

April 5, 2016

APR 05 2016

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

MOVE TO CONSENT and Amend

• **14: [City Manager] Allocating \$19,120 in General Funds for YEAH!'s Shelter Program for Young Adults**

Recommendation: Adopt a Resolution allocating \$19,120 of General Fund for YEAH!'s shelter program for young adults in response to extraordinary circumstances due to El Nino. To ensure fairness and equity in allocations to community agencies, any additional funding requested by YEAH! should be reviewed and prioritized in the context of the Budget process next community agency RFP cycle, to be released in November 2016.

Amend to refer to the Budget process, instead to the RFP cycle

MOVE FROM CONSENT, AMEND & INCLUDE IN ACTION ITEM 17a.1 (Bates: Addressing the Housing Emergency)

• **1. [City Manager] Housing Trust Fund Predevelopment Loan Funding**

Recommendation: Adopt a Resolution waiving the \$100,000/10% funding limits in the Housing Trust Fund (HTF) Guidelines section VI. A. 1 to allow for the award of up to \$200,000 total, with up to \$50,000 per project in predevelopment funding. If the staff and/or Housing Advisory Commission reviews result in recommendations for higher individual or total funding awards, staff would bring these to the Council for consideration.

CHANGE ORDER OF ITEMS with some amendments:

Move to beginning of Action Calendar in the following order:

• **15: [City Manager] Discussion and Direction Regarding Potential Ballot Measures for the November 8, 2016 General Election**

Recommendation:

1. Provide direction to the City Manager about whether to conduct a second community survey and if so, what to include in that survey;
2. Adopt a Resolution amending Contract No. 10208 with Lake Research Partners to increase the contract amount by \$5,529 for a total not to exceed the amount of \$55,029 for the purpose of conducting a second survey.

• **12. [Fair Campaign Practices Commission] Report Regarding Berkeley Fair Elections Public Campaign Financing Ballot Measure**

Recommendation: Adopt the public funding proposal from MapLight and the League of Women Voters (dated January 5, 2015), with the four amendments presented to the City Council on November 10, 2015, and recommend that Council direct staff to merge the amendments with the proposal and make clearer which changes are charter amendments and which changes are ordinance amendments.

• **17a. [Bates] Addressing the Housing Emergency**

Recommendation:

1. Create a City of Berkeley Housing Action Plan

Request the City Manager report to the City Council by May 31 on current housing referrals. The City Manager should report on projected timelines for implementation as well as estimated costs and staffing needs. The timeline should identify those items that can be implemented in the near term.

Request the City Manager come back to Council by May 31 with a suggested strategy that could lead to the creation of a Housing Action Plan similar to those of other cities including Oakland, Seattle, and Boston. The Housing Action Plan should follow a process similar to that of the Climate Action Plan, with public participation and a resulting policy document that includes the following goals and visions:

1. recognize the need for housing at all affordability levels and the need to minimize displacement;
2. remain nimble and flexible to respond to changing conditions such as Berkeley's anticipated growth and role in the region;
3. set targets for the rehabilitation and building of market-rate and affordable housing units for and at all income levels;
4. incentivize a diverse variety of housing types and materials built to the highest environmental standards feasible; and
5. continue to collaborate with local and regional organizations to address the housing needs of students and low-income residents and to identify new opportunities;

• **17b.19 [Worthington] Work with state legislators to restrict threats and use of the Ellis Act and flipping of properties.**

and

6. increase revenue to the Housing Trust Fund through a variety of means, including an increase on the business license tax on rental property, transient-occupancy tax on short-term rentals, and significant community benefits on Downtown buildings over 75 feet, in order to expand affordable housing and provide housing and supportive services to the homeless.

• **1. [City Manager] Housing Trust Fund Predevelopment Loan Funding**

[Same as above]

Recommendation: Adopt a Resolution waiving the \$100,000/10% funding limits in the Housing Trust Fund (HTF) Guidelines section VI. A. 1 to allow for the award of up to \$200,000 total, with up to \$50,000 per project in predevelopment funding. If the staff and/or Housing Advisory Commission reviews result in recommendations for higher individual or total funding awards, staff would bring these to the Council for consideration.

Also consider:

- First sentence of Item 17b.3 [Worthington] but not second sentence:

"Waive Housing Trust Fund guidelines to allow non-profit housing developers to apply for predevelopment loans of \$150,000 to \$250,000. The Housing Advisory Commission recommended, by a 7-0-2-1 vote, to remove the HTF guidelines predevelopment so that non-profits can be competitive in the upcoming regional, state and federal funding cycles."

- **C: [Worthington] Prioritizing Predevelopment with Existing Housing Trust Funds, Reserving \$1,170,000 for fiscal year 2016 for Predevelopment, and Initiating Immediate Follow up on Request for Information Responses**
Recommendation: That the Council prioritize predevelopment funding to jumpstart potential projects, reserve \$1,170,000 for fiscal year 2016 and \$750,000 for 2017 for projects, and initiate immediate follow up on Request For Information (RFI) responses.

- **16a. [Housing Advisory Commission] Modify Housing Trust Fund Guidelines Regarding Labor**

Recommendation: Adopt a Resolution making changes to the Housing Trust Fund Guidelines for the purpose of preventing recipients of Housing Trust Funds from exploiting a potential loophole that would allow them to use the funds for projects that do not employ the sorts of labor standards that are typically required of affordable housing projects.

- **16b. [City Manager] Proposed Changes to the Housing Trust Fund Guidelines**

Recommendation: Consider staff's revisions to the Housing Advisory Commission's (HAC) proposed changes to the Housing Trust Fund (HTF) guidelines and if Council wishes to incorporate additional labor requirements, adopt a Resolution which provides alternate language to address some technical issues with the HAC's recommendation, including the applicability of State Prevailing Wage requirements.

- **17b.16. [Worthington] Expand Cooperative Housing by increasing grants to expand communal housing opportunities for Northern California Land Trust scattered sites and Bay Area Community Land Trust.**

- **17b.18 [Worthington] Create a policy to reduce displacement and demolition impacts of luxury housing**

- **17b.22 [Worthington] Senior Housing including new construction, rehabilitation and extending existing senior housing to longer term contracts.**

2. **Revise the Affordable Housing Mitigation Program and Fee**

(This recommendation previously appeared on the Council's Feb. 23, 2016 agenda and was held over to April 5.)

Request that the City Manager return to the Council with a revised Affordable Housing Mitigation Fee ordinance and a Council resolution to

1. increase the percentage of affordable units -- to 20% of market-rate units from the current 10% -- that can be provided in lieu of the Mitigation Fee,
2. expand the level of affordability for such units, with half of the affordable units affordable for households earning up to 50% of the Area Media Income (AMI) and half affordable to households earning up to 80% of the AMI, and
3. increase the Fee, which is due at Certificate of Occupancy, to \$34,000 from the current \$28,000 and add an alternative option to pay \$28,000 if paid early, when the Building Permit is issued.

It is recommended that the revisions take into consideration the findings from the most recent Nexus Study, the input from the Feb. 16, 2016 Special City Council Meeting on housing and the Suggested Revisions section below.

- **#B. [Arreguin] Amending Housing Trust Fund Guidelines Regarding Prevailing Wage Requirements**

Recommendation: Amend the Housing Trust Fund Guidelines to include the language outlined in the report to amend: Section VI. D. Threshold Criteria and Other Conditions; Section VI. C. 1.e. Project Consideration / Funding Criteria: Community Objectives: Impact on the Community; and Section VI. C. 3. Project Consideration / Funding Criteria: Applicant Qualifications and Experience.

- **10b. [Worthington] Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause**

Recommendation: That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause. \

- **11 [Droste, Capitelli, Moore] Workforce Housing Affordability Plan**

Recommendation: Refer to the City Manager the addition of a new workforce housing option to the inclusionary housing law that raises the percentage of inclusionary units by allowing the production of more subsidized units at a reduced subsidy per unit. Additionally, request that the City Manager return with "affordable by design" suggestions to help address the underproduction of middle-income units in Berkeley.

- **17b.4 [Worthington]. Updating Affordable Housing Mitigation fee by increasing the fee to at least \$34,000 per unit based on new nexus study's range of up to \$84,391. The HAC recommends a fee in the range of \$34,000 to \$69,500.**

- **17b.11 [Worthington]. Inclusionary Units at 10%, 20%, and 30% AMI for residents ineligible for 50% and 80% AMI units**

3. **Conduct Periodic Council Review of Affordable Housing Mitigation Fee and In-lieu Affordable Units**

Request that the City Manager establish a procedure for the City Council to review the Affordable Housing Mitigation program on a periodic basis. The review should take place as soon as possible after a new nexus study is presented to the Council and at least every two years thereafter. The review should include the amount of the Fee, the percentage of affordable units that can be substituted in lieu of the fee and the levels of affordability for such units. Interim adjustments to the program could be adopted if the Council determines they are warranted. Also, request that the City Manager provide an annual report on the amount of fees collected and production of in-lieu affordable units.

4. **Evaluate Tax and Fee Waivers for Section-8 Rentals.**

Request the City Manager examine waiving City of Berkeley inspection and business-license fees and taxes on rental units rented to section-8 tenants.

Request the Rent Stabilization Board examine ways to incentivize landlords to rent to section-8 tenants including waiving registration fees for units rented to section-8 tenants.

5. Examine City Development Fees on New Construction

Request the City Manager examine the City of Berkeley development fees including Plan Review, Inspection, and Permit Fees to determine if they are aligned with actual costs.

6. Establish a New Approach to the City Density Bonus

Request that the City Manager and the Planning Commission draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density (units) beyond the 35% maximum density currently allowed by the State Density Bonus in the Downtown (C-DMU Downtown Mixed Use District). The extra 15% density would be obtained by including additional affordable housing on site, beyond that required to obtain the State Density Bonus, or by paying a fee to a special city fund for moderate-income housing. This new City Density Bonus proposal replaces the earlier City Density Bonus proposal referred by the Council on April 28, 2015.

• 17b.15 [Worthington] City density bonus if it adds additional affordable units.

• 17b.24 [Worthington] Workforce housing, when not taken away from extremely-low and very-low income resources.

~~7. Allow By-Right Approval of Certain Housing Developments~~

~~Request that the Planning Commission draft an ordinance to repeal the Downtown Green Pathway Ordinance and to replace it with a new process that would grant by-right approval in Priority Development Areas, with early landmark determination, to multi-family housing developments, including mixed-use developments that meet specified criteria:~~

- ~~1. Meet the equivalent of LEED Gold standards or similar GreenPoint Rated standards~~
- ~~2. A minimum height equal to the maximum allowed under zoning for the property (The height could exceed the zoning maximum with a density bonus.)~~
- ~~3. Provide bus passes or equivalent~~
- ~~4. For projects within ¼ mile of major transit nodes, a maximum of 1 parking space per 3 units~~
- ~~5. For projects with parking, provide electric vehicle charging equipment for at least Level 2 charging~~
- ~~6. For projects with parking, provide spaces for car sharing~~
- ~~7. Provide bike parking~~
- ~~8. No increase in net water run-off~~
- ~~9. On-site recycling and composting~~
- ~~10. Local hire requirements for construction workers~~

~~Request that the Design Review Committee recommend design standards to include in the criteria for by-right approval, which could include:~~

- ~~1. Stepbacks, stepdowns to neighborhoods~~
- ~~2. Durability standards for materials~~
- ~~3. Requirements for facades, particularly on the first floor~~
- ~~4. Features that promote streetfront activity~~
- ~~5. Elements that are appropriate from the Downtown Berkeley Design Guidelines~~

~~Additionally, staff is requested to add, and adapt as needed, the Green Pathway's early landmark determination process for the new by-right approval system.~~

8. Repurpose West Berkeley Service Center

Request the Planning Commission prepare a General Plan Amendment and Zoning Modification for the one half block bounded by Sixth Street, Fifth Street, and Hearst Avenue to change the zoning from Mixed-Use Residential to Commercial West Berkeley.

Request the Commission on Aging and Community Health Commissions consider the use of the West Berkeley Service Center as a joint elderly services and non-profit senior-living facility.

~~**9. Establish Buffer Zones around Priority Development Areas**~~

~~Request the Planning Commission draft an ordinance establishing R-3 zoned buffer zones around Priority Development Areas (PDAs) on the University Avenue, San Pablo Avenue and Telegraph Avenue corridors to increase the density and provide a gradual transition into the abutting neighborhoods. The buffer zones should extend up to one block in either direction of the primary corridor or 200 feet, whichever is less.~~

10. Revise Zoning in the Southside

Request the Planning Commission modify the zoning in the area bounded by the west side of College Avenue, the east side of Fulton Street, the north side of Dwight Way and the south side of Bancroft Way, incorporating the area included in the Southside Plan area and reinstate the Multistory Residential (R-4) zoning in areas recently reduced to R-Southside (RS) and Residential Medium Density (R-3). Areas zoned C-Telegraph (C-T) and Residential - Southside Mixed Use (RSMU) shall remain the same.

• 17b.5 [Worthington] Increasing housing on Telegraph between Dwight and Bancroft by increasing height as in nearby R-SMU Telegraph.

11. Revise Height Limits on Residential Buildings with Ground-Floor Residential Uses in Priority Development Areas outside of the C-DMU

Refer to the Planning Commission revising Development Standards in Priority Development Areas (PDA) outside of the Commercial-Downtown Mixed Use (C-DMU) zoning district that would bring height limits for Residential Developments with ground-floor residential uses up to those for Mixed-Use Developments. Projects electing to take advantage of the additional height would be subject to Design Review.

12. Support an Alameda County Housing Bond for the November 2016 Ballot

Adopt a Resolution urging the Alameda County Board of Supervisors to place an affordable housing bond on the November 8, 2016 general election ballot.

~~**13. Create a Citizens Task Force on Condominium Ownership Housing**~~

~~Request the City Council create a citizens task force to examine the issue of homeownership housing, specifically around condominium ownership and condominium conversions. The Task Force should consist of nine members, appointed by each Councilmember and the Mayor, with experience and/or expertise in fields related to housing. The Task Force should report back to the City Council in a~~

~~year with findings and recommendations that include, but are not limited to, the residential condominium conversion process, the application submittal requirements, local law requirements, and conversion and permitting fees. The City shall provide adequate staffing for the Task Force.~~

14. Examine Allowing the Transfer of Development Rights

Request the City Manager and Planning Commission explore allowing the Transfer of Development Rights, or TDR, whereby the property owner of a "Sending Site" could offer his or her development rights for purchase to a "Receiving Site." The Receiving Site would be allowed to build at a higher density or height than ordinarily permitted by the base zoning, at an amount equal to the development potential of the Sending Site. If utilized, the Sending Site could no longer be developed beyond its existing envelope. An exception to allow the Sending Site to be developed at its original base zoning could be granted to 100% affordable-housing projects.

15. Agenda Item D [Droste, Capitelli, Moore, Maio] Neighborhood Preference in Affordable Housing to Reduce the Impact of Displacement and Ellis Act Evictions

Recommendation: Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within ½ mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) eviction.

16. Agenda Item 13 [Capitelli, Moore, and Droste] Referral: Use of Eminent Domain on Vacant and Blighted Properties

Recommendation: Referral to the City Manager to report back to Council on the feasibility of using eminent domain on vacant and/or blighted properties (both residential and commercial properties, and on vacant lands). The report should identify the scope of public use, including but not limited to: the development of affordable housing, public open space, and/or providing city services for our homeless population.

17. Agenda Item 17b.17 [Worthington] Vacancy reduction: Community organizing to pressure landlords to rent blighted empty residential buildings. Explore (stronger responses) issuances of citations as public nuisances.

18. Agenda Item 10b [Worthington] Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause

Recommendation: That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.

DELETE ITEMS FROM ACTION CALENDAR:

• **10a. [Bates] Revise the Affordable Housing Mitigation Fee Program and Fee**

(This item has been folded into Item 17a.)

Recommendation: Request that the City Manager return to the Council with a revised Affordable Housing Mitigation Fee ordinance and a Council resolution to 1.increase the percentage of affordable units -- to 20% of market-rate units from the current 10% -- that can be provided in lieu of the Mitigation Fee, 2. expand the level of affordability for such units, and 3. increase the Fee, which is due at Certificate of Occupancy, to \$34,000 from

the current \$28,000, and add an alternative option to pay \$28,000 if paid early, when the Building Permit is issued. It is recommended that the revisions take into consideration the findings in the most recent Nexus Study, the input from the Feb. 16, 2016 Special City Council Meeting on housing and the Suggested Revisions section below.

REMAINING ITEMS IN 17b [Worthington] Addressing the Housing Emergency:

1. Immediately regulate **short term rentals** and limit the removal of rental housing units. The City should pass policy regulations and create enforcement mechanism as soon as possible.
2. Placing \$1,000,000 into **Berkeley Housing Trust Fund**. The City General Fund has plenty of reserve money to loan the Housing Trust Fund this money.
6. **Tenant Protection/Eviction Protection**
7. **Protect Rent Board** & staff from attacks.
8. **Increase Tenant Relocation Fees** for victim tenants displaced by Ellis Act, Owner Move-Ins, and property damaged by fires.
9. **De-linking Housing/Parking ONLY IF** funds transfer to affordable housing/transit
10. **Reduce red tape** for projects with all affordable units (<http://tinyurl.com/ReduceRedTape>).
12. Matching incoming **National Housing Trust Fund** when received.
13. Ballot measure to increase **tax on windfall high rent profits** by placing on the November 2016 ballot.
14. **Berkeley Inn site**- City should immediately require owner of lot on corner of Haste and Telegraph to pay over \$641,000 owed to the City or bring lot into compliance with the agreement to provide affordable housing as well as install a public restroom.
20. **Facilitate 80/20 financing on projects when 50% of the units are affordable** to the average median income.
21. **Student Housing**- organize student/environmental coalition to pressure U.C. and working with Berkeley Student Cooperative for affordable housing.
23. Restructure City Departments- housing is lost under Health.
25. Fund \$750,000 for **predevelopment costs for Berkeley Way** lot.

18. [Arreguin] City Response to Homeless Shelter Crisis

Recommendation: Take the following actions to respond to the urgent need for shelter for our homeless population, and to implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley":

1. Allow full use of the Multi-Agency Service Center (MASC) at 1947 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center. Engage in discussions with Dorothy Day House about a day-time respite center.
2. Allocate \$15,000 from the General Fund to Youth Spirit Artworks for their Winter Warming Center program, so they can match private grants and continue to provide day-time services for youth from YEAH!
3. Direct staff to develop a winter shelter services program for Fall 2016-Spring 2017 with funding to increase warming centers and emergency shelter.

4. Direct staff to work with service providers and faith-based organizations who have capacity, to add shelter beds during the year.
5. Direct that all bathrooms in City-owned buildings and City-funded community-based organizations and health centers be available to homeless people for use.
6. Prioritize people on the street for Housing First funds who are in frail health, disabled, or with special needs and have a source of income.
7. Fix and open existing storage lockers as quickly as possible.
8. Direct the City Manager to create a list of city-owned properties starting with 1631 Fifth Street, a former Redevelopment Agency parcel in the process of being transferred to the City, for a Tiny House development for the homeless, a successful and growing model for dense urban regions.
9. Schedule a Council work session July 19, 2016 for the Homeless Task Force to make a presentation on a Tiny House pilot program.

19. [Worthington, Arreguin, Capitelli] Homeless Commission Referral: Examine “Tiny House” Programs and Consider Feasibility for Berkeley

Recommendation: Refer to the Homeless Commission to examine “Tiny House” programs for residentially challenged people and to report back with recommendations on whether to create similar programs for implementation in Berkeley.

20. [Councilmembers Worthington, Capitelli, and Arreguin] Expediting Consideration of a Potential \$3 Million Grant to Build a Magical Bridge Playground and Sending a Letter of Intent

Recommendation: Request the City Manager to expedite consideration of a potential \$3 million grant to build a Magical Bridge Playground, and send a letter of intent to the Magical Bridge Foundation.

