



Office of the City Manager

ACTION CALENDAR

January 30, 2018

(Continued from January 23, 2018)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police
David Brannigan, Interim Fire Chief

Subject: Companion Report: Proposed Ordinance: Surveillance Technology and
Community Safety

RECOMMENDATION

Refer this item to the City Council Agenda Committee for scheduling to return to the City Council no later than January 30, 2018 to allow additional time for City staff to resolve differences with the Police Review Commission's recommendations or develop alternative recommendations for the City Council to consider.

FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impact to refer the item to the Agenda Committee. Staff and commission time required for further analysis.

CURRENT SITUATION AND ITS EFFECTS

This proposed Surveillance Technology Use and Community Safety Ordinance by the Police Review Commission (PRC) establishes new acquisition, use, reporting, data tracking and enforcement requirements that necessitate a thorough review and analysis by City staff. Since the PRC voted on July 26, 2017 to forward its recommended Ordinance to the City Council, staff from various departments (Police, Fire, City Attorney and the City Manager's Office) have been reviewing the implications of the Ordinance and developing alternatives for the City Council to consider. Unfortunately, this work is not yet complete. Staff is requesting that the City Council refer this item to the Agenda Committee for scheduling to return to the City Council no later than January 30, 2018.

The additional time will allow staff to resolve differences with the PRC recommendations and develop alternatives for the City Council to consider. A few of the concerns with the PRC Ordinance that staff is analyzing center on the:

- Impact on firefighting efforts related to the use of thermal imaging cameras and mutual aid resources that provide situational awareness for significant fire rescue and suppression operations.

- Impact on law enforcement investigations and the apprehension of individuals that commit crimes in Berkeley.
- Workload and staffing implications related to the administration of the proposed acquisition, use, reporting, and data tracking requirements.
- Legal and financial liability effects for employees and the City related to the enforcement provisions that provide for “any person who has been subjected to a surveillance technology in violation of this Ordinance... [to] institute proceedings in any court of competent jurisdiction against any person who committed such violation and shall be entitled to recover actual damages.”

BACKGROUND

At its July 12, 2016 meeting, the City Council referred to the City Manager, the Police Review Commission, and the Peace and Justice Commission an item to consider adopting a community control of surveillance measure similar to that enacted by the County of Santa Clara. The Disaster and Fire Safety Commission also reviewed the referral and recommended to the City Council on May 2, 2017 that further legal review was warranted and that an analysis of the cost and administrative burden on city departments was needed.

On July 26, 2017 meeting, the PRC voted unanimously to recommend that the City Council adopt the attached Surveillance Technology Use and Community Safety Ordinance.

ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental effects related to the recommendation.

RATIONALE FOR RECOMMENDATION

See Current Situation and Its Effects section.

CONTACT PERSON

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