



# URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: February 13, 2024**

**Item Description: Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion**

This item is submitted pursuant to the provision checked below:

**Emergency Situation** (54954.2(b)(1) - majority vote required)  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*

**Immediate Action Required** (54954.2(b)(2) - two-thirds vote required)  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

## **Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

In an unprecedented development, two Berkeley City Councilmembers resigned in January 2024. The latest resignation occurred after the deadline for submitting items for the February 13 Council meeting.

In the event of the resignation or death of a Councilmember, the need for constituent services does not cease. In fact, the absence of Council office staff will likely result in the vast majority of constituent needs going unmet and/or an unsustainable influx of inquiries to the Berkeley Mayor's office until a special election is held within 60-90 days pursuant to the Charter.

As a result, 25% of Berkeley's population (approximately 30,000 people) will soon be without Council office constituent services.

Resignations or deaths in office are unexpected and cause uncertainty for constituents and Council Office staff alike. In the absence of certain policies, Council staff in particular could face a sudden loss of income and healthcare after years of service to the people of Berkeley. It is not in the public interest to harm such

employees especially given that the event is out of their control. In addition, it is not in the public interest to suddenly lose staff's expertise and community relationships. Further, staff can help facilitate the newly elected Councilmember's transition.

It is therefore in the public interest to establish a policy that provides for the continuity of constituent services in the event of resignation, death or expulsion of a Councilmember.



Ben Bartlett  
Councilmember District 3

CONSENT CALENDAR  
February 13, 2024

To: Honorable Mayor and Members of the City Council  
From: Councilmember Bartlett (Author), Councilmember Terry Taplin (Co-Sponsor)  
Subject: Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion

RECOMMENDATION

Adopt a Resolution establishing a policy providing for the continuance of District constituent services in the event of Councilmember death, resignation, or expulsion.

FINANCIAL IMPLICATIONS

No impact on the General Fund as Council offices are already funded through the end of the fiscal year.

CURRENT SITUATION AND ITS EFFECTS

In an unprecedented development, two Berkeley City Councilmembers resigned in January 2024. As a result, 25% of Berkeley's population (approximately 30,000 people) will soon be without Council office constituent services.

When questions about City policies and services arise, Council offices are the first point of contact for Berkeley residents through both phone or email. Specifically, Council legislative assistants serve as liaisons to the City Manager's office and various departments to provide timely and thoughtful information to residents.

In the event of the resignation or death of a Councilmember, the need for constituent services does not cease. In fact, the absence of Council office staff will likely result in the vast majority of constituent needs going unmet and/or an unsustainable influx of inquiries to the Berkeley Mayor's office until a special election is held within 60-90 days pursuant to the Charter.

It is therefore in the public interest to establish a policy that provides for the continuity of constituent services in the event of resignation, death, or expulsion of a Councilmember.

BACKGROUND

The City currently has no policy addressing the continuance of Council services in the

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Resolution Establishing a Policy Providing for Continuance of Council District  
 Constituent Services in the Event of Councilmember Resignation, Death or Expulsion

event of Councilmember death or resignation despite multiple instances of  
 Councilmembers passing while in office or resigning.

By contrast, the U.S. House of Representatives, the highest legislative body in the  
 United States, provides for legislative and constituent staff to keep their jobs in service  
 of the people under the supervision of the Clerk of the House in the event of a member  
 of Congress dying, resigning or being expelled. The Congressional Research Service  
 notes the following:

House Rule II, cl. 2(i)(1) provides that “[t]he Clerk shall supervise the staff and  
 manage the office of a Member, Delegate, or Resident Commissioner who has  
 died, resigned, or been expelled until a successor is elected.” The U.S. Code  
 further provides that staff of a deceased or resigned Representative are  
 compensated until a successor is elected to fill the vacancy, performing duties  
 under the direction of the Clerk of the House, or until the term expires (2 U.S.C  
 §5324).<sup>1</sup>

In the same vein, former Alameda County Supervisors Wilma Chan and Richard Valle’s  
 staff retained their positions following their passing through to the appointment of a new  
 Supervisor.

Resignations or deaths in office are unexpected and cause uncertainty for constituents  
 and Council Office staff alike. In the absence of certain policies, Council staff in  
 particular could face a sudden loss of income and healthcare after years of service to  
 the people of Berkeley. It is not in the public interest to harm such employees especially  
 given that the event is out of their control. In addition, it is not in the public interest to  
 suddenly lose staff’s expertise and community relationships. Further, staff can help  
 facilitate the newly elected Councilmember’s transition.

This resolution would establish a policy consistent with the U.S. House of  
 Representatives. It provides for the Clerk’s Office or Mayor’s Office to supervise the  
 staff and manage the office of a Councilmember who has died, resigned, or been  
 expelled until a successor is elected. Pursuant to the City Charter, the Mayor is elected  
 citywide and has citywide constituent service responsibilities. The Clerk also provides  
 citywide oversight and administration for legislative proceedings of the City Council and  
 its subcommittees.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects or opportunities associated with the  
 subject of this report.

**CONTACT PERSON**

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<sup>1</sup> Congressional Research Service, “House of Representatives Vacancies: How Are They Filled?” January  
 8, 2021 <https://crsreports.congress.gov/product/pdf/IF/IF11722>.

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Resolution Establishing a Policy Providing for Continuance of Council District  
Constituent Services in the Event of Councilmember Resignation, Death or Expulsion

Councilmember Ben Bartlett

Attachments:  
1: Resolution

RESOLUTION NO. ##,###-N.S.

ESTABLISHING A POLICY PROVIDING FOR THE CONTINUANCE OF COUNCIL DISTRICT CONSTITUENT SERVICES IN THE EVENT OF COUNCILMEMBER RESIGNATION, DEATH, OR EXPULSION

WHEREAS, two Berkeley City Councilmembers resigned in January 2024 and Councilmembers have previously died in office, yet the City currently has no policy addressing the continuance of Council services; and

WHEREAS, when questions about City policies and services arise, Council offices are the first point of contact for Berkeley residents through both phone or email, and Council legislative assistants serve as liaisons to the City Manager's office and various departments to provide timely and thoughtful information to residents; and

WHEREAS, in the event of the resignation, death, or expulsion of a Councilmember, the need for constituent services does not cease; and

WHEREAS, the absence of Council office staff will likely result in the vast majority of constituent needs going unmet and/or an unsustainable influx of inquiries to the Berkeley Mayor's office until a special election is held within 60-90 days pursuant to the Charter; and

WHEREAS, the U.S. House of Representatives, the highest legislative body in the United States, provides for legislative and constituent staff to keep their jobs in service of the people under the supervision of the Clerk of the House in the event of a member of Congress dying, resigning or being expelled; and

WHEREAS, there is precedent within the City of Berkeley and in other Alameda County jurisdictions to retain staff until a new official is appointed or elected; and

WHEREAS, resignations or deaths in office are unexpected and cause uncertainty for constituents and Council Office staff alike; and

WHEREAS, Council staff in particular could face a sudden loss of income and healthcare after years of service to the people of Berkeley; and

WHEREAS, it is not in the public interest to suddenly lose staff's expertise and community relationships, or to harm such employees especially given that the event is out of their control.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that in the Mayor or City Clerk shall supervise the staff and manage the office of Councilmember or

Mayor who has died, resigned, or been expelled until a successor is elected pursuant to the Charter.

BE IT FURTHER AND FINALLY RESOLVED that the staff of the office of Councilmember or Mayor who has died, resigned, or been expelled shall be compensated with benefits until a successor is elected to fill the vacancy, performing duties under the direction of the Mayor or City Clerk.