



Berkeley City Council
Minutes: Ad-Hoc Subcommittee on Council Item:
“Strengthening Provisions of Significant Community Benefits in the Downtown”

January 30, 2018
10:00 am – 11:30 am
Cypress Room, 1st Floor, 2180 Milvia Street

Committee Members:

- Mayor: Jesse Arreguin, Subcommittee Chair
- District 4: Kate Harrison
- District 8: Lori Droste
- District 7: Kriss Worthington

Others in Attendance:

- Farimah Brown, City Attorney
- Steven Buckley, Land Use Planning Manager

1. Call to Order:

2. Amendment to Agenda by Councilmember Worthington

Councilmember Worthington moved that the Subcommittee amend the agenda to facilitate the scheduling of the next meeting. The Subcommittee agreed that the body would meet next on Thursday, February 8 from 10:00-11:30 am.

3. Public Comment

The Subcommittee held public comment.

4. Discussion of Council Item “Strengthening Provisions of Significant Community Benefits in the Downtown” (Attachment A)

Process

Mayor Arreguin suggested that the Subcommittee proceed by reviewing Councilmember Harrison’s proposal section-by-section. The Subcommittee agreed.

The 2015 Community Benefits Resolution

The Subcommittee requested that the City Attorney analyze the 2015 Community Benefits Resolution and Councilmember Harrison’s amendments together. The City Attorney will present her findings to the Subcommittee before the February 13, 2017 Council Meeting. Members also asked that the City Attorney analyze Development Agreements used in other cities in comparison; this City Attorney indicated that that analysis will not be completed by the next subcommittee meeting.

Section A. General Principles

Councilmember Droste suggested that the City Attorney should review closely the language regarding the “relationship to increased value while resulting in an opportunity to make a reasonable rate of return” in subsection 2, and that the Subcommittee consider the effect of this language on affordability.

The Mayor expressed his desire that subsection 2 retain the language from 2015 that stated that “community benefits must not result in project infeasibility.” Councilmember Harrison agreed to add this language to the proposal.

The Subcommittee agreed to further discuss the language in subsection 3 regarding “detriment created by the project on community resources (including but not limited to non-profits, locally owned businesses, and arts and cultural amenities).” The Subcommittee also agreed that that the kinds of entities that should receive compensation for “detriment” need to be better defined and whether payment for detriments should be mandatory.

Section B. Application

Councilmember Worthington expressed concern over the language in subsection 1 that required developers to specify whether applicable portions of their suggested Community Benefits Agreement would be built on site or made as payments to the city. Land Use Planning Manager Steven Buckley stated that requiring that the developer to announce their intentions at the outset of the permit application would be reasonable and could be helpful. The Subcommittee agreed that it should further discuss and review the timing of when a developer must notify the city to whether benefits would be made on site or as payments to the city, including an option of before the community benefits meeting rather than at project application.

Sections D. Exclusion of Existing Requirements from Community Benefits Agreements

The Mayor suggested Subsection D could have the potential effect of precluding privately negotiated project labor agreements. Councilmember Harrison clarified that the intent of this section related to payment of relocation benefits previously agreed to. The language will be revised.

Section G. Alteration of Community Benefits Package

Councilmember Droste suggested that the “substantively altered” language in section G is too nebulous and could affect the feasibility of affordable housing. She suggested that the following language would be better: “materially affects the project’s feasibility or profitability.” Councilmember Harrison pointed out that the current Compliance and Revocation Standard uses

the language “substantially expanded or changed in character beyond that set forth in the permit.”

5. Discussion/Action on Recommendations to City Council

No formal action was taken.

6. Adjournment

Next Meeting:

Thursday, February 8 10:00-11:30am, City Council Chambers, 2134 Martin Luther King Jr. Way