals which direct funds to a

specific organization or event. Organizations which receive City funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than $20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

5. Ensuring that any exceptions to these provisions are designed to ensure flexibility in the face of an emergency, disaster, or urgent legal issue/liability and narrowly tailored to be consistent with the goals of enhanced efficiency, effectiveness, fairness, and focus.

Policy Committee Recommendation

On February 14, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process. Vote: All Ayes.

Current Situation and Its Effects

Over the past few years (excluding the COVID-19 state of emergency), City Council has grappled with potential options to reduce the legislative workload on the City of Berkeley staff. While a significant portion of this workload is generated from non-legislative matters and staffing vacancies, it is important to recognize that staff also continue to struggle to keep up with Council directives while still accomplishing the City's core mission or providing high quality public infrastructure and services.

Background and Rationale

Berkeley faces an enormous staffing crisis due in part to workload concerns; as such, Council should take steps to hone its focus on legislative priorities. November 2022's Public Works Off-Agenda Memo offers a benchmark for problems faced by City departments. Public Works staff struggles to complete its top strategic plan projects, respond to audit findings, and provide basic services, in addition to fulfilling legislative priorities by Council. While the "Top Goals and Priorities" outlined by Public Works is tied to 130+ directives by the City Council, it is not reasonable to assume that all will be implemented.

The challenges faced by the Public Works department are not an anomaly. Other departments share the same challenges. In addition to needing to ensure that the City can adopt a compliant state-mandated Housing Element, process permits, secure new grant funding, mitigate seismic risks, and advance our Climate Action Plan, Planning Department staff have been tasked with addressing multiple policy proposals from the City Council. The sheer number of referrals also impacts the ability of staff in the City Attorney's office to vet all ordinances, protect the City's interests, participate in litigation, and address the City's other various legal needs.

Best Practices

A number of nearby, similarly-sized cities were contacted to request information about how these cities approach Councilmember referrals and prioritizations processes. Cities contacted

included Richmond, Vallejo, Santa Clara, Concord, and Sunnyvale. Of these cities, Santa Clara, Concord, and Sunnyvale replied.

Santa Clara
Overall, Santa Clara staff indicated that—similar to Berkeley—the Council referrals and prioritization process is not especially formalized, with additional referrals being made outside of the prioritization process.

Each year, the Council holds an annual priority setting session at which the Council examines and updates priorities from the previous year and considers what progress was made toward those priorities. The prioritization process takes place in February so that any priorities that rise to the top may be considered for funding ahead of the budget process. In any given year, some priorities may go unfunded and even holding those priorities over to a second year is not necessarily a guarantee of funding.

Despite conducting this annual prioritization exercise, Councilmembers in Santa Clara often still do bring forward additional referrals outside of this process. Part of this less restricted approach in Santa Clara's 030 ("zero thirty") policy, which allows members of the the City Council to add items to the Council agenda with sufficient notice and even allows members of the public to petition to have items added to a special section of the Council agenda.

Despite the overally looseness of Santa Clara's approach. Council members still rely upon staff to provide direction with respect to what priorities are or are not feasible based upon available funding and staff bandwidth.

Concord
According to Concord City staff, although Concord—like Berkeley and Santa Clara—does have a process for Councilmembers to request items be added to Council agendas, Councilmembers generally agree not to add referrals outside of the formal priority-setting process.

Concord City staff only work on "new" items/policies that are mandated by law, recommended by the City Manager, and have been recommended for review/work of some kind by a majority (three of the five members) of the City Council.

In general, Councilmembers agree to not add work items outside of the Council's formal priority setting process. The Concord City Council has a once-a-year goal setting workshop each spring where the City plans its Tier 1 and Tier 2 priorities for the year (or sometimes for a 2-year cycle). Most Councilmembers abide by this process and refrain from bringing forward additional items. However any Councilmember may put forward a referral outside of the process and use the method outlined below.

Outside of the prioritization process, Councilmembers can request that their colleagues (under Council reports at any Council meeting) support placing an item on a future Council meeting agenda for a discussion. The Concord City Attorney has advised councilmembers that they can make a three sentence statement, e.g. "I would like my colleagues' support to agendize [insert item]" or "to send [insert item] to a Council standing committee for discussion." Followed by: "This is an important item to me or a timely item for the Council because [insert reasoning]. Do I have your support?" The other Councilmembers then cannot engage in any detailed discussion or follow up, but may only vote yes or no to agendizing the item.

If two of the Councilmember's colleagues (for a total of 3 out of 5) agree to the request to have the item agendized for a more detailed discussion by Council, then the item will be added to a future agenda for fuller consideration. An additional referral outside the prioritization process is suggested perhaps once every month in Concord, but the Concord City Council usually does not provide the majority vote to agendize these additional items.

Sunnyvale

Of all the cities surveyed, Sunnyvale has the most structured approach for selecting, rating, and focusing on City Council priorities. "Study issues" require support from multiple councilmembers before being included in the annual priority setting, and then must go through a relatively rigorous process to rise to the top as Council priorities. And, perhaps most importantly, policy changes *must* go through the priority setting process to be considered. The Sunnyvale City Council's Policy 7.3.26 Study Issues reads, in part:

> *Any substantive policy change (large or relatively small) is subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).*
>
> *Policy related issues include such items as proposed ordinances, new or expanded service delivery programs, changes to existing Council policy, and/or amendments to the General Plan. Exceptions to this approach include emergency issues, and urgent policy issues that must be completed in the short term to avoid serious negative consequences to the City, subject to a majority vote of Council.*

If a study issue receives the support of at least two Councilmembers, the issue will go to staff for the preparation of a study issue paper. Council-generated study issues must be submitted to staff at least three weeks ahead of the priority-setting session, with an exception for study issues raised by the public and carried by at least two Councilmembers, if the study issues hearing takes place less than three weeks before the priority setting.

At the Annual Study Issues Workshop, the Council votes whether to rank, defer, or drop study issues. If a majority votes to drop the issue, it may not return the following year; if the issue is deferred, it returns at the following year's workshop; and if a majority votes to rank an issue, it proceeds to the ranking process. Sunnyvale's process uses "forced ranking" for "departments" with ten or fewer issues and "choice ranking" for departments with eleven or more issues. (The meaning of "departments" and the process for determining the number of issues per department are not elucidated within the policy.) Forced ranking involves assigning a ranking to every policy within a given subset, while choice ranking only assigns a ranking to a third of policies within a given subset, with the others going unranked.

After the Council determines which study issues will be moving forward for the year based on the rankings, the City Manager advises Council of staff's capacity for completing ranked issues. However, if the Council provides additional funding, the number of study issues addressed may be increased.

In 2022, Sunnyvale had 24 study issues (including 17 from previous years and only 7 new ones) and **zero** budget proposals. Although Sunnyvale does consider urgency items outside the prioritization process, this generally happens only 1 to 3 times per year and usually pertains to highly urgent items, such as gun violence.

Status Quo and Its Effects
Council currently uses a reweighted range proportional representation voting method to determine which priorities represent both a) a consensus and b) district/neighborhood concerns. This process allows Council to coalesce around a particular common area of concern; but if there is a specific neighborhood or district issue that is not addressed by Council consensus, it also allows for that district's councilmember's top priority to be elevated in the ratings even without broad consensus, so long as there are not multiple items designated as that councilmember's "top" item. More information about this process can be found here. This system was established in 2016 due to the sheer amount of referrals by Council and the lack of cohesive direction on which of the 100+ referrals the City Manager should act upon.

Subsequent to this effort, Council created a "short-term referral" pool which was intended to be light-lift referrals that could be accomplished in less than 90 days. However, that designation was always intended to be determined by the City Manager, not Council, with respect to what was operationally feasible in terms of the 90 day window. The challenge with Council determining what is a short-term referral is that it is not always realistic given other duties that the staff has to attend to and inappropriate determinations can stymy work on other long term priorities if staff have to drop everything they are doing to attend to an "short-term" or "emergency" referral.

An added challenge is that the City Auditor reported in 2018 that the City of Berkeley's Code Enforcement Unit (CEU) had insufficient capacity to enforce various Municipal Code provisions. This was due to multiple factors, including understaffing—some of which have since improved. Nevertheless, the City Auditor wrote,

> *"Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections."*

Subsequent to that report, an update was published in September of 2022. A staffing and resource analysis for Code Enforcement is still needed to ensure that the laws Council passes can be implemented.

Fiscal Impacts
These reforms are likely to result in significant direct savings related to reduced staff time/overtime as well as potential decreases to costs associated with the recruitment/retention of staff.

Alternatives Considered
Alternatives were considered using effectiveness and efficiency as the evaluative criteria for referrals. One missing criterion that will be necessary in developing this process will be operational considerations so the City of Berkeley can continue to deliver basic services in an efficient manner.

All-Council determination
Council could vote *as a body* on the top 10 legislative priorities. The drawback of this method is that it, by default, eliminates any remaining priorities that have been passed by Council. It also eliminates "minority" voices which may disproportionately impact neighborhood-specific concerns as the remainder of the Council may not value district-specific concerns outside of their council district.

Councilmember parameters
Councilmembers could select their top two legislative priorities (as a primary author) for the year and the Mayor could select four legislative priorities for the year for a total of 10 legislative priorities per year. These "legislative priorities" would not include resolutions of support, budget referrals for infrastructure or traffic mitigations or other non-substantive policy items…..

Status Quo Sans Short-Term Referrals
The status quo of rating referrals is the fairest and most equitable if Council wishes to continue to pass the same quantity of referrals; however, it does not address the overall volume and that certain legislative items skip the prioritization queue due to popularity or perceived community support. Council enacts ordinances that fall outside of the priority setting process and designates items as short-term referrals. This loophole has made this process a bit more challenging. One potential option is to continue the prioritization process but eliminate the short-term referral option unless it is undeniably and categorically an emergency or time-sensitive issue.

Contact Person
Councilmember Lori Droste (legislative aide Eric Panzer)
erpanzer@cityofberkeley.info
Phone: 510-981-7180

Attachments
Update on Public Works' Goals, Projects, Measures, and Challenges

Office of the City Manager

November 15, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

This memo shares an update on the department's *Performance Measures* and *FY 2023 Top Goals and Projects*, and identifies the department's highest priority challenge. I am proud of this department's work, its efforts to align its work with City Council's goals, and the department's dedication to improving project and program delivery.

Performance Measures
The department's performance measures were first placed on the department's website (https://berkeleyca.gov/your-government/about-us/departments/public-works) in 2020. They are updated annually in April. Progress continues in preventing trash from reaching the Bay, reducing waste, increasing bike lane miles, reducing the City fleet's reliance on gas, increasing City-owned electric chargers, expanding acres treated by green infrastructure, and reducing the sidewalk repair backlog. Challenges remain with the City's street condition and safety.

Top Goals and Projects
Public Works' top goals and projects are also on the department's website (https://berkeleyca.gov/your-government/about-us/departments/public-works). Department goals are developed annually. This year, after reviewing the 130+ directives from open City Council referrals, FY 2023 adopted budget referrals, audit findings, and strategic plan projects, staff matched existing resources with City Council's direction and the ability to deliver on this direction while ensuring continuity in baseline services.

The *FY 2023 Top Goals and Projects* is staff's projection of the work that the department has the capacity to advance this fiscal year. This list is intended to be both realistic and a stretch to achieve. More than tthree-quartersof the work on the *FY 2023 Top Goals and Projects* is tied to the existing 130+ directives from City Council referrals, budget referrals, audit findings, and strategic plan projects. The remainder are initiatives internal to the department aimed at increasing effectiveness and/or improving baseline services.

Public Works conducts quarterly monitoring of progress on the goals and projects, and status updates are shared on the department's website using a simple status reporting

procedure. Each goal or project is coded green, yellow, or red. A project coded green is either already completed or is on track and on budget. A project in yellow is at risk of being off track or over budget. A project in red either will not meet its milestone for this fiscal year or is significantly off track or off-budget. Where a project or goal has multiple sub-parts, an overall status is color-coded for the numbered goal and/or project, and exceptions within the subparts are identified by color-coding. Quarter 1's status update is here. The 2nd, 3rd, and 4th quarter results will be posted at the same location.

Challenge

Besides the volume of direction, the most significant challenge in delivering on City Council's directions is the department's high vacancy rate. The Public Works Department is responsible for staff retention and serves as the hiring manager in the recruitment and selection process. Both retention and hiring contribute to the department's vacancy rate, and the department collaborates closely with the Human Resources Department to reduce the rate. Over the last year, the vacancy rate has ranged from 12% to 18%, and some divisions, such as Equipment Maintenance (Fleet), Transportation,[1] and Engineering, have exceeded 20%. While the overall vacancy rate is lower than in Oakland and San Francisco, it is higher than in Public Works Departments in Alameda, Albany, Emeryville, and San Leandro.

The high vacancy rate obviously reduces the number of services and projects that staff can deliver. It leaves little room for new direction through the course of the fiscal year and can lead to delays and diminished quality. It also detracts from staff morale as existing staff are left to juggle multiple job responsibilities over long periods with little relief. The department's last two annual staff surveys show that employee morale is in the lowest quarter of comparable public agencies and the vacancy rate is a key driver of morale.

Attachment 1 offers an excerpted list of programs and projects that the department is unable to complete or address in this fiscal year due to the elevated vacancy rate and/or the volume of directives.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

cc: Paul Buddenhagen, Deputy City Manager
LaTanya Bellow, Deputy City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager

[1] Three of the City's five transportation planner positions will be vacant by December 3. Before January 1, 2023, the City Manager will share an off agenda memo that explains the impact of transportation-specific vacancies on existing projects and programs.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

Project and Program Impacts

- Major infrastructure planning processes are 6+ months behind schedule, including comprehensive planning related to the City's Zero Waste goal, bicycle, stormwater/watershed, sewer, and streetlight infrastructure.
- Some flashing beacon installations have been delayed for more than 18 months, new traffic maintenance requests can take 2+ months to resolve, and the backlog of neighborhood traffic calming requests stretches to 2019.
- The City may lose its accreditation status by the American Public Works Association because of a lack of capacity to gain re-accreditation.
- Some regular inspections and enforcement of traffic control plans for the City's and others' work in the right of way are missed.
- Residents experience missed waste and compost pickups as drivers and workers cover unfamiliar routes and temporary assignments.
- Illegal dumping, ongoing encampment, and RV-related cleanups are sometimes missed or delayed.
- The backlog of parking citation appeals has increased.
- Invoice and contracting approvals can face months-long delays.
- The Janitorial Unit has reduced service levels and increased complaints.
- Maintenance of the City's fleet has declined, with preventative maintenance happening infrequently, longer repair response times, and key vehicles being unavailable during significant weather events.

Prior Direction Deferred or Delayed

- Referral: Expansion of Paid Parking (DMND0003994)
- Referral: Long-Term Zero Waste Strategy (DMND0001282)
- Referral: Residential Permit Parking (PRJ0016358)
- Referral: Parking Benefits District at Marina (DMND0003997)
- Referral: Prioritizing pedestrians at intersections (DMND0002584)
- Referral: Parking Districts on Lorin and Gilman (DMND0003998)
- Budget Referral: Durant/Telegraph Plaza, 12/14/2021
- Referral: Traffic Calming Policy Revision (PRJ0012444)
- Referral: Public Realm Pedestrianization Opportunities (PRJ0019832)
- Referral: Long-Term Resurfacing Plan (PRJ0033877)
- Referral: Street Sweeping Improvement Plan (DMND0002583)
- Audit: Leases: Conflicting Directives Hinder Contract Oversight (2009)
- Audit: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal (2014)
- Audit: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity (2016)

There is no material for this item.

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

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