CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Animal Care Commission
Submitted by: Diane Sequoia, Chairperson

RECOMMENDATION
In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: ‘captive bred;’ ‘hobby breeder’ or ‘licensed breeder;’ ‘rescue;’ ‘wild caught;’ or ‘imported.’

FISCAL IMPACTS OF RECOMMENDATION
None

CURRENT SITUATION AND ITS EFFECTS
There are currently three (3) retail stores in Berkeley selling live animals; East Bay Vivarium (EBV), Your Basic Bird (YBB) and Biofuel Oasis (BfO). All three stores are small independent businesses. EBV has been in business since 1970, YBB is going on 38 years and BfO was founded in 2003. EBV specializes in reptiles, amphibians and invertebrates such as arachnids. YBB specializes in pet birds and also regularly hosts Hopalong rescue cat & kitten adoptions. BfO sells chicks, ducks and honeybees.

Live animal sales at all of the above three stores are overseen and regulated by both federal law (United States Department of Agriculture/Animal Plant Health Inspection Service aka USDA/APHIS ) and California state law (health & safety code, fish & game code, etc). Berkeley Animal Care Services is empowered to inspect for code violations and enforce compliance.

In contrast, retail sales of dogs, cats and rabbits in California are subject to 2017’s AB 485 (aka the puppy mill ban bill) in addition to the relevant federal and other state laws

BACKGROUND
On November 13th, 2018, the Berkeley City Council referred adoption of an ordinance adding Chapter 9.26 Live Animal Sales Disclosure Requirements to the Animal Care Commission (ACC). The reasons given justifying the need for the proposed new BMC ordinance were two-fold:
1) To provide customers with animal sourcing information to enable them to make purchases based on animal welfare concerns.

2) To prevent the sale in Berkeley of 'puppy mill' type commercial mass produced/bred animals.

The ACC considered extensive public comment over seven (7) months. Public comment came from the three individuals promoting the proposed new ordinance, three owners from EBV and YBB and members of the non-interested public. Other factors considered were on-going BACS commitments to animal welfare in the community, community outreach, public health and safety and current staffing levels at BACS.

After deliberating, the ACC respectfully recommends that the Berkeley City Council (BCC) not approve the proposed new BMC ordinance Chapter 9.26 Live Animal Sales - Required Disclosures. At the June 19, 2019 regular meeting the following Motion was made and approved.

**MOTION III:** O'Day/Shumer

To approve a recommendation to City Council to reject a proposed new B.M.C ordinance adding Chapter 9.26 Live Animal Sales-Disclosure Requirements.

Aye: O'Day, Shumer, Sequoia

Motion passed

Instead, the ACC recommends that the BCC encourage Berkeley retailers of live animals to provide their animal's sourcing information to purchasers by using the appropriate one or two of the following descriptions: 'Captive bred'; 'hobby breeder' or 'licensed breeder', 'rescue', 'wild caught' or 'imported'.

**ENVIRONMENTAL SUSTAINABILITY**

No change from current situation

**RATIONALE FOR RECOMMENDATION**

The ACC determined that the proposed new ordinance would not achieve the stated goals, would cause an undue burden in staff time on the retailers in complying with the proposed ordinance and would be unenforceable by BACS at its current staffing levels. The diversion of BACS staff to enforcing the proposed new ordinance would impair public health, safety, animal welfare and would disproportionately impact low income, homeless and other vulnerable groups who rely heavily on assistance from BACS for information and assistance with their pets.
The proposed descriptions will enable customers to make informed purchases based on ecologic impact and animal welfare considerations, while not unduly burdening the stores or BACS in complying with the new requirements.

**ALTERNATIVE ACTIONS CONSIDERED**
None

**CITY MANAGER**
City Manager concurs with recommendation.

**CONTACT PERSON**
Amelia Funghi, Manager, Animal Care Services, (510) 981-6603