

**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC
DEVELOPMENT COMMITTEE
REGULAR MEETING MINUTES**

**Thursday, May 20, 2021
10:30 AM**

Committee Members:

Councilmembers Sophie Hahn, Lori Droste, and Rigel Robinson
Alternate: Councilmember Ben Bartlett

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Land Use, Housing, & Economic Development Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/82484333477>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **824 8433 3477**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

MINUTES

Roll Call: 10:32 am. Councilmembers Droste, Hahn, and Robinson present.

Public Comment on Non-Agenda Matters: 8 speakers.

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - May 6, 2021

Action: M/S/C (Droste/Hahn) to approve the May 6, 2021 minutes.

Vote: All Ayes.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Tenant Opportunity to Purchase Act, Adding BMC Chapter 13.89

From: Mayor Arreguin (Author) *(Item contains revised material.)*

Referred: February 24, 2020

Due: May 20, 2021

Recommendation:

1. Adopt a first reading of an ordinance adding Berkeley Municipal Code Chapter 13.89, the Tenant Opportunity to Purchase Act (TOPA), that will take effect on final adoption with an implementation start upon completion of Administrative Regulations and funding of related program costs; and
2. Direct the City Manager to take all necessary steps to implement this chapter including, but not limited to:
 1. Developing Administrative Regulations;
 2. Preparing an implementation strategy;
 3. Identifying resources to align databases from Finance, Planning, and the Rent Board to accurately reflect the properties that would be subject to TOPA;
 4. Determining necessary staffing for program administration and hearing officers for adjudication and hiring staffing to support the program upon implementation;
 5. Timelines for project "roll-out";
 6. Determining appropriate amount of funding needed to support the acquisition of TOPA properties and identify funding sources;
 7. Quantifying an annual program budget and referring such program costs to the June 2021 Budget process.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Committee Action Items

Action: 63 speakers. Discussion held. M/S/C (Hahn/Robinson) Qualified Positive Recommendation to: 1. Send the item to the full Council incorporating the Mayor's May 20, 2021 amendments with the following revisions: i. Increasing the Acceptance of Offer timelines for the Right of First Refusal process from 5 days to 14; ii. Adding the possibility of a 30-day extension to the Close of Transaction timelines for the Right of First Refusal process for properties under 5 units; iii. Clarify that the budget referral of \$100,000 would be for the purpose of hiring "consultants" rather than "a consultant" who would additionally "recommend any adjustments to the policy that may be warranted"; iv. Clarifying that the definition of "children" includes step-children, and further referring to Council to consider the possibility of adding nieces and nephews; and v. Referring to Council to consider the possibility of including parents into the imminent healthcare expense provision; and 2. Recommend the City Council consider the possibility of a phased launch of the Ordinance wherein properties over 5 units would be covered first followed by the remainder of other properties after two or three years.

Vote: Ayes – Hahn, Robinson; Noes – Droste.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

3. **Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley** *(Item contains revised material.)*

From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (co-sponsor), Councilmember Hahn (Co-Sponsor)

Referred: February 8, 2021

Due: June 29, 2021

Recommendation: Adopt a Resolution recognizing housing as a human right; refer to the City Manager's office several measures to begin developing social housing in the City of Berkeley. Measures shall include, but not be limited to:

1. Study and report to council on development potential, including density bonuses, for mixed-income housing development starting with the city-owned parcels at 1011 University Ave, and seek information through an RFI or other process on the potential for cross-subsidized limited-equity leasehold and rental models or other social housing development models;
2. Study and return to council a report and, if feasible, a proposal for a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals in coordination with the city's Small Sites Program:
 - a. Providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire real property; support Low Income Housing Tax Credit (LIHTC) funding; develop and/or maintain mixed-income and permanently affordable housing;
 - b. Leveraging local funds with state and regional partnerships through the Bay Area Housing Finance Agency (BAHFA) with the Association of Bay Area Governments

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(ABAG), Berkeley Housing Authority, Berkeley Unified School District (BUSD) and BART;

c. Consider best practices from other agencies and other partnership opportunities;
3. Establish a publicly available, user-friendly data dashboard potentially using third-party data visualization tools for monitoring Housing Justice Indicators in the city including, but not limited to:

a. State certification of city's Housing Element and progress toward RHNA goals for each income tier in annual Housing Pipeline Reports;

b. Housing Element compliance with Affirmatively Furthering Fair Housing (AFFH) rule pursuant to California Government Code Section 65583 and Chapter 15, Section 8899.50 of Division 1 of Title 2, presented with, at a minimum;

- Citywide and regional affordability as defined by median rents and home prices as share of one-third of the City of Berkeley and Alameda County's median household income in most recent American Community Survey data;

- Local funding and open BMR housing application slots available to meet housing needs of Moderate, Low-, Very Low-, and Extremely Low-Income households;

- Anti-displacement metrics using UC Berkeley Displacement Project data and tracking successful applications to affordable housing units in the city using Local Preference policy;

- Geographic considerations including historic redlining and segregation; Sensitive Communities and High Displacement Risk Areas identified in the 2019 CASA Compact by the Metropolitan Transportation Commission (MTC); and access to economic opportunity as measured by State of California Tax Credit Allocation Committee (TCAC) Opportunity Area Maps;

- Any other considerations relevant to AFFH compliance and reparative housing justice.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

4. **Affordable Housing Overlay**

From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor) (*Item contains revised material.*)

Referred: February 22, 2021

Due: July 12, 2021

Recommendation: Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including but not limited to:

1. Exceeding standards set forth in California Government Code Section 65915 (AB-1763) with additional local height and density incentives, including waivers and modifications similar to those vested in state density bonus law, with ministerial approval contingent on objective zoning and design criteria, for qualifying 100% affordable projects deed-restricted for Low, Very Low, Extremely Low, and Moderate Income households (exclusive of manager's unit) pursuant to AB-1763, specifying:

a. In R3, R4, and all C-prefixed zoning districts, a local density bonus in addition to, and duplicative of, the state density bonus under Government Code Section 65915 for up to a total of 85' for qualifying projects;

Unscheduled Items

- b. In R-1, R-1A, R-2, and R-2A zones, a local 12' height bonus for qualifying projects, waiving density limits and permitting up to 80% lot coverage;
 - c. In all qualifying transit-adjacent areas, inclusive of all parcels within one-half mile of a commuter rail station, or within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019, waiving density limits, including units per acre, floor area ratio, and up to 80% lot coverage;
 - d. Create General Plan amendments that allow for 100% affordable qualifying projects to avoid inconsistencies with General Plan densities;
 - e. Increased density for projects outside of transit proximity threshold specified in 1(c) above contingent upon additional Transportation Demand Management (TDM) policies aiming to reduce Vehicle Miles Traveled (VMT) per capita, including bike parking, paratransit and shared micro-mobility systems;
 - f. Skilled and trained workforce standards as defined by the February 18, 2021 version of SB-7 (Atkins) for qualifying projects with at least 50,000 square feet of total floor area;
- 2. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law;
 - 3. On parcels within high-risk wildfire zones as determined by the California Department of Forestry and Fire Protection (CalFire), ministerial approval for qualifying projects should be contingent on fire blocking design and defensible space standards certified by the Planning Department.

Council directs the Planning Commission and staff to codify an Affordable Housing Overlay for 100% affordable housing as specified above in 2021-2022 work plans in anticipation of 2023-2031 RHNA cycle. Staff and the commission should build upon the framework established in Government Code Section 65915 as well as municipal implementations of Affordable Housing Overlays in other jurisdictions.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

5. **Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**

From: Councilmember Harrison (Author)

Referred: July 28, 2020

Due: September 30, 2021

Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Unscheduled Items

6. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)

Referred: April 26, 2021

(Item placed on "Inactive" status by the Agenda & Rules Committee pursuant to Appendix D of the Rules of Procedure)

Due: February 14, 2022

Recommendation: 1. Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels. 2. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage: a. ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. b. Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: i. A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; ii. Plan requirements, worksheets, and projected timelines for each step of the process; and iii. Consolidated up-to-date state and local regulations that are easy to understand. 3. Recommend that the City Manager consider adoption of the following two best practices: a. Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect. b. ADU Ally. Consider dedicating existing Planning staff member(s) time to the role of an "ADU Ally." The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Droste/Robinson) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 1:53 p.m.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on May 20, 2021.

Sarah K. Bunting, Assistant City Clerk