To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Director, Health, Housing & Community Services

Subject: Referral Response: Amending Berkeley Municipal Code Chapter 3.76
Enabling Community Health Commission

RECOMMENDATION
Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 3.76, which enables the Community Health Commission (CHC) to include health equity under its purview and to maintain the size of CHC at 18 members, with two appointees per Council member.

FISCAL IMPACTS OF RECOMMENDATION
Minimal costs and staff time to update the BMC.

CURRENT SITUATION AND ITS EFFECTS
On July 19, 2016, City Council approved on consent the staff companion report as follows:

From: City Manager
Recommendation: Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.
Financial Implications: Minimal
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Item 41.b. moved to Consent Calendar.
Action: M/S/C (Bates/Maio) to adopt the consent calendar in one motion as amended.
Vote: All Ayes.

The approved report included the reduction of CHC membership from 18 to 9 members, consistent with City practice for other commissions. Subsequently, the CHC has expressed a strong preference for retaining membership at 18 (Attachment 3). Upon further deliberation, staff concurs with retaining 18 members on the CHC.
BACKGROUND
The current CHC enabling code in the BMC was written in 1990 and is based on repealed state legislation. The City Attorney’s Office reviewed this issue in 2010.

Health equity has been an enduring focus of public health work in Berkeley, and the proposed amendments bring the CHC in line with this focus.

The City currently has 35 Commissions. Besides the CHC, 4 commissions have more than 9 members. The additional members on those commissions are appointed by other bodies or are elected. The CHC is the only commission with 2 appointees per Councilmember.

ENVIRONMENTAL SUSTAINABILITY
This recommendation has no significant environmental sustainability effect.

RATIONALE FOR RECOMMENDATION
The proposed ordinance amendments retain the intent of the CHC’s recommendation to focus the CHC’s work on health equity, while keeping the scope of the commission’s work consistent with the Commissioners’ Manual, adopted by Council in January 2012 (Resolution 65,570). The CHC’s impressive history of Council recommendations and response to Council referrals demonstrates the effectiveness of the Commission. The proposed amendments will enable the CHC to apply a lens of health equity to future referrals and recommendations, and thus be an important force in the work to create health equity in Berkeley. An 18 member commission can provide more robust community participation in creating health equity. This potential counterbalances the increased ease of management of a 9 member commission.

ALTERNATIVE ACTIONS CONSIDERED
Consider reducing the CHC to one appointee per councilmember and a 9 member commission. An 18 member commission requires increased staff time to manage larger volume of correspondence, larger number of subcommittees, and orienting more new commissioners. The larger body can be more challenging for the Chair and Vice Chair to manage, especially when controversial issues are under consideration. Council has been challenged to maintain full commission membership, and thus participation by a full 18 member commission has been rare. (Attachment 4).

CONTACT PERSON
Janet Berreman, MD, MPH, Health Officer, HHCS, 981-5301

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1. The Youth Commission has a total of 18 members: 9 Council appointees and 9 BUSD appointees.
2. The Peace & Justice Commission has 15 members: 9 Council appointees and 6 BUSD appointees.
3. The Human Welfare & Community Action Commission has 15 members: 9 Council appointees and 6 elected members.
4. The Mental Health Commission has 13 members, representing both Berkeley and Albany.
Attachments:
1: Ordinance – track changes
2: Ordinance – clean version
3: CHC Letter
4: CHC attendance, 2014-2016
Ordinance No. -N.S.

Amending Berkeley Municipal Code Chapter 3.76 Establishing
The Community Health Commission

Be it ordained by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 3.76 is amended to read as follows:

Chapter 3.76
Community Health Commission

Sections:

3.76.005 Findings.
3.76.010 Establishment of Community Health Commission.
3.76.020 Council liaison representative--Functions.
3.76.030 Officers, meetings and procedures.
3.76.040 Functions of the commission.

Section 3.76.005 Findings.
Council finds as follows:
A. Berkeley residents on average enjoy excellent health status.
B. Berkeley, like other jurisdictions throughout the state and nation, has striking variations in health status by race and ethnicity, as well as by education, income, and geography.
C. These variations in health status are systematic and avoidable, and thus are inherently unjust and unfair—they are health inequities.
D. Health inequities are unacceptable and diminish the health of the entire community.
E. Berkeley has a responsibility to build on its long history of social justice and create a community in which all people have the opportunity to attain their full health potential: a community in which there is health equity.

Section 3.76.010 Establishment of Community Health Commission.
There is hereby established a Community Health Commission. The commission shall consist of eighteen members selected by the City Council in accordance with the Fair Representation Ordinance, Berkeley Municipal Code Sections 2.04.030 through 2.04.130. Appointments to the commission shall attempt honor the mission of achieving health equity by appointing members who have a deep understanding of the social determinants of health equity, through lived experience and/or through professional expertise to reflect the categories listed below:
A. Commissioners should include representatives of as many of the following as possible:
   1. Communities most affected by health inequities
   2. Community organizers
3. Community agency representatives
4. Health care providers
   a. License clinicians such as (nurses, physicians, etc.)
   b. Non-licensed providers (community health workers, health navigators, etc.)
5. Behavioral health care providers
6. Educators
7. College Students
8. Youth serving organizations

B. Diversity: Commissioners should include people of varying race/ethnicity, gender, age, income, class and ability.
   Two of the members shall be parents, one of whom shall be a parent of a child or children eligible for state reimbursed services under the child health and disability prevention program as defined in California Health and Safety Code Section 320 and incorporated by reference herein.

   Persons appointed to the commission as "parents" shall be neither employed by an individual or agency providing health services to the public for a fee, nor be a provider of health services to the public.

   One member shall be a physician whose major interest is in child and adolescent health services.

   One member shall be a representative of a public or private educational agency who has responsibilities for providing, administering or planning health services specifically for children and adolescents.

   The remaining members shall be individuals interested in the health of women, children and adolescents.

Section 3.76.020 Council liaison representative--Functions.

The City Council shall appoint one of its members to act as a liaison representative to the commission. The functions of such liaison representative are:

A. To attend the meeting of the commission;
B. To advise the council of the background, attitudes and reasons behind decisions and recommendations of said commission; and

C. On request of any member of said commission to advise the commission of policies, procedures and decisions of the council that may bear on matters under discussion by commission.

The council liaison representative shall have no power to vote and shall receive no additional compensation.

Section 3.76.030 Officers, meetings and procedures.

A. The commission shall elect one of its members president and one of its members vice-president.

B. An officer or employee of the City designated by the City Manager shall serve as secretary of the commission.

C. The commission shall establish a regular place and time for meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. The frequency of meetings shall be as determined
by City Council resolution. The scheduling of special meetings in addition to those established by City Council resolution, except special meetings that take the place of cancelled regular meetings, shall be subject to approval by the City Council. A request for a special meeting shall include the reason for the proposed meeting and should be expedited on the City Council’s agenda, or in the alternative, placed before the Agenda Committee for approval.

D. The commission may make and alter rules governing its organization and procedures which are not inconsistent with this chapter or any other applicable ordinance of the City.

E. A majority of the members appointed is required to take any action. The commission shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the City Council with a copy to the City Manager.

Section 3.76.040 Functions of the commission.
A. The function of the commission shall be as follows:
   1. Advise City Council on matters pertaining to achieving health equity in Berkeley; The commission shall have all of the power and duties enumerated in California Health and Safety Code Section 321.7 and incorporated by reference herein;
   2. Review, analyze, and report back to City Council on matters affecting the health and safety of Berkeley residents, with particular attention to differential impact on particular communities or populations; Health planning, including review of matters referred by the City Council and other City departments;
   3. Advise City Council of potential health equity impacts of policies or proposals under consideration by City Council; Encouragement and facilitation of early implementation of such recommendations as are passed by the City Council;
   4. Contribute to priority-setting and strategic planning efforts in the City as they relate to health equity; Review of health proposals submitted by public and private agencies for funding;
   5. Consider issues impacting the health and safety of Berkeley residents referred to the Commission by City Council, by Commissioner, by another City commission, by members of the public or recommended by City staff; Coordination of agencies and health services available to Berkeley residents in order to minimize duplication;
   6. Advise City Council on health equity impacts of proposed policies and initiatives within the Public Health Division, the Department of Health, Housing and Community Services, and other City Departments and Divisions; Educational information service to the community about problems and proposals relating to health resources in Berkeley;
   7. Hear presentations at regularly schedule commission meetings, by appropriate experts, including community residents and community groups, to provide pertinent information on matters affecting the health and safety of Berkeley residents, including from community groups concerned with health equity; Performance of such other functions and duties as may be directed by the City Council;
   8. Provide City Council with information about health and safety issues in Berkeley, with particular attention to health equity and disproportionately affected populations;
   9. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City, and such other functions and
duties not prohibited by City Council which the commission should decide are consistent with its overall function of promoting health equity.

B. In prescribing the above duties and functions of the commission, it is not the intent of the council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board or commission or of a department of the City, the commission will render such assistance and advice to such board, commission or department as may be requested.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.
ORDINANCE NO.  -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 3.76 ESTABLISHING
THE COMMUNITY HEALTH COMMISSION

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

Section 1. That Berkeley Municipal Code Chapter 3.76 is amended to read as follows:

Chapter 3.76
COMMUNITY HEALTH COMMISSION

Sections:

3.76.005 Findings.
3.76.010 Establishment of Community Health Commission.
3.76.020 Council liaison representative--Functions.
3.76.030 Officers, meetings and procedures.
3.76.040 Functions of the commission.

Section 3.76.005 Findings.

Council finds as follows:

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A. Commissioners should include representatives of as many of the following as possible:
   1. Communities most affected by health inequities
   2. Community organizers
   3. Community agency representatives
4. Health care providers
   a. License clinicians such as (nurses, physicians, etc.)
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   A. To attend the meeting of the commission;
   B. To advise the council of the background, attitudes and reasons behind decisions and recommendations of said commission; and
   C. On request of any member of said commission to advise the commission of policies, procedures and decisions of the council that may bear on matters under discussion by commission.

The council liaison representative shall have no power to vote and shall receive no additional compensation.

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   A. The commission shall elect one of its members president and one of its members vice-president.
   B. An officer or employee of the City designated by the City Manager shall serve as secretary of the commission.
   C. The commission shall establish a regular place and time for meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. The frequency of meetings shall be as determined by City Council resolution. The scheduling of special meetings in addition to those established by City Council resolution, except special meetings that take the place of cancelled regular meetings, shall be subject to approval by the City Council. A request for a special meeting shall include the reason for the proposed meeting and should be expedited on the City Council’ s agenda, or in the alternative, placed before the Agenda Committee for approval.
   D. The commission may make and alter rules governing its organization and procedures which are not inconsistent with this chapter or any other applicable ordinance of the City.
   E. A majority of the members appointed is required to take any action. The commission shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the City Council with a copy to the City Manager.

Section 3.76.040 Functions of the commission.
   A. The function of the commission shall be as follows:
      1. Advise City Council on matters pertaining to achieving health equity in Berkeley;
2. Review, analyze, and report back to City Council on matters affecting the health and safety of Berkeley residents, with particular attention to differential impact on particular communities or populations;

3. Advise Council of potential health equity impacts of policies or proposals under consideration by Council

4. Contribute to priority-setting and strategic planning efforts in the City as they relate to health equity;

5. Consider issues impacting the health and safety of Berkeley residents referred to the Commission by City Council, by Commissioner, by another City commission, by members of the public or recommended by City staff;

6. Advise City Council on health equity impacts of proposed policies and initiatives within the Public Health Division, the Department of Health, Housing and Community Services, and other City Departments;

7. Hear presentations, at regularly schedule commission meetings, by appropriate experts, including community residents and community groups, to provide pertinent information on matters affecting the health and safety of Berkeley residents, including from community groups concerned with health equity;

8. Provide City Council with information about health and safety issues in Berkeley, with particular attention to health equity and disproportionately affected populations;

9. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City, and such other functions and duties not prohibited by City Council which the commission should decide are consistent with its overall function of promoting health equity.

B. In prescribing the above duties and functions of the commission, it is not the intent of the council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board or commission or of a department of the City, the commission will render such assistance and advice to such board, commission or department as may be requested.

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COMMUNITY HEALTH COMMISSION

October 27, 2016

City Council
City of Berkeley
2180 Milvia St.
Berkeley, CA 94704

Re: Retention of the Community Health Commission membership at 18

Honorable Mayor and Members of the City Council,

After much discussion, we strongly support the number of seats on the Community Health Commission (CHC) to remain at 18 members. The history of this issue started at the July 19, 2016 meeting, City Council received a CHC recommendation to amend the Berkeley Municipal Code that would have codified a greater emphasis on health equity, ensured diversity, and maintained the number of seats on the commission that was the result of many deliberations between the commission and city staff. However, City Council approved the Department of Health, Housing, and Community Services companion recommendation that understandably limited the proposed scope of CHC activity. But the HHCS recommendation did an unintended disservice to City Council by also recommending that the number of seats on the commission be reduced from 18 to 9. The membership capacity of 18 has resulted in the CHC having extensive diversity in protected categories such as race and gender as well as practical categories such as professional and curricular expertise while also providing the CHC the capability to quickly and effectively respond to City Council referrals. The majority of Commission members strongly support the number of seats to remain at 18.

The CHC recommendations and information items sent to City Council have been in response to referrals from City Council asking the Commission to study and advise Council on the community health implications of potential City actions. A membership of 18 people has provided the necessary flexibility to form competent and dedicated subcommittees that are able to research, write, and report on the broad spectrum of referrals back to Council in a timely manner. In fact, an analysis of all city commissions for outstanding reports shows that only the CHC has no outstanding referrals. Here is a list of some of the reports the CHC sent to Council, and other actions that were facilitated by a membership of 18 people and capable subcommittees:

1. African American Holistic Resource Center
2. Conductive Energy Devices Deployment by BPD
3. Additional Support for Berkeley Technology Academy
4. Alta Bates Hospital Closure, basis for Council action
5. Directory of Medical Service Providers in Berkeley
6. Smoke Free Multi-Unit Housing
7. Food sources for low-income families in Berkeley
8. WHO Cell Phone Radiation Resource
9. Service Animals Welcome in Berkeley: Ordinance and Program
10. Healthy Default Beverages with Children's Meals
11. West Berkeley Industrial Plants Air Quality
12. Tobacco 21 Minimum Age
13. Reducing Exposure to Mercury Dental Amalgam
14. Improved Regulation of E Cigarettes
15. Alta Bates Community Benefits Analysis
16. Healthy Homes Safe From Molds, Pests
17. Emergency Preparedness after Richmond Fire
18. Diesel Spill Response Clean-up

The sample list demonstrates that the CHC has been active and capable in providing comprehensive reports to Council that address referrals from Council in addition to quickly acting on community concerns. It would be impractical and improbable for a CHC of only 9 people to be as effective in advising City Council, thus fundamentally undermining our purpose. City staff argues that the rare
actual 18 membership of the CHC justifies cutting the seats to 9 since it offers easier management, more equal district representation, and consistency with the membership capacities of other commissions. There are currently 16 members with full district representation except for Districts 1 and 2, which have only one appointee. Moreover, it is not exceptionally abnormal for the CHC to have 18 seats, as other commissions have more than 9 seats:

1. Youth Commission = 18 seats
3. Peace & Justice Commission = 15 seats
4. Mental Health Commission = 13 seats

Thus, the city staff proposed trade-off between having 9 seats to create de facto equal representation and having a proficient CHC is inferior to making sure the CHC is capable of doing its codified job of advising City Council, as Council members have the onus of making sure commissions have equal representation by appointing residents to the CHC. Halving the number of seats would significantly hinder the CHC.

City staff further argue that CHC meetings have averaged an attendance of 10 commissioners, however the CHC has rarely had full appointment, with at times only 11 members, (but always more than 9 members), as was the case on 1/22/2015. So 10/11 present commission members equals over 90% participation. It matters what the denominator of the ratio is, which is not included in city staff’s calculation, voiding its significance, especially since no meeting has been cancelled in recent years due to insufficient attendance. Consequently, rather than hamstringing the CHC and limiting its ability to help realize health equity, respond to the concerns of Berkeley residents, have diverse and qualified membership, and do its job in quickly answering Council referrals and advising City Council on community health matters, CHC membership should be maintained at 18 total seats. This maintenance of an effective status quo is justified due to the lack of a compelling reason to cut the membership down to 9 seats, the difficulties imposed by such a reduction, and based on the benefits of ensuring an expert, diverse, and capable Community Health Commission.

Therefore, the CHC respectfully asks that City Council direct the Department of Health, Housing, and Community Services and relevant staff to keep the membership capacity of the CHC at 18 seats when city staff write their recommendation for the ordinance amending the Berkeley Municipal Code that establishes the Community Health Commission.

Thank you for your time and consideration in making an improved public policy decision.

Regards,
City of Berkeley Community Health Commission

Voting Record on 10/27/2016 Vote to Send Letter to City Council:
ACTION ITEM: M/S/C (Nathan/Kwanele) Motion to approve letter to Council addressing concerns with possible changes to Berkeley Municipal Code enabling Community Health Commission.
Ayes: Commissioners Carter, Kwanele, Lingas, Stein, Speich, Wertman, Franklin, Neal, Chen, and Namkung
Noes: None
Abstain: Commissioner Shaw
Absent: Commissioner Rosales, Lopez, Wong and Teunis
Excused: None
Motion passed.
Community Health Commission
Attendance by Commissioners
July 2014 – June 2016 CHC Meetings

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