



BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING

MONDAY, NOVEMBER 13, 2023

2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1603904656>. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 160 390 4656**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.

To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Agenda & Rules 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.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

AGENDA

Roll Call

Public Comment

Review of Agendas

- 1. Approval of Minutes: October 30, 2023**
- 2. Review and Approve Draft Agenda:**
 - a. 11/28/23 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

Scheduling

- 5. Council Worksessions Schedule**
- 6. Council Referrals to Agenda Committee for Scheduling**
- 7. Land Use Calendar**

Referred Items for Review

- 8. Discussion and Possible Action on City Council Rules of Decorum and Remote Public Comments**
- 9. City Council Legislative Systems Redesign**

Unscheduled Items

- 10. Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
- 11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
- 12. Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment – Next Meeting Monday, November 20, 2023

Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.



COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, November 9, 2023.

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.

**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING MINUTES**

MONDAY, OCTOBER 30, 2023

2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1602118494>. 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 **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 160 211 8494**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

To submit a written communication for the Committee's consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Agenda & Rules 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.

Roll Call: 2:31 p.m. All present.

Public Comment – 2 speakers

Review of Agendas

1. Approval of Minutes: October 23, 2023

Action: M/S/C (Wengraf/Arreguin) to approve the minutes of 10/23/23 with a revision regarding co-sponsorship.

Vote: All Ayes.

2. Review and Approve Draft Agenda:

a. 11/14/23 – 6:00 p.m. Regular City Council Meeting

Action: M/S/C (Arreguin/Hahn) to approve the agenda of 11/14/23 with the changes noted below.

- *Item 5 San Pablo Avenue Multimodal Project (City Manager) – removed from agenda and scheduled for a special meeting on 11/14/23 at 4:00 p.m.*
- *Item 14 Council Office Staff (Taplin) – Revised item submitted; Councilmember Hahn added as a co-sponsor; referred to Budget & Finance Committee*
- *Item 15 Regional Wildfire MOU (Wengraf) – Councilmember Hahn added as a co-sponsor; Moved to Consent Calendar*

Order of Action Items

Item 10 Elmwood BID

Item 11 Solano BID

Item 13 BERA Amendments

Item 12 Zoning Amendments

Vote: All Ayes.

3. Selection of Item for the Berkeley Considers Online Engagement Portal

- None Selected

4. Adjournments In Memory – None

Scheduling

5. Council Worksessions Schedule – received and filed

6. Council Referrals to Agenda Committee for Scheduling – received and filed

7. Land Use Calendar – received and filed

Referred Items for Review

8. Discussion and Possible Action on City Council Rules of Decorum and Remote Public Comments

Action: 2 speakers. No action taken.

9. City Council Legislative Systems Redesign

Action: 1 speaker. No action taken.

Unscheduled Items

10. Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)

11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals

12. Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Arreguin/Hahn) to adjourn the meeting.

Vote: All Ayes.

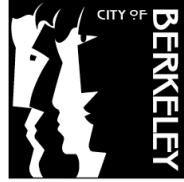
Adjourned at 3:17 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on October 30, 2023.

Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.



DRAFT AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 28, 2023
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
 TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
 DISTRICT 2 – TERRY TAPLIN
 DISTRICT 3 – BEN BARTLETT
 DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
 DISTRICT 6 – SUSAN WENGRAF
 DISTRICT 7 – RIGEL ROBINSON
 DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <<INSERT ZOOM for GOV URL HERE>>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: <<INSERT MEETING ID HERE>>. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.*

To submit a written communication for the City Council’s consideration and inclusion in the public record, email council@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

1. **2023 Conflict of Interest Code Update Report**

From: City Manager

Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 70,074–N.S.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

2. **2023 Annual Commission Attendance and Meeting Frequency Report**

From: City Manager

Recommendation: Adopt a Resolution approving a revised commission meeting frequency schedule, accepting the 2023 annual commission attendance and meeting frequency report, and rescinding Resolution No. 69,331-N.S.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

3. **Environment and Climate Commission – Appointment of New Youth Members**

From: City Manager

Recommendation: Adopt a Resolution appointing two youth members to the Environment and Climate Commission recommended by the Berkeley Unified School District Board of Directors.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

4. **Contract No. R9704 Amendment: City of Albany for Animal Services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend an existing contract number R9704 and any amendments with the City of Albany to provide certain animal care services for which the City of Albany will pay the City of Berkeley \$291,019 for services performed from FY2024 through FY2026, for a new not to exceed amount of \$945,512.

Financial Implications: See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Consent Calendar

- 5. Contract: Echo Cartagena DVM to provide on-site veterinary service**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Echo Cartagena, DVM, for temporary, on-site veterinary services for Berkeley Animal Care Services (BACS) for January 2024 to June 2024, which establishes a contract in an amount not to exceed \$60,750.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 6. Contract Edgeworth LLC to purchase and install security camera system**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Edgeworth Integration LLC for the purchase and installation of a new security camera system at Berkeley Animal Care Services (BACS) for October 5, 2023, to October 5, 2024, which establishes a contract in an amount not to exceed \$51,169.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 28, 2023**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$6,880,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 8. Revenue Grant Agreement: Funding Support from Alameda County to Provide Public Health Nursing Services for Foster Care Children/Youth**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to Alameda County, to accept the grant, and execute any resultant revenue agreements and amendments to provide public health nursing services for the Alameda County Foster Care Program, Services to Enhance Early Development (SEED) in the projected total amount of \$673,179 for July 1, 2023 to June 30, 2026.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

9. **Authorizing a Lease of 830 University Avenue to Berkeley Free Clinic**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to enter into a lease for 830 University with Berkeley Free Clinic.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

10. **Contract No. 32300062 Amendment: Moreland Investigations for Applicant Background Investigations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32300062 with Moreland Investigations, to extend the existing capacity to perform background investigation services and amend the current contract from \$50,000 to \$200,000 from November 3, 2022, through November 2, 2027.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

11. **Contract No. 32200152 Amendment: Cindy K. Hull & Associates Forensic Consulting Services, LLC**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32200152 and any necessary future amendments with Cindy K. Hull & Associates Forensic Consulting Services, LLC for the Police Department, increasing the contract amount by \$150,000 for a total not to exceed the amount of \$200,000 with the contract end date of October 1, 2026.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Council Consent Items

12. **Appoint Tracy Matthews to the Berkeley Housing Authority Board**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution appointing Tracy Matthews to serve as a Tenant Commissioner on the Berkeley Housing Authority Board of Commissioners for a two-year term.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

13. **Healthy Black Families 10th Anniversary Celebration**

From: Councilmember Bartlett (Author)

Recommendation: Adopt a resolution approving the expenditure of funds, including \$500 from Vice Mayor Ben Bartlett to the Healthy Black Families 10th Anniversary Celebration event. The funds should be relinquished to the City's general fund for this purpose from the discretionary council office budget of Vice Mayor Ben Bartlett and any other council members who would like to contribute.

Financial Implications: Councilmember's Discretionary Fund - \$500

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

14. **Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

From: Councilmember Harrison (Author)

Recommendation:

1. Refer to the City Manager to review and develop enhanced and enforceable City deconstruction and materials management regulations, including the following elements: a. Review of national and international best practices for regulating deconstruction, diversion, recycling, and reuse of construction and demolition materials; b. Integrate deconstruction and construction and enhanced demolition debris management, tracking, and regulation into the Department of Public Works' Zero Waste Strategic Plan and Transfer Station upgrade as appropriate; c. Policy options for (1) enforcing minimum State diversion and recycling requirements, (2) new deconstruction requirements applicable to all permitted Berkeley projects including defining specific building components that are potentially reusable and requiring an enforceable salvage survey provided by the City, a reuse organization, or other third party approved by the City, (3) potentially implementing a social cost of carbon fee on construction and demolition debris, (4) possible enhancements to minimum statewide diversion goals, (5) comprehensive tracking of the disposition of construction and demolition materials, (6) enhancing diversion from un-permitted projects, and (7) integrating salvageable material into developer project planning and budgeting process and permit application plan set (as opposed to at time of final permitting). d. Background survey on contents of existing building stock to get more data on intended impact and opportunities regarding new deconstruction requirements; vetting of existing service providers (certified salvage contractors and salvage material vendors), markets for salvage materials, a list of approved reuse/salvage facilities; a plan for educating contractors on requirements; and an analysis of the costs of compliance with and implementation of any proposed regulations and analysis of any corresponding impacts on feasibility of new construction.

2. Refer to December 2023 Budget AAO #1 Process \$250,000 to conduct a nexus fee study (using the latest academic research, updated damage functions, and low discount rates) for a potential social cost of carbon fee to be applied e.g., to the impact of displacing existing embodied carbon (landfilled construction and demolition

Council Consent Items

debris) and replacement with new embodied carbon. The purpose of the fee is to incentivize reuse and deconstruction, minimize demolition, maximize useful embodied carbon, and fund the City's ongoing green building work and services. *Policy Committee Recommendation: To refer the revised agenda material with a positive recommendation to Council with the following revisions to the recommendation:*

1. Section C.3 to read as follows: "potentially implementing a social cost of carbon fee on construction and demolition debris".
2. Section D to read as follows: "Background survey on contents of existing building stock to get more data on intended impact and opportunities regarding new deconstruction requirements; vetting of existing service providers (certified salvage contractors and salvage material vendors), markets for salvage materials, a list of approved reuse/salvage facilities; and a plan for educating contractors on requirements; and an analysis of the costs of compliance with and implementation of any proposed regulations and analysis of any corresponding impacts on feasibility of new construction."

Financial Implications: See report

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

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer 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. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – New Business

15. Street Rehabilitation Five Year Plan for Fiscal Years 2024-2028

From: City Manager

Recommendation: Adopt a Resolution adopting the Five Year Street Rehabilitation Plan for Fiscal Years 2024-2028.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

Action Calendar – Policy Committee Track Items

16. Civic Arts Referral for Memorial Wall to Councilmember Dona Spring and Budget Referral for Civic Arts Staffing

From: Mayor Arreguin (Author)

Recommendation: Refer to the Fiscal Year 2024/2025 Budget Process \$162,000 from the General Fund and allocate one additional FTE for staffing for Civics Arts and refer to the Civic Arts Commission to commission a Memorial Wall to Dona Spring at the Animal Shelter.

Financial Implications: General Fund - \$162,000

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

17. Accept grant funding of \$75,000 from San Francisco Foundation and amend Contract No. 32200161 with Creative Development Partners to extend consulting work associated with Equitable Black Berkeley Initiative

From: Mayor Arreguin (Author)

Recommendation: Adopt a Resolution authorizing the City Manager to receive \$75,000 of grant funds from the San Francisco Foundation (SFF) (see Attachment #2) for project support for the Equitable Black Berkeley (EBB) initiative and execute an amendment to Contract No. 32200161 with Creative Development Partners (CDP) to add \$75,000 to the existing ideation facilitator contract supporting the EBB for a total contact amount not to exceed \$200,000 and extending the contract term to September 30, 2024.

Financial Implications: See report

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

Action Calendar – Policy Committee Track

18. Referral for Development of Request for Proposal (RFP) to Support Berkeley-Based Non-Profit Food Assistance Providers Serving Food Insecure Households

From: Councilmember Kesarwani (Author), Councilmember Humbert (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Recommendation: Refer to the City Manager to develop and fund a Request for Proposal (RFP) process to support Berkeley-based non-profit food assistance providers serving food insecure households. Funds are intended for (but not limited to) the following needs:

- Expansion of capacity to serve more people experiencing food insecurity, such as one-time purchase of equipment;
- Hiring of additional staff to serve more people; and/or
- Other emerging needs to be determined.

Refer \$200,000 annually in funding to the biennial FY 2024-25 to FY 2025-26 budget process to fund qualified proposals resulting from the RFP.

Financial Implications: See report

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

19. Designating Open Space Adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border as a Linear City Park Pursuant to BMC 6.42

From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor)

Recommendation: Adopt a resolution designating open space adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border (Folger Ave) as linear City park space and formally dedicate this site for permanent recreational use pursuant to Berkeley Municipal Code 6.42.

Financial Implications: See report

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

20. Old Finnish Hall Purchase

From: Councilmember Bartlett (Author)

Recommendation: Referral to the Council to enter into negotiations to purchase Old Finnish Hall for the purposes of using it as a public arts theater.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action Calendar – Policy Committee Track

21. Homeless Shelter Crisis in Berkeley, California

From: Councilmember Bartlett (Author)

Recommendation:

1. Declare a shelter crisis within the City of Berkeley. As mandated by California Government Code Section CA Govt Code § 8698.4 (2022), “(2) (A) (i) The city, county, or city and county, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, may adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein, to the extent that it is determined at the time of adoption that strict compliance with state and local standards or laws in existence at the time of that adoption would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis” . A substantial portion of the populace finds itself bereft of the means to secure adequate shelter. This predicament gravely jeopardizes the health and safety of these individuals, necessitating our immediate response.

2. For the time period of the shelter crisis, authorize the City Manager to: a) Temporarily halt the enforcement of state or local regulatory laws, rules and ordinances that establish guidelines or protocols pertaining to housing, well-being or safety within shelter facilities. b) Develop agreements for leasing land in Berkeley and elsewhere to construct emergency shelters and affordable housing for the unhoused.

3. Authorize the acceptance and allocation of financial resources designated for emergency shelter or transitional housing from agencies including but not limited to: a) United States Department of Housing and Urban Development (HUD), Federal Emergency Management Agency, and Berkeley Housing Authority for fiscal years 2023-24 and 2025-26. b) California Department of Housing and Community Development

4. Issue determinations for the implementation of emergency housing measures for the unhoused: a) According to the article titled “The Crisis in Berkeley” by Mayor Jesse Arreguin, there were 803 people unsheltered (76%), with 254 housed (24%) . Mayor Arreguin states that “programs in shelters to move people into permanent housing are working. Countywide, the number of sheltered individuals increased by 53%, while unsheltered increased by 13%. This can be attributed to the purchasing and conversion of multiple hotels throughout the county under Projects Homekey and Roomkey” (City of Berkeley).

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action Calendar – Policy Committee Track

22. Healthy Checkout Amendment

From: Councilmember Bartlett (Author)

Recommendation:

1. Adopt an amendment to the Healthy Checkout Ordinance (9.82) requiring stores 2,500 square feet and under in size to sell more nutritious food and beverage options in their checkout areas.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the expansion of the ordinance and sources of funding to support this program.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

23. Amend Berkeley Municipal Code Chapter 3.78 To Expand Eligibility Requirements for Representatives of The Poor to Serve on The Human Welfare and Community Action Commission

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: Amend Berkeley Municipal Code Chapter 3.78 to expand eligibility requirements for Representatives of the Poor to serve on the Human Welfare and Community Action Commission, or any successor commission, to consider the current geographic formation of poverty in Berkeley.

Financial Implications: None

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

24. Adopt Berkeley Municipal Code Chapter 13.89: Community/Tenant Opportunity to Purchase Act

From: Councilmember Harrison (Author)

Recommendation: Adopt Berkeley Municipal Code Chapter 13.89: The Community/Tenant Opportunity to Purchase Act (COPA/TOPA).

Financial Implications: See report

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

Information Reports

25. Healthy Checkout Ordinance Update

From: City Manager

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be

barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

~~~~~





Office of the Mayor

CONSENT CALENDAR  
November 28, 2023

To: Honorable Members of the City Council  
 From: Mayor Jesse Arreguín  
 Subject: Appoint Tracy Matthews to the Berkeley Housing Authority Board

RECOMMENDATION

Adopt a Resolution appointing Tracy Matthews to serve as a Tenant Commissioner on the Berkeley Housing Authority Board of Commissioners for a two-year term.

BACKGROUND

On May 22, 2007, the Berkeley City Council established a Berkeley Housing Authority (BHA) Board of Commissioners. State law mandates BHA commissioners, including successors be appointed by the Mayor and confirmed by the City Council.

There is currently one vacancy on the seven-member Berkeley Housing Authority Board. Pursuant to California's Health and Safety Code Section 34272, the Mayor nominates Tracy Matthews to fill the vacancy for a four-year term on the BHA Board.

Ms. Matthews describes herself as a Human Services Professional having made a career in this field, including program management and conflict resolution. She has spent nearly the past fifteen years working for the Alameda County Social Services Agency. Under her current position, she manages clients through programs to assist in transitioning people from public assistance to self-sufficiency. In this role, she has made many connections with organizations and departments involved in issues and policy that overlap with the work done at the BHA. Additionally, she has previous experience working for the City of Berkeley in several departments, including Health and Human Services and the Berkeley Housing Authority. She is also a Section 8 program tenant. Her experience and understanding of issues prevalent to the BHA makes her an ideal candidate to serve on the BHA Board.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

CONTACT PERSON

Appointment of Ayanna Davis to the BHA Board

CONSENT CALENDAR  
November 28, 2023

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Resume of Tracy Matthews

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

APPOINTING TRACY MATTHEWS AS A COMMISSIONER ON THE BERKELEY  
HOUSING AUTHORITY BOARD OF COMISSIONERS

WHEREAS, the Council of the City of Berkeley, as the governing body of the City of Berkeley, declared itself to the Commissioners of the Berkeley Housing Authority (BHA) and appointed two tenant Commissioners pursuant to Health and Safety Code Section 34290; and

WHEREAS, on May 22, 2007 the Mayor appointed and the City Council by a majority vote confirmed the appointment of 5 Commissioners and 2 tenant Commissioners to the BHA Board pursuant to Health and Safety Code Section 34270; and

WHEREAS, there is currently one vacant Commissioner seat that needs to be filled; and

WHEREAS, the Mayor has nominated Tracy Matthews, a Berkeley resident who describes herself as a Human Services Professional, with extensive experience in program management and conflict resolution; and

WHEREAS, Matthews has spent nearly the past fifteen years working for the Alameda County Social Services Agency where she manages clients through programs to assist in transitioning people from public assistance to self-sufficiency; and

WHEREAS, Matthews has made many connections with organizations and departments involved in issues and policy that overlap with the work done at the BHA, and has previous experience working for the City of Berkeley in several departments, including Health and Human Services and the Berkeley Housing Authority; and

WHEREAS, Matthews is also a Section 8 tenant and brings the perspective of tenants to the Board; and

WHEREAS, Matthews' experience and understanding of issues prevalent to the BHA makes her an ideal candidate to serve on the BHA Board.

NOW THEREFORE, BE IT RESOLVED by the Mayor of the City of Berkeley Tracy Matthews is appointed to serve as a Tenant Commissioner on the Berkeley Housing Authority Board; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that it supports the Mayor's determination regarding the qualifications of Tracy Matthews and hereby confirms the Mayor's appointment; and

[Title of Report]

CONSENT CALENDAR  
November 28, 2023

BE IT FURTHER AND FINALLY RESOLVED by the Mayor of the City of Berkeley that, pursuant to Health and Safety Code Section 34272(a), Tracy Matthews is appointed to serve as a Tenant Commissioner for a two-year term.

# TRACY MATTHEWS

(510) 575-5804 | MIZMATT@GMAIL.COM

## CAREER PROFILE:

Organized and people oriented **Human Services Professional** proficient in instituting and sustaining organization processes and systems. Proven leadership skills in effectively coaching program participants to encourage motivation and establish a positive and cooperative work environment. Competent, assertive, and resourceful, with the ability to develop and implement culturally competent protocols in diverse, cross-cultural environments. Driven by challenges and committed to providing exceptional customer service.

## CORE COMPETENCIES:

- ✓ Policy development and implementation; proficient with Alameda County SSA policies and procedures.
- ✓ Knowledgeable of training methods and techniques; initiate performance evaluations.
- ✓ Compliance & reporting; well versed in program and process auditing.
- ✓ Familiar with the needs of the economically and educationally disadvantaged and unemployed.
- ✓ Vast knowledge of community resources, counseling techniques, employment programs and resources.
- ✓ Remedial, vocational, educational and training resources.
- ✓ Computer systems and applications.
- ✓ Outstanding interpersonal skills; an excellent ability to establish positive rapport with team members, managers and colleagues.

## SUMMARY OF QUALIFICATIONS

### QUALIFICATIONS:

- Strong Leadership skills
- Program Management
- Conflict Resolution/Mediation
- Strong decision making skills
- Excellent Written/Verbal Communication
- Stellar customer service

### TECHNICAL SKILLS:

- Proficient use of **CalWin**
- Microsoft Word, Outlook & Excel
- Multi-Line Phones
- Data Entry
- Advanced knowledge of **Personal Identifiable Information (PII)**
- Flexible; able to handle multiple tasks simultaneously

## RELATED PROFESSIONAL EXPERIENCE:

### Employment Counselor

2014 to present

Alameda County Department of Social Services (SSA), Oakland, CA

**Manage and counsel SSA participants through a systematic program designed to assist them transition from public assistance to self-sufficiency.**

- Interview clients to obtain factual information on ability to participate, supportive service needs, education, work, training and social histories, and eligibility factors. From this information,
- Facilitate appraisals and assessments to identify client needs, determine available resources, evaluate test results and provide services or make appropriate referrals for specialized assistance.
- Manage and track client eligibility and employment activities using casework methods and on-line computer based systems.
- Meet regularly with clients to provide goal-directed counseling, casework and continuous motivation.
- Identify noncompliance, make cause determinations, negotiate conciliations and determine eligibility in a timely manner if client fails to meet program requirements.
- Maintain chronological case dictation to support case activity.
- Develop and maintain a good working relationship with service providers, other professionals and agencies to advocate for clients. Mediate between clients and service providers to resolve complaints and problems.



**Eligibility Technician II**

2011 to 2014

**Alameda County Department of Social Services (SSA), Hayward, CA****Primary responsibilities included processing complex and routine applications for public assistance and maintain a continuous program of eligibility review.**

- Interviewed applicants for public assistance and provide detailed explanations relevant to the conditions for continued public assistance; completed application forms and witnesses signatures.
- Calculated initial budget and makes recommendations on the grant approval.
- Initiated case records showing basis for public assistance eligibility; maintained a continuous program of eligibility review; and prepare correspondence as required.
- Determined eligibility for authorization for Medi-Cal and Food Stamps; maintained case records; and maintained a continuous program of eligibility review for Medi-Cal and Food Stamps.

**Eligibility Tech I****Alameda County Social Service Agency, Benefits Division, Hayward CA**

2009 to 2010

**Interview applicants for public assistance aid programs by phone or in person; explaining conditions for initial and continued receipt of public assistance.**

- Completing or assisting with completion of application forms and witnessing signatures; taking sworn statements from applicants and recipients regarding the accuracy of their application for public assistance.
- Explaining program's objectives and limitations and the applicant's rights and responsibilities.
- Computing initial budgets to determine program eligibility.
- Verifying eligibility factors and providing justification or findings made from investigations.
- Initiating and maintaining electronic case records.

~ ADDITIONAL EXPERIENCE ~

**Customer Service Rep**Tagged Inc., San Francisco CA  
April 2010 – September 2010**Instructional Aide**Alameda County Office of Education  
Camp Wilmont Sweeny and Buena Vista Education Center, San Leandro CA  
February, 2004-2007**Office Specialist II**City of Berkeley  
Public Works, Health and Human Services, Housing Energy Division, Berkeley Housing Authority**General Accounting Clerk Payroll/ Administrative Assistant**

Diversified personnel Services

**Literacy Tutor**

AmeriCorps Office, Lockwood Elementary School, Oakland, CA

**EOPS Peer Advisor**

Laney College, Oakland CA

**Supervisor**

Air Operations, United Parcel Service, Oakland Airport, CA

**Education & Training:****California State University, Hayward CA**

- B. A. Sociology ~ 2008
- B. A. Psychology ~ 2006

**Laney College, Oakland CA**

- A.A., Social Science ~ 2003  
(Emphases in Psychology & General Education)



**BEN BARTLETT**

**VICE MAYOR**

CONSENT CALENDAR

November 28, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett  
Subject: Healthy Black Families 10th Anniversary Celebration

RECOMMENDATION:

Adopt a resolution approving the expenditure of funds, including \$500 from Vice Mayor Ben Bartlett to the Healthy Black Families 10th Anniversary Celebration event. The funds should be relinquished to the City’s general fund for this purpose from the discretionary council office budget of Vice Mayor Ben Bartlett and any other council members who would like to contribute.

BACKGROUND:

On December 9th, 2023, Healthy Black Families will celebrate ten years of service to the Berkeley community.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$500 is available from the fund. The cost is as follows: Donation to Healthy Black Families.

ENVIRONMENTAL SUSTAINABILITY: No impact.

CONTACT PERSON:

Councilmember Ben Bartlett            510-981-7130  
James Chang                                510-981-7131

ATTACHMENT:

- 1. Resolution

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

AUTHORIZE THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A DONATION TO Healthy Black Families TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE.

WHEREAS, Councilmember Bartlett has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax-exempt corporation – Healthy Black Families – will receive the funds in the amount of \$500 from the discretionary council office budget of Vice Mayor Ben Bartlett and any other council members who would like to contribute; and

WHEREAS, Healthy Black Families has served the Berkeley community for ten years, with a focus on Black individuals and families, to provide them with knowledge, skills, and strategies to make social systems and policies more equitable; and

WHEREAS, the provisions of such an event would fulfill the municipal public purpose of providing community members with knowledge of equitable social services and encourage them to embrace healthy lifestyle choices;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their council office budget, of an amount to be determined by each Councilmember, shall be granted to Healthy Black Families for this purpose.





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
November 28, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

RECOMMENDATION

1. Refer to the City Manager to review and develop enhanced and enforceable City deconstruction and materials management regulations, including the following elements:

- a. Review of national and international best practices for regulating deconstruction, diversion, recycling, and reuse of construction and demolition materials;
- b. Integrate deconstruction and construction and enhanced demolition debris management, tracking, and regulation into the Department of Public Works' Zero Waste Strategic Plan and Transfer Station upgrade as appropriate;
- c. Policy options for (1) enforcing minimum State diversion and recycling requirements, (2) new deconstruction requirements applicable to all permitted Berkeley projects including defining specific building components that are potentially reusable and requiring an enforceable salvage survey provided by the City, a reuse organization, or other third party approved by the City, (3) potentially implementing a social cost of carbon fee on construction and demolition debris, (4) possible enhancements to minimum statewide diversion goals, (5) comprehensive tracking of the disposition of construction and demolition materials, (6) enhancing diversion from un-permitted projects, and (7) integrating salvageable material into developer project planning and budgeting process and permit application plan set (as opposed to at time of final permitting).
- d. Background survey on contents of existing building stock to get more data on intended impact and opportunities regarding new deconstruction requirements; vetting of existing service providers (certified salvage contractors and salvage material vendors), markets for salvage materials, a list of approved reuse/salvage facilities; a plan for educating contractors on requirements; and an analysis of the costs of compliance with and implementation of any proposed regulations and analysis of any corresponding impacts on feasibility of new construction.

Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

2. Refer to December 2023 Budget AAO #1 Process \$250,000 to conduct a nexus fee study (using the latest academic research, updated damage functions, and low discount rates)<sup>1</sup> for a potential social cost of carbon fee to be applied e.g., to the impact of displacing existing embodied carbon (landfilled construction and demolition debris) and replacement with new embodied carbon. The purpose of the fee is to incentivize reuse and deconstruction, minimize demolition, maximize useful embodied carbon, and fund the City’s ongoing green building work and services.

**POLICY COMMITTEE RECOMMENDATION**

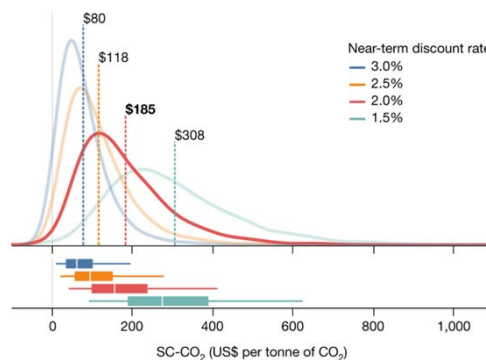
On November 1, 2023, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action:

M/S/C (Robinson/Harrison) to refer the revised agenda material with a positive recommendation to Council with the following revisions to the recommendation:

1. Section C.3 to read as follows: “potentially implementing a social cost of carbon fee on construction and demolition debris.”
2. Section D to read as follows: “Background survey on contents of existing building stock to get more data on intended impact and opportunities regarding new deconstruction requirements; vetting of existing service providers (certified salvage contractors and salvage material vendors), markets for salvage materials, a list of approved reuse/salvage facilities; and a plan for educating contractors on requirements; and an analysis of the costs of compliance with and implementation of any proposed regulations and analysis of any corresponding impacts on feasibility of new construction.”

Vote: Ayes – Robinson, Harrison; Noes – None; Abstain – Humbert; Absent –None.

<sup>1</sup> See Rennert, K., Errickson, F., Prest, B.C. *et al.* Comprehensive evidence implies a higher social cost of CO<sub>2</sub>. *Nature* **610**, 687–692 (2022). <https://doi.org/10.1038/s41586-022-05224-9>. Using a 1.5% discount rate, the social cost of carbon in 2020 dollars is estimated at \$308 (~\$367.48 in 2023) per metric ton of carbon dioxide:



Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

### CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The accumulation, collection, removal and disposal of waste associated with construction, deconstruction and demolition activities needs to be regulated for the protection of the public health, safety and welfare, climate and natural environment.

According to the World Green Building Council, 11% of all energy-related carbon emissions result from building materials and construction activities.<sup>2</sup> These emissions are often referred to as “embodied carbon,” which the International Code Council defines “the carbon emissions released during the extraction, manufacturing, transportation, construction and end-of-life phases of buildings.”<sup>3</sup>

Emissions are not only embodied in new construction materials and activities, but also in those of the past. The current built environment represents the physical manifestation of past greenhouse gas emissions (GHGs), and given the imperative of rapidly reducing GHGs, such material must be prioritized for preservation, or reuse. Every part of the built environment, whether constructed with ancient redwood timber in the nineteenth century or Canadian Douglas fir and pine in the twenty-first, must be considered and valued within the context of cumulative historic emissions and dwindling and nearly expired carbon budgets.

State law imperfectly addresses the end-of-life phases of buildings through the California Integrated Waste Management Act of 1989 and the California Green Building Code, which requires local governments to require fifty percent of construction debris be diverted from the landfill. Senate Bill 1374 further requires annual reporting to the state on progress made in the diversion of construction related materials, including information on programs and ordinances implemented and quantitative data, where available. In 2016, of Berkeley's total waste stream, 10% was from construction and demolition materials. As discussed below, this number is now likely much higher given the recent uptick in construction.

Additional required minimum diversion rates by project type are covered under the California Green Building Code and the City's local amendments in BMC Title 19 (2019), Buildings and Construction. As a minimum, the latest State code requires 65% of non-hazardous construction and demolition (C&D) waste to be reused *or* recycled. In addition, the State also requires recycling or reuse of 100% of excavated soil and land-

<sup>2</sup> “Bringing Embodied Carbon Upfront.” World Green Building Council, 25 Jan. 2023, <https://worldgbc.org/article/bringing-embodied-carbon-upfront/>.

<sup>3</sup> “Embodied Carbon.” ICC, 11 May 2021, <https://www.iccsafe.org/advocacy/embodied-carbon/>.

Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

clearing debris, concrete, and asphalt. Current requirements include a "Construction Waste Management Plan" survey and requirement to provide receipts of recycled and salvaged material. City Zero Waste staff indicated that while the City tracks diversion, they currently do not enforce State requirements.

Existing laws fall short because there is no state or local requirement that requires property owners or developers to work with the City to develop an accountable plan to carefully take apart a building to maximize reusable materials, whether onsite or through a salvaging operation. In addition, recycling, an allowed alternative to reuse of demolition materials may not maximize capturing embodied carbon. For example, State law includes loopholes that allow a certain percentage of demolition materials to be 'recycled' as a cover to layers of trash in landfills.

This referral to the City Manager aims to implement best practice methods for separation, handling, and delivery of deconstruction and construction site materials to maximize the salvage of building materials for reuse, to reduce the amount of construction and demolition-related materials disposed in landfills and to establish deconstruction and source separation requirements. It also would fund an innovative nexus study to charge a possible social cost of carbon fee on construction and demolition debris to incentivize reuse and deconstruction, minimize demolition, maximize useful embodied carbon, and fund the City's ongoing green building work and services.

Other jurisdictions, such as Palo Alto and Portland, have already implemented deconstruction ordinances. To protect public health, safety and welfare, climate and natural environment, it is in the public interest to adopt this referral and budget referral.

## BACKGROUND

In 2021, the World Green Building Council warned that by 2050 "the [global] building stock is expected to double in size. Carbon emissions released before the built asset is used, referred to as 'upfront carbon', will be responsible for half of the entire carbon footprint of new construction between now and 2050, threatening to consume a large part of our remaining carbon budget."<sup>4</sup> Viewed over the next 10 years, the window scientists view as critical to limiting catastrophic warming emissions, new embodied carbon represents a significant 72% of total building sector emissions.<sup>5</sup> Much of these

---

<sup>4</sup> "Bringing Embodied Carbon Upfront."

<sup>5</sup> Logan, Katharine. "Continuing Education: Embodied Carbon & Adaptive Reuse." Architectural Record RSS, Architectural Record, 25 May 2022, <https://www.architecturalrecord.com/articles/15481-continuing-education-embodied-carbon-adaptive-reuse>.

Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

emissions include those associated with the demolition of existing buildings and the new buildings that replace them.

*Buildings Magazine*, a trade magazine for facility managers and owners of commercial and public buildings, estimates that already an astounding 30% of all waste in the United States is construction and demolition waste. New construction is associated with an average of 3.9 pounds of waste per square foot while demolition yields an astounding 155 pounds of waste per square foot.<sup>6</sup>

When a building is haphazardly demolished to make way for new construction, not only are carbon emissions typically expended to tear it down and transport it for waste processing and disposal, but the former building, composed of many tons of carbon emissions and products arranged in a form useful to society, is rendered useless as waste, or much less useful to society as recyclable material. Instead, the builder replaces the demolished structure with new embodied carbon in constructing the new building, which generates new waste and additional emissions.

According to a 2011 study, even assuming a 30% increase in efficiency resulting from a newly constructed building, it takes 10 to 80 years for the newer and more efficiently operating building to 'break even' or offset the negative carbon impacts associated with replacing an average-performing existing building (not accounting for the "lost" carbon originally embodied in the original building).<sup>7</sup> The following figure demonstrates the number of years required in Portland and Chicago for various forms of newly constructed efficient buildings replacing demolished inefficient buildings to 'break even' with or 'overcome' the new emissions associated with new construction (note: this figure does not include embodied emissions wasted as part of the original construction):

---

<sup>6</sup> Monroe, Linda. Diverting Construction Waste | Buildings. <https://www.buildings.com/departments/article/10192921/diverting-construction-waste>; See also, Sahabi, Ali. "Structural Retrofits Reduce the Carbon Footprint (Part 2 of 3) - USGBC-La." USGBC, 25 Feb. 2023, <https://usgbc-la.org/2023/02/09/structural-retrofits-reduce-the-carbon-footprint-part-2-of-3>.

<sup>7</sup> "National Trust for Historic Places: Return to Home Page." The Greenest Building: Quantifying the Environmental Value of Building Reuse, Preservation Green Lab of the National Trust for Historic Preservation, 2011, <https://forum.savingplaces.org/connect/community-home/librarydocuments/viewdocument?DocumentKey=227592d3-53e7-4388-8a73-c2861f1070d8&CommunityKey=00000000-0000-0000-0000-000000000000&tab=librarydocuments>, p. VIII.

Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

**Year Of Carbon Equivalency For Existing Building Reuse Versus New Construction**

This study finds that it takes between 10 to 80 years for a new building that is 30 percent more efficient than an average-performing existing building to overcome, through efficient operations, the negative climate change impacts related to the construction process. This table illustrates the numbers of years required for new, energy efficient new buildings to overcome impacts.

| Building Type                        | Chicago  | Portland |
|--------------------------------------|----------|----------|
| Urban Village Mixed Use              | 42 years | 80 years |
| Single-Family Residential            | 38 years | 50 years |
| Commercial Office                    | 25 years | 42 years |
| Warehouse-to-Office Conversion       | 12 years | 19 years |
| Multifamily Residential              | 16 years | 20 years |
| Elementary School                    | 10 years | 16 years |
| Warehouse-to-Residential Conversion* | Never    | Never    |

\*The warehouse-to-multifamily conversion (which operates at an average level of efficiency) does not offer a climate change impact savings compared to new construction that is 30 percent more efficient. These results are driven by the amount and kind of materials used in this particular building conversion. As evidenced by the study's summary of results, as shown on page VII, the warehouse-to-residential conversion does offer a climate change advantage when energy performance for the new and existing building scenarios are assumed to be the same. This suggests that it may be especially important to retrofit warehouse buildings for improved energy performance, and that care should be taken to select materials that will maximize environmental savings.

8

Since 2011, the advent of new insulation and electrification technologies make renovating or adapting older buildings more competitive in terms of reducing existing onsite carbon emissions.<sup>9</sup> This referral takes the perspective that both the carbon avoided by reusing existing materials (as in the examples above) and the carbon used in the original construction need to be considered as impacts of C&D and be accounted for in addressing the climate emergency. In other words, existing buildings represent historic expenditures of carbon and demolition needs to be seen as both destroying the usefulness of past emissions and *contributing new emissions*.

The greenest building is the one that already exists.<sup>10</sup> The best way to avoid new carbon emissions, and to repurpose or restore the use value of existing emissions, is to

<sup>8</sup> Id.

<sup>9</sup> Id., p. 20

<sup>10</sup> Adam, Robert. “The Greenest Building Is the One That Already Exists.” *The Architects' Journal*, 13 Aug. 2021, <https://www.architectsjournal.co.uk/news/opinion/the-greenest-building-is-the-one-that-already-exists>.

Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

preserve and renovate existing structures. To the extent that new or additional uses are needed, e.g., converting a single-family home into a multiplex, the lowest carbon path is to maintain as much of the original structure as possible with expansions and modifications as needed. Such a strategy maintains the integrity of the historic embodied carbon, and minimizes expenditure of new carbon emissions. For example, UC Berkeley's new Engineering Center includes adaptive reuse which UC states "will significantly lower the carbon emissions of the project, including more than a 90% reduction in demolition."<sup>11</sup>

A 2021 study conducted by ECONorthwest found that "conservatively speaking, residential and commercial demolitions in the City of Portland are responsible for 124,741 metric tons of CO<sub>2</sub> emissions per year, which amounts to approximately 4.5 percent of the City's total annual [emissions] reduction goal."<sup>12</sup>

---

<sup>11</sup> "Engineering Center." *Berkeley Engineering*, 2 May 2023, [engineering.berkeley.edu/about/facilities/engineering-center/](https://engineering.berkeley.edu/about/facilities/engineering-center/).

<sup>12</sup> Oregon, Restore. "Understanding the Carbon Cost of Demolition." *Restore Oregon*, 1 Oct. 2021, <https://restoreoregon.org/2021/04/12/understanding-the-carbon-cost-of-demolition/>.



Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

## Fight Climate Change with Restoration & Reuse

Oregon’s existing buildings are among our greatest renewable resources.

### THE HIDDEN COST OF DEMOLITION & RECONSTRUCTION



**126 METRIC TONS OF CARBON**

Renovating a 1,500 SF older home, instead of tearing one down and replacing it with 3,000 SF of new construction, reduces CO2 emissions by 126 tons.



**1,383 METRIC TONS OF CARBON**

Renovating a 10,000 SF commercial building versus replacing it with a 20,000 SF structure, which uses more energy-intensive materials, reduces CO2 emissions by 1,383 tons.

### RENOVATION & REUSE PREVENT EMISSIONS



**44,048 GALLONS OF GAS**

A savings of 126 tons of embodied CO2 is roughly equivalent to preventing the emissions from 44,048 gallons of gasoline.



**464,127 GALLONS OF GAS**

The carbon savings for a commercial building is equivalent to preventing the emissions from 464,127 gallons of gasoline.

### LOOKED AT ANOTHER WAY...



**93 CARS OFF THE ROAD**

The average car uses 474 gallons of gasoline per year. Renovating just one older home, vs. demolishing/replacing it, equates to taking 93 cars off the road for an entire year.



**1,028 CARS OFF THE ROAD**

Renovating an existing commercial structure makes an even bigger impact as its renovation equates to taking 1,028 cars off the road for an entire year.

### DO THE MATH: IT REALLY ADDS UP!



From 2016-2020 in Portland, over 823 houses were demolished. That’s equivalent to annual emissions from **76,480 cars!**



Over the same five years, 376 of Portland’s commercial structures were razed. That’s equivalent to annual emissions from **386,528 cars!**

Embodied energy is all the energy used constructing a building, including the creation of materials and building components as well as their transportation of the site.

13



Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

### City of Berkeley’s Current Construction and Demolition Waste

A 2017 StopWaste Waste Characterization Study for Alameda County found that approximately 10% of Berkeley’s total waste tonnage in 2016 resulted from C&D debris.<sup>14</sup>

2017 Waste Characterization Study Design  
StopWaste of Alameda County, CA

SCS ENGINEERS

Exhibit 2. 2016 Annual Waste Quantities – Adjusted

| Originating Jurisdiction | MSW                                |               |                |               |                |                | C&D             |              |               | Special         |               |              |               | Unknown     | Total          |
|--------------------------|------------------------------------|---------------|----------------|---------------|----------------|----------------|-----------------|--------------|---------------|-----------------|---------------|--------------|---------------|-------------|----------------|
|                          | Davis Street TS                    | Berkeley TS   | BLT Ent TS     | Altamont LF   | Vasco Rd LF    | TOTAL          | Davis Street TS | Altamont LF  | TOTAL         | Davis Street TS | Altamont LF   | Vasco Rd LF  | TOTAL         | Vasco Rd LF |                |
| Alameda                  | 23,417                             | 36            |                |               | 344            | 23,796         | 1,283           | 135          | 1,418         |                 | 355           | 14           | 369           |             | 25,583         |
| Albany                   | 3,567                              | 364           |                |               | 2              | 3,933          | 1,023           |              | 1,023         |                 | 0             |              | 0             |             | 4,956          |
| Berkeley                 | 2,091                              | 47,014        |                | 171           | 76             | 49,352         | 5,269           | 5            | 5,274         |                 | 432           | 11           | 443           |             | 55,069         |
| Castro Valley SD         | INCLUDED IN Alameda Unincorporated |               |                |               |                |                |                 |              |               |                 |               |              |               |             |                |
| Dublin                   | 51                                 |               |                | 28,591        | 1,602          | 30,244         | 25              | 41           | 66            |                 | 97            | 60           | 158           |             | 30,468         |
| Emeryville               | 5,873                              | 166           |                |               | 16             | 6,056          | 3,051           |              | 3,051         |                 | 349           | 2            | 351           |             | 9,457          |
| Fremont                  | 417                                |               | 156,167        | 2             | 918            | 157,503        | 229             | 127          | 356           |                 | 305           | 347          | 652           |             | 158,510        |
| Hayward                  | 78,374                             | 233           | 7              | 104           | 1,341          | 80,058         | 20,320          | 190          | 20,510        | 290             | 1,915         | 264          | 2,468         |             | 103,036        |
| Livermore                | 100                                |               |                | 284           | 58,923         | 59,307         | 88              | 2,063        | 2,151         |                 | 562           | 601          | 1,163         |             | 62,621         |
| Newark                   | 69                                 |               | 28,946         | 0             | 39             | 29,054         | 34              | 2            | 36            |                 | 0             | 225          | 225           |             | 29,315         |
| Oakland                  | 148,509                            | 7,635         |                | 76            | 3,451          | 159,671        | 21,664          | 242          | 21,905        |                 | 7,430         | 434          | 7,864         |             | 189,441        |
| Oro Loma SD              | INCLUDED IN Alameda Unincorporated |               |                |               |                |                |                 |              |               |                 |               |              |               |             |                |
| Piedmont                 | 39                                 | 135           |                |               | 9              | 183            | 69              |              | 69            |                 | 17            |              | 17            |             | 269            |
| Pleasanton               | 158                                |               |                | 8             | 94,690         | 94,856         | 297             | 985          | 1,282         |                 | 203           | 403          | 606           |             | 96,744         |
| San Leandro              | 31,752                             | 213           |                | 50            | 39,003         | 71,018         | 5,513           | 10           | 5,523         | 4,231           | 375           | 389          | 4,994         |             | 81,535         |
| Unincorporated           | 25,713                             | 175           |                | 756           | 3,236          | 29,879         | 3,471           | 185          | 3,656         | 358             | 1,164         | 181          | 1,703         | 262         | 35,499         |
| Union City               | 791                                |               | 34,342         | 2             | 69             | 35,204         | 74              | 2            | 76            |                 | 399           | 2,318        | 2,717         |             | 37,998         |
| <b>Total</b>             | <b>320,920</b>                     | <b>55,971</b> | <b>219,462</b> | <b>30,043</b> | <b>203,719</b> | <b>830,114</b> | <b>62,411</b>   | <b>3,986</b> | <b>66,397</b> | <b>4,879</b>    | <b>13,602</b> | <b>5,250</b> | <b>23,731</b> | <b>262</b>  | <b>920,503</b> |

1. Removed 4,000 tons of Special Waste disposed of at Altamont Landfill from City of Alameda
2. Removed 18,800 tons of MSW disposed of at Berkeley TS from City of Berkeley
3. Removed 20,662 tons of MSW disposed of at Altamont LF from City of Newark; and removed 27,357 tons of Special Waste disposed of at Altamont LF from City of Newark

15

This study predates the recent building boom associated with new local and statewide housing policies, economic developments, and COVID-19 related renovation trends. It may also not capture cross-jurisdictional disposal of waste.

A snapshot for the twelve months preceding April, 2023 suggests a substantial increase in C&D as compared to StopWaste’s 2016 study. As reported through the City’s Green Halo Systems dashboard, C&D waste was more than 18,000 tons, a staggering 244% increase from 2016 levels. Of this material, the City reported that only 567 tons were

<sup>13</sup> Id.

<sup>14</sup> “Alameda County 2017-18 Waste Characterization Study.” StopWaste - A Public Agency Reducing Waste in Alameda County, StopWaste, 5 Sept. 2018, <https://www.stopwaste.org/resource/alameda-county-2017-18-waste-characterization-study>.

<sup>15</sup> Id.

Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

reused while 2,530 tons were disposed (landfill), and 15,073 recycled.<sup>16</sup> The distribution of materials within each distinct material category is not clear. The Green Halo dashboard summarizes overall C&D by category over the same period as follows:

| MATERIAL                           | IN TONS   | RATE   |
|------------------------------------|-----------|--------|
| 1 Concrete                         | 10,839.63 | 58.74% |
| 2 Mixed C & D Debris               | 4,762.22  | 25.80% |
| 3 Asphalt - Pavement & Grinding    | 661.01    | 3.58%  |
| 4 Deconstructed & Reuse Items      | 567.24    | 3.07%  |
| 5 Bricks, Masonry & Stone Products | 474.15    | 2.57%  |
| 6 Dirt/Soil-Clean Fill             | 320.97    | 1.74%  |
| 7 Metal                            | 286.43    | 1.55%  |
| 8 Waste (Trash)                    | 207.81    | 1.13%  |
| 9 Drywall - Clean/Unpainted        | 198.87    | 1.08%  |
| 10 Wood - Clean                    | 136.52    | 0.74%  |

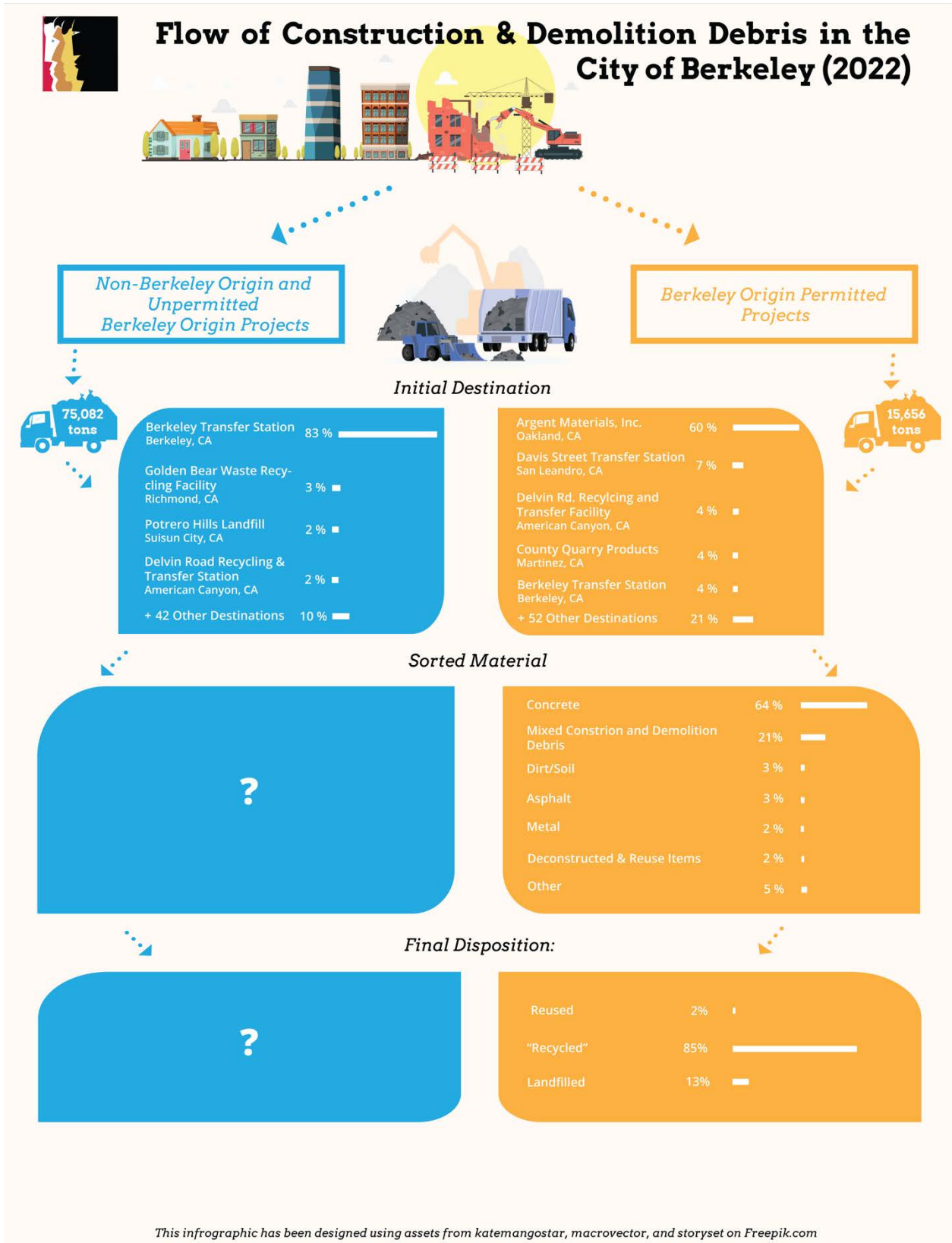
The author worked with Zero Waste staff to produce a snapshot of construction and demolition debris from Berkeley origin permitted, and non-Berkeley origin and unpermitted Berkeley origin projects for 2022:

<sup>16</sup> City of Berkeley Recycling Center, City of Berkeley, Powered by Green Halo Systems and City of Berkeley, 5 Apr. 2023, <https://berkeley.wastetracking.com/>.

<sup>17</sup> Id.

Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023



Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

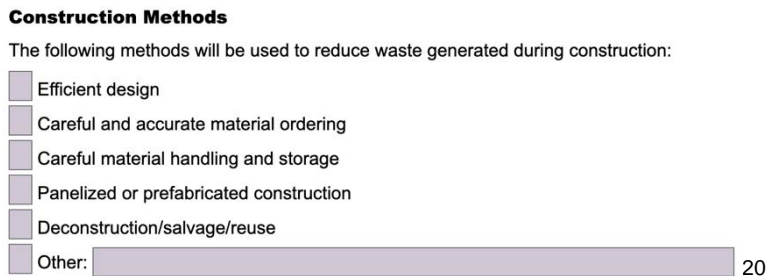
CONSENT CALENDAR  
November 28, 2023

### City of Berkeley’s Current Approach to C&D Waste

In furtherance of state law regulating C&D debris,<sup>18</sup> the Building and Safety Permit Service Center currently maintain a “Construction Waste Management Plan”<sup>19</sup> form applicable to the following projects:

1. Any non-residential projects requiring building permits.
2. Residential new buildings.
3. Residential projects that increase a building’s conditioned area, volume, or size.
4. Residential projects valued over \$100,000.
5. Demolition permits valued over \$3,000.

Projects are asked to disclose generally which methods they intend to use to reduce waste during construction:



Applicants then complete a more detailed “Construction Waste Management Plan” through the Green Halo web platform.

In addition, the form asks for information about weight tickets for disposed and recycled materials and photos of any salvaged/reused materials. This data is then uploaded and processed via the City’s Green Halo dashboard.

<sup>18</sup> A minimum of 65% of the waste generated by construction and demolition activities must be diverted away from landfill disposal through any combination of recycling, salvage, reuse or composting. 100% of asphalt, concrete, and land clearing debris must be recycled.

<sup>19</sup> Form #172 Construction Waste Management Plan - Berkeley, California. Building and Safety Permit Service Center, 19 Mar. 2021, <https://berkeleyca.gov/sites/default/files/2022-02/Waste%20Management%20Plan.pdf>.

<sup>20</sup> Id.

Refer to the City Manager to Enhance the City’s Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

**Diversion Documentation**

Submit a Construction Waste Management Plan via Green Halo at [www.berkeley.wastetracking.com](http://www.berkeley.wastetracking.com). Prior to permit final, weight tickets for all materials disposed and recycled must be uploaded. Photos are acceptable for salvaged/reused materials.

Green Halo Tracking Number:

I understand the waste diversion requirements of Berkeley Municipal Code Section 19.37 and submit this Construction Waste Management Plan pursuant to California Green Building Standards Code Section 4.408.2 or 5.408.1.1.

Name Signature Date 21

**Referral Overview: Enforcement and Consideration of New Requirements**

Drawing inspiration from neighboring jurisdictions such as Palo Alto and Portland, the proposed referral to the City Manager moves beyond the state’s simple percentage-based diversion, recycling, and reuse requirements, and towards defining specific building components that are potentially reusable and requiring a salvage survey provided by the City, a reuse organization, or other third party approved by the City. These reporting requirements would need to be met prior to the issuance of a demolition permit. The survey is aimed at itemizing the potential materials and items eligible for salvage and reuse and the estimated weights, preparing the builder for source separation, and connecting builders directly to salvaging experts who may be able to connect the builder to organizations who can accept or purchase their material for reuse. The threshold would remain the same as in the current statute.

This approach is more proactive than state rules, which rely on the judgment of the builder, to avoid incentivizing (1) more destructive techniques of traditional demolition, and (2) recycling instead of reuse. In addition, the City now only requires the builder to self-certify that disposed material was diverted after demolition occurs (as opposed to a detailed site survey that estimates weights before demolition occurs).

The referral also requires deconstruction, which is defined as “the systematic and careful dismantling of a structure, typically in the opposite order it was constructed, in order to maximize the salvage of materials and parts for reuse and recycling.”

Upon completion of the deconstruction and source separation of materials, the applicant or person responsible for the project may be required to ensure the items listed on the salvage survey are delivered to, collected by or received by, and certified by a reuse

<sup>21</sup> Id.

Refer to the City Manager to Enhance the City's Deconstruction and Construction Materials Management Enforcement and Regulations and Refer to the AAO #1 Budget Process \$250,000 for Social Cost of Carbon Nexus Fee Study for Berkeley Origin Construction and Demolition Debris

CONSENT CALENDAR  
November 28, 2023

organization or other third party approved by the City, and shall submit to the City proof of delivery of salvage items in accordance with City regulations. This process creates a chain of custody of environmentally, labor, and carbon intensive resources, and incentivizes builders to prioritize designs and projects that minimize demolition in favor of adaptation.

In addition, this item includes a referral to the City Manager to conduct a nexus fee study in connection with a potential social cost of carbon fee applied to landfilled construction and demolition debris. The City Attorney's office has advised that the nexus study must be completed before the Council can consider a fee.

#### FISCAL IMPLICATIONS

Staff time will be needed to implement the referrals.

#### ENVIRONMENTAL SUSTAINABILITY

Restoring or adapting embodied carbon in buildings is significantly less carbon intensive than demolition and new construction. In instances where restoration and adaptation are not feasible, reuse of materials through deconstruction is superior to traditional demolition techniques.

#### CONTACT PERSON

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



CONSENT CALENDAR

November 28, 2023

TO: Honorable Members of the City Council

FROM: Mayor Jesse Arreguín

SUBJECT: Civic Arts Referral for Memorial Wall to Councilmember Dona Spring and Budget Referral for Civic Arts Staffing

**RECOMMENDATION**

Refer to the Fiscal Year 2024/2025 Budget Process \$162,000 from the General Fund and allocate one additional FTE for staffing for Civics Arts and refer to the Civic Arts Commission to commission a Memorial Wall to Dona Spring at the Animal Shelter.

**BACKGROUND**

In November 2008, the Berkeley City Council adopted a resolution renaming the City's new animal shelter after Councilmember Dona Spring, who passed away in July 2008. While the Berkeley Animal Shelter opened in 2013, the effort to install a permanent memorial to Councilmember Dona Spring has stalled for the past decade. This budget referral seeks to reinvigorate this initiative and fund the process of installing a memorial art wall.

**Commented [1]:** I will get the history from Jill and Anne and flesh this out in a supplemental.

From the November 18, 2008, Council report "Naming the New Animal Shelter in honor of Councilmember Dona Spring"<sup>1</sup>:

*Councilmember Dona Spring was instrumental in highlighting animal welfare problems in Berkeley and was central in solving them. She urged the council to make animal research organizations operating in Berkeley accountable for the humane treatment of animals. She was one of the people in Berkeley that demanded a new concept of an animal shelter to be led by an experienced civilian*

<sup>1</sup> [Naming the New Animal Shelter in honor of Councilmember Dona Spring](#) (Berkeley City Council, November 18, 2008) [PDF]



Civic Arts Referral for Memorial Wall to Councilmember Dona Spring  
and Budget Referral for Civic Arts Staffing

CONSENT CALENDAR  
November 28, 2023

*in animal welfare. She championed the council decision to create the new position of volunteer coordinator in the shelter that oversees the loads of volunteers who come to the animal shelter to socialize pets and make them much more adoptable. She fought for new Berkeley laws affecting animal welfare, such as the spay and neuter of animals and providing money for animal rescue groups, that reduced the number of homeless animals in Berkeley. She demanded that Berkeley's adoptable animals not be euthanized, which led to a change in the way homeless animals are treated.*

Civic Arts staff currently have 20 active public arts projects and a backlog of 14 public art projects (see Civic Arts Commission FY24 Work Plan<sup>2</sup>). At current staffing levels, the Civic Arts Program has the capacity to implement 10-15 art projects per year. While additional projects are approved every year, the Civic Arts Program operates with a perpetual backlog. This budget referral seeks to fund an additional 1 FTE to Civic Arts staff to help address the current backlog and implement this referral to the Civic Arts Commission.

**FINANCIAL IMPLICATIONS**

\$162,000 from the General Fund for one additional FTE Civic Arts staff.  
Funding for the Memorial Wall, if approved, to be included in a future annual Civic Arts plan.

**CONTACT**

Mayor Jesse Arreguin 510-981-7100

---

<sup>2</sup> [Civic Arts Commission FY 24 Work Plan](#), approved July 19, 2023 (pgs. 32-33) [PDF]





Office of the Mayor

CONSENT CALENDAR

November 28, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguin

Subject: Accept grant funding of \$75,000 from San Francisco Foundation and amend Contract No. 32200161 with Creative Development Partners to extend consulting work associated with Equitable Black Berkeley Initiative.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to receive \$75,000 of grant funds from the San Francisco Foundation (SFF) (see Attachment #2) for project support for the Equitable Black Berkeley (EBB) initiative and execute an amendment to Contract No. 32200161 with Creative Development Partners (CDP) to add \$75,000 to the existing ideation facilitator contract supporting the EBB for a total contact amount not to exceed \$200,000 and extending the contract term to September 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

The grant funds will be deposited and expensed from the One-Time Grant: No Capital Expenses Fund and will be appropriated in the First Amendment to the FY 2023/2024 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On November 30, 2021, the City Council approved a \$50,000 grant from the San Francisco Foundation (SFF) grant to support a six-month process to ideate increasing affordable housing at the North Berkeley and Ashby BART stations. On November 29, 2022 City Council accepted a grant of \$75,000 from SFF and on January 17<sup>th</sup>, 2023, the City Council approved extending the contract to CDP. SFF increased the grant funding by an additional \$75,000 on November 1, 2023 to continue the work of the part time consultant in creating a plan, in collaboration with the community and multiple partners, to secure the funding needed to meet the project goals of maximizing affordable housing at and around the Ashby and North Berkeley BART sites within a reparative framework. In addition, the consultant will assist the City in outreach with Berkeley Flea Market vendors and community members, regarding resources to support the Berkeley Flea Market currently and plans for its relocation at a new Adeline Plaza as part of the new transit oriented development at Ashby Station.

BACKGROUND

Equitable Black Berkeley is an innovative, replicable model to support equity, opportunity and the well-being of Berkeley's Black community. It will underpin policies to repair harm, create financing vehicles to sustain community investment and ensure Black families

Accept Grant Funding from San Francisco Foundation and  
Amend contract with Creative Development Partners to  
Continue consulting services for Equitable Black Berkeley Initiative

CONSENT CALENDAR  
November 28, 2024

have a right to stay, right to return, and right to own/build equity. EBB will help alleviate the housing crisis and create the conditions for the South Berkeley community to thrive.

The San Francisco Foundation grant will continue to provide support to the City in developing additional strategies for increasing financial support for greater affordability levels for the BART projects and engaging the black community in developing a reparative framework that will address economic harms and provide the support infrastructure to provide repair.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Would support Climate Action goals by providing more affordable housing along transit corridors.

RATIONALE FOR RECOMMENDATION

Increasing affordability levels for new housing developments and addressing inequities for communities of color are expressed City values and council direction. This contract extension supports the efforts to increase affordability in previously redlined areas in a reparative framework.

CONTACT PERSON

Mayor Jesse Arreguin, 510-981-7100

Attachments:

1. Resolution
2. Grant confirmation letter

RESOLUTION NO. XX,XXX N.S.

AUTHORIZING A CONTRACT EXTENSION WITH CREATIVE DEVELOPMENT PARTNERS (CDP) TO SUPPORT THE EQUITABLE BLACK BERKELEY INITIATIVE AND ACCEPTING A GRANT FROM THE SAN FRANCISCO FOUNDATION

WHEREAS, On November 30, 2021, the Berkeley City Council voted to receive a grant from the San Francisco Foundation to support a consultant to assist the Equitable Black Berkeley Initiative (EBB) in a six-month process to ideate financing alternatives to increase the level of affordable housing at the North Berkeley and Ashby BART stations within a reparative framework; and

WHEREAS, on November 29, 2022, City Council approved accepting a grant award of \$75,000 from the San Francisco Foundation to renew the existing contract with Creative Development Partners supporting the Equitable Black Berkeley Initiative; and

WHEREAS, on January 17, 2023 City Council approved amending Contract No. 32200161 with Creative Development Partners to extend consulting work associated with Equitable Black Berkeley Initiative; and

WHEREAS, on November 1, 2023 the San Francisco Foundation provided an additional grant of \$75,000 for the period of October 1, 2023 through September 30, 2024 to the City of Berkeley to support the consultant assisting the Equitable Black Berkeley Initiative.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to receive \$75,000 of grant funds from the San Francisco Foundation for project support for the Equitable Black Berkeley (EBB) initiative and to extend Contract #32200161 with Creative Development Partners in support of the Equitable Black Berkeley Initiative, adding an additional \$75,000 to the contract for a total contact amount not to exceed \$200,000 and extending the contract term to September 30, 2024.

November 01, 2023

Jacquelyn McCormick  
City of Berkeley  
2118 Milvia Street  
Berkeley, California 94704

202408-297679

Dear Jacquelyn,

Congratulations! On behalf of The San Francisco Foundation Board of Trustees, I am pleased to inform you that a grant has been approved to your organization. We are excited to partner with you to expand opportunity in the Bay Area.

The enclosed Grant Agreement forms the contract between City of Berkeley and the Foundation. Please read the agreement carefully as it outlines the terms of the grant and reporting schedules. If we have your bank details on file, the grant will be paid to you by ACH transfer to the account that we have on record for your organization. If not, we are happy to enclose a check (please contact [programs@sff.org](mailto:programs@sff.org) for details of how to provide your bank information for quicker payment in future).

By accepting these grant funds, you are agreeing to the terms of the grant outlined below – no signature is required on the agreement and the agreement does not need to be returned to the Foundation.

Please do not hesitate to contact your Grant Contact Demetrius Burnett ([dburnett@sff.org](mailto:dburnett@sff.org)) if you have any questions about your grant or the policies of TSFF.

Thank you for your leadership and for all you are doing.

Yours truly,



Judith Bell

Chief Impact Officer

Grant Number: 202408-297679  
Organization Name: City of Berkeley

# GRANT AGREEMENT

**Grant Number:** 202408-297679  
**Please use this number in all correspondence**

San Francisco Foundation (“Grantor”) is pleased to make a Project Support grant in the amount of \$ 75,000 to City of Berkeley (“Grantee”) subject to the terms and conditions provided in this Agreement.

## **Acceptance of Grant**

By accepting these grant funds, you are agreeing to the terms of the grant outlined below – no signature is required to the agreement and the agreement does not need to be returned to the Foundation.

## **Contact**

Jacquelyn McCormick

## **Grantee**

City of Berkeley  
2118 Milvia Street  
Berkeley, California 94704

## **San Francisco Foundation Grant Contact**

Demitrius Burnett - dburnett@sff.org

## **Grant Amount**

\$ 75,000 for 12 months

## **Date Approved**

November 01, 2023

## **Grant Period**

October 01, 2023 - September 30, 2024

## **Grant Purpose**

For project support for the Equity for Black Berkeley Initiative and its process to establish a new entity/organization that will implement project objectives, influence the RFP and development processes for BART's transit-oriented development projects, as well as receive and manage funds that are raised for the initiative.

## **Outcomes and Activities**

**Outcome #1:** A new entity/organization, outside of the government and political structure of the City of Berkeley, will be created to attract institutional investors, ingrain community influence and voice, govern the strategic development of the project, and ensure the sustainability of the Equity for Black Berkeley (EBB) project and investment fund(s) beyond the current Mayoral and Partnership for the Bay's Future Policy Grant and Fellowship terms.

Grant Number: 202408-297679  
Organization Name: City of Berkeley

**Activities related to Outcome #1:**

- Continue to outreach and engage with private equity/financial firms to secure commitments to implement innovative financing mechanisms to obtain the \$50M per year target (\$500M total over 10 years) for affordable housing and wealth-building opportunities.
- Develop a governance structure to receive funds and grant funds based on a set of priorities to redress harms identified by the Black community.
- Engage the community, content experts, and relevant stakeholders to identify and confirm needs, progress, and capture additional forms of redress that fall within a repair and redress framework for Black communities.
- Influence the RFP for BART's transit-oriented development project at Ashby station to ensure the best developer is chosen based on EBB and community priorities.
- Identify innovative financial frameworks to support permanent, sustainable, and comprehensive community benefits for Berkeley's current and historic Black populations.
- Develop a transition and sustainability plan for the Berkeley Flea Market to support economic, cultural, and community development for BIPOC entrepreneurs through the transition phase of development and beyond.

#### **Grant Conditions (Financial Accounting Treatment Only)**

While grant funds are restricted and intended for use for the purposes described in this Agreement, for financial accounting treatment, the grant funds shall not be deemed to be conditioned upon the accomplishment of any particular measurable goal or metric, unless that condition is specifically identified in Special Conditions below.

#### **Tax-Exempt Status**

Tax-Exempt Status.

#### **Use of Grant Funds**

Grantee agrees to use all grant funds exclusively for charitable, scientific, literary or educational purposes consistent with Section 501(c)(3) and Section 170(c)(2)(B) of the Code, and at all times engage in activities and act solely as an organization described in Section 501(c) of the Code.

This grant is not earmarked or designated for transmittal to any other entity or person, whether or not mentioned in any proposal or other correspondence between Grantor and Grantee. While Grantee accepts full discretion and control of the grant and its disposition and responsibility for complying with this Agreement's terms and conditions, these funds may be spent only in accordance with the provisions of this Agreement. Expenditure of grant funds is subject to modification only with the prior written approval of Grantor.

#### **Prohibitions on Use**

Grantee agrees that at no time will any grant funds be used: (i) to attempt to influence the outcome of any specific public election, or to participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office; (ii) to

Grant Number: 202408-297679  
Organization Name: City of Berkeley

attempt to influence the selection, nomination, election or appointment of any individual to any public office or office in a political organization within the meaning of Code Section 527(e)(2); (iii) for any activity that is in violation of federal, state or local law or any effort to induce or encourage violations of law or public policy; (iv) to cause any private inurement or improper private benefit to occur; or (v) in any manner inconsistent with charitable and educational purposes defined under Code Section 501(c)(3).

If any grant funds are provided to another organization, Grantee shall notify Grantor of the transfer in advance and ensure that such grantee complies with all of the terms and conditions of this Agreement.

**Annual Check-in Requirements**

Guidelines and forms for annual check-ins with your application lead are available on the Foundation’s grantee portal at <https://sff.fluxx.io> under the Request Reports section. Your application lead will provide guidance on check-ins for your grant. If you need to extend the grant period or request changes in the payment schedule or budget, please contact your application lead – (dburnett@sff.org) and copy [programs@sff.org](mailto:programs@sff.org).

**Grant Check-In Due Dates**

|                                                          |                                    |
|----------------------------------------------------------|------------------------------------|
| <b>Check-In Due</b><br>Annual Check-in - Grantee Written | <b>Due By</b><br>November 01, 2024 |
|----------------------------------------------------------|------------------------------------|

**Payment Schedule**

Payments will be made on the schedule below if reports have been submitted on the dates requested.

|                                    |                                      |
|------------------------------------|--------------------------------------|
| <b>Payment Amount</b><br>\$ 75,000 | <b>Due Date</b><br>November 02, 2023 |
|------------------------------------|--------------------------------------|

**Marketing and Communications**

The San Francisco Foundation believes that the strategic use of communications and storytelling is core to achieving success in the work that we do together to expand opportunity in the Bay Area. We encourage you to announce your TSFF grant through online and traditional media coverage, and via social media, taking in to account the guidelines to support you in communicating about this specific grant. If you have any stories, images, or news coverage that you are able to share with the foundation that supports and exemplifies your work, please send these to [marketingandcommunications@sff.org](mailto:marketingandcommunications@sff.org). Please review our communications guidelines at [www.sff.org/TSFFcommguidelines](http://www.sff.org/TSFFcommguidelines) for additional details.

**Return of Funds**

Any funds not expended or committed for the purposes of this grant, or within the period stated earlier, must be returned to Grantor. Grantor will notify Grantee if it determines, after careful consideration of the information available to it, that the grant is not being used for the purposes specified or is not reasonably in the interest of the general public. In addition, Grantee will return any unexpended funds if Grantee loses its exemption under Code Section 501(c).

**Legal Compliance**

Grantee shall comply with all federal, state and local laws applicable to the activities undertaken with the grant

funds, and shall take all reasonable steps necessary to ensure participants in grant-funded activities comply with such laws.

**Recordkeeping**

Grantee shall maintain records satisfactory to Grantor related to this Agreement. Grantee shall make all books, ledgers, accounts, files and computer records and personnel involved in performing functions under the Agreement available to Grantor, its designated representatives, auditors or legal counsel to confirm compliance with the terms of the Agreement and applicable law. Grantee agrees to retain records in accordance with its document retention policy, but in no case less than six (6) years after the conclusion of the grant period.

**Entire Agreement**

This Agreement contains the entire understanding between Grantor and Grantee regarding the subject matter of this Agreement and supersedes any prior or contemporaneous agreement, whether oral or written, regarding said subject matter.

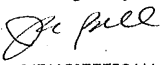
**Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of law rules.

**Modification or Amendment**

Requests for amendment or modification to the grant must be submitted in advance. The Grantee must do this by email to [programs@sff.org](mailto:programs@sff.org), including the grant number in any the email. Formal notification of whether requests have been approved will be issued by email.

---

DocuSigned by:  


November 01, 2023

0471A00EEF0C411...

The San Francisco Foundation

Date





Rashi Kesarwani  
Councilmember, District 1

CONSENT CALENDAR  
NOVEMBER 28, 2023

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Councilmembers Mark Humbert and Susan Wengraf (Co-Sponsors)

SUBJECT: Referral for Development of Request for Proposal (RFP) to Support Berkeley-Based Non-Profit Food Assistance Providers Serving Food Insecure Households

RECOMMENDATION

Refer to the City Manager to develop and fund a Request for Proposal (RFP) process to support Berkeley-based non-profit food assistance providers serving food insecure households. Funds are intended for (but not limited to) the following needs:

- Expansion of capacity to serve more people experiencing food insecurity, such as one-time purchase of equipment;
- Hiring of additional staff to serve more people; and/or
- Other emerging needs to be determined.

Refer \$200,000 annually in funding to the biennial FY 2024-25 to FY 2025-26 budget process to fund qualified proposals resulting from the RFP.

CURRENT SITUATION AND ITS EFFECTS

**Community Agency RFP Does Not Directly Address Food Insecurity . . .** The RFP process for community agency funding is one of the City's mechanisms to ensure City funds are allocated to agencies addressing key priorities, such as housing, education, and job training. However, the RFP does not directly address food insecurity.

**. . . But Food Prices Are On the Rise and Federal Pandemic-Related Food Aid Ended Earlier This Year.** From August 2022 through August 2023, food prices in the San Francisco area increased by 4.5 percent.<sup>1</sup> At the same time, federal food assistance associated with the pandemic ended earlier this year in March 2023. When the pandemic began in 2020, recipients of CalFresh (California's food stamps program) were allotted the maximum benefit available for their household size, likely contributing to rising enrollment

---

<sup>1</sup> U.S. Bureau of Labor Statistics, Consumer Price Index, San Francisco Area - August 2023: [https://docs.google.com/document/d/11ri1T7alsDOPOnwV3Ob\\_OmQXFxKgF36dwIviZbvXvTI/edit](https://docs.google.com/document/d/11ri1T7alsDOPOnwV3Ob_OmQXFxKgF36dwIviZbvXvTI/edit)

over the last several years. When the emergency allotments ended, CalFresh benefits were reduced, sometimes dramatically. For some single-person households, CalFresh benefits dropped from \$281 to as little as \$23 per month.<sup>2</sup> As a result, food banks throughout the state are seeing increasing numbers of people served.

***Berkeley-Based Non-Profit Food Assistance Providers Report Increasing Demand.***

The Berkeley Food Pantry is a non-profit organization providing emergency groceries to Berkeley and Albany residents four days per week, two hours each day.<sup>3</sup> The Berkeley Food Network (BFN) provides an on-site pantry in addition to mobile pantries throughout the city and distribution to other local pantries like the Berkeley Food Pantry.<sup>4</sup> Both organizations have reported significant increases in the number of households they are serving in recent years, as shown in Exhibit 1.

**Exhibit 1: Growth in Number of Households Served (2021-2023)**

|                                                           | <b>Berkeley Food Pantry<br/>Number of Households<br/>Served</b> | <b>Berkeley Food Network<br/>Number of Households<br/>Served</b> |
|-----------------------------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------------|
| <b>Sept. 2021</b>                                         | <b>766</b>                                                      | <b>1,518</b>                                                     |
| <b>Sept. 2022</b>                                         | <b>1,047</b>                                                    | <b>2,601</b>                                                     |
| <b>Sept. 2023</b>                                         | <b>1,290</b>                                                    | <b>3,182</b>                                                     |
| <b>Overall Percent Growth<br/>(Sept. 2021-Sept. 2023)</b> | <b>68.4%</b>                                                    | <b>109.6%</b>                                                    |

Sources: Berkeley Food Pantry and Berkeley Food Network

***Alameda County Community Food Bank Reports a 52 Percent Increase in Food***

***Distribution.*** The Oakland-based Alameda County Community Food Bank (ACCFB), which partners with more than 400 institutions to provide food assistance to Alameda County families and individuals, reports an increase in demand throughout the county. The ACCFB has gone from distributing 38 million pounds of food during pre-COVID years to 58 million pounds of food most recently.<sup>5</sup> As of October 2, 2023, 11.4 percent of Alameda County residents are experiencing food insecurity—up three percent from just April 10, 2023, shortly after the federal pandemic-related food assistance ended.<sup>6</sup>

**BACKGROUND**

<sup>2</sup> Cal Matters August 8, 2023 article: “How Hungry is California? Millions Struggle to Eat Well in an Abundant State” <https://calmatters.org/explainers/california-hunger-crisis/#2b5159b1-a710-41cb-839b-aac1ea2791e4>

<sup>3</sup> Berkeley Food Pantry’s website for a full description of services provided: <https://www.berkeleyfoodpantry.org/>

<sup>4</sup> Berkeley Food Network’s website for a full description of services and programs provided: <https://www.berkeleyfoodnetwork.org/who-we-are/about/>

<sup>5</sup> Alameda County Community Food Bank website: <https://www.accfb.org/about-us/what-we-do/>

<sup>6</sup> California Pulse Website for Alameda County: <https://stanford-datalab.github.io/covid-19-ca/alameda/#food-insufficiency>

***Food Insecurity Impacts One in Five Californians.*** Limited or uncertain access to adequate food and nutrition can have long-term physical and mental health effects on adults and children alike.<sup>7</sup> The number of food insecure individuals and families is steadily climbing and food banks throughout the state are struggling to keep up.

***Increasing Demand for Food Assistance Is Impacting the Wider Bay Area.*** The Food Bank of Contra Costa and Solano, for instance, is now serving 350,000 people across the two counties monthly, which is double their pre-pandemic levels of service. The San Francisco-Marin food bank went from serving 32,000 households weekly to more recently serving 56,000 households weekly. Food banks throughout the state are functioning more like supermarkets in terms of peoples' regular food procurement venue rather than sources of emergency aid.<sup>8</sup>

#### FISCAL IMPACT

\$200,000 annually to fund the RFP, and staff time to develop the RFP and review and select qualified proposals.

#### ENVIRONMENTAL IMPACT

There is no significant environmental impact associated with this referral.

#### CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

---

<sup>7</sup> California Association of Food Banks website: <https://www.cafoodbanks.org/hunger-data-reports/>

<sup>8</sup> Cal Matters June 12, 2023 article: "A Catastrophic Hunger Crisis? California Food Banks are Being Flooded by Families Seeking Help:" <https://calmatters.org/california-divide/2023/06/california-food-banks/>





CONSENT CALENDAR  
November 28, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Harrison (co-sponsor)

Subject: Designating Open Space Adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border as a Linear City Park Pursuant to BMC 6.42

RECOMMENDATION

Adopt a resolution designating open space adjacent to the Ninth St Greenway between Heinz Ave and the Berkeley-Emeryville border (Folger Ave) as linear City park space and formally dedicate this site for permanent recreational use pursuant to Berkeley Municipal Code 6.42.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

Parks and open space are critical for the quality of life of Berkeley residents and visitors. Measure L, the *Berkeley Public Parks and Open Space Preservation Ordinance*, adopted by the City of Berkeley in 1986 and codified as Berkeley Municipal Code (BMC) Section 6.42, designates “census tracts containing less than the master plan provision of two acres of parks and open space per one thousand population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.” The Berkeley City Council recently designated open space adjacent to Old City Hall as a linear park under this provision (see Attachment 3 and Attachment 4).

While Census Tract 4220, comprising Berkeley’s western edge, may technically meet this threshold, a significant portion of West Berkeley’s open space at Aquatic Park and the Marina is literally underwater, with increasing risk of sea level rise due to anthropogenic climate change. The California State Lands Commission reports: “Access to the Berkeley Marina via University Avenue will [be] periodically disrupted during 100-year storm events by 2030 and flooding will increase in frequency near the end of the century.”<sup>1</sup>

Moreover, the neighborhood’s population is quickly increasing, as this Census Tract has become the fastest-growing in Berkeley<sup>2</sup>, with a new Specific Area Plan for San Pablo Avenue currently in progress.<sup>3</sup> The Ninth St Greenway offers a unique opportunity to

<sup>1</sup> California State Lands Commission. (2021). Modified AB691 Assessment – City of Berkeley.

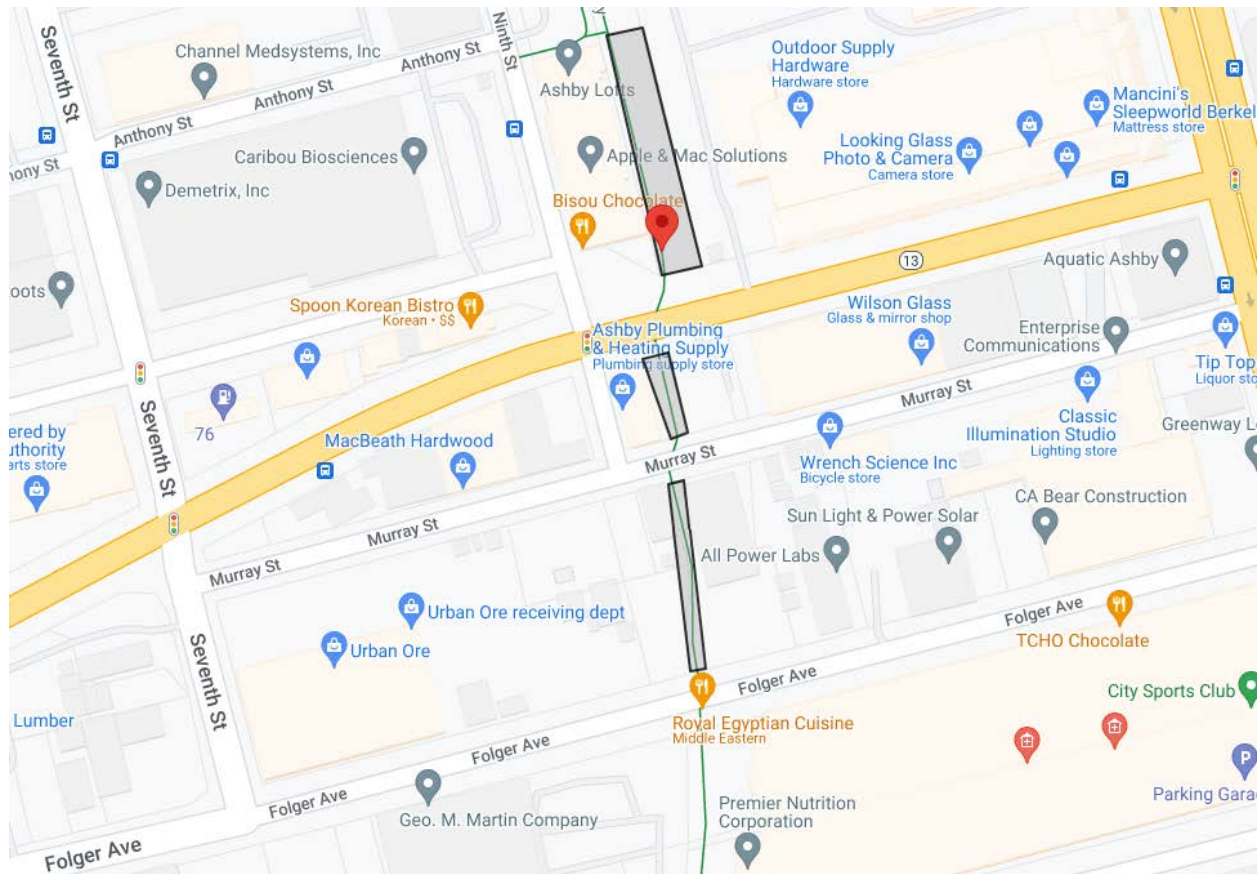
<https://slcprdwordpressstorage.blob.core.windows.net/wordpressdata/2022/08/ab691-summary-berkeley.pdf>

<sup>2</sup> Markovich, A. (2022). A changing Berkeley: 6 maps show how the past decade has remade the city. *Berkeleyside*. Retrieved Oct. 31, 2023 from <https://www.berkeleyside.org/2022/07/17/berkeley-population-demographics-housing-census-2020-maps>

<sup>3</sup> Berkeley City Manager. (2023). Update on San Pablo Avenue Specific Planning Efforts. <https://berkeleyca.gov/sites/default/files/documents/2023-09->

expand and beautify specifically pedestrian-friendly and ADA accessible open space in West Berkeley.

Pursuant to BMC 6.42, this item would contribute approximately an additional 0.46 acres of Parks and Open space for use by residents and visitors.



## BACKGROUND

The Ninth Street Greenway was recently renovated with a new traffic signal at Ashby Avenue, following the City of Berkeley's Bicycle Plan (2017)<sup>4</sup> and Pedestrian Plan (2020).<sup>5</sup> Recent and planned improvements to the Ohlone Greenway have also advanced these policy goals. However, the open space adjacent to the Ninth Street Greenway does not currently enjoy the status of a City park, which would confer additional maintenance and protection benefits under Measure L (1986). The landscaping and open space is already maintained by the Public Works Department and neighborhood volunteers.

[01%20Update%20on%20San%20Pablo%20Avenue%20Specific%20Planning%20Efforts%20-%20Off%20Agenda%20Memo.pdf](#)

<sup>4</sup> Berkeley Bicycle Plan. (2017). <https://berkeleyca.gov/your-government/our-work/adopted-plans/berkeley-bicycle-plan>

<sup>5</sup> City of Berkeley Pedestrian Plan. (2020). <https://berkeleyca.gov/sites/default/files/2022-01/2020-Pedestrian-Plan.pdf>



Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3, 2002, promulgates three goals that are consistent with this item:<sup>6</sup>

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion.

In the West Berkeley Plan, adopted in 1993, Mitigation 1 to Transportation Impact 4 in the Environmental Impact Report states that the City of Berkeley "will review and incorporate the need for new and/or improved bikeways, sidewalks, pedestrian ways, and pedestrian and bicycle signage in its review of projects and its capital improvement planning."

More recently, the 2017 Bicycle Plan designates Ninth Street as a Class 3E Bicycle Boulevard and the Ninth Street Greenway as a Class 1A Paved Path.

#### FISCAL IMPACTS OF RECOMMENDATION

Staff time and signage. This area is already owned and maintained by the City of Berkeley, so the fiscal impacts of designating approximately 0.46 acres of open space an official park would likely be marginal.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

The City of Berkeley's Climate Action Plan, first adopted in 2009, includes the following Policy under Sustainable Transportation & Land Use Goal #2, "Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling":

*Promote tree planting, landscaping, and the creation of green and open space that is safe and attractive and that helps to restore natural processes*

A healthy urban forest has several benefits, including:

- Reducing the energy consumption associated with air conditioning buildings by providing shade

---

<sup>6</sup> City of Berkeley General Plan: Open Space and Recreation Element. (2002).  
[https://berkeleyca.gov/sites/default/files/documents/08\\_Open%20Space%20and%20Recreation%20Element-FINAL.pdf](https://berkeleyca.gov/sites/default/files/documents/08_Open%20Space%20and%20Recreation%20Element-FINAL.pdf)

- Reducing local ambient temperatures by shading paved and dark colored surfaces like streets and parking lots that absorb and store energy rather than reflecting it
- Intercepting and storing rainwater, thereby reducing water runoff volume
- Improving community quality of life through beautification and by reducing noise pollution and encouraging pedestrian traffic

Trees also provide a GHG reduction benefit through a process called carbon sequestration. A single mature tree can absorb as much as 48 lbs. of carbon dioxide per year. Estimates are that between 660 and 990 million tons of carbon is stored in urban forests nationally.

The Policy also calls for the City to: “Establish standards and guidelines to ensure that ecologically beneficial stormwater quality and retention features and water conservation features are integrated into the design of landscaping features on both public and private land.”

#### CONTACT PERSON

Councilmember Taplin, District 2, (510) 981-7120

#### ATTACHMENTS

1. Resolution
2. Berkeley City Council Consent Calendar. (Kesarwani, 2019). Designating Berkeley’s portion of Ohlone Greenway and the West Street Bike Path as linear City parks.
3. Berkeley City Council 2023-09-12 Annotated Agenda
4. Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42 (Harrison, 2023)



RESOLUTION ##,###-N.S.

DESIGNATING THE CITY OF BERKELEY-OWNED OPEN SPACE ADJACENT TO  
THE NINTH STREET GREENWAY AS A PUBLIC PARK

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3rd, 2002, the objectives are stated as:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, Measure L, the Berkeley Public Parks and Open Space Preservation Ordinance adopted by the City of Berkeley in 1986 and codified in Berkeley Municipal Code 6.42, defines a Public Park as "City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds"; and

WHEREAS, the above goals and ordinances establish the protection of open space and the establishment of public parks as an important City priority; and

WHEREAS, the open space and land adjacent to the Ninth Street Greenway is already being used and maintained as open space in a manner analogous to the Ohlone Greenway;

NOW THERFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to the Ninth Street Greenway designated as an official part of City park land and infrastructure.



Rashi Kesarwani  
Councilmember District 1

CONSENT CALENDAR  
07/23/2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rashi Kesarwani  
Subject: Designating Berkeley’s portion of Ohlone Greenway and the West Street Bike Path as linear City parks.

RECOMMENDATION

Adopt a resolution designating the Berkeley-owned portions of the West Street Bike Path and the Ohlone Greenway as linear City parks and formally dedicate these sites for permanent recreational use.

The City-owned portion of the West Street Bike Path begins adjacent to the basketball courts at Virginia Gardens and travels southward ending at Delaware Street.

The City-owned section of the Ohlone Greenway begins northwest of the North Berkeley BART station at Cedar Street and continues north to the City’s border with Albany.<sup>1</sup>

FINANCIAL IMPLICATIONS

The City already owns and maintains these properties, so the financial implications would be minimal. One-time minimal use of staff time would be needed to dedicate these areas as parks and add park signage.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley-owned portions of the West Street Bike Path and the Ohlone Greenway are used as recreational areas. Residents use these spaces to gather, rest and relax, play, and exercise, particularly biking and walking. Importantly, these dedicated bike/pedestrian paths already include many park features, such as park benches,

---

<sup>1</sup> It should be noted that the San Francisco Bay Area Rapid Transit District (BART) is planning North Berkeley Bicycle and Pedestrian Access Improvements that will, among other upgrades, widen the BART-owned portion of the Ohlone Greenway adjacent to the BART side parking lots up to Virginia Gardens. See <https://www.bart.gov/about/planning/north-berkeley-bike> for plan details.

proximity to recreational facilities (including bike-share stations as well as basketball and tennis courts), and art installations.

Because these two paths primarily function as recreational areas, they should be officially dedicated as City parks for the common good of Berkeley residents and visitors. This resolution aligns with our Strategic Plan, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

It should also be noted that the Ohlone Greenway portions in both the cities of Albany<sup>2</sup> and El Cerrito<sup>3</sup> have already been dedicated as linear City parks; establishing a similar designation in Berkeley would create regional consistency for recreational pursuits.

### BACKGROUND

In Berkeley's Open Space and Recreational Element of our General Plan, adopted April 3<sup>rd</sup>, 2002<sup>4</sup>, the objectives are stated as:

The policies and actions of the Open Space and Recreation Element are intended to achieve the following three objectives:

- Preserve, maintain, and repair the city's existing open space and recreational resources and facilities.
- Expand open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements.
- Increase funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion.

This is congruent with Berkeley's adopted Measure "L" – The Berkeley Public Parks and Open Space Preservation Ordinance, passed in 1986. The measure requires "the Berkeley City Council to preserve and maintain the public parks and open space in Berkeley as well as to acquire and maintain public parks and open space in the census tracts and neighborhoods of Berkeley having less than the minimum amount of open space relative to population (2 acres per 1,000) identified in the Berkeley Master Plan of 1977."<sup>5</sup> These directives regarding parks and open space prioritize recreation as an essential element of civic life, and requires the City to obtain and maintain these amenities for the public good. This council consent item seeks to ensure this directive by officially dedicating these public spaces as City park property for permanent recreational use.

---

<sup>2</sup> Ohlone Greenway Park Facility Directory, City of Albany (2019) available at:

<https://www.albanyca.org/Home/Components/FacilityDirectory/FacilityDirectory/104/1607?npage=3>.

<sup>3</sup> Ohlone Greenway Facilities, City of El Cerrito (2019) available at: <http://el-cerrito.org/Facilities/Facility/Details/Ohlone-Greenway-16>.

<sup>4</sup> See: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_\(new\\_site\\_map\\_walk-through\)/Level\\_3\\_-\\_General/GPliteOpen\\_Space\\_policies.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/GPliteOpen_Space_policies.pdf).

<sup>5</sup> Voter Information Pamphlet text of Measure L

ENVIRONMENTAL SUSTAINABILITY

Designating the Berkeley-owned portions of the West Street Bike Path and Ohlone Greenway as linear City parks will enable the City to better maintain these dedicated bike paths as safe and enjoyable alternatives to driving, thereby potentially reducing vehicle miles traveled.

CONTACT PERSONS

Councilmember Rashi Kesarwani                      Council District 1      510-981-7110

Attachments:

- 1: Resolution
- 2: Voter Information Pamphlet Text of Measure L
- 3: Map indicating proposed area to be designated as City of Berkeley linear parks

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

DESIGNATING THE BERKELEY-OWNED PORTIONS OF THE OHLONE GREENWAY  
AND WEST STREET BIKE PATH AS PART OF CITY PARK INFRASTRUCTURE

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3<sup>rd</sup>, 2002, the objectives are stated as:

- Preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities
- Expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements
- Increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, Berkeley adopted Measure "L" – The Berkeley Public Parks and Open Space Preservation Ordinance – in 1986, which requires "the Berkeley City Council to preserve and maintain the public parks and open space in Berkeley as well as to acquire and maintain public parks and open space in the census tracts and neighborhoods of Berkeley having less than the minimum amount of open space relative to population (2 acres per 1,000) identified in the Berkeley Master Plan of 1977"; and

WHEREAS, these directives regarding parks and open space prioritize recreation as an essential element of civic life, and requires the City to obtain and maintain these amenities for the public good; and

WHEREAS, Berkeley's portions of the West Street Bike Path and the Ohlone Greenway are used as recreational areas; and

WHEREAS, the Ohlone Greenway portions in both the cities of Albany and El Cerrito have already been dedicated as linear City parks.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned portions of the Ohlone Greenway and West Street Bike Path are designated as linear City parks.

**CITY OF BERKELEY INITIATIVE ORDINANCE**

|                                                                                                                                                                                                                                                                                                                                                                          |     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <p><b>L</b> MEASURE L: Shall an ordinance be adopted to require voter approval of non-recreational uses of parks or open space and require acquisition of open space controlled or leased by the City if acquisition is the only means of preserving the open space?</p> <p>Financial Implication: Increase in landscape assessment fees; acquisition costs unknown.</p> | YES |
|                                                                                                                                                                                                                                                                                                                                                                          | NO  |

**FULL TEXT OF MEASURE L**

LET IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide:

**THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE: PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.**

**FINDINGS:**

WHEREAS the Berkeley Master Plan of 1977 (hereinafter Master Plan) provides for a minimum standard of two acres of public open space per 1,000 persons and identifies specific Berkeley census tracts as having high population density and high open space demands, and attainment of the minimum standard is jeopardized by continued loss of Public open spaces.

WHEREAS the City of Berkeley is the second most densely populated city in California, undeveloped land is at a high premium in Berkeley, there are significant pressures to convert City owned or controlled open space to permanent or long-term non-park, non-open space uses and there exists a clear and present emergency in that the threatened loss of open space, parks and recreational opportunities in the neighborhoods in Berkeley will cause irreparable damage to the health and welfare of Berkeley residents.

WHEREAS the Berkeley City Council has failed to provide and fund the Master Plan minimum standard of public parks and open space in every Berkeley neighborhood, and in particular in those census tracts having high park and open space requirements.

WHEREAS, specific procedures and directives to the Berkeley City Council are necessary to insure that the Master Plan's minimum park and open space goals are not rendered impossible through the continued loss of public open spaces;

**VOTER AUTHORIZATION PROCEDURE**

Section 1: That no public parks (hereinafter defined) or public open space (hereinafter defined) owned or controlled or leased by the City of Berkeley or agency thereof, shall be used for any other purpose than public parks and open space, without The Berkeley City Council first having submitted such use to the citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

**FUNDING LEVELS TO ALLOW FULL USE**

Section 2(a): That wherever public parks and open space currently exist in Berkeley, such use shall continue and be funded at least to allow the maintenance of the present condition and services. (b) That all undedicated or unimproved open space owned or controlled by the City of Berkeley (including land held by the City in trust) shall be retained and funded by the Berkeley City Council to enable public recreational use of those lands. (c) That those census tracts containing less than the Master Plan provision of two acres of parks and open space per 1,000 population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.

Section 3(a): **Public parks** shall be defined as City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds.

Section 3(b) **Public open space** shall be defined as all City of Berkeley parks, public school playgrounds, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreational use or potential use on or after January 1, 1985.

**ADOPTION OF THIS ORDINANCE**

Section 4(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3)(a).

**RETROACTIVITY**

Section 5(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority, or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 5(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, or Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

**SEVERABILITY**

Section 6: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

**BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE L**

The initiative ordinance would have the following effect:

1. Require that all existing public parks and vacant public land, either formally or informally devoted to recreational use after January 1, 1985, be retained and maintained at their present level of service. This requirement would only apply to land owned or controlled by the City of Berkeley, since the City does not have the authority to regulate land owned by other public entities such as the school district or the University of California. The Berkeley Redevelopment Agency and the Berkeley Housing Authority are independent state agencies and thus would be immune from regulation in this manner.
2. Require prior voter approval if such City of Berkeley public parks or open space are to be used for any other purpose. This measure requires the City to acquire land it does not presently own, if acquisition is the only means to retain the land as open space or public park. As of the date this analysis was prepared, several City parks are owned by others, including: sections of Ohlone Park, leased from Bay Area Rapid Transit District; six school parks owned by the Berkeley Unified School District and maintained, in part, by the City; and Douglas Park on Dwight Way which is owned by the University. The City has plans underway to acquire the remaining section of Ohlone Park.
3. Census tracts that do not meet the Master Plan open space requirements will have priority for the funding, acquisition, development and maintenance of parks and recreational facilities.

**Financial Implications**

Currently park maintenance is funded by fees through the Landscape Assessment District. Increase in fees will be required to maintain additional land. Costs to acquire land owned by others is unknown at this time, but may be significant.

## ARGUMENT IN FAVOR OF MEASURE L

Approval of this citizen's initiative ordinance will allow Berkeley Voters to directly participate in decisions to change the use of Public Parks and Open Space.

Berkeley's parks and public open spaces are highly used and valued by all parts of the community. They help provide for the health, fitness, children's play, entertainment, and recreational needs of all citizens. Decisions to reduce our presently insufficient number of parks belong on the ballot where all citizens can express their opinion with their vote.

This initiative ordinance requires that the voters must approve new uses for city lands held in public trust. It does not limit or prohibit any potential new uses approved by the majority of the voters.

Approval of this ordinance would certify that Berkeley Census tracts that presently contain less public open space than the Master Plan standard of two acres per 1,000 residents be given priority funding in acquisition, development and maintenance of parks/recreational facilities. It will help make distribution of parks more equitable throughout Berkeley. This is a minimal standard, since Berkeley has fewer parks than state and national averages.

The provisions of the Master Plan combined with the approval of Measure Y (1974) park funding, strongly suggests that the Citizens of Berkeley believe that Public Parks and Open Space need expansion. Since there is no indication that Berkeley has changed its opinion, it is all the more appropriate to require voter approval when potential development removes parks and open space called for in the Berkeley Master Plan.

You can help Preserve Berkeley's parks and open space by voting YES on Measure L.

s/Martha Nicoloff, Co-Author, Neighborhood Preservation Ordinance  
s/Clifford Fred  
s/Dorothy Bryant  
s/Carroll B. Williams, Former Berkeley School Director  
s/John G. Cecil, Chair, Preservation Initiatives Committee

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

The need for parks is a serious issue which should not be the subject of the scare tactics employed by the proponents of Measure L.

City parks are designated in the Master Plan for recreational use. Contrary to implications made by the proponents of this measure, **no one can recall any City plan**—past, present, or future—to **reduce the number of parks** serving Berkeley's recreational needs. Open space, sometimes a vacant lot, on the other hand, is usually held by owners other than the City. They may, or may not, have plans for future use of their property.

The real reason for Measure L is the Housing Authority's plan to build 12 single-family townhouses for low income families on a small portion of School District property at Savo Island (MLK, Jr. Way between Derby and Ward). The remaining piece of land is large enough to accommodate a football field. The neighborhood will still be able to enjoy the use of this open space.

Measure L does more than require a vote for new uses for City lands held in public trust. It requires the City to acquire land. But **where will the money come from?** Given the tremendous federal budget cuts to municipalities and the demands on the City's budget, from what other City services will the trade-off come? And given the pressure of Measure L on the City, property owners would be foolish to negotiate.

If we want additional parks, someone has to pay. And since we will ultimately pay, **we should know the cost before we make such an important decision.**

Don't let the proponents of this measure scare you into believing that our parks will disappear. Quite honestly, they won't.

## VOTE NO ON MEASURE L

s/Wesley E. Hester, Chair, Council Committee on Revenue and Finance  
s/Arlene Irlando, Member, Berkeley Chicano/Latino Network  
s/Maudelle Miller Shirek, Berkeley City Council  
s/Stacy Wilson, Chair, Citizens Budget Review Commission  
s/Carole K. Davis, Former Vice-Mayor

## ARGUMENT AGAINST MEASURE L

On its face as a statement of community values, Measure L seems harmless. What could be wrong with wanting additional parks? However, the difference between the outcome of Measure L and the kind of program which can come from a thoughtful parks proposal such as Measure Y (1974) is a budget—a specific amount dedicated to acquiring and maintaining parks and open space.

In 1974 voters passed a park acquisition, renovation and development ordinance: Measure Y. It raised more than \$5 million. As a result, the City was able to create 9 new parks and 8 parks on-school grounds. That measure was a direct result of the recognition that Berkeley was deficient in park space and was able to accomplish what it did because it included a budget.

As a community we are stretched thin in trying to fund a variety of City Services ranging from police services to sidewalk repair. **New parks** and additional open space **cost money** (if and when the City can get title to the property. In fact, this measure may well prejudice City negotiations with landowners who will use this measure in their bargaining. The proponents of Measure L are irresponsible in offering this proposal without including the means by which to finance it. They have made promises but have not provided any way of keeping them. **The citizens deserve to know how the money will be obtained, and what the price tag will be.**

s/Hynetha Hewitt, Parks and Recreation Commissioner  
s/Carole Davis, Former Vice-Mayor  
s/Maudelle Shirek, Berkeley City Council  
s/Carole Lewis, Social Services Director  
s/Rich Illgen, President, Planning Commission

## REBUTTAL TO ARGUMENT AGAINST MEASURE L

The opponents of Measure L have missed its major provision.

Measure L **prevents the City Council from using the existing public parks and open spaces for any new use without the approval of the community.**

If the **Council wants to remove/develop** existing public parks and open space, **prior voter approval is required.**

At this time, **no law prevents** our elected officials from placing such decisions on the ballot.

Measure L also requires that the **minimal standard for parks already in existence** be observed in **areas that presently have less than their "fair share" of parks** called for in the Berkeley Master Plan of 1977.

We do not agree with the opponents financial argument.

Despite the implications of the opponent's argument, responsibility for implementing and financing the Master Plan has not shifted from Council and Staff to individual community members. It should be noted that **determined citizens** who believe in the importance of parks and recreational facilities in everyone's quality of life, have and will continue to assist in the search for sources of new and additional funding.

Measure L ensures the community will be directly involved in decisions to re-use existing Public Parks and Open Space by placing every proposed development plan on the ballot and letting the voters decide between parks and development.

**Vote YES on Measure L.**

s/Michael Winter, Executive Director, Center for Independent Living

s/Pamela J. Ferguson

s/Gloria A. Belsky

s/John G. Cecil, Chair, Preservation Initiatives Committee

s/Janet M. Maestre

### CITY OF BERKELEY INITIATIVE ORDINANCE

|                                                                                                                                                                                                                          |     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <p><b>M</b> MEASURE M: Shall an ordinance be adopted requiring voter approval for non-educational and/or non-recreational uses of Berkeley Unified School District property?</p> <p>Financial Implications: Unknown.</p> | YES |
|                                                                                                                                                                                                                          | NO  |

### FULL TEXT OF MEASURE M

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BERKELEY:

FINDINGS:

WHEREAS the Berkeley City Council and Berkeley Housing Authority have attempted to acquire, develop, use or approve Berkeley Unified School District property for non-educational purposes.

WHEREAS the Berkeley Unified School District (hereinafter School District) has been given a public trust in real property to use for the educational benefit of the Citizens of Berkeley.

WHEREAS the School District has purchased and developed real property with monies received in trust and intended to be expended for the educational benefit of the citizens of Berkeley, which property if lost to the originally intended and dedicated educational and related recreational uses, will be unavailable or irreplaceable when needed for those uses.

WHEREAS there is a potential that use or development of School District property for non-educational uses will ultimately act to the detriment of the Citizens of Berkeley and will violate the wishes of a majority of the Citizens of Berkeley regarding the use of that property.

WHEREAS these actions have been proposed and are being undertaken without the approval of the voters of Berkeley.

WHEREAS there exists a clear and present emergency in that the threatened sale or long-term lease of School District real property and buildings for non-educational or non-recreational use will cause irreparable damage to the health and welfare of Berkeley residents.

BE IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide

### VOTER AUTHORIZATION PROCEDURE

Section 1: That should the Berkeley City Council, Housing Authority or any other agency of the City of Berkeley propose to acquire, or approve the use of, School District property (hereinafter defined) for other than educational or existing recreational purposes, and should that approval or use require the purchase, sale or long-term encumbrance (hereinafter defined) of that property, the Berkeley City Council shall first submit that specific proposal, detailing the specific use, transaction sought, and the site involved, after being approved officially by the appropriate City agency and the Berkeley City Council, to the Citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

### DEFINITIONS

Section 2(a): **School District property** shall be defined to include the land and buildings which have been used by the Berkeley Unified School District for educational purposes, child-care, recreation or School District support services (including maintenance) at any time since January 1980.

Section 2(b): A **long-term encumbrance** shall include a lease whose term is greater than five years or where options are granted such that the term may be extended beyond five years by option of the lessee. In addition, a long-term encumbrance shall include any mortgage transaction which pledges the property as security.

### ADOPTION OF THIS ORDINANCE

Section 3(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3) (a).

### RETROACTIVITY

Section 4(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 4(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

### SEVERABILITY

Section 5: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

### BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE M

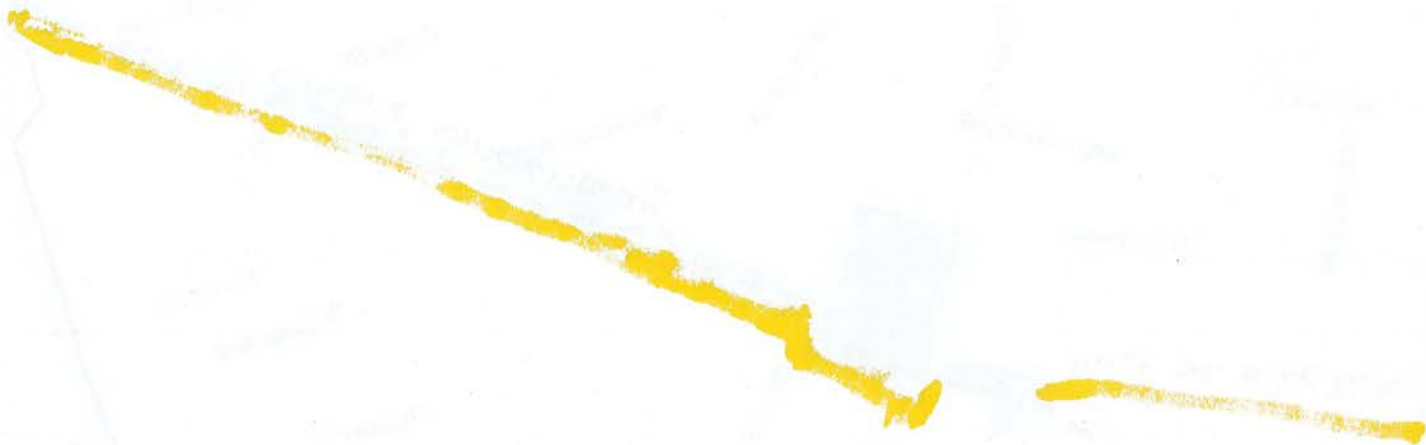
The initiative ordinance would have the following effect:

1. Require the City Council to submit to the voters for prior approval any proposal to acquire, encumber or lease for a period longer than five years, or approve the use of property owned by the Berkeley Unified School District, if the property is not intended to be devoted to educational or recreational uses. Under current law, voter approval of such a proposal would be required only if the property was to be used for specified kinds of public housing and the City had exhausted its current voter approved authority to construct such units. The Housing Authority is an independent state agency implementing statewide laws and is not subject to this ordinance. Zoning or other City land use approvals of projects proposed by other private or public persons or entities would not be subject to prior voter approval under current case law.
2. Provide that any actions taken by the City Council or the Berkeley Housing Authority or other City agency after January 1, 1985, which contravene the ordinance in the above respect, are null and void. The Berkeley Housing Authority has entered into a long-term lease with the Berkeley Unified School District



Proposed Area to be Designated as City of Berkeley Park Property:  
Ohlone Greenway: \_\_\_\_\_





**ANNOTATED AGENDA**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 12, 2023**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1606796328>. 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 by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 679 6328**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

**Roll Call:** 6:07 p.m.

**Present:** Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin.

**Absent:** None.

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Pledge of Allegiance to the Flag
2. Recognition of Yali's Café, Ike's Love and Sandwiches, and Lox Stock & Bagel for offering healthier food and beverage choices

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 13 speakers.

**Public Comment by Employee Unions (first regular meeting of the month):** None

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 13 speakers.

**Action:** M/S/C (Arreguin/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

## Recess Items

- 1. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$130,176 for fitness center memberships for City employees for the period July 1, 2023 through June 30, 2024.  
**Financial Implications:** See report  
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 71,016–N.S.
- 2. Contract No. 32200058 Amendment: ACI Payments, Inc for Recreation Online Registration System Credit Card Transaction Processing Fees**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager to execute an amendment to Contract No. 32200058 with ACI Payments, Inc (ACI) increasing the contract amount by \$35,000 for a total not to exceed amount of \$185,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,017–N.S.
- 3. Stipend for Echo Lake Camp Staff**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving up to a \$500/week stipend for certain Echo Lake Camp daily-rated staff working in the summer of 2023, starting July 30, 2023.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,018–N.S.
- 4. Contract No. 100692-4 Amendment: Serological Research Institute for DNA Testing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to amend Contract No. 100692-4 and any necessary future amendments with Serological Research Institute (SERI) for the Police Department, increasing the contract amount by \$1,000,000 for a total not to exceed amount of \$3,000,000 while the contract expiration will remain June 30, 2025.  
**Financial Implications:** State Proposition 172 Fund - \$1,000,000  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 71,019–N.S.

## Consent Calendar

- 5. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of July 10 (special closed), July 11 (regular), July 18 (special), July 24 (special closed and special) and July 25 (special and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.
- 6. Establish 2024 City Council Meeting Schedule**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing the City Council regular meeting schedule for 2024, with starting times of 6:00 p.m.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,020–N.S.
- 7. Police Accountability Board – Appointment of New Member**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Humbert.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,021–N.S.
- 8. Contract: NetFile for Online Campaign Report, Public Financing, and Form 700 Filing and Tracking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Westcoast Online Information Systems, Inc. dba NetFile for an amount not to exceed \$170,700 for the period October 1, 2023 through September 30, 2028 for online campaign report, public financing, and Form 700 filing, processing, web posting, and tracking.  
**Financial Implications:** General Fund - \$170,700  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,022–N.S.

## Consent Calendar

- 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 12, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$9,990,000  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
- 10. Contract: Swifthawk LLC for Project Management & Consulting**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Swifthawk, LLC to provide project management and consulting services for the Fire Department from August 7, 2023 to August 31, 2025 in an amount not to exceed \$600,000.  
**Financial Implications:** Measure FF Fund - \$600,000  
 Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 71,023–N.S.
- 11. Contract No. 32300094 Amendment: Restoration Family Counseling Center for Counseling, Education and Support**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32300094 for Counseling, Education and Support for the Fire Department (Department); with Restoration Family Counseling Center Inc. (RFCC), increasing the total contract amount from \$80,000 to \$308,000.  
**Financial Implications:** Various Funds - \$228,000  
 Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 71,024–N.S.
- 12. Accept Future of Public Health Funds from the State of California**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City manager to submit grant agreements to the State of California, to accept the grants, and to execute any resultant revenue agreements and amendments for the Future of Public Health program for an amount of \$912,213 for each of the following: Fiscal Year 2024, Fiscal Year 2025, and Fiscal Year 2026.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,025–N.S.

## Consent Calendar

- 13. Taxi Scrip Redemption Window Cash Drawer Increase**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing City Manager or her designee to increase the cash drawer amount for the weekly Taxi Scrip Redemption window from \$15,000 to \$20,000.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,026–N.S.
- 14. Contract: The Housing Workshop for Social Housing Models & Market Analysis**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with The Housing Workshop to provide policy model research and market analysis to inform social housing initiatives for the Department of Health, Housing, and Community Services (HHCS) from September 13, 2023 to September 13, 2024 in an amount not to exceed \$175,000.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,027–N.S.
- 15. Expenditure Contract: Persimmony International for Electronic Medi-Cal Administrative Activities and Targeted Case Management Documentation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure agreement, and any amendments or extensions, with Persimmony International for ongoing system maintenance of web-based Medi-Cal Administrative Activities (MAA) time study documentation, and Targeted Case Management (TCM) documentation. The contract will be in an encumbered amount of \$289,011 for the period July 1, 2023 through June 30, 2027.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,028–N.S.
- 16. Contract No. 31900009 Amendment: Building Opportunities for Self-Sufficiency (BOSS) for McKinley House (2111 McKinley Avenue, Berkeley, CA 94703)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900009 with Building Opportunities for Self-Sufficiency (BOSS) through November 1, 2025, adding \$287,712 for a total contract amount of \$945,424, to fund Mental Health clients living at 2111 McKinley Avenue in Berkeley. This will extend the contract by two years.  
**Financial Implications:** See report.  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,029–N.S.



## Consent Calendar

- 17. Contract: Sensis, Inc. for Recruitment and Marketing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Sensis, Inc. for recruitment and marketing services, in an amount not to exceed \$250,000 over two years: \$125,000 in the first year, with an option to renew for a second year for an additional \$125,000.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 71,030–N.S.
- 18. Establish Classification and Salary Range – Lactation Counselor**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing the unrepresented classification of Lactation Counselor with an hourly salary range of \$41.1351 - \$50.0000, and an annual salary range of \$85,561.0080 - \$104,000.00, in order to utilize grant funding to employ an International Board Certified Lactation Consultant (IBCLC) who will oversee the City’s Breastfeeding Peer Counselor Program and provide additional public health services to the City of Berkeley community.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 71,031–N.S.
- 19. Revise Classification and Salary Range – Paramedic**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution revising the classification of Paramedic to an hourly salary range of \$30.00-\$40.00 per hour (currently \$30.00-\$45.00 per hour) to offset unanticipated budgetary impacts due to overtime. This recommendation and proposed Resolution follow Council consideration of this item in Closed Session on July 24, 2023.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 71,032–N.S.

## Consent Calendar

### 20. Memorandum of Understanding: Berkeley Police Association

**From: City Manager**

**Recommendation:** Adopt a Resolution 1) approving a successor Memorandum of Understanding (hereafter referred to as “MOU”) with the Berkeley Police Association (hereafter referred to as the “Union”) for a three-year term from July 1, 2023 through June 30, 2026 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary table for Representation Units E and F that implement the salary adjustments reflected in the new MOU and supersede Resolution No. 69,965,-N.S. The terms of the proposed 2023-2026 MOU are within the parameters of authority approved by Council in closed session. The proposals were ratified by the Union following a three-day vote that concluded on August 14, 2023.

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 71,033–N.S. as revised in Supplemental Communications Packet #2 from the City Manager.

### 21. Grant Applications: Bipartisan Infrastructure Law (BIL) and State Funds For Six City Infrastructure Improvement Projects

**From: City Manager**

**Recommendation:** Adopt six Resolutions authorizing the City Manager or her designee to submit grant applications to six federal (BIL) and state-funded competitive grant programs for City Infrastructure improvement projects; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted Resolution No. 71,034–N.S. (Berkeley Waterfront University Ave Shoreline), Resolution No. 71,035–N.S. (Interstate 80 and Aquatic Park Lagoon), Resolution No. 71,036–N.S. (West Berkeley and Aquatic Park Lagoon), Resolution No. 71,037–N.S. (Santa Fe Railroad Track to Park), Resolution No. 71,038–N.S. (Martin Luther King, Jr. Youth Services Center), and Resolution No. 71,039–N.S. (South Berkeley Senior Center).

## Consent Calendar

- 22. Utility Easement: Bolivar Drive – East Bay Municipal Utility District**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.  
**Financial Implications:** None  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopt first reading of Ordinance No. 7,883–N.S. as revised in Supplemental Communications Packet #2 by the City Manager. Second reading scheduled for October 3, 2023.
- 23. Serving inclement weather needs, RV dwellers, and other vehicle dwellers through the Encampment Mobile Mental Health Wellness Team, as is feasible, within parameters of the state-approved project plan**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** That Council refer to staff to include providing services to meet inclement weather needs of the unhoused and provide services to RV, and other vehicle, dwellers, as is feasible, within the parameters of the state-approved plan.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** Approved recommendation.
- 24. Authorization for an Additional Homeless Services Panel of Experts meeting in October 2023**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** Adopt a Resolution authorizing one additional meeting of the Homeless Services Panel of Experts in October 2023, which would restore one general meeting given that 3 special meetings were otherwise used to address Measure P allocations.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 71,040–N.S.
- 25a. Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** That Council refer to staff to include in the community agency allocation funding RFP a question to homeless services providers as to how homeless services providers plan to accommodate clients with literacy and cognitive challenges.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** See action for Item 25b.

## Consent Calendar

**25b. Companion Report: Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers From: City Manager**

**Recommendation:** Take no action on the Homeless Services Panel of Experts' recommendation, as staff have already included in the community agency allocation funding Request for Proposals (RFP) a question to homeless services providers as to how they plan to accommodate clients with literacy and cognitive challenges.

**Financial Implications:** See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

**Action:** Approved recommendation in Item 25b.

## Council Consent Items

**26. Appoint Ayanna Davis to the Berkeley Housing Authority Board**

**From: Mayor Arreguin (Author)**

**Recommendation:** Adopt a Resolution appointing Ayanna Davis to serve on the Berkeley Housing Authority Board of Commissioners for a four-year term.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 71,041–N.S.

**27. Excused Absence for Councilmember Kate Harrison**

**From: Mayor Arreguin (Author)**

**Recommendation:** Excuse Councilmember Kate Harrison from the September 19, 2023 Council meeting as a result of attending to official business of the City.

**Financial Implications:** None

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

**Action:** Approved recommendation.

**28. Letter to State Legislators Regarding San Pablo Park Pool Project**

**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)**

**Recommendation:** Send a letter to the requesting state budget allocations for capital improvements at San Pablo Park including the Frances Albrier Community Center and San Pablo Park Pool.

**Financial Implications:** Staff time

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

**Action:** Vice-Mayor Bartlett added as a co-sponsor. Approved recommendation.

## Council Consent Items

29. **51B BRT + University/Shattuck Corridor Mobility Improvements** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Humbert (Co-Sponsor)**

**Recommendation:**

1. Refer to the City Manager commencement of a feasibility analysis and community engagement process to develop options for the implementation of Bus Rapid Transit (BRT) improvements along AC Transit's 51B route; options are to be developed in tandem with internal city departments, including Public Works, Fire, Police Traffic Unit, and Economic Development, and interagency partners, including AC Transit, the Alameda County Transportation Commission, BART, Caltrans, UC Berkeley, and WETA; community engagement is to emphasize students, transportation advocates, transit riders, the disability rights community, the faith community, the senior community, local merchants, the business community, the arts community, and tenants; consultation with AC Transit and UC Berkeley Bear Transit on planning, scoping, and implementation is to begin as soon as possible; staff are encouraged to explore and pursue quick build improvements.
2. Refer \$150,000 to the FY 2024-2025 budget process to increase the budget for the city's ADA Transition Plan capital project to prioritize and implement ADA improvements at the city's intersections, such as curb cuts, auditory functions of crossing signals, bulb-outs, shortening crossing distances, and other safety improvements.
3. Refer \$150,000 to the FY 2025-2026 budget process for consulting costs to conduct corridor studies along University Avenue, from Seawall Drive, to Oxford Street, and along Oxford Street and Fulton Street, from Virginia Street to Durant Avenue, to identify appropriate road safety improvements that advance city-adopted safety, transportation, and climate goals and are continuous with work currently underway on the Addison Bicycle Boulevard, and explore improvements for curb management, i.e. accessible parking (blue curbs), management of curb space for third party delivery service, etc.

*Policy Committee Recommendation: To forward the item to Council with a positive recommendation.*

**Financial Implications:** See report

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

**Action:** Approved recommendation as recommended by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.

## Council Consent Items

- 30. Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer \$100,000 to the FY 23 and FY 24 AAO #1 to help fund art or district branding vinyl window graphics on vacant storefronts in Berkeley Commercial Districts to beautify our Commercial Districts. The fund would be administered by the Downtown Berkeley Association on behalf of all Commercial Districts, and would reimburse property owners for 50% of the entire cost of the project: 1. Artist fee; 2. Costs associated with non-commercial printed material that is ideally non-plastic (may be vinyl if no alternative exists); 3. Installation of non-commercial window graphics  
**Financial Implications:** See report  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Humbert.
- 31. Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the November 2023 Budget Process \$140,000 to fund staffing, materials, and consultants for a Miyawaki Pocket Forest Pilot Project, including the planting of two pocket forests on City of Berkeley sites, preferably in areas most impacted by poor air quality, and a report to Council on opportunities and funding for a broader Citywide Miyawaki Forest program. Should November 2023 funding not be available, refer to subsequent budget processes for consideration.  
**Financial Implications:** See report  
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Mayor Arreguin added as a co-sponsor. Approved recommendation including supplemental material in Supplemental Communications Packet #1 from Councilmember Hahn, further amended to include consideration of the Here/There site as a potential pilot site. Supplemental material removes co-sponsor.

## Council Action Items

**32. Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

**From: Councilmember Harrison (Author)**

**Recommendation:** Adopt a resolution designating open space in front of Old City Hall as linear City park space and formally dedicate this site for permanent recreational use pursuant to BMC 6.42.

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 71,042–N.S. with an amended resolved clause as written below and including the Council Report as Exhibit A to the resolution.

*NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to and in front of Old City Hall is designated as an official part of City park land and infrastructure. This includes the land identified in the greyed box on page 2 of the council report, attached hereto as Exhibit A, which is the area between the buildings and right of way excluding the area that is subject to a lease between the County and City of Berkeley.*

## Information Calendar

**33. LPO NOD: 60 Panoramic Way, #LMIN2023-0001**

**From: City Manager**

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Received and filed.

**34. LPO NOD: 1960 San Antonio Avenue/645 Arlington Avenue, #LMSAP2022-0005**

**From: City Manager**

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Received and filed.

**35. LPO NOD: 803 Delaware Street, LMSAP2023-0002**

**From: City Manager**

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

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

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Wengraf, Robinson, Humbert, Arreguin;  
Noes – None; Abstain – None; Absent – Hahn.

Councilmember Hahn absent 8:25 p.m. – 8:27 p.m.

Adjourned at 8:27 p.m.

## Communications

### **Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

1. Bike East Bay
2. Raul Maldonado

### **Berkeley Crime**

3. Anthony Felli, Regional Vice President, Skates on the Bay (2)
4. Nina Lyons
5. Pamela Michaud
6. Benjamin Stein
7. Peter Radu
8. Colleen McCann
9. Mike Kim
10. Nina Lyons
11. Diana Rossi
12. Peter Horsemann
13. Linda Laskowski
14. Teresa Clarke
15. Melissa Little
16. Rebecca Thomas
17. Ryan Kidd
18. Joshua Bloom
19. Shok Saidmuradov
20. Shannon Holloway
21. Peter Hosemann

### **Automated License Plate Readers (ALPR)**

22. Emily Benner
23. Laura Lake Gediman
24. Alex Merenkov
25. Rosemarie Klems
26. Katie Johnson
27. Isaac Dietz
28. Mary S.
29. Rosa Perez



## **Communications**

### **Daylight Strawberry Creek/Civic Center Park**

- 30. Jessica Hall
- 31. Juliet Lamont and Phil Price
- 32. Diana Bohn
- 33. Jennifer Ware
- 34. Stacie Degeneffe
- 35. Summer Brenner

### **BART Transit Oriented Development and Parking**

- 36. John Hitchen
- 37. Barbara Flasher
- 38. Michai Freeman
- 39. Markus Feyh
- 40. Chris Watters
- 41. Mikayla Fussman
- 42. Nat Kane
- 43. Peter Waller
- 44. Christine Goldin
- 45. Marija Hillis
- 46. Peggy Scott

### **2720 Hillegass/Willard Clubhouse**

- 47. Julie Obbard
- 48. Alex Stec

### **Housing**

- 49. Aimee Baldwin (3)
- 50. Meryl Siegal

### **Reforest Berkeley**

- 51. Glenn Alex
- 52. Ruby Lee
- 53. Mike Vandeman

### **Shellmound**

- 54. Sophia DeWitt, on behalf of East Bay Housing Organizations

### **Fukushima**

- 55. Richard Tamm
- 56. Francine Cavaliere
- 57. Dawn DelMonte (2)
- 58. Sally Nelson
- 59. Bjorn Fox
- 60. Nori Hudson
- 61. Jose Arau
- 62. Juli Dickey

## **Communications**

63. Jose Franklin Arau

### **3050 College Avenue**

64. Janet Miller (2)

### **Help Shape the Library's Strategic Plan**

65. Aimee Reeder

### **Lawrence Hall Neighborhood Issues**

66. Emily Starr

### **Berkeley's Business Districts**

67. Jack Kurzweil

### **Racial Injustices**

68. Aimee Baldwin

### **Public Works Transportation Division**

69. Hamid Mostowfi, Transportation and Infrastructure Commission Co-Secretary

### **Bio Labs**

70. Steve Shmanske

71. Sandina Robbins

### **People's Park**

72. Tobey Wiebe

73. Rod Gutierrez

### **Here/There Now Fence**

74. Mike Kim

75. Nicole Sullivan

### **Berkeley Police Department Investigation**

76. Diana Bohn

77. Mary Behm-Steinberg

78. Janie Schroeder (2)

79. Tobey Wiebe

80. Nathan Mizell

### **Fire Danger**

81. Susan Nunes

82. Councilmember Hahn

### **Cell Antennas**

83. Stephanie Thomas

84. Constance Anderson

## **Communications**

85. Phoebe Thomas Sorgen

### **Encampment at 8<sup>th</sup> & Harrison**

86. Yesica Prado (3)

87. Peter Radu, Neighborhood Services, City Manager's Office

### **Appoint Police Chief Louis**

88. Marvin Snow

### **Secondhand Smoke**

89. Carol Denney

90. Rebecca Day-Rodriguez, on behalf of Health, Housing & Community Services

### **Mortgage Relief Program**

91. Carole Marasovic

### **Rental Inspection Program Proposal**

92. Christopher La Combe

### **Virginia/Oxford Intersection**

93. Theo Posselt

### **Fire Inspection Bill**

94. Jane Kitchel

### **Youth Representation on the Environmental and Climate Commission**

95. Kristen Anderson

### **Roots Near Sidewalk and Curb**

96. Barry Horwitz

### **New City Manager**

97. Carol Denney

### **Battery Recycling**

98. David Lerman

### **Conflict of Interest/Trying to Find Children**

99. Lavell Young

### **Golden Gate Horse Racing**

100. Jim Renella

### **Homelessness**

101. Eric Friedman

102. Aimee Baldwin

## **Communications**

### **Cub Scout Requirement**

103. Jason Hertenstein

### **Ohlone Greenway**

104. Howard Goldberg (2)

105. Cindi Goldberg

106. Lisa Chow

107. Mary Behm-Steinberg

108. Eric Cheng

### **New Apartments and Business'**

109. Steven Schuyler

### **Star Alliance**

110. Peter Bruce DuMont (2)

### **Oakland International Airport Public Review**

111. Port of Oakland

### **Fire Ready Fest**

112. Berkeley Fire Department (2)

### **#DiscoveredinBerkeley – Squishy Robots**

113. Liz Redman, on behalf of the Office of Economic Development

### **Current State of the City of Berkeley**

114. Assal Sharifi

### **Jr. Jackets Football Support**

115. Eric Friedman

### **Request for Action – Police Budget, Building Heights, etcetera's**

116. Dan.auten@

### **URL's Only**

117. Vivian Warkentin (8)

118. crustyrusty@riseup.net

## **Supplemental Communications and Reports 1**

### **Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

119. Raul Maldonado, East Bay YIMBY Lead

120. Kieran Katyal-Tan

121. Chuck Siegel, on behalf of Walk Bike Berkeley

122. 5 similarly-worded form letters

**Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity**

123. Supplemental material, submitted by Councilmember Hahn

**Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

124. Isabelle Gaston

125. Carol Hirth

**Supplemental Communications and Reports 2**

**Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services**

126. Elana Auerbach

**Item #20: Memorandum of Understanding: Berkeley Police Association**

127. Supplemental material, submitted by Human Resources

**Item #22: Utility Easement: Bolivar Drive – East Bay Municipal Utility District**

128. Revised material, submitted by Parks, Recreation and Waterfront

**Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

129. Eric Johnson

130. Mary Ann Furda

131. Tawny Reynolds

132. Phyllis Orrick

133. Mario Valadez

134. Alfred Twu

135. Lee Bishop

136. 12 similarly-worded form letters

**Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

137. Marsha Feinland

138. Paola Laverde

139. Max Ventura

140. Jean Tepperman

141. Erika Shore

142. Marian Wolfe

143. Carole Cool

144. Susana Porte

145. Summer Brenner

146. Gael Alcock

147. Miranda Ewell

148. Jane White

149. Rachel Katz

150. Stephen Most

151. Laura Galligan

152. Cate Leger

- 153. Helga Recke
- 154. William Pettus
- 155. Sally Nelson

### **Supplemental Communications and Reports 3**

#### **Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services**

- 156. Elana Auerbach

#### **Item #28: Letter to State Legislators Regarding San Pablo Park Pool Project**

- 157. Claudia Kawczynska
- 158. Cameron Woo

#### **Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

- 159. Melinda Howard-Herrarte, on behalf of the Sierra Club
- 160. Alden Mudge
- 161. Councilmember Humbert
- 162. Maulin Chokshi
- 163. Igor Tregub, on behalf of the Alameda County Democratic Party
- 164. Sean Gibson
- 165. 14 similarly-worded form letters

#### **Item #30: Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts**

- 166. Steve Kromer

#### **Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health and Equity**

- 167. Daniel Gluesenkamp, on behalf of California Institute for Biodiversity
- 168. Jess Login and students, Malcolm X Elementary School
- 169. Hazel Copithorne
- 170. Lola Leeman
- 171. Ivan Fisher

#### **Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

- 172. Virginia Warheit
- 173. Pamela Drake
- 174. Diana Bohn
- 175. Erin Diehm
- 176. Juliet Lamont and Phil Price
- 177. Harvey Smith
- 178. Janet Levenson
- 179. Deborah Green

#### **Miscellaneous Communications**

- 180. Mr. Eid



Kate Harrison  
Councilmember, District 4

ACTION CALENDAR

September 12, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42

RECOMMENDATION

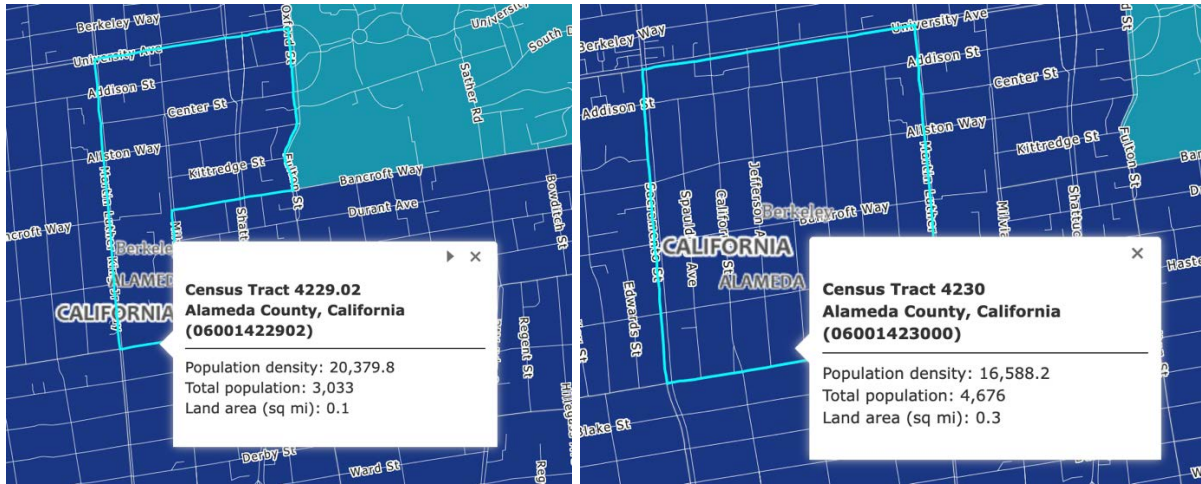
Adopt a resolution designating open space in front of Old City Hall as linear City park space and formally dedicate this site for permanent recreational use pursuant to BMC 6.42.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

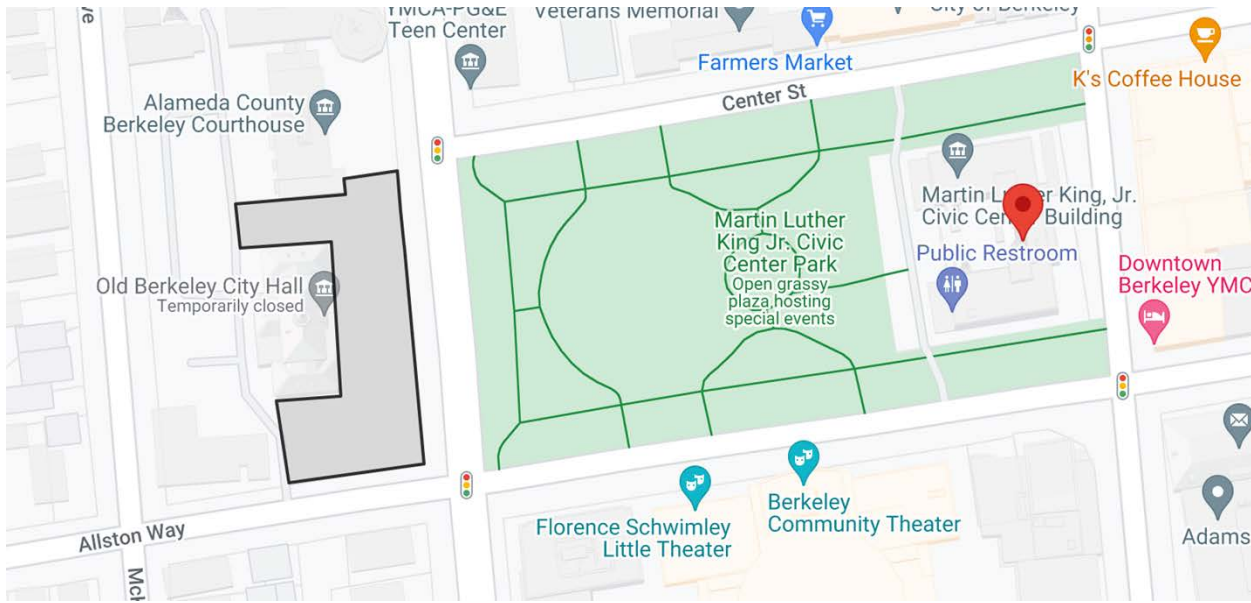
The built environment of Downtown Berkeley lacks an abundance of open space and recreational facilities. Parks and open space are critical for the well-being of residents.

Measure 'L', the *Berkeley Public Parks and Open Space Preservation Ordinance*, adopted by the City of Berkeley in 1986 and codified as Berkeley Municipal Code (BMC) Section 6.42, designates "census tracts containing less than the master plan provision of two acres of parks and open space per one thousand population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities."

The Downtown Census tracts 4229.02 and 4230 with respective populations of 3,033 and 4,676 fall short of this threshold and should be prioritized for additional open space. The only park in Census tract 4229.02 is Civic Center Park with 3.46 acres of open space, nearly half the amount of space recommended by Measure L. Similarly, tract 4230 in Central Berkeley has a mere .63 acres of open space, when according to Measure L it should have approximately just under 10 acres.



Pursuant to BMC 6.42, this item would contribute approximately an additional .68 acres of Parks and Open space for use by residents and visitors to these two Central/Downtown census tracts by converting the open space in front of Old City Hall.



**BACKGROUND**

The District 4 Council District, where Old City Hall is located, contains nearly 14,082 residents according to the 2020 census but only contains roughly 4.02 acres of open space and park land. This means that, according to Measure L, District 4 has a high priority for funding, acquisition, development, and maintenance of new open space.

The open space and landscaping along the western side of MLK and in front of and to the sides of Old City Hall is currently designated a landscaping associated with civic buildings. The space does not currently enjoy the same status of a City park, which would



confer additional maintenance and protection benefits via the Parks, Recreation & Waterfront Department.

The open space in front of these three public buildings is already often used for variety of civic events and as a lunch spot for residents, workers, and Berkeley High students.

Within Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3, 2002, the objectives are stated as follows and are consistent with the goals of this item:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

In addition, designating this area as an official public park would help achieve the goals ED-2 and OS-1 of the Berkeley Downtown Area Plan, to "maintain a safe and inviting streets, parks and plazas that contribute to the success of businesses and the wellbeing of residents" and "create new public gathering places that support nearby uses and Downtown as a destination."

In 2019, Council previously designated Berkeley's portion of Ohlone Greenway and the West Street Bike Path as linear City parks pursuant to BMC 6.42. It is in the public interest to similarly designate the Berkeley-owned open space and land included in this item as an official part of Berkeley park infrastructure.

#### FISCAL IMPACTS OF RECOMMENDATION

This area is already owned and maintained by the City of Berkeley so the fiscal impacts of making it an official park would be small. A minimal use of staff time would be required to dedicate the area as a park and add park signage.

#### ENVIRONMENTAL SUSTAINABILITY

Designating the open space adjacent to and in front of Old City Hall will enable the City to better maintain these dedicated spaces as safe and enjoyable low-carbon and carbon sequestering recreation areas.

#### CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

#### ATTACHMENTS

1. Resolution
2. Voter Information Pamphlet Text of Measure L

RESOLUTION ##,###-N.S.

DESIGNATING THE BERKELEY-OWNED OPEN SPACE ADJACENT TO AND IN FRONT OF OLD CITY HALL AS AN OFFICIAL PART OF CITY PARK INFRASTRUCTURE

WHEREAS, in Berkeley's Open Space and Recreational Element of the General Plan, adopted April 3rd, 2002, the objectives are stated as:

- preserving, maintaining, and repairing the city's existing open space and recreational resources and facilities;
- expanding open space and recreational resources to meet the evolving open space and recreational needs of all segments of this community through land acquisitions and improvements;
- increasing funding for parkland, recreational facilities, and open space maintenance, improvement, and expansion; and

WHEREAS, in Berkeley's Downtown Area Plan, adopted March 20th, 2012, the objectives are stated as:

- maintaining a safe and inviting streets, parks and plazas that contribute to the success of businesses and the wellbeing of residents;
- creating new public gathering places that support nearby uses and Downtown as a destination; and

WHEREAS, Measure L, the *Berkeley Public Parks and Open Space Preservation Ordinance* adopted by the City of Berkeley in 1986 requires the Council "To preserve and maintain the public parks and open space which exist in Berkeley, as well as To acquire and maintain public parks and open space in the census tracts and Neighborhoods of Berkeley having less than the minimum amount of open Space relative to population (2 acres per 1,000)"; and

WHEREAS, District 4 and the census tracts therein adjacent to Old City Hall contains less than 2 acres of public parks and open space per 1,000 residents and therefore has a high priority for funding, acquisition, development, and maintenance of open space; and

WHEREAS, the above goals and ordinances establish the protection of open space and the establishment of public parks as an important City priority; and

WHEREAS, the open space and land along the western side of MLK and in front of Old City Hall are already being used for civic and recreational activities and are comparable to existing Park Space in the adjacent Civic Center Park.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to and in front of Old City Hall is designated as an official part of City park land and infrastructure.

**CITY OF BERKELEY INITIATIVE ORDINANCE**

|                                                                                                                                                                                                                                                                                                                                                               |     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <b>L</b> MEASURE L: Shall an ordinance be adopted to require voter approval of non-recreational uses of parks or open space and require acquisition of open space controlled or leased by the City if acquisition is the only means of preserving the open space?<br>Financial Implication: Increase in landscape assessment fees; acquisition costs unknown. | YES |
|                                                                                                                                                                                                                                                                                                                                                               | NO  |

**FULL TEXT OF MEASURE L**

LET IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide:

**THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE:** PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.

**FINDINGS:**

WHEREAS the Berkeley Master Plan of 1977 (hereinafter Master Plan) provides for a minimum standard of two acres of public open space per 1,000 persons and identifies specific Berkeley census tracts as having high population density and high open space demands, and attainment of the minimum standard is jeopardized by continued loss of Public open spaces.

WHEREAS the City of Berkeley is the second most densely populated city in California, undeveloped land is at a high premium in Berkeley, there are significant pressures to convert City owned or controlled open space to permanent or long-term non-park, non-open space uses and there exists a clear and present emergency in that the threatened loss of open space, parks and recreational opportunities in the neighborhoods in Berkeley will cause irreparable damage to the health and welfare of Berkeley residents.

WHEREAS the Berkeley City Council has failed to provide and fund the Master Plan minimum standard of public parks and open space in every Berkeley neighborhood, and in particular in those census tracts having high park and open space requirements.

WHEREAS, specific procedures and directives to the Berkeley City Council are necessary to insure that the Master Plan's minimum park and open space goals are not rendered impossible through the continued loss of public open spaces;

**VOTER AUTHORIZATION PROCEDURE**

Section 1: That no public parks (hereinafter defined) or public open space (hereinafter defined) owned or controlled or leased by the City of Berkeley or agency thereof, shall be used for any other purpose than public parks and open space, without The Berkeley City Council first having submitted such use to the citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

**FUNDING LEVELS TO ALLOW FULL USE**

Section 2(a): That wherever public parks and open space currently exist in Berkeley, such use shall continue and be funded at least to allow the maintenance of the present condition and services. (b) That all undedicated or unimproved open space owned or controlled by the City of Berkeley (including land held by the City in trust) shall be retained and funded by the Berkeley City Council to enable public recreational use of those lands. (c) That those census tracts containing less than the Master Plan provision of two acres of parks and open space per 1,000 population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.

**DEFINITIONS**

Section 3(a): **Public parks** shall be defined as City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds.

Section 3(b) **Public open space** shall be defined as all City of Berkeley parks, public school playgrounds, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreational use or potential use on or after January 1, 1985.

**ADOPTION OF THIS ORDINANCE**

Section 4(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3)(a).

**RETROACTIVITY**

Section 5(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority, or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 5(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, or Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

**SEVERABILITY**

Section 6: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

**BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE L**

The initiative ordinance would have the following effect:

1. Require that all existing public parks and vacant public land, either formally or informally devoted to recreational use after January 1, 1985, be retained and maintained at their present level of service. This requirement would only apply to land owned or controlled by the City of Berkeley, since the City does not have the authority to regulate land owned by other public entities such as the school district or the University of California. The Berkeley Redevelopment Agency and the Berkeley Housing Authority are independent state agencies and thus would be immune from regulation in this manner.
2. Require prior voter approval if such City of Berkeley public parks or open space are to be used for any other purpose. This measure requires the City to acquire land it does not presently own, if acquisition is the only means to retain the land as open space or public park. As of the date this analysis was prepared, several City parks are owned by others, including: sections of Ohlone Park, leased from Bay Area Rapid Transit District; six school parks owned by the Berkeley Unified School District and maintained, in part, by the City; and Douglas Park on Dwight Way which is owned by the University. The City has plans underway to acquire the remaining section of Ohlone Park.
3. Census tracts that do not meet the Master Plan open space requirements will have priority for the funding, acquisition, development and maintenance of parks and recreational facilities.

**Financial Implications**

Currently park maintenance is funded by fees through the Landscape Assessment District. Increase in fees will be required to maintain additional land. Costs to acquire land owned by others is unknown at this time, but may be significant.

## ARGUMENT IN FAVOR OF MEASURE L

Approval of this citizen's initiative ordinance will allow Berkeley Voters to directly participate in decisions to change the use of Public Parks and Open Space.

Berkeley's parks and public open spaces are highly used and valued by all parts of the community. They help provide for the health, fitness, children's play, entertainment, and recreational needs of all citizens. Decisions to reduce our presently insufficient number of parks belong on the ballot where all citizens can express their opinion with their vote.

This initiative ordinance requires that the voters must approve new uses for city lands held in public trust. It does not limit or prohibit any potential new uses approved by the majority of the voters.

Approval of this ordinance would certify that Berkeley Census tracts that presently contain less public open space than the Master Plan standard of two acres per 1,000 residents be given priority funding in acquisition, development and maintenance of parks/recreational facilities. It will help make distribution of parks more equitable throughout Berkeley. This is a minimal standard, since Berkeley has fewer parks than state and national averages.

The provisions of the Master Plan combined with the approval of Measure Y (1974) park funding, strongly suggests that the Citizens of Berkeley believe that Public Parks and Open Space need expansion. Since there is no indication that Berkeley has changed its opinion, it is all the more appropriate to require voter approval when potential development removes parks and open space called for in the Berkeley Master Plan.

You can help Preserve Berkeley's parks and open space by voting YES on Measure L.

s/Martha Nicoloff, Co-Author, Neighborhood Preservation Ordinance  
s/Clifford Fred  
s/Dorothy Bryant  
s/Carroll B. Williams, Former Berkeley School Director  
s/John G. Cecil, Chair, Preservation Initiatives Committee

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

The need for parks is a serious issue which should not be the subject of the scare tactics employed by the proponents of Measure L.

City parks are designated in the Master Plan for recreational use. Contrary to implications made by the proponents of this measure, **no one can recall any City plan**—past, present, or future—to **reduce the number of parks** serving Berkeley's recreational needs. Open space, sometimes a vacant lot, on the other hand, is usually held by owners other than the City. They may, or may not, have plans for future use of their property.

The real reason for Measure L is the Housing Authority's plan to build 12 single-family townhouses for low income families on a small portion of School District property at Savo Island (MLK, Jr. Way between Derby and Ward). The remaining piece of land is large enough to accommodate a football field. The neighborhood will still be able to enjoy the use of this open space.

Measure L does more than require a vote for new uses for City lands held in public trust. It requires the City to acquire land. But **where will the money come from?** Given the tremendous federal budget cuts to municipalities and the demands on the City's budget, from what other City services will the trade-off come? And given the pressure of Measure L on the City, property owners would be foolish to negotiate.

If we want additional parks, someone has to pay. And since we will ultimately pay, **we should know the cost before we make such an important decision.**

Don't let the proponents of this measure scare you into believing that our parks will disappear. Quite honestly, they won't.

## VOTE NO ON MEASURE L

s/Wesley E. Hester, Chair, Council Committee on Revenue and Finance  
s/Arlene Irlando, Member, Berkeley Chicano/Latino Network  
s/Maudelle Miller Shirek, Berkeley City Council  
s/Stacy Wilson, Chair, Citizens Budget Review Commission  
s/Carole K. Davis, Former Vice-Mayor

## ARGUMENT AGAINST MEASURE L

On its face as a statement of community values, Measure L seems harmless. What could be wrong with wanting additional parks? However, the difference between the outcome of Measure L and the kind of program which can come from a thoughtful parks proposal such as Measure Y (1974) is a budget—a specific amount dedicated to acquiring and maintaining parks and open space.

In 1974 voters passed a park acquisition, renovation and development ordinance: Measure Y. It raised more than \$5 million. As a result, the City was able to create 9 new parks and 8 parks on-school grounds. That measure was a direct result of the recognition that Berkeley was deficient in park space and was able to accomplish what it did because it included a budget.

As a community we are stretched thin in trying to fund a variety of City Services ranging from police services to sidewalk repair. **New parks and additional open space cost money** (if and when the City can get title to the property. In fact, this measure may well prejudice City negotiations with landowners who will use this measure in their bargaining. The proponents of Measure L are irresponsible in offering this proposal without including the means by which to finance it. They have made promises but have not provided any way of keeping them. **The citizens deserve to know how the money will be obtained, and what the price tag will be.**

s/Hynetha Hewitt, Parks and Recreation Commissioner  
s/Carole Davis, Former Vice-Mayor  
s/Maudelle Shirek, Berkeley City Council  
s/Carole Lewis, Social Services Director  
s/Rich Illgen, President, Planning Commission

## REBUTTAL TO ARGUMENT AGAINST MEASURE L

The opponents of Measure L have missed its major provision.

Measure L **prevents the City Council from using the existing public parks and open spaces for any new use without the approval of the community.**

If the **Council wants to remove/develop** existing public parks and open space, **prior voter approval is required.**

At this time, **no law prevents** our elected officials from placing such decisions on the ballot.

Measure L also requires that the **minimal standard for parks already in existence** be observed in **areas that presently have less than their "fair share" of parks** called for in the Berkeley Master Plan of 1977.

We do not agree with the opponents financial argument.

Despite the implication of the opponent's argument, responsibility for implementing and financing the Master Plan has not shifted from Council and Staff to individual community members. It should be noted that **determined citizens** who believe in the importance of parks and recreational facilities in everyone's quality of life, have and will continue to assist in the search for sources of new and additional funding.

Measure L ensures the community will be directly involved in decisions to re-use existing Public Parks and Open Space by placing every proposed development plan on the ballot and letting the voters decide between parks and development.

**Vote YES on Measure L.**

s/Michael Winter, Executive Director, Center for Independent Living

s/Pamela J. Ferguson

s/Gloria A. Belsky

s/John G. Cecil, Chair, Preservation Initiatives Committee

s/Janet M. Maestre

### CITY OF BERKELEY INITIATIVE ORDINANCE

|                                                                                                                                                                                                                          |     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <p><b>M</b> MEASURE M: Shall an ordinance be adopted requiring voter approval for non-educational and/or non-recreational uses of Berkeley Unified School District property?</p> <p>Financial Implications: Unknown.</p> | YES |
|                                                                                                                                                                                                                          | NO  |

### FULL TEXT OF MEASURE M

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BERKELEY:

**FINDINGS:**

WHEREAS the Berkeley City Council and Berkeley Housing Authority have attempted to acquire, develop, use or approve Berkeley Unified School District property for non-educational purposes.

WHEREAS the Berkeley Unified School District (hereinafter School District) has been given a public trust in real property to use for the educational benefit of the Citizens of Berkeley.

WHEREAS the School District has purchased and developed real property with monies received in trust and intended to be expended for the educational benefit of the citizens of Berkeley, which property if lost to the originally intended and dedicated educational and related recreational uses, will be unavailable or irreplaceable when needed for those uses.

WHEREAS there is a potential that use or development of School District property for non-educational uses will ultimately act to the detriment of the Citizens of Berkeley and will violate the wishes of a majority of the Citizens of Berkeley regarding the use of that property.

WHEREAS these actions have been proposed and are being undertaken without the approval of the voters of Berkeley.

WHEREAS there exists a clear and present emergency in that the threatened sale or long-term lease of School District real property and buildings for non-educational or non-recreational use will cause irreparable damage to the health and welfare of Berkeley residents.

BE IT HEREBY BE ORDAINED that an Ordinance shall be passed which shall provide

### VOTER AUTHORIZATION PROCEDURE

Section 1: That should the Berkeley City Council, Housing Authority or any other agency of the City of Berkeley propose to acquire, or approve the use of, School District property (hereinafter defined) for other than educational or existing recreational purposes, and should that approval or use require the purchase, sale or long-term encumbrance (hereinafter defined) of that property, the Berkeley City Council shall first submit that specific proposal, detailing the specific use, transaction sought, and the site involved, after being approved officially by the appropriate City agency and the Berkeley City Council, to the Citizens for approval by a majority of registered Berkeley voters voting at the next occurring general election.

### DEFINITIONS

Section 2(a): **School District property** shall be defined to include the land and buildings which have been used by the Berkeley Unified School District for educational purposes, child-care, recreation or School District support services (including maintenance) at any time since January 1980.

Section 2(b): A **long-term encumbrance** shall include a lease whose term is greater than five years or where options are granted such that the term may be extended beyond five years by option of the lessee. In addition, a long-term encumbrance shall include any mortgage transaction which pledges the property as security.

### ADOPTION OF THIS ORDINANCE

Section 3(a): If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3) (a).

### RETROACTIVITY

Section 4(a): Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority or any agency of the City of Berkeley which contravene the provisions herein shall be declared null and void.

Section 4(b): Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

### SEVERABILITY

Section 5: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

### BERKELEY CITY ATTORNEY ANALYSIS OF MEASURE M

The initiative ordinance would have the following effect:

1. Require the City Council to submit to the voters for prior approval any proposal to acquire, encumber or lease for a period longer than five years, or approve the use of property owned by the Berkeley Unified School District, if the property is not intended to be devoted to educational or recreational uses. Under current law, voter approval of such a proposal would be required only if the property was to be used for specified kinds of public housing and the City had exhausted its current voter approved authority to construct such units. The Housing Authority is an independent state agency implementing statewide laws and is not subject to this ordinance. Zoning or other City land use approvals of projects proposed by other private or public persons or entities would not be subject to prior voter approval under current case law.
2. Provide that any actions taken by the City Council or the Berkeley Housing Authority or other City agency after January 1, 1985, which contravene the ordinance in the above respect, are null and void. The Berkeley Housing Authority has entered into a long-term lease with the Berkeley Unified School District

**BEN BARTLETT**

VICE MAYOR

CONSENT CALENDAR  
November 28, 2023

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Ben Bartlett  
Subject: Old Finnish Hall Purchase

**RECOMMENDATION**

Referral to the Council to enter into negotiations to purchase Old Finnish Hall for the purposes of using it as a public arts theater.

**CURRENT SITUATION**

Numerous instances show the unfortunate closure of theater spaces in Berkeley, encompassing both cinemas and performing arts venues, due to financial constraints. This has been detrimental to the Berkeley community, especially with the amount decreasing as the years pass. One such example is that of the *California Theatre*<sup>1</sup>, situated between Shattuck and Oxford Street. The *California Theatre* has served as a hub for theatrical and performing arts activities since 1994, but it ceased operations in 2022. This theater held historical significance for Berkeley, and although there is a glimmer of hope for it returning, there are no concrete developments that have emerged as of right now. Another example of the reduction of theater spaces for our Berkeley community is *Shattuck Cinemas*<sup>2</sup>, which initially opened its doors in 1977 but met a similar fate in June 2022. Several factors contributed to its closure, including insufficient funds for lease renewal and challenges associated with meeting rental payments.

The Old Finish Hall is a historic building that has been integral in the Berkeley community since 1911<sup>3</sup>, especially to the Finnish and immigrant community. It was a safe place many found in a foreign land and, as the years passed, it served many purposes such as stage plays, benefits and even housing for families. To leave this building to be bought by someone not in our community or even to just sit un-bought and disintegrate would be a complete disservice to the City of Berkeley and the infinite possibilities this building could hold.

According to the article “Fate of Historic Berkeley Building (and family home) hands in the balance as tax debt looms” by Berkeleyside<sup>4</sup>, “property taxes haven’t been paid on the building for years, to the tune of nearly \$700,000 in back taxes owed...[and] is eligible to be auctioned off by the county tax collector, and not for the first time, its future is up in the air”.

The main participants that have the payment of this space of interest are members from the City of Berkeley, as we aspire to keep this community and city relic.

**BACKGROUND**

<sup>1</sup> <https://www.berkeleyside.org/2021/10/21/california-theatre-closing-berkeley-landmark-movies>

<sup>2</sup> <https://www.berkeleyside.org/2022/05/19/shattuck-cinemas-berkeley-landmark-closin>

<sup>3</sup> <http://www.finnishhall.org/hall>

<sup>4</sup> <https://www.berkeleyside.org/2022/10/16/toveri-tupa-finnish-hall-berkeley>

Berkeley reveals the unfortunate closure of theater venues, including cinemas and performing arts spaces, due to financial difficulties. Some examples of these detrimental closures are: the California Theatre and Shattuck Cinemas. The Old Finnish Hall, a historic Berkeley building since 1911, played a significant role in the community, serving various purposes over the years. However, its future is uncertain due to unpaid property taxes of more than \$700,000. It could be auctioned off by the county tax collector to anyone at all, even nearby cities or organizations, which would be a disservice to Berkeley as it has been a part of our community for more than 100 years.

Old Finnish Hall consists of a grand space, so expansive that it has even housed a family for more than 30 years while still having its spaces rented out for other uses, especially with it featuring an expansive theater/ballroom space on the second floor, and several other larger and smaller rooms, as well as a kitchen. The hall has functioned as a rental space for classes, events and even church meetings<sup>5</sup>. There is much political history as well with this hall. It was constructed by Finn's mainly for their political meetings and served for a range of activities such as: stage plays, movies, dances, concerts, orchestras etc<sup>6</sup>.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS**

There are no existing plans, programs, policies, and laws regarding the purchase of Old Finnish Hall.

### **ACTIONS/ALTERNATIVES CONSIDERED**

There are alternatives in regards to the ownership of the building but they are not preferred, especially given the building's historical connection to Berkeley. The building could potentially be transferred to neighboring cities, the government, or a nonprofit organization. While it's conceivable that a nonprofit might convert this space into housing, this wouldn't be the most desirable outcome, considering the ample space designed for performing arts and events.

### **CONSULTATION/OUTREACH OVERVIEW AND RESULTS**

This legislation is designed to enable the owners of Old Finnish Hall to sell the property to the City of Berkeley towards a common goal of having a purpose of being a public arts theater.

### **RATIONALE FOR RECOMMENDATION**

Berkeley is a city that takes pride in its diversity and sense of community. Establishing safe and vibrant spaces for community members to express themselves passionately, all while preserving a significant and historic facet of Berkeley, would be a mutually beneficial endeavor.

### **ENVIRONMENTAL SUSTAINABILITY**

No negative impact.

### **FISCAL IMPACTS**

If the City of Berkeley bought this property, we would be able to receive a majority of the monetary portion back.

### **CONTACT PERSON**

Vice Mayor Ben Bartlett  
James Chang

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)

---

<sup>5</sup> <https://www.proquest.com/docview/2737173743>

<sup>6</sup> <http://www.finnishhall.org/about>



Tina R. Posner

[tposner@cityofberkeley.info](mailto:tposner@cityofberkeley.info)





**BEN BARTLETT**

VICE MAYOR

CONSENT CALENDAR

November 28, 2023

To: Honorable Mayor and Members of the City Council  
 From: Vice Mayor Ben Bartlett  
 Subject: Homeless Shelter Crisis in Berkeley, California

RECOMMENDATION

- 1) Declare a shelter crisis within the City of Berkeley. As mandated by California Government Code Section CA Govt Code § 8698.4 (2022), “(2) (A) (i) The city, county, or city and county, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, may adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein, to the extent that it is determined at the time of adoption that strict compliance with state and local standards or laws in existence at the time of that adoption would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis”<sup>1</sup>. A substantial portion of the populace finds itself bereft of the means to secure adequate shelter. This predicament gravely jeopardizes the health and safety of these individuals, necessitating our immediate response.
- 2) For the time period of the shelter crisis, authorize the City Manager to:
  - a) Temporarily halt the enforcement of state or local regulatory laws, rules and ordinances that establish guidelines or protocols pertaining to housing, well-being or safety within shelter facilities.
  - b) Develop agreements for leasing land in Berkeley and elsewhere to construct emergency shelters and affordable housing for the unhoused.
- 3) Authorize the acceptance and allocation of financial resources designated for emergency shelter or transitional housing from agencies including but not limited to:
  - a) United States Department of Housing and Urban Development (HUD), Federal Emergency Management Agency, and Berkeley Housing Authority for fiscal years 2023-24 and 2025-26.
  - b) California Department of Housing and Community Development

<sup>1</sup> <https://casetext.com/statute/california-codes/california-government-code/title-2-government-of-the-state-of-california/division-1-general/chapter-78-shelter-crisis/section-86984-effective-until-112026-declaration-of-shelter-crisis#:~:text=A%20temporary%20homeless%20shelter%20community,homeless%20and%20unstably%20housed%20individuals.>

- 4) Issue determinations for the implementation of emergency housing measures for the unhoused:
  - a) According to the article titled “The Crisis in Berkeley” by Mayor Jesse Arreguin, there were 803 people unsheltered (76%), with 254 housed (24%)<sup>2</sup>. Mayor Arreguin states that “programs in shelters to move people into permanent housing are working. Countywide, the number of sheltered individuals increased by 53%, while unsheltered increased by 13%. This can be attributed to the purchasing and conversion of multiple hotels throughout the county under Projects Homekey and Roomkey” (City of Berkeley).

## BACKGROUND

The City of Berkeley has among the highest housing costs in the Bay Area. The Berkeley median household income is \$97,834. Nearly 18% of Berkeley residents live below the poverty line and approximately 40% of Berkeley children qualify for free and reduced lunches. While 43% of Berkeley residents own their own homes, there are many individuals experiencing homelessness including women, TAY, and Older Adults.

In order to measure the prevalence and characteristics of homelessness, a comprehensive street count of individuals experiencing homelessness is conducted in communities across the country every two years. According to the 2022 Alameda County Everyone Home Point-in-Time Count, which included a detailed assessment of the City of Berkeley, approximately 1,057 individuals were experiencing homelessness. Of this amount 24% were in some form of shelter, and 76% were unsheltered. Following the street count, the City of Berkeley administered a survey of 147 unsheltered and sheltered individuals experiencing homelessness. The top 5 responses to the primary causes of homelessness were as follows: 33% indicated that family/friends couldn’t afford to let them stay; 23% were facing either an eviction or a foreclosure; 17% were experiencing mental health needs; 17% were experiencing domestic violence; and 10% lost their jobs.<sup>3</sup>

The implementation and effectiveness of services for the unhoused has been tracked since 2019 by *The 2022 Alameda County Everyone Counts!: Point-in-Time Count*. According to data collected on January 22, 2023, around 254 unsheltered individuals were enrolled in services in Berkeley and 2,612 were enrolled in Alameda County. Current sources do not provide up-to-date numbers or distribution data on unhoused individuals in Berkeley.

<sup>2</sup> “The Crisis in Berkeley”. Mayor Jesse Arreguin. <https://www.jessearreguin.com/the-crisis#:~:text=The%20latest%20count%20took%20place,total%20of%201%20C057%20individuals%20counted.>

<sup>3</sup> 7/25/2023; CLK - Resolution; City Council; 70990; ; MENTAL <https://records.cityofberkeley.info/PublicAccess/api/Document/Abybsi0QAydoOT4IEMZq95HGI%3C%8991vV%3C%89roANitAkIri%3C%892V45Jyz0o57SajPOO6JJoWS4XFikAuHCOGsV5Ft68qMQ%3D/>

This year, Youth & Allies Against Homelessness (YAAH) released a report entitled, *The impact of the COVID-19 Pandemic on Youth Experiencing Homelessness in the San Francisco Bay Area*. The writers conducted field research among housing distressed youth. Findings include statistics on difficulties faced by youth in obtaining housing and basic needs, particularly during exacerbation. The reports reads “one in three youth reported not knowing how they could protect themselves from COVID-19” and that “eight out of every ten youth in our study experienced a change in their housing status since the start of the pandemic, with 1 in 3 youth reporting becoming unhoused” (22).

Berkeley is home to thousands of students, families, and professionals, including more than a thousand homeless residents. Existing funding sources and resources are inadequate to meet the scalar needs of the unhoused. Financial and food insecurity, employment challenges, addiction, and physical and mental issues exacerbate this state of lack and societal deterioration.

### CURRENT SITUATION

Homelessness continues to grow in California: nationally, California has topped the list for the state with the largest homeless population for more than a decade. As of 2022, 30% of all people in the United States experiencing homelessness resided in California, including half of all unsheltered people (115,491 in California; 233,832 in the US).

Since 2020, California’s overall homeless population has increased about 6%, compared to just 0.4% in the rest of the country. A 17% increase in the homeless but sheltered population accounts for almost all of California’s change, while the more visible unsheltered population increased 2%. The rest of the country’s unsheltered population grew faster than California’s (4%), while its sheltered population actually shrank (-2%).<sup>4</sup>

COVID-19, a highly infectious virus, was first identified in late 2019 and is marked by severe and acute respiratory illness that has overwhelmed hospitals across the world and whose mortality rates disproportionately impact older individuals and those with underlying diseases. The Center for Disease Control has stated, in relation to COVID-19, that the “lack of housing contributes to poor health outcomes, and linkage to permanent housing should continue to be a priority.” The shelter crisis exists substantially across the City of Berkeley, and has been heightened by the COVID-19 pandemic. The shelter crisis exposes houseless and often disabled elders, individuals, and families to the risk of death, illness, and injury due to disease, physical threats, exposure to weather and rodents, lack of adequate sanitation and debris services.

---

<sup>4</sup> “Homeless Populations Are Rising Around California” <https://www.ppic.org/blog/homeless-populations-are-rising-around-california/>

On June 30, 2020, the Alameda County Board of Supervisors amended its previous eviction moratorium ordinance to ensure all tenants and homeowners Countywide can shelter-in-place during the COVID-19 pandemic. This emergency ordinance outlawed all evictions anywhere in the County, with few exceptions. Alameda County’s Eviction Moratorium expired on April 29th, 2023. In light of the Alameda County Eviction Moratorium expiring earlier this year, Berkeley residents may be impacted and experience an increase the number of homeless individuals. Pandemic homeless programs have begun to unwind and the substantial federal funding efforts related to the pandemic are expiring. The disappearance of these programs and funds may reduce the options available to people experiencing homelessness in Berkeley.<sup>5</sup>

A recent report from Berkeley Public Health and The Youth & Allies Against Homelessness (YAAH) stated, “The pandemic made it even more difficult for youth in our study to access basic needs. Nearly 6 out of 10 youth were eating fewer meals per day and over half were going to sleep hungry more often than before the pandemic. Nearly 1 in 3 had more difficulty accessing water and over one fourth had more difficulty accessing a toilet. Finally, 38% of youth reported having more difficulty accessing Wi-Fi and 23% had more difficulty accessing a cell phone, resources which are key to connecting them to services, health care, education, and employment.” Without an emergency mandate for the City of Berkeley, conditions for the unhoused population in Berkeley are only going to exacerbate much like the conditions in other parts of California. The impact of COVID-19 is still present in Alameda County and with the eviction moratorium coming to an end, many residents are at risk of becoming unhoused.

### Potential Funding Sources

The Homeless Housing, Assistance and Prevention (HHAP) Grant Program provides local jurisdictions with funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges.<sup>6</sup>

Encampment Resolution Funding (ERF) Program is available to assist local jurisdictions in ensuring the wellness and safety of people experiencing homelessness in encampments by providing services and supports that address their immediate physical and mental wellness and result in meaningful paths to safe and stable housing.<sup>7</sup>

## ENVIRONMENTAL SUSTAINABILITY

---

<sup>5</sup> Alameda County’s Eviction Moratorium Expired on April 29th, 2023  
<https://www.acgov.org/cda/hcd/tenant-owner/#:~:text=Eviction%20Moratorium%20Ordinance%20Passed%20in%202020&text=This%20emergency%20ordinance%20outlawed%20all,County%20Ordinance%2C%20please%20click%20here>

<sup>6</sup> Homeless Housing, Assistance and Prevention (HHAP) Grant Program  
[https://bcsd.ca.gov/calich/hhap\\_program.html](https://bcsd.ca.gov/calich/hhap_program.html)

<sup>7</sup> Encampment Resolution Funding (ERF) Program  
[https://bcsd.ca.gov/calich/erf\\_program.html](https://bcsd.ca.gov/calich/erf_program.html)

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

FISCAL IMPACTS OF RECOMMENDATION

Fiscal impacts include staff time for analysis.

RATIONALE FOR RECOMMENDATION

OUTCOMES AND EVALUATION

This initiative is expected to address homelessness for the City's population and maintain that security in the event of environmental and economic shocks.

Contributors

CONTACT PERSON

Vice Mayor Ben Bartlett  
James Chang

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)

[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)

Tina R. Posner

[tposner@cityofberkeley.info](mailto:tposner@cityofberkeley.info)

Ilse Rojo

[ilserojo.berkeley.d3@gmail.com](mailto:ilserojo.berkeley.d3@gmail.com)

Jade Jaimes-Chavez  
Nikki Paestch

[jadejaimesch.berkeley.d3@gmail.com](mailto:jadejaimesch.berkeley.d3@gmail.com)

[nikkiberkeleyd3@gmail.com](mailto:nikkiberkeleyd3@gmail.com)

ATTACHMENTS

1. [Oakland City Council Emergency Ordinance](#)
2. [Berkeley 2022 Point In Time Count Unsheltered & Sheltered Report](#)
3. [The impact of the COVID-19 Pandemic on Youth Experiencing Homelessness in the San Francisco Bay Area. Youth and Allies Against Homelessness \(YAAH\)](#)

**Attachment 1**

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

A RESOLUTION OF THE BERKELEY CITY COUNCIL IN SUPPORT OF THE DECLARATION OF A SHELTER CRISIS  
IN THE CITY OF BERKELEY

WHEREAS, the City of Berkeley acknowledges that it is facing a serious affordable housing crisis with over a thousand residents living in unhoused or in substandard housing conditions; and

WHEREAS, the number of homeless persons in the City of Berkeley continues to increase, with the latest 2022 point-in-time count of 1,057 individuals experiencing homelessness in Berkeley, an increase of 85 individuals from 2017, with the largest growth in people living in tents increasing from 251 to 426, and this number is likely to increase given the substantial upward pressure of residential rents; and

WHEREAS, COVID-19, a highly infectious virus, was first identified in late 2019 and is marked by severe and acute respiratory illness that has overwhelmed hospitals across the world and whose mortality rates disproportionately impact older individuals and those with underlying diseases; and

WHEREAS, the Center for Disease Control has stated, in relation to COVID-19, that the “lack of housing contributes to poor health outcomes, and linkage to permanent housing should continue to be a priority;” and

WHEREAS, the shelter crisis exists substantially across the City of Berkeley, and has been heightened by the COVID-19 pandemic; and

WHEREAS, the shelter crisis exposes houseless and often disabled elders, individuals, and families to the risk of death, illness and injury due to disease, physical threats, exposure to weather and rodents, lack of adequate sanitation and debris services, as well as regular involuntary removal and disposal of personal belonging, forced migration to other parts of the City or outside of the City, and extreme emotional trauma and other conditions that are detrimental to their health and safety; and

WHEREAS, this shelter crisis affects Berkeley’s citizens disproportionately with African American adults being the ones experiencing homelessness the most; and

WHEREAS, the current number of homeless individuals in Berkeley far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

WHEREAS, unauthorized homelessness encampments have increased substantially across Berkeley, within the public right of way, thus exposing homeless individuals to traffic hazards, increased vulnerability to crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services and other conditions that are detrimental to their health and safety; and



WHEREAS, Berkeley residents are being affected by the increasing number of unsheltered individuals with regard to traffic and pedestrian safety, lack of sanitation and debris services; and

WHEREAS, analysis and evidence has demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

NOW, THEREFORE, BE IT RESOLVED that the City of Berkeley hereby ordains that this Emergency Ordinance is necessary for preserving the public health and safety for the reasons stated herein, and there is a necessity to immediately pass this Emergency Ordinance. This Emergency Ordinance shall remain in place for a period of two years from the date of passage. If any section, subsection, sentence, clause or phrase of this Emergency Ordinance is for any reason to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Emergency Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

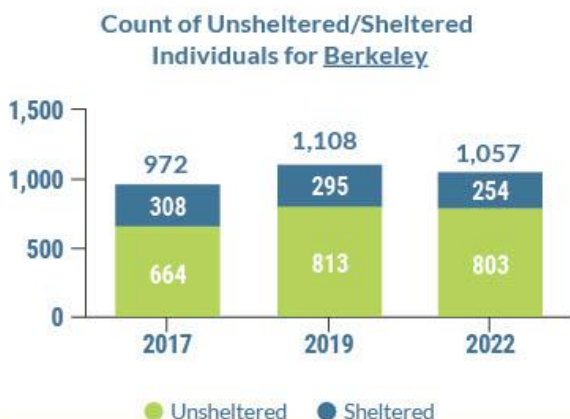
**Attachment 2**



# Berkeley 2022 Point In Time Count Unsheltered & Sheltered Report



Every 2 years, communities conduct comprehensive counts of people experiencing homelessness in order to measure the prevalence of homelessness in each local community. The 2022 Alameda County EveryOne Counts! Point-in-Time Count was a community-wide effort conducted on February 23, 2022. The Count had not been conducted since 2019 due to COVID 19. Results presented below are for those individuals that were enrolled in sheltered services in Berkeley on the night of 2/22/22, or observed as part of the Count on the morning of 2/23/22.



## Unsheltered Homelessness Data Summary



**803 Individuals**

Were observed as being unsheltered in Berkeley.



**7,135 Individuals**

Were observed as being unsheltered in Alameda County.

11% of unsheltered Individuals in Alameda County Live in Berkeley

## Unsheltered Population by Location



|                            | Tent       | Car/Van    | RV         | Street/Outside | Abandoned Building |
|----------------------------|------------|------------|------------|----------------|--------------------|
| <b>Berkeley 2022</b>       | 426 (53%)  | 198 (25%)  | 69 (9%)    | 109 (14%)      | 1 (<1%)            |
| <b>Berkeley 2019</b>       | 251 (31%)  | 157 (19%)  | 161 (20%)  | 231 (28%)      | 13 (2%)            |
| <b>Alameda County 2022</b> | 2216 (31%) | 2318 (32%) | 1600 (22%) | 958 (13%)      | 43 (1%)            |
| <b>Alameda County 2019</b> | 2172 (34%) | 1431 (23%) | 1386 (22%) | 1239 (20%)     | 84 (1%)            |

Questions about the data in this report? Please contact [info@everyonehome.org](mailto:info@everyonehome.org) Page 1 of 2



# Berkeley Unsheltered & Sheltered Report



## Sheltered Homelessness Data Summary



**254 Individuals**

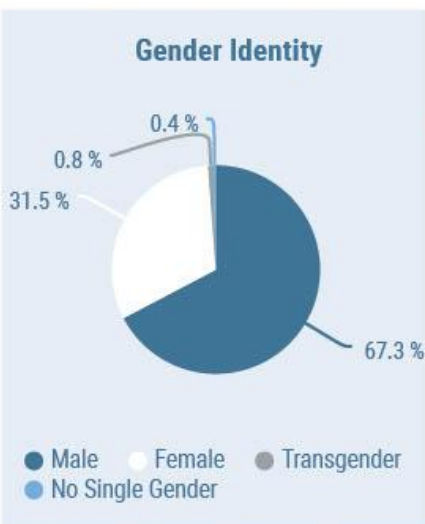
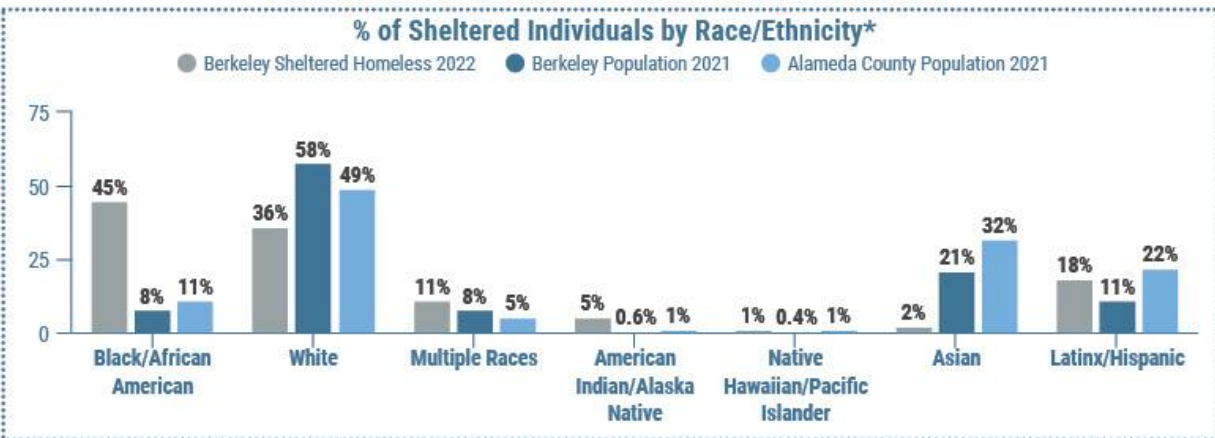
Were Enrolled in Sheltered Services in Berkeley.



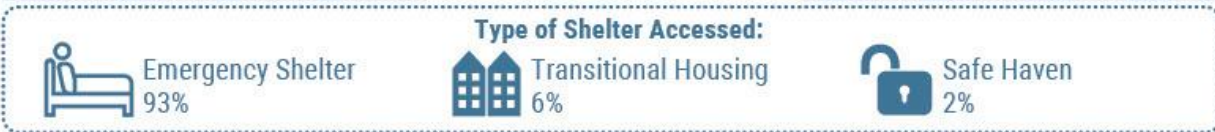
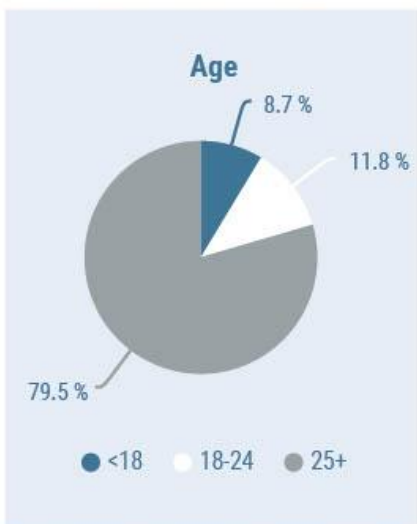
**2,612 Individuals**

Were Enrolled in Sheltered Services in Alameda County.

10% of sheltered individuals in Alameda County live in Berkeley



- Characteristics of Sheltered Clients\*\***
- 55% Chronically Homeless
  - 6% Veterans
  - 43% Mental Health Issue
  - 26% Substance Use Issue
  - 1% HIV/AIDS
  - 4% Fleeing Domestic & Dating Violence

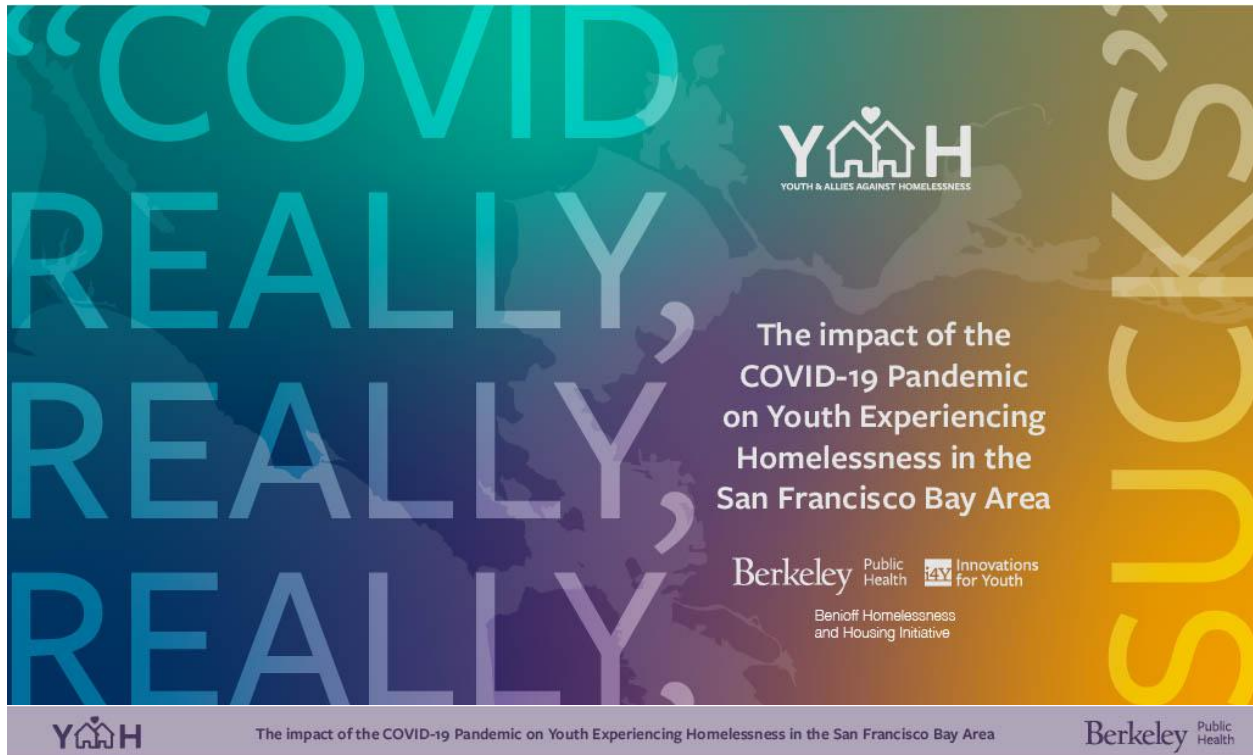


\* Population data from 2021 Census Population Estimates. \*\*Individuals can be in more than one category. Definition of *chronic homelessness*, according to HUD, is an individual that has a disabling condition and has had 4 episodes of homelessness in the last 3 years OR has been continuously homeless for 1 year or more.

Questions about the data in this report? Please contact [info@everyonehome.org](mailto:info@everyonehome.org) Page 2 of 2

### Attachment 3





## AUTHORS (with affiliation at the time of study participation)

|                                |                                                                             |
|--------------------------------|-----------------------------------------------------------------------------|
| <b>Jessica Wright</b>          | MSW Student, UC Berkeley School of Social Welfare                           |
| <b>Fernando Augusto</b>        | Strategic Initiatives Creative Lead, UC Berkeley School of Public Health    |
| <b>Anoop Bains</b>             | Undergraduate, University of California, Berkeley                           |
| <b>Estefani Barba</b>          | Executive Assistant to Dean Michael C., UC Berkeley School of Public Health |
| <b>BRod Beteta</b>             | Community Intern                                                            |
| <b>Vivian Bui</b>              | MPH Student, UC Berkeley School of Public Health                            |
| <b>Kya Chen</b>                | Undergraduate, University of California, Berkeley                           |
| <b>Jessica Hu</b>              | Undergraduate, University of California, Berkeley                           |
| <b>Silvana Larrea-Schiavon</b> | DrPH Candidate, UC Berkeley School of Public Health                         |
| <b>Jessica Lutz</b>            | Medical Student, UCLA                                                       |
| <b>Andrea Mackey</b>           | MPH Student, UC Berkeley School of Public Health                            |
| <b>Aen Navidad</b>             | Community Intern                                                            |
| <b>Sahra Nawabi</b>            | Community Intern                                                            |
| <b>Amrita Ramanathan</b>       | Undergraduate, University of California, Berkeley                           |
| <b>Racquel Richardson</b>      | Undergraduate, University of California, Berkeley                           |



## AUTHORS Cont. (with affiliation at the time of study participation)

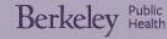
|                          |                                                                                                                                         |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Greg Ritzinger           | Undergraduate, University of California, Berkeley                                                                                       |
| Ana Rodriguez            | Undergraduate, University of California, Berkeley                                                                                       |
| Onye Ryan                | Community Intern                                                                                                                        |
| Teresa Skelly            | MPH Student, UC Berkeley School of Public Health                                                                                        |
| Shukri Suhir             | Undergraduate, University of California, Berkeley                                                                                       |
| Robson Swift             | Undergraduate, University of California, Berkeley                                                                                       |
| Sydney Tucker            | MPH Student, UC Berkeley School of Public Health                                                                                        |
| Anthoni Walls            | Community Intern                                                                                                                        |
| Shayna Weinstein         | MPH Student, UC Berkeley School of Public Health                                                                                        |
| Rakia White              | Community Intern and Undergraduate, University of California, Berkeley                                                                  |
| Attakai Yazzie           | Community Intern                                                                                                                        |
| KrAy LiT                 | Community Intern                                                                                                                        |
| Ray Egorova              | Community Intern                                                                                                                        |
| Marguerita Lightfoot     | Associate Dean of Research, Oregon Health Sciences University / Portland State University School of Public Health                       |
| Colette (Coco) Auerswald | Professor, Community Health Sciences,<br>UC Berkeley School of Public Health<br>Co-Founder and Co-Director, I4Y (Innovations for Youth) |



## TABLE OF CONTENTS

|                                                    |                                         |
|----------------------------------------------------|-----------------------------------------|
| <b>Who We Are</b>                                  | <b>Implications and Recommendations</b> |
| <b>What We Did &amp; How We Did It</b>             | Access to basic needs                   |
| <b>Who Participated</b>                            | Housing                                 |
| <b>What We Found</b>                               | Education                               |
| Access to basic needs / What youth said            | Income                                  |
| Housing / What youth said                          | Relationships                           |
| Education / What youth said                        | Discrimination & Stigma                 |
| Income / What youth said                           | COVID-19 infection & vaccination        |
| Relationships                                      | Health status and substance use         |
| Discrimination & Stigma                            | Youth Voice                             |
| COVID-19 infection & vaccination / What youth said | <b>Funding</b>                          |
| Health status and substance use                    | <b>Acknowledgments</b>                  |
| <b>What Youth Recommended</b>                      | <b>References and Resources</b>         |

 Click each section for fast navigation



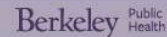
## WHO WE ARE

Youth and Allies Against Homelessness (YAAH) is a research team based in i4Y (Innovations for Youth), a Berkeley School of Public Health research center. YAAH is made up of youth community members with lived experience of homelessness, undergraduate and graduate students who have experienced homelessness and/or who have demonstrated a commitment to ending homelessness, and a faculty lead.

During the summer of 2021, the members of YAAH conducted the COVID-19 Youth Impact Survey to document the effect of COVID-19 on the health and wellbeing of youth experiencing homelessness (YEH) in the Bay Area. This document reports what we did, how we did it, what we found, and the implications of our findings. Although the COVID-19 pandemic is ongoing, we hope that by making youth's experiences visible and their voices heard, we can help prevent further harm to YEH due to COVID-19 or other man-made or natural disasters.

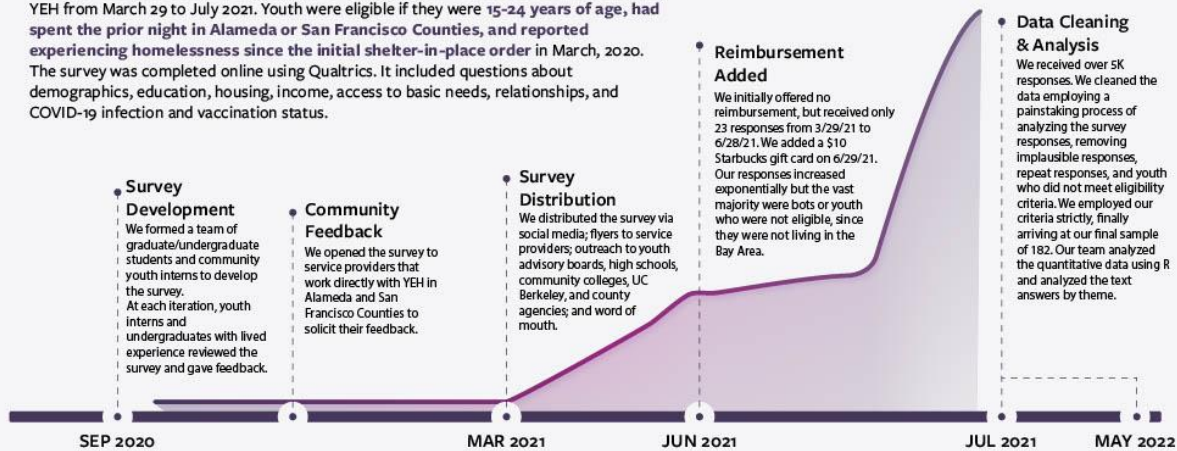


Berkeley Public Health i4Y Innovations for Youth



## WHAT WE DID & HOW WE DID IT

We launched cross-sectional English/Spanish surveys of San Francisco and Alameda County YEH from March 29 to July 2021. Youth were eligible if they were 15-24 years of age, had spent the prior night in Alameda or San Francisco Counties, and reported experiencing homelessness since the initial shelter-in-place order in March, 2020. The survey was completed online using Qualtrics. It included questions about demographics, education, housing, income, access to basic needs, relationships, and COVID-19 infection and vaccination status.



## WHO PARTICIPATED

| RACE  |                                   | GENDER IDENTITY |               |
|-------|-----------------------------------|-----------------|---------------|
| 43.4% | NON-HISPANIC WHITE                | 50.0%           | CIS MEN       |
| 29.7% | NON-HISPANIC BLACK                | 39.6%           | CIS WOMEN     |
| 13.2% | LATINX                            | 4.9%            | NOT SPECIFIED |
| 5.0%  | NON-HISPANIC ASIAN                | 3.8%            | NON-BINARY    |
| 5.0%  | AMERICAN INDIAN OR ALASKAN NATIVE | 1.1%            | TRANS WOMEN   |
| 2.0%  | MIXED RACE AND OTHER              | 0.5%            | TRANS MEN     |
| 0.5%  | PACIFIC ISLANDER                  |                 |               |

TOTAL PARTICIPANTS **182**

AGE RANGE **17-24** YEARS OLD

COUNTY

|                      |                |
|----------------------|----------------|
| 70.9%                | 29.1%          |
| San Francisco County | Alameda County |

0.5% <18 | 99.5% 18+

SEXUAL ORIENTATION

|       |                          |      |                          |
|-------|--------------------------|------|--------------------------|
| 74.7% | HETEROSEXUAL OR STRAIGHT | 1.6% | OTHER SEXUAL ORIENTATION |
| 9.3%  | GAY/LESBIAN              | 1.1% | ASEXUAL                  |
| 7.7%  | BISEXUAL                 | 0.5% | PANSEXUAL                |
| 2.2%  | QUEER                    | 0.5% | QUESTIONING              |



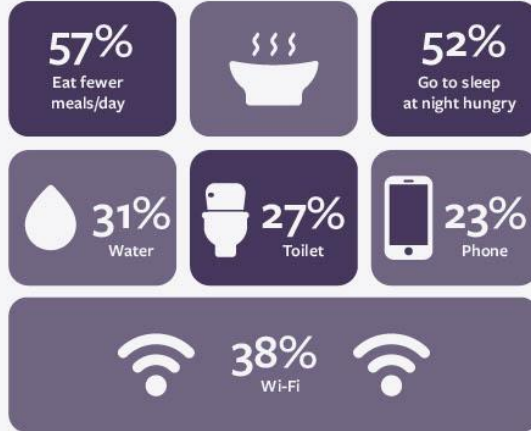


# BASIC NEEDS

The trauma of experiencing homelessness can have an important effect on short-and-long-term youth development by limiting **access to basic needs**. Basic needs include food, water, and sanitation, as well as Wi-Fi and access to a cell phone (Abri Lavasani K et al., 2020; Alturk R et al., 2020; Farnish KA et al., 2022; Samuels GM et al., 2019).

The pandemic made it even more difficult for youth in our study to access basic needs. Nearly **6 out of 10 youth were eating fewer meals per day** and **over half were going to sleep hungry** more often than before the pandemic. Nearly **1 in 3 had more difficulty accessing water** and **over one fourth had more difficulty accessing a toilet**. Finally, **38%** of youth reported having **more difficulty accessing Wi-Fi** and **23%** had **more difficulty accessing a cell phone**, resources which are key to connecting them to services, health care, education, and employment.

## Youth's ability to access basic needs worsened with the pandemic



**“Due to COVID-19, I have lost my main source of income, no money to rent a good house, and no money to buy enough food.”**

23 y.o. Black cisgender man from Alameda

**“Financial issues and public places are mostly closed or do not provide public restrooms.”**

21 y.o. Asian cisgender woman from Alameda

**“No WiFi in the shelter.”**

22 y.o. Black cisgender man from San Francisco

**“Because I lost my part-time job during the pandemic, which cost me most of my money, so I often starved.”**

20 y.o. Latino cisgender man from San Francisco

## WHAT YOUTH SAID ABOUT BASIC NEEDS

**“I don’t have a house to live in, I often don’t have Internet access where I live, and I don’t have enough money to buy food.”**

22 y.o. White cisgender man from Alameda

**“The city wouldn’t allow us to access restrooms; people were more scared of homeless people during the pandemic.”**

20 y.o. White nonbinary person from San Francisco

**“I lost my job, I didn’t have much money, I didn’t live in a stable place, I had to scrimp and scrimp.”**

22 y.o. American Indian or Alaskan Native cisgender woman from San Francisco



**“Before I got my shelter-in-place hotel, bathrooms were all closed... You just couldn’t find one to use.”**

23 y.o. White cisgender woman from San Francisco

**“When the outbreak started, there were few people on the streets who could help me, and I was sad.”**

23 y.o. Black cisgender woman from San Francisco

**“No shops open.”** 18 y.o. Black cisgender man from San Francisco

## WHAT YOUTH SAID ABOUT BASIC NEEDS

**“Because I didn’t have enough money, I was always hungry and always sleeping while I was hungry.”** 21 y.o. White cisgender man from San Francisco

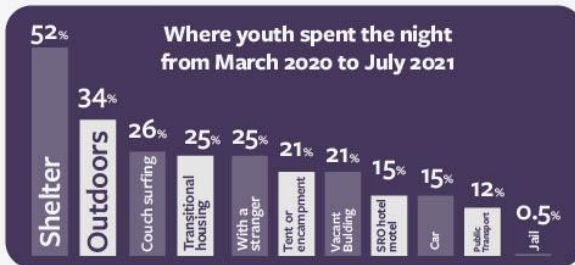
**“Because I have so little money, I sometimes have to go hungry to save money.”** 20 y.o. White cisgender man from San Francisco

**“We are not allowed to travel freely.”** 24 y.o. American Indian or Alaskan Native cisgender man from San Francisco

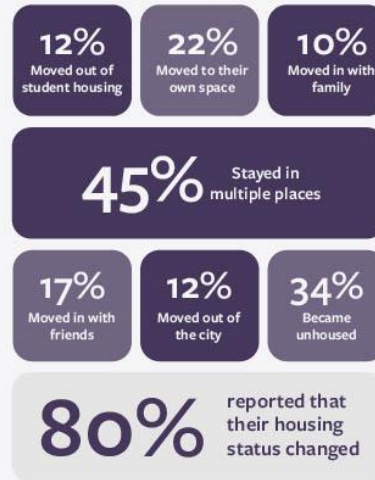
**“I don’t have a place to stay and can’t get stable toilet service.”** 21 y.o. Black cisgender woman from Berkeley

# HOUSING

Safe, stable housing is a requirement for the well-being of youth and for their successful transition to adulthood (McCallum A & Rich H, 2018; Rolfe S et al., 2020; Samuels GM et al., 2019; Taylor L, 2018). Our findings document the effect of the pandemic on the housing status of YEH. **Eight out of every ten youth in our study experienced a change in their housing status** since the start of the pandemic, with **1 in 3 youth reporting becoming unhoused**. In our qualitative data, youth reported **fears of becoming infected** due to their unstable housing.



### How youth’s housing changed since the onset of the pandemic





**“The shelters I lived in always found people who might be infected, so I had to move.”**

21 y.o. White cisgender male from San Francisco

**“[I did not feel safe in my housing because...] there is no necessary security protection.”**

23 y.o. American Indian or Alaskan Native cisgender man from San Francisco

## WHAT YOUTH SAID ABOUT HOUSING

**“Relatives have died during the virus, and I am homeless.”**

21 y.o. Black cisgender man from Alameda

**“I move a lot because sometimes I feel like the shelter I’m in is not safe, so I might move to a motel, and even though I don’t have a lot of money, I have to move just to be safe.”**

23 y.o. White cisgender Man from San Francisco

**“Tents don’t give me a sense of security.”**

20 y.o. White cisgender woman from San Francisco

**“There were a lot of people in the shelter and there was a lot of contact.”**

23 y.o. White cisgender man from San Francisco



**“[I did not feel safe in my housing because...] I’m worried about being attacked.”**

24 y.o. Black cisgender man from San Francisco

**“Moved into San Francisco SIP [Shelter-in-Place] hotel room”**

23 y.o. White cisgender woman from San Francisco

## WHAT YOUTH SAID ABOUT HOUSING

**“My housing was precarious before the pandemic. I moved 4-5 times in 2019. I am disabled and high-risk, and the student co-op I was living in refused to implement any COVID protocols. It was low-income housing and I didn’t have anywhere else to go.”**

21 y.o. White nonbinary person from Berkeley

**“[I did not feel safe in my housing because] I was unaccompanied, alone and afraid”**

23 y.o. Latino cisgender man from San Francisco

**“During the COVID-19 outbreak, I was unable to work outside the home, had no financial support and couldn’t afford to rent my old house”**

22 y.o. American Indian or Alaskan Native cisgender woman from San Francisco

*“[I did not feel safe in my housing because...] I had no weapon to protect me.*  
19 y.o. Black cisgender man from San Francisco

## WHAT YOUTH SAID ABOUT HOUSING

*“There are too many people and it’s crowded. It’s not safe.”*  
21 y.o. Latino man from San Francisco

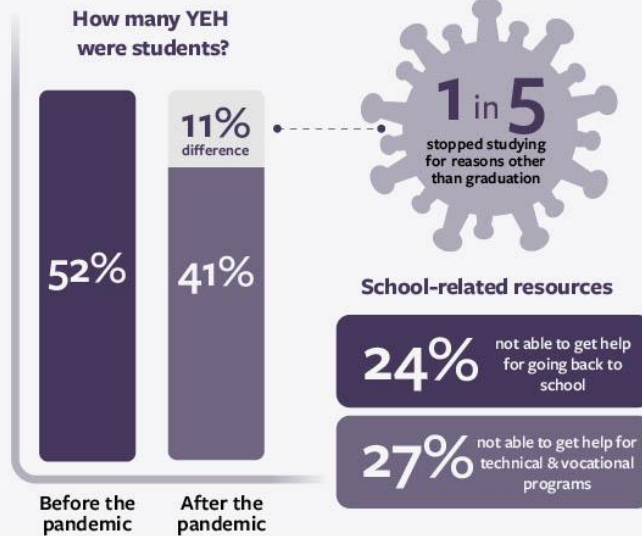
*“I am a non white person in a white household/ experienced sexual harassment from a friend/ cannot stay safely with parents because i have to hide medication and gender.”*  
22 y.o. Asian trans masculine person from Alameda

*“[I did not feel safe in my housing because...] I was feeling scared and lonely.”*  
21 y.o. White nonbinary person from Fremont

## EDUCATION

To successfully transition to adulthood and become productive members of society, all youth require access to education and/or vocational training. The pandemic has increased the challenges youth face in achieving educational and vocational milestones (Parolin Z et al., 2021; UNESCO, UNICEF & World Bank, 2021; UNICEF, 2020; Samuels GM et al., 2019; Sarkar U et al., 2021).

This has been particularly true for youth from historically marginalized populations. The youth in our survey who shared their experience with us were no different. Although only 52% reported being a student before the pandemic, this number had decreased to 41% by the time of the survey. In other words, **1 in 5 youth** who were in school before the pandemic had **dropped out of school for reasons other than graduation** by the time of the survey. Moreover, **24%** of all our participants **reported not being able to get help to go back to school** and **27%** could not get help to enroll in technical or vocational training program.





**“Online school was harder since I’m more of a in person learner.”**

18 y.o. Persian cisgender woman from Oakland

**“*[I stopped being a student because...]* Because my parents lost their job. In order to relieve the burden of my family, I want to go to work early to make money.”**

22 y.o. White cisgender woman from San Francisco

## WHAT YOUTH SAID ABOUT EDUCATION

**“I don’t have enough money to go to college.”**

23 y.o. Black cisgender male from San Francisco

**“*[I stopped being a student because...]* Because I was an orphan and my family had no means of support. I was raised to school by my grandma who got infected with COVID-19. So I had to drop out and get a job.”**

19 y.o. Latina cisgender woman from San Francisco

## INCOME

The income and employment opportunities of young people were also severely impacted by the pandemic (O’ Higgins N et al., 2021; Parolin Z et al., 2021; United States Census Bureau, 2020). YEH in our study incurred a devastating blow to their income. **Seven out of every ten participants lost their income completely or reported a lower income** since the start of the pandemic. Simultaneously, almost **6 out of every 10** youth reported **not being able to get help when looking for a job**.

Employment-related resources

**59%** not able to get help when looking for a job

### How YEH’s income changed with the pandemic



**“The place where I worked was forced to close, and I couldn’t find another job.”**  
 23 y.o. Black cisgender man from San Francisco

**“There were not many people in the streets to help me. I could not survive.”**  
 23 y.o. Black cisgender woman from San Francisco

## WHAT YOUTH SAID ABOUT INCOME

**“My company went out of business because of COVID-19 and I lost my main source of income.”**  
 23 y.o. Black cisgender man from San Francisco

**“Due to the outbreak of the epidemic, the number of jobs has been reduced.”**  
 23 yo White cisgender man from San Francisco

**“Because I had to stay in a shelter or a hotel during the pandemic, I could not go out to look for work.”** 20 y.o. Latino cisgender man from San Francisco

**“I was discriminated against everywhere I looked for a job.”**  
 21 y.o. Black cisgender man from Alameda

## RELATIONSHIPS

Prior research shows that youth experiencing homelessness rely on their social networks, including family members and friends, to support their resilience, overcome isolation, and promote their wellbeing (Cronley C et al., 2017). In our study, the pandemic had **mixed effects on youth’s family relationships**. Twenty-nine percent of youth decreased their frequency of contact with their family after the pandemic, 22% increased their frequency, and about half of the youth maintained the same frequency of contact.

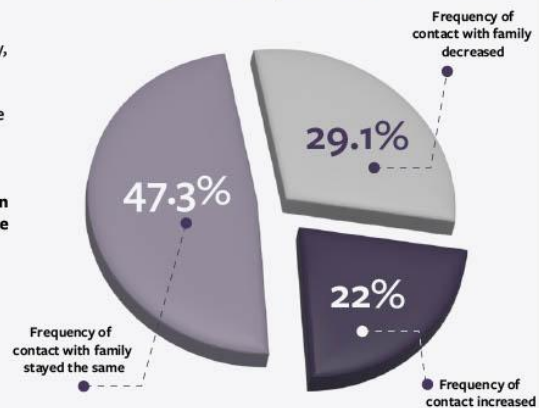
Tragically, our results also show that a **large percentage of youth lost key members of their network to the pandemic or pandemic-related causes**. Seven percent of youth lost someone to a COVID-19 infection, while 19% lost someone to an overdose. Given the sparseness of the networks of youth in our study, this is alarming.

**7%** lost someone to COVID-19

**19%** lost someone to an overdose

YEH who reported losing someone with whom they interacted frequently since the start of the pandemic

How youth’s frequency of contact with family changed since the onset of the pandemic

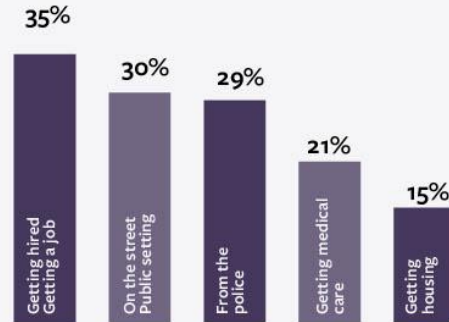


# DISCRIMINATION & STIGMA

Amnesty international has reported that the pandemic exposed marginalized groups (i.e., LGBTI+ people, sex workers, people who use drugs, and people experiencing homelessness) to further discriminating practices and human rights abuses global (Amnesty International, 2022).

Youth in our study similarly reported experiencing **increased discrimination** since the onset of the pandemic in multiple key areas of their lives, including in **public settings and on the street, from the police, looking for a job, accessing medical care and applying for housing.**

Situations in which youth reported increased discrimination and stigma since the pandemic



# COVID-19 INFECTIONS

The number of COVID-19 cases among people experiencing homelessness is likely underestimated, due to a lack of access to COVID-19 tests and to healthcare, particularly during the study period (Alameda County Health Care Services Agency, 2022; City and County of San Francisco, 2021; Meehan AA et al., 2021; Mosites E et al., 2020; Silliman Cohen RI & Bosk EA, 2020). In our study, 7% of participants stated that, to their knowledge, they **had been sick due to a COVID-19 infection. However, one in four reported not having been able to access a COVID-19 test** when needed.

Many youth reported challenges to protecting themselves from an infection during the first year of the pandemic. **One in three** youth reported **not knowing how they could protect themselves from COVID-19** all the time. A similar percentage of youth perceived that avoiding an infection in their current situation was somewhat or extremely difficult.



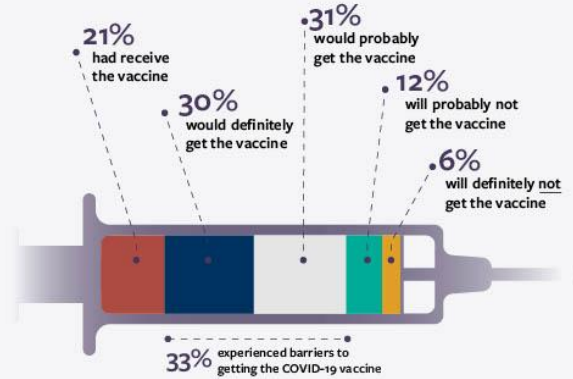


# COVID-19 VACCINATION

By the end of July 2021, 73% of the general population in Alameda and San Francisco counties had been vaccinated with at least one dose of the vaccine, with approximately 68% having been fully vaccinated (Alameda County Health Care Services Agency, 2022; City and County of San Francisco, 2021; Montgomery MP et al., 2021).

Based on our results, a significantly lower percentage of YEH had been vaccinated when the survey was administered (June-July 2021). Only 2 out of every 10 participants had received at least one dose of the COVID-19 vaccine. Even though the percentage of youth vaccinated was low, 6 out of every 10 participants that had not received the vaccine stated that they would definitely or probably get the vaccine when offered. However, one third of those who would definitely or probably get the vaccine experienced barriers to getting the COVID-19 vaccine. These results show that YEH participating in the survey were very accepting of the COVID-19 vaccine but experienced barriers to being tested and vaccinated.

## Youth attitudes and experience with the COVID-19 vaccine



*“Because it’s not FDA approved and there’s absolutely no data showing it improves the immunity I have.”*  
23 y.o. White cisgender man from San Francisco

*“Don’t know where to get the vaccine.”*  
21 y.o. White cisgender woman from Oakland

## WHAT YOUTH SAID ABOUT INFECTIONS & VACCINATION

*“Some people discriminate against us Blacks and don’t want to vaccinate us.”*  
20 y.o. Black cisgender man from San Francisco

*“I don’t understand the safety of vaccines.”*  
17 y.o. White cisgender male youth from San Francisco

*“There are so many people to be vaccinated that it takes a long time to wait.”*  
21 y.o. White cisgender man from San Francisco

*“No information available.”* 18 y.o. White cisgender woman from San Francisco

## WHAT YOUTH SAID ABOUT INFECTIONS & VACCINATION

**“I was a little scared because some people had severe reactions after getting the vaccine.”**  
21 y.o. Black cisgender man from San Francisco

**“I don’t have the money to get vaccinated.”**  
- 20 y.o. White cisgender woman from San Francisco

**“I don’t know how to get vaccinated.”**  
23 y.o. Black cisgender woman from San Francisco

**“I don’t know if I’m qualified.”**  
21 y.o. Latino cisgender man from San Francisco

**“I can’t make an appointment because it’s too much trouble.”**  
20 y.o. White cisgender woman from San Francisco

**“They thought I was too messy to get vaccinated.”**  
20 y.o. White cisgender woman from San Francisco

**“There’s a shortage of vaccines and I’m not sure they’re safe.”**  
20 y.o. White cisgender man from San Francisco

## HEALTH STATUS & SUBSTANCE USE

Youth experiencing homelessness suffer from disproportionate rates of mortality and poor health relative to their housed peers. These health disparities are linked to structural injustices, that lead to increased exposure to pollutants, criminalization, increased substance use, poor housing conditions, and other living conditions that are harmful to their health (Auerswald CL et al., 2016; Finnigan R, 2021). As in other parts of their lives, youths’ health worsened with the pandemic.

**Half of YEH** in our study **rated their health as worse after the pandemic** compared to before, **4 out of 10** reported **decreased access to medical care**, and **10% decreased access to prescription medicines**. **Over one third** of participants who used alcohol, cannabis, and/or other drugs reported an **increase in substance use** since the start of the pandemic.

**Self-reported health since the start of the pandemic**

**50%**  
reported a worse health status

**6%**  
reported a better health status

**Health-related resources**

**40%**  
reported decreased access to medical care

**10%**  
reported decreased access to prescription medicines

**Substance use since the start of the pandemic\***  
\*among those who reported using said substance

**33%**  
reported drinking more alcohol

**29%**  
reported more cannabis use

**36%**  
reported using other drugs more





# WHAT YOUTH RECOMMENDED



# WHAT YOUTH RECOMMENDED

*“The counties need to understand the dual axis of homelessness and disability. Many unhoused people and youth, are also disabled and therefore at extreme risk of severe illness or death from COVID-19. Homelessness is a public health issue. If we want to eradicate COVID, we must eradicate homelessness and fulfill the empty promises of “safety” these counties made to our youth. Fill empty houses. COVID has displaced and made youth homeless due to domestic violence situations which heightened during the shelter in place. Sweeps from police and CalTrans also increase the risk of mortality from COVID-19 either through direct transmission from unmasked police officers or, more importantly, displacement -- making unhoused folks enter highly dangerous situations with strangers in order to get basic needs met.”*

21 y.o. White nonbinary person from Berkeley

*“Stop fucking around and house people in vacant properties.”*

23 y.o. White cisgender man from San Francisco

*“Get more people vaccinated and create more jobs for homeless young people.”*

21 y.o. Black cisgender man from San Francisco

# WHAT YOUTH RECOMMENDED

*“Providing more affordable housing options (more rooms or apartments that can be rented out at a lower rates like co-ops), more aid that is easily accessible, creating legislation that makes it housing easier to attain and is more accessible for low income students and youth.”*

21 y.o. Asian nonbinary person from Berkeley

***“PUT THEM IN HOUSING!!!!  
IT IS NOT AS HARD AS THEY ARE MAKING IT SEEM.”***

24 y.o. White nonbinary person from San Francisco

*“Provide safe housing for young people who experience familial abuse.”*

19 yo Asian cisgender woman from Pleasanton

*“Provide better protective gear and hand out free face masks.”*

20 yo White cisgender man from San Francisco

# IMPLICATIONS & RECOMMENDATIONS



# IMPLICATIONS & RECOMMENDATIONS

The COVID-19 pandemic had a major impact on the lives of YEH we surveyed in Alameda and San Francisco Counties. Their access to basic needs was compromised by the public health response to the pandemic. Shelter-in-place decreased their access to basic needs, and increased their hunger and poverty. Furthermore, youth were generally excluded from pandemic-related access to emergency and permanent housing (SFHSH, 2023). These impacts on their housing, education, income, relationships and health will likely impact on their successful transition to adulthood.

Research has shown that the return on investment in YEH is very high (Foldes, 2015; Befield, 2012). It is far more expensive to allow youth to be excluded from achieving their potential as members of our community than it is to support them towards social and economic inclusion.

The following summary of the implications of our report is only a preliminary list of steps we can take as a community to address the ongoing effects of the pandemic on YEH. YEH were among the first to be affected and, unless we act decisively, will be the last to recover. Reflecting the domains of the survey, we make our recommendations here by theme. However, clearly these domains are interdependent. For instance, education can only be effectively addressed if housing and stigma are also contended with, and vice versa.

# IMPLICATIONS & RECOMMENDATIONS

## Basic Needs

Youth experienced a significant decrease in access to basic needs such as food, water, and sanitation as well as wifi, cell phone service, and transportation. Since a successful transition to adulthood depends on access to these basic needs, we recommend the following:

- Ensure basic needs access for all youth at all times. The pandemic highlighted an underlying failure to ensure their access.
- Include all people experiencing homelessness, including YEH, in disaster preparedness planning for pandemics and extreme weather events. In particular, measures must be taken to mitigate the decreased access to food, water, and sanitation that will result from future shelter-in-place orders.
- Ensure the digital equity of YEH, who require access to cell phones and wifi to meet their basic needs and to access the education, vocational training and jobs for them to successfully transition to adulthood

# IMPLICATIONS & RECOMMENDATIONS

## Housing

Youth's housing became even more unstable during the pandemic. One third of our sample became unhoused during the first sixteen months of the pandemic. The most frequent demand in our open-ended questions was for housing, specifically housing that was safe, stable, and affordable and that did not put youth at increased risk of infection with COVID-19. Respondents emphasized that without housing they could not work, stay in school, or stay healthy.

- Ensure that programs providing emergency housing to youth are physically safe and do not place youth at increased risk of infection.
- Offer rapid re-housing in a range of developmentally appropriate types of housing, including dorms, shared housing with peers, co-operatives, or with family.
- Include YEH in future emergency housing programs (such as Roomkey) proportional to their percentage in the overall population of people experiencing homelessness. Provide youth with youth-friendly emergency housing.

# IMPLICATIONS & RECOMMENDATIONS

## Housing

Youth's housing became even more unstable during the pandemic. One third of our sample became unhoused during the first sixteen months of the pandemic. The most frequent demand in our open-ended questions was for housing, specifically housing that was safe, stable, and affordable and that did not put them at increased risk of infection with COVID-19. Respondents emphasized that without housing they could not work, stay in school, or stay healthy.

- Ensure transition from emergency housing to transitional or permanent housing so youth do not enter or re-enter homelessness due to a disaster.
- Ensure a set-aside for youth in all housing and homelessness programs funded by the state.
- Extend public funding, particularly HUD funding, to YEH in student housing.



# IMPLICATIONS & RECOMMENDATIONS

## Education

Our survey documents only the tip of the iceberg of the educational loss experienced by YEH. Since education is the best vaccine against homelessness and the most effective way for youth to permanently exit homelessness, we recommend the following:

- McKinney-Vento activities in Alameda and San Francisco counties need to be expanded and fully staffed, with a single point of contact in every school.
- McKinney-Vento programming should be extended to public community colleges and universities.
- Fund transition coordinators in higher education to support students with financial, housing and basic needs access.
- Adequately fund school districts, community colleges, and universities to implement outreach strategies targeted to youth who have dropped out of school during the pandemic in order to lower their barriers to re-enrollment and graduation.

# IMPLICATIONS & RECOMMENDATIONS

## Education

Our survey documents only the tip of the iceberg of the educational loss experienced by YEH. Since education is the best vaccine against homelessness and the most effective way for youth to permanently exit homelessness, we recommend the following:

- Require and publicly fund services for post-secondary students with a history of homelessness on all campuses.
- Increase access to resources to link YEH to vocational training to develop employment-related skills in occupations that offer them a livable wage and job opportunities (Year Up, 2023; Larkin Street Youth Services, 2023).

# IMPLICATIONS & RECOMMENDATIONS

## Income

Youth suffered from a lack of a financial safety net to protect their continued successful transition to adulthood even in times of crisis. Recommendations based on our findings and successful pilot programs include the following:

- Universal basic income (also known as Direct Cash Transfers) should be extended to all YEH, including students (Chapin Hall, 2023; Point Source Youth, 2023).
- YEH who have a history of foster care and those who do not have such a history share similar histories of trauma, abuse and neglect as children. Extended foster care should be expanded to support all youth who have experienced homelessness to facilitate their successful transition to adulthood.

# IMPLICATIONS & RECOMMENDATIONS

## Relationships

Our prior research has illustrated the limited scope of youth's social networks, and the potential protective effect of the maintenance of family ties (Valente, 2013). Over half of YEH in our survey maintained the same level or an increased level of contact with family members. However, 29% experienced decreased contact with family. Furthermore, respondents reported high rates of pandemic-related death in their social networks.

- Provide psychological and support services for YEH.
- Protect access to wifi and cell phones to ensure YEH can maintain access to their social networks.
- Support family/kinship strengthening as defined and requested by youth and when restorative for youth.
- Support in identifying and building a support network if a youth's family/kinship network is not accessible or safe.

# IMPLICATIONS & RECOMMENDATIONS

## Discrimination & Stigma

Respondents reported increased experiences of stigma and discrimination in multiple settings since the start of the pandemic. Addressing stigma is an underlying issue which is key to addressing all the findings of our survey.

- Addressing stigma towards by making housism (the structural and interpersonal dehumanization of people experiencing homelessness) unacceptable in all settings, including housing, education, vocational education and training, work, service settings, and with the police.
- Increase public awareness of the causes, experience and solutions to youth homelessness.
- Minimize youth's risk of experiencing stigma in settings that have historically been stigmatizing e.g., by providing business-professional attire for interviews, access to hygiene products, and "know your rights" training regarding police encounters, medical care interactions, and housing interviews.
- Intentionally employ language that refers to youth's housing and support crisis versus the youth homelessness crisis.

# IMPLICATIONS & RECOMMENDATIONS

## Vaccination & Prevention

We found that vaccination of YEH lagged far behind vaccination of the general population at the time of our survey. This was true despite a minority of our sample stating they would probably or definitely not want to be vaccinated.

- Provide information regarding vaccines and access to vaccines in venues where youth are known to spend time, including social service agencies, libraries, and via street outreach.

# IMPLICATIONS & RECOMMENDATIONS

## Health status & substance use

Half of youth in our survey reported that their health had worsened since the start of the pandemic. Among those who used alcohol, cannabis, or other drugs, one third reported increased utilization. Many youth reported worsened access to medical care.

- De-stigmatize utilization of all services for youth health and wellness.
- Provide low-barrier free access to mental health services that are youth-friendly, trauma-informed, and culturally and linguistically appropriate.
- Maximize access to Narcan and its proper administration by YEH and service providers.

# IMPLICATIONS & RECOMMENDATIONS

## Health status & substance use

Half of youth in our survey reported that their health had worsened since the start of the pandemic. Among those who used alcohol, cannabis, or other drugs, one third reported increased utilization. Many youth reported worsened access to medical care.

- Ensure universal access to inpatient and outpatient youth-centered substance abuse treatment programs.
- Provide access to buprenorphine in all primary care settings that serve YEH.
- Provide access to youth-friendly safe injection sites and safe, clean, reliable needle exchange.



# IMPLICATIONS & RECOMMENDATIONS

## Youth Voice

Guidelines from UNICEF, WHO, the Lancet Commission on Adolescent Health and the US Interagency Council on Homelessness emphasize the importance of youth partnership and of soliciting youth voice in addressing the needs of marginalized youth, including youth experiencing homelessness (Patton, 2016; Auerwald, 2017).

- Our experience documents the need to expand methods and opportunities to conduct regular, community-wide, state-wide, and nationwide surveys for YEH to share their experiences and their recommendations regarding events and issues that affect their lives.

# FUNDING



# FUNDING

This project is/was supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) under award UA6MC32492, the Life Course Intervention Research Network. The information, content and/or conclusions are those of the author and should not be construed as the official position or policy of, nor should any endorsements be inferred by HRSA, HHS or the U.S. Government.

Additional funding was provided by the UCSF Benioff Homelessness and Housing Initiative, as well as the UC Berkeley School of Public Health's Martin Sisters Chair in Medical Research and Public Health.



Benioff Homelessness and Housing Initiative



# ACKNOWLEDGEMENTS





# ACKNOWLEDGEMENTS

We are deeply grateful to the youth who participated in our project for lending their voice and sharing their experiences. In addition, we would like to acknowledge the following individuals for their input and/or support: Ali Aronstam, Erika Benitez, Shalini Chatterjee, Colleen Kohashi, Hannah Moore, Ari Neulight, Lucy Shang, Grace Taylor and the members of the Alameda County Youth Advisory Board and the members of the Alameda County Ending Youth Homelessness Collaborative.

Many organizations supported the project in small or big ways. We give thanks to those projects below in alphabetical order and apologize for any that we may have left out.

Abode Services - Fremont  
Alameda County Youth Advisory Board  
Berkeley City College  
Berkeley Free Clinic  
Building Futures - San Leandro  
City of Oakland - C'Mone Falls  
Covenant House California  
Dream Catcher  
First Presbyterian Hayward  
Food Not Bombs  
HuckleBerry Youth Programs  
Instituto Familiar de la Raza  
Larkin Street Youth Services

Legal Services for Children - San Francisco  
REACH Ashland Youth Center  
Renegade Feedings  
Ruby's Place  
SF LGBTQ Center  
Side by Side - Our Space  
Spark Voices  
Sunset Youth Services  
The Suitcase Clinic  
Tiny Village  
Young Women's Freedom Center - SF  
Youth Spirit Artworks



# REFERENCES AND RESOURCES





## REFERENCES

The following are our publications regarding youth experiencing homelessness and the COVID-19 pandemic as well as our policy white papers. We hope you find them useful. They are all be freely available.

For a complete list of references for this report please [click here](#).

For more information about our research group and i4Y (Innovations for Youth) please visit <https://i4y.berkeley.edu>.

Abri Lavasani K, Aridomi H, Butzin-Dozier Z, Chu B, Ferrell S, Graham J, Cakouros B, Chiang J, Colford J, Dang H, Herring C, Kane M, Katyal T, Ma C, Martin D, Matusiewicz, McCoy S, Auerswald C. For the good of Us all: Addressing the needs of our unhoused neighbors during the COVID-19 pandemic. UCB School of Public Health Community Action Team and i4Y. 2020. [Publication Link](#)

Alturk R, Bains A, Bui V, Chatterjee S, Edmond J, Grover A, Juarez Armenta J, Liu E, Lutz J, McCreary S, Taylor G, Auerswald C. On the COVID-19 front line and hurting: addressing the needs of providers for youth experiencing homelessness in Berkeley and Alameda county. i4Y and UCB School of Public Health Community Action Team. 2020. [Publication Link](#)

Auerswald CL, Adams S, Lightfoot M. The urgent and growing needs of youths experiencing homelessness during the COVID-19 pandemic. *Journal of Adolescent Health*. 2020;67(4):461-462. [Publication Link](#)

Borgen N, Lo J, Liu E, Auerswald C. Youth homelessness should be rare, brief, and one-time. Part I: principles and prevention: reducing the number of youth experiencing homelessness. i4Y, UCB School of Public Health. 2019. [Publication Link](#)

Borgen N, Lo J, Liu E, Auerswald C. Youth homelessness should be rare, brief, and one-time. Part II: decreasing the time a youth remains homeless and the percentage of youth who return to homelessness after exiting. i4Y, UCB School of Public Health. 2019. [Publication Link](#)

Gewirtz O'Brien JR, Auerswald C, English A, et al. Youth experiencing homelessness during the COVID-19 pandemic: unique needs and practical strategies from international perspectives. *Journal of Adolescent Health*. 2021;68(20), 236-240. [Publication Link](#)

YAH  
YOUTH & ALLIES AGAINST HOMELESSNESS

Share this report!

Berkeley Public Health i4Y Innovations for Youth

Benioff Homelessness and Housing Initiative



## BEN BARTLETT

---

### VICE MAYOR

#### CONSENT CALENDAR

November 28, 2023

To: Honorable Mayor and Members of the City Council  
 From: Vice Mayor Ben Bartlett  
 Subject: Healthy Checkout Amendment

#### **RECOMMENDATION**

1. Adopt an amendment to the Healthy Checkout Ordinance (9.82) requiring stores 2,500 square feet and under in size to sell more nutritious food and beverage options in their checkout areas.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the expansion of the ordinance and sources of funding to support this program.

#### **CURRENT SITUATION**

On October 13th, 2020, the Berkeley City Council adopted the Healthy Checkout Ordinance, setting minimum nutrition standards for products stocked in store checkouts. This ordinance took effect on January 1, 2021. Enforcement pursuant to 9.82.040 began on July 1, 2021.

#### **BACKGROUND**

Today's food landscape plays a large role in determining what people purchase and consume. Unhealthy food and beverages are promoted and placed repeatedly throughout retail stores. Cheap, ready-to-eat foods high in salt, saturated fat, and added sugars dominate checkout aisles, where shoppers are more likely to make impulse purchases and where parents struggle with their children over demands to buy treats at the end of a shopping trip.

This ordinance would require all stores 2,500 square feet and smaller in size that sell at least 25 linear feet of food to follow the requirements for Healthy Checkout, as written in the ordinance. This would impact approximately 55 stores in Berkeley, including Middle East Market, 7-Eleven, Mi Ranchito, Berkeley Natural Grocery, Alcatraz Market, and more.

#### **Health Impacts of Sugar and Sodium Consumption and Related Disease Disparities**

Impulse buying at checkout contributes to the high levels of sugar consumption in American diets. Excessive added sugar intake is directly linked to adverse health impacts including elevated risk of tooth decay, heart disease, and Type 2 diabetes.<sup>1,2,3</sup> The adverse health effects of added sugar consumption further entrench health disparities, burdening people of color more than white populations. Currently, Type 2 diabetes is on the rise across the country; one in three children and one of two children of color will be diagnosed in their lifetime.<sup>4</sup> Diets that are high in sodium are linked to high blood pressure, heart disease, and stroke,<sup>5</sup> all of which disproportionately affect African Americans and communities of color.<sup>6</sup>

#### **Health Equity and Inequity**



In California, over 10% of adults have diagnosed Type 2 Diabetes (T2D), a disease which drastically affects the quality of life of those affected.<sup>7</sup> It is estimated that nearly one million additional adults throughout the state live with undiagnosed Type 2 Diabetes. People living with T2D have, on average, medical bills that are 2.5 times higher than individuals without T2D.<sup>7</sup> It is estimated that the total cost of T2D in California is \$39.5 billion.<sup>7</sup> These costs inequitably burden Black Californians as 17.5% live with T2D, compared with 13.2% of Latinos, 10.5% of Asians, and 9.2% of Whites in California.<sup>8</sup>

Berkeley also has health disparities in diet-related disease. In 2014, African American residents were four times more likely than White residents to be diagnosed with diabetes and 14 times more likely to be hospitalized due to its effects.<sup>9</sup> This gap has decreased since 2014, but the disparity continues to exist.<sup>10</sup> Rates of hospitalization for heart disease and high blood pressure are also significantly higher among African American residents than White and Latino residents.<sup>6</sup> On a national scale, racial and ethnic minorities experience diet-related disparities – diets high in fat and salt and low in fruits, vegetables, and whole grains.<sup>11</sup> These diet related disparities lead to additional health disparities including heart disease and diabetes, as discussed above. Providing more nutritious options will benefit people of all backgrounds, but it will equitably benefit low-income communities and communities of color who are most affected by nutrition-related health issues.

### **Checkout Areas of Small Stores Contribute to the Problem**

Consumers are trying to make healthier purchases. A 2019 report found that 73 percent of shoppers are concerned about the nutritional content of their food.<sup>12,13</sup> Despite consumer desire to select healthier foods, unhealthy foods are prevalent in checkout areas in a wide variety of retail stores. A national study of 8,600 stores – including supermarkets, convenience stores, drug stores, and dollar stores – found that 88 percent display candy at checkout and one-third (34 percent) sell sugar-sweetened beverages.<sup>14</sup> Only 24 percent of stores sell water at checkout, and only 13 percent sell fresh fruits or vegetables at checkout.<sup>11</sup>

In a national study, led by Jennifer Fable of UC Davis, one in three adults reported purchasing foods from the checkout aisle during their last shopping trip, with lower-income shoppers more likely to purchase from checkout than higher-income shoppers.<sup>15</sup> Falbe's research indicates that healthy checkout policies have the potential to impact both nutrition and health equity.

In 2022, a Berkeley-based youth group assessed a sample of 15 small Berkeley stores including 7-Eleven, Derby Food Center, Shattuck Market, Mi Ranchito, South Berkeley Produce Market, and others. Data was collected from 1800 facings, which are the display of a single product on the shelf (not including the items stacked behind it). With 35 percent of food items consisting only of gum and mints, another 52 percent of foods offered at checkout were unhealthy, leaving only 13% of food items as nutritional options. 83 percent of beverages sold in the checkout area were considered unhealthy using the National Alliance for Nutrition and Activity Model Nutrition Standards for Checkout.<sup>16</sup> Research shows that food choices are strongly affected by the environments in which they are made.<sup>17</sup> The aim of placing food and beverages at checkout is to induce unplanned purchases; thus, unhealthy checkout options undermine consumers' efforts to purchase healthier foods.<sup>18</sup> The placement of snacks near the register increases the likelihood that people purchase those foods.<sup>19</sup> In addition, most of the candy, soda, and chips in checkout aisles are placed at eye-level and within reach of children, undermining parents' efforts to feed their children well.<sup>20</sup> Three-quarters of parents report that it is hard to shop at grocery stores because unhealthy food is so prevalent.<sup>21</sup> Healthy checkout aisles provide all families more opportunities to say yes to their kids.

### **Small Stores are a Prime Place for Policy Change**

After grocery stores, Americans' greatest source of weekly calories is convenience, dollar, and other small stores.<sup>22</sup> Grocery and convenience stores combined are the largest contributors of unhealthy food and beverages to the diet. Seventy percent of the sugary beverages children consume come from food retail.<sup>23</sup>

While convenience and small stores stock a range of options (hot and cold prepared foods, packaged items, beverages), their inventories tend to feature high-calorie, low-nutrient items, such as fried foods, snacks, and packaged baked goods.<sup>24</sup> A study across California convenience stores found that soda and unhealthy foods took up 20 to 30 times more shelf space than did produce.<sup>25</sup> Similar to supermarkets, food manufacturers pay slotting fees for prominent placement inside some convenience stores, including at checkout.<sup>26</sup>

The USDA Economic Research Services research notes that individuals who rely on these smaller establishments have difficulty obtaining the quality and quantity of healthy food they need to meet dietary guidelines.<sup>27</sup> Families who receive SNAP benefits purchase almost twice their weekly food intake from convenience stores, dollar stores, and pharmacies than their higher-income counterparts.<sup>28</sup> With this there is a need to ensure access to healthier snacks at these stores.

Healthy Checkout also provides an opportunity for stores. When United Kingdom grocery stores provided healthier options at checkout, consumers responded positively and provided a "responsible" branding opportunity for those stores.<sup>29</sup> Consumers want healthier choices, and stores can use this fact to their advantage. Setting minimum nutrition standards for items stocked at checkout areas in convenience and other small stores is ideal for progressing and changing norms around healthy snacks and drinks.

### **Strategies to Reduce Sugar Consumption in Berkeley**

In 2014, Berkeley became the first city in the country to tax the distribution of sugar sweetened beverages. In the last five years, the City created the Healthy Berkeley program which supports the Berkeley Unified School District garden education program as well as community programs that educate residents about nutrition and are changing norms around beverage choice.

Then, in 2020, Berkeley became the first city in the country to pass a Healthy Checkout Ordinance. This ordinance was another effort to create a healthy food environment that would support families by providing them the ability to avoid high-calorie, low-nutrient food and beverages when they do their grocery and other shopping. However, the policy only affects large stores, and should be amended to create a healthier food environment in convenience and other small stores which are especially prevalent in low income communities in Berkeley. Individuals and families who want to purchase sugary drinks, candy, chips, and other sweet and salty snacks will be able to find them in their respective aisles in the center of stores. By changing checkout norms, shoppers and their children face less temptation to consume sugary foods.

### **Berkeley Residents are Demanding Checkout Changes**

The Center for Science in the Public Interest performed four focus group studies in 2019 regarding the proposed Healthy Checkout Ordinance. The focus groups were intentionally diverse but focused on youth and health advocates. The four focus groups were 1) Berkeley High School students 2) Latinx women in South Berkeley, conducted in Spanish 3) African-American women, hosted by Healthy Black Families and 4) North and Northwest Berkeley residents, hosted by Urban Adamah. From the focus groups, advocates learned that half

reported feeling stress at checkout, there was unanimous support for healthy checkout options in grocery stores, and parents and children are susceptible to impulse purchases.

In 2022, Berkeley-based youth advocates conducted focus groups and surveys with 37 Berkleyans who shop at convenience and corner stores. Adults and adolescents surveyed unanimously supported removing unhealthy food and beverages from small store checkout lanes and requiring stores to have healthy checkout aisles. With the addition of healthier items at checkout, many residents felt that overall community health will be positively impacted since, for many, convenience stores are a regularly tracked location and play a large role in what these residents consume. Interviewees especially cited concern over the disparity between accessible processed foods relative to healthier snacks for youth coming to small stores after school and for community members who have health conditions that require dietary restrictions.

### **Healthy Checkout Reduces Impulse Buying of Sugary Snacks and Drinks**

A recent study by the University of Cambridge analyzed purchasing data for common unhealthy checkout foods from 2013-2017 in nine U.K. supermarket chains. They found that consumers purchased 17 percent fewer sweets, chocolate and potato chips in stores without unhealthy items at checkout. One year later the decline in unhealthy purchases remained steady at 16 percent.<sup>2</sup>

The Healthy Checkout Ordinance will create a level playing field for customers and retailers and support consistent, healthy snacking norms for shoppers and families.

### **Providing Alternatives at Checkout in Berkeley: Amendment Elements**

The amended ordinance (Attachment 1):

- limits food and beverage products sold at the checkout area;
- applies to approximately 55 stores in Berkeley that are 2,500 square feet and under and have more than 25 linear feet of food for sale; and
- allows only beverages with no added sugars and no artificial sweeteners and food items with 5 grams or less of added sugars and 200 milligrams or less of sodium per serving to be sold in the checkout area;
- allows only food items which fall under the following categories: chewing gum and mints with no added sugars, fruit, vegetables, nuts, seeds, legumes, yogurt or cheese, and whole grains.

These limitations allow for healthy alternatives to proliferate in checkout areas.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS**

In March 2015, the City of Berkeley implemented a Sugar-Sweetened Beverage (SSB) tax, often referred to as a soda tax. The tax imposes a fee on distributors of sugary drinks, including sodas, energy drinks, and certain fruit-flavored beverages. The goal of this tax is to reduce the consumption of sugary beverages, which are linked to health issues like diabetes and cardiovascular disease, while generating revenue for public health initiatives. Between 2015 and 2021, the tax generated \$9 million in revenue and within one year of implementation SSB purchasing dropped 10%.<sup>30,31</sup>

Revenue generated from the SSB tax funds projects throughout the city that work to educate the community about the harmful impacts of SSBs, and implement systems and policy changes



that reduce consumption of SSBs over time, and decrease the health risks among residents of Berkeley.

The City of Berkeley has an existing Healthy Checkout Ordinance that sets minimum nutrition standards for foods, beverages, gum and mints stocked at checkout. This ordinance currently applies only to stores greater than 2500 sq. ft.

### **ACTIONS/ALTERNATIVES CONSIDERED**

In February 2019, Assemblymember Buffy Wicks introduced AB 765, a bill which would implement Healthy Checkout statewide. However, the bill did not advance from committee.<sup>32</sup>

Following Berkeley's lead, in February 2023, the City of Perris passed a healthy checkout policy which similarly sets minimum nutrition standards for foods and beverages stocked at checkout.<sup>33</sup>

Prior to 2022, in the United Kingdom (UK), many grocery stores had voluntarily undertaken healthy checkout initiatives.<sup>29</sup> A study of this initiative showed that the policies implemented between stores varied widely in their level of specificity and implementation. Among stores with clear, consistent policies, there were 20% fewer snacks at checkout that were considered less healthy than at stores without policies or with vague policies in place.<sup>34</sup> Without clear standards for what constitutes "healthy" or enforcement, the voluntary model is too modest to draw conclusions about long-term health impacts. In addition, the interviews with retailers indicated that voluntary compliance without straightforward guidelines would be more difficult to follow. As of October 1, 2022, the United Kingdom has a healthy retail policy in place that restricts unhealthy food placement near store entrances, at endcaps, or checkout aisles.<sup>35</sup>

In 2022, Richmond youth proposed a healthy retail policy that included healthy checkout and advocated for an initiative to keep soda in the soda aisle. A study conducted across grocery stores in D.C. found that sodas are placed, on average, in 29 locations in one store.<sup>36</sup> A nationwide survey demonstrated that 58% of SNAP recipients will buy less sugary drinks if they are only located in the drink aisle, especially parents who shop with their children. 36% of respondents said they would even shop at a new store regularly if it kept soda in the soda aisle. Again, this number more than doubled for parents who shop with their kids. The same youth met with the Contra Costa County Board of Supervisors to advocate for healthy retail initiatives, including healthy checkout and a proposal to make condoms available in stores without clerk assistance.

### **CONSULTATION/OUTREACH OVERVIEW AND RESULTS**

The Berkeley youth group interviewed three retailers in the community including two corner store managers and a food retailer/community kitchen owner, as well as a nutrition counselor. Retailers expressed that they could successfully implement the policy as long as they can stock a variety of perishable and non-perishable items at checkout, and set affordable price points, both of which are accounted for in the ordinance. Two retailers cited that because they already sell a substantial amount of healthy items at checkout and in the store, it won't require a big change to meet the proposed new standards.

### **RATIONALE FOR RECOMMENDATION**

Expanding Healthy Checkout to stores under 2500 sq. ft. will greatly increase access to healthy snacks at checkout throughout Berkeley. Requiring the approximately 55 additional stores to follow the requirements for Healthy Checkout would eliminate the encouragement of unplanned purchases of unhealthy foods and beverages at smaller stores, many of which serve largely lower income communities and neighborhoods of color. In a USDA study, low income families got twice as many calories from corner and convenience stores than did their higher income counterparts.<sup>28</sup> Such a change would thus contribute to healthy norms and reduce the consumption of sugary drinks and unhealthy foods in the City of Berkeley.

### **IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT**

Bay Area Community Resources is funded for FY23 and FY24 to provide technical assistance to stores 2500 square feet and under, including in-store education and penalty-free monitoring. Community partners could assist with implementation.

Enforcement should be focused primarily on positive education and secondarily on traditional enforcement. Enforcement of the amended ordinance may be conducted by the Environmental Health Division (EHD) and follow the same protocol as established in the Healthy Checkout Ordinance. This protocol currently states that EHD will inspect for compliance during routine inspections, and as needed in response to complaints. In instances where violations are present and cannot be corrected immediately, EHD can conduct a chargeable follow up inspection. For repeated violations after multiple follow up visits, retailers may be fined accordingly:

- \$100 for the first violation
- \$200 for the second violation
- \$500 for the third and subsequent violations.

### **ENVIRONMENTAL SUSTAINABILITY**

There are no identifiable environmental impacts or opportunities associated with the action recommended in this report.

### **EVALUATION**

Currently there are researchers from universities around the world looking at outcomes related to healthy retail, including the impacts of Berkeley's existing Healthy Checkout Ordinance.

### **FISCAL IMPACTS**

Implementation of the amendment would require staff time to educate the approximately 55 stores about what is required of them to comply with the ordinance. The Center for Science in the Public Interest has created a suggested list of products that meet the criteria of the ordinance.

Bay Area Community Resources is funded for FY 23 and FY 24 to work with stores 2500 sq. ft. and under, including with store education and monitoring.

### **CONTACT PERSON**

Vice Mayor Ben Bartlett  
James Chang  
Tina R. Posner

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)  
[tposner@cityofberkeley.info](mailto:tposner@cityofberkeley.info)

**ATTACHMENTS AND MATERIALS**

1. Draft of Amended Healthy Checkout Ordinance
  2. Environmental Health's Healthy Checkout Enforcement Protocol
  3. Retail Environment in Small Stores Fact Sheet
- 
1. Home | dietary guidelines for Americans. USDA. (2020, December). [https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary\\_Guidelines\\_for\\_Americans\\_2020-2025.pdf](https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf)
  2. Brody, JE. The Downside of Having a Sweet Tooth. The New York Times. July 22, 2019. <https://www.nytimes.com/2019/07/22/well/eat/the-downside-of-having-a-sweet-tooth.html>
  3. U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015–2020 Dietary Guidelines for Americans 8th Edition. Washington, DC; HHS and USDA, 2015.
  4. Lancet Diabetes Endocrinol. 2014 Nov;2(11):867-74. doi: 10.1016/S2213-8587(14)70161-5. Epub 2014 Aug 12.
  5. Harvard T.H. Chan School of Public Health. (2023, March). Salt and sodium. The Nutrition Source. <https://www.hsph.harvard.edu/nutritionsource/salt-and-sodium/>
  6. Van Dyke M, Greer S, Odom E, et al. Heart Disease Death Rates Among Blacks and Whites Aged  $\geq 35$  Years — United States, 1968–2015. MMWR Surveill Summ 2018;67(No. SS-5):1–11. DOI: <http://dx.doi.org/10.15585/mmwr.ss6705a1>
  7. American Diabetes Association. (2021, October). The burden of diabetes in CaliforniaA. Diabetes.org. [https://diabetes.org/sites/default/files/2021-10/ADV\\_2021\\_State\\_Fact\\_sheets\\_California.pdf](https://diabetes.org/sites/default/files/2021-10/ADV_2021_State_Fact_sheets_California.pdf)
  8. United Health Foundation. (2023). Explore diabetes in California: AHR. America's Health Rankings. [https://www.americashealthrankings.org/explore/measures/Diabetes/CA?population=Diabetes\\_LT\\_25k\\_C](https://www.americashealthrankings.org/explore/measures/Diabetes/CA?population=Diabetes_LT_25k_C)
  9. City of Berkeley. Health Status Report 2014. Berkeley, CA; 2014.
  10. City of Berkeley. Health Status Report 2018. Berkeley, CA; 2018.
  11. Satia, Jessie A. Diet-Related Disparities: Understanding the Problem and Accelerating Solutions. J. Am Diet Assoc. 2009 April.
  12. Food Marketing Institute. The Power of Health and Well-Being in Food Retail. Arlington, VA: FMI; 2019.
  13. International Food Information Council Foundation. 2019 Food & Health Survey. Washington, D.C.: IFIC; 2019.
  14. Barker D, Quinn C, Rimkus L, Zenk S, Chaloupka F. Availability of Healthy Food Products at Check-out Nationwide, 2010-2012. Chicago, IL: Bridging the Gap Program, Health Policy Center, Institute for Health Research and Policy, University of Illinois at Chicago; 2015.
  15. Falbe, J., White, J. S., Sigala, D. M., Grummon, A. H., Solar, S. E., & Powell, L. M. (2021). The potential for healthy checkout policies to advance nutrition equity. *Nutrients*, 13(11), 4181. <https://doi.org/10.3390/nu13114181>
  16. The Center for Science in the Public Interest. Model Nutrition Standards for Checkout. <https://cspinet.org/protecting-our-health/nutrition/model-nutrition-standards-checkout>.
  17. Petimar J, Moran AJ, Grummon AH, et al. In-Store Marketing and Supermarket Purchases: Associations Overall and by Transaction SNAP Status. *American Journal of Preventive Medicine*. 2023/03/04 2023;doi: <https://doi.org/10.1016/j.amepre.2023.02.029>

18. Center for Science in the Public Interest. Temptation at Checkout: The Power of Point-of-Sale Retail Food Marketing. Washington, D.C.: CSPI; 2015.
19. Kerr J, Sallis JF, Bromby E, Glanz K. Assessing Reliability and Validity of the GroPromo Audit Tool for Evaluation of Grocery Store Marketing and Promotional Environments. *J Nutr Educ Behav.* 2012;44(6):597-603. doi:10.1016/j.jneb.2012.04.017.
20. Horsley JA, Absalom KA, Akiens EM, Dunk RJ, Ferguson AM. The Proportion of Unhealthy Foodstuffs Children Are Exposed to at the Checkout of Convenience Supermarkets. *Public Health Nutr.* 2014;17(11):2453-2458.
21. Caravan ORC International. Checkout Polling: Online Survey of 1,024 adults. Princeton, NJ; 2016.
22. Mancino, L., & Guthrie, J. (2018, February 21). Supermarkets, schools, and social gatherings: Where Supplemental Nutrition Assistance Program and other U.S. households acquire their foods correlates with nutritional quality. USDA ERS - Supermarkets, Schools, and Social Gatherings: Where Supplemental Nutrition Assistance Program and Other U.S. Households Acquire Their Foods Correlates With Nutritional Quality. <https://www.ers.usda.gov/amber-waves/2018/januaryfebruary/supermarkets-schools-and-social-gatherings-where-supplemental-nutrition-assistance-program-and-other-us-households-acquire-their-foods-correlates-with-nutritional-quality/>
23. Poti JM, Slining MM, Popkin BM, Kenan WR. Where are kids getting their empty calories? Stores, schools, and fast food restaurants each play an important role in empty calorie intake among US children in 2009-2010. *J Acad Nutr Diet.* 2014;114(6):908-917. doi:10.1016/j.jand.2013.08.012.
24. Healthy Corner Stores Guide; US Department of Agriculture. Food and Nutrition Service. (2016). Healthy Corner Stores. SNAP Education Connection. <https://snaped.fns.usda.gov/library/materials/healthy-corner-stores>
25. Farley, T.A., Rice, J., Bodor, J.N. et al. Measuring the Food Environment: Shelf Space of Fruits, Vegetables, and Snack Foods in Stores. *J Urban Health* 86, 672–682 (2009). <https://doi.org/10.1007/s11524-009-9390-3>
26. Rivlin, G. (2016, September). Rigged Supermarket Shelves for Sale. Center for Science in the Public Interest. [https://www.cspinet.org/sites/default/files/attachment/CSPI\\_Rigged\\_4\\_small.pdf](https://www.cspinet.org/sites/default/files/attachment/CSPI_Rigged_4_small.pdf)
27. United States Department of Agriculture (USDA), Economic Research Service. <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas/>, February, 2023.
28. Todd, J., Scharadin, B. (2016). (rep.). Where Households Get Food in a Typical Week: Findings From USDA's FoodAPS. Economic Research Service, USDA.
29. Winkler, Lise L, et al. Substituting Sugar Confectionary with Fruit and Healthy Snacks at Checkout – A Win-Win Strategy for Consumers and Food Stores? *BMC Public Health.* 2016
30. Falbe, J., Grummon, A., Rojas Rojas, N., Ryan-Ibarra, S., Silver, L., & Madsen, K. (2020, October). *Lessons learned from implementing a sugar-sweetened beverage tax in Berkeley, California.* Center for Poverty and Inequality Research. <https://poverty.ucdavis.edu/post/lessons-learned-implementing-sugar-sweetened-beverage-tax-berkeley-california#:~:text=Berkeley%27s%20SSB%20tax%20ordinance%20generated,dropped%2010%20percent%20in%20supermarkets.>

31. Silver, L. D., Ng, S. W., Ryan-Ibarra, S., Taillie, L. S., Induni, M., Miles, D. R., Poti, J. M., & Popkin, B. M. (2017). Changes in prices, sales, consumer spending, and beverage consumption one year after a tax on sugar-sweetened beverages in Berkeley, California, US: A before-and-after study. *PLOS Medicine*, 14(4).  
<https://doi.org/10.1371/journal.pmed.1002283>
32. Health Checkout Aisles for Healthy Families Act, AB-765 (California, 2019-2020).  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB765](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB765)
33. Perris Code § 7.50. - Healthy Options at Checkout.  
[https://library.municode.com/ca/Perris/codes/code\\_of\\_ordinances?nodeId=COOR\\_TIT7\\_HEWE\\_CH7.50HEOPCH\\_S7.50.040EN](https://library.municode.com/ca/Perris/codes/code_of_ordinances?nodeId=COOR_TIT7_HEWE_CH7.50HEOPCH_S7.50.040EN)
34. Lam, C. C., Ejlerskov, K. T., White, M., & Adams, J. (2018). Voluntary policies on checkout foods and healthfulness of foods displayed at, or near, Supermarket Checkout Areas: A cross-sectional survey. *Public Health Nutrition*, 21(18), 3462–3468.  
<https://doi.org/10.1017/s1368980018002501>
35. Department of Health and Social Care. (2021, July 21). Promotions of unhealthy foods restricted from October 2022. GOV.UK.  
<https://www.gov.uk/government/news/promotions-of-unhealthy-foods-restricted-from-october-2022>
36. Minovi, D., Much, J., Snyder, E. (2021, September). Soda on Display: A Pilot Study of Sugary Drink Placement and Promotion in Grocery Stores in the Washington, DC Area.





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
November 28, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison (Author) and Vice Mayor Bartlett (Co-Sponsor)  
Subject: Amend Berkeley Municipal Code Chapter 3.78 To Expand Eligibility Requirements for Representatives of The Poor to Serve on The Human Welfare and Community Action Commission

RECOMMENDATION

Amend Berkeley Municipal Code Chapter 3.78 to expand eligibility requirements for Representatives of the Poor to serve on the Human Welfare and Community Action Commission, or any successor commission, to consider the current geographic formation of poverty in Berkeley.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The Human Welfare and Community Action Commission is a body charged with addressing the social welfare of the Berkeley community, focusing on those experiencing poverty and financial hardship within our City. This commission, as defined by Section 3.78.010, consists of fifteen members, nine of which are appointed by each Councilmember and the Mayor and six of which are “Representatives of the Poor;” this refers to residents with incomes below the median area income or significant lived experience in poverty. As it stands, there are three districts (1, 2, and 3) that were identified by the 1988 Berkeley City Council, based on the 1980 census data, as having the most concentrated levels of poverty.<sup>1</sup> Currently, all six of the Representatives of the Poor must reside in these districts (two from each of the districts). Interestingly, despite the changing geographic landscape of poverty in Berkeley within the last 43 years, the ordinance language and participation criteria has remained largely unchanged. The requirement for service no longer accurately represents the different and changing image of poverty in Berkeley. By expanding inclusion requirements for Representatives of the Poor, the HWCA has more opportunity to secure necessary involvement and funding in addition to becoming a more representative decision-making body.

**Substantive revisions to Chapter 3.78:**

*B. Six of the members shall be representatives of the poor, who shall to be elected as individuals residing anywhere within City limits who earn*

---

<sup>1</sup> “3.78.010 Creation of the Human Welfare and Community Action Commission.” Berkeley Municipal Code. Accessed October 23, 2023. <https://berkeley.municipal.codes/BMC/3.78.010>



~~*below the median area income or who have had significant lived experience in poverty. to be elected two from each of three districts as established by the City Council and shown on the map attached hereto, made a part hereof and marked "Exhibit A" (see Ch. 3.999).*~~

The section B revision seeks to maintain the focus on representing the economically marginalized, but recognizes that the distribution of poverty within the community has shifted. City and community led homelessness initiatives, investments in residence hotels, and increased RV dwellers are just a few of the many reasons why poverty is dispersed differently across the city than it was 43 years. Additionally, displacement and gentrification, which have acutely affected West and South Berkeley neighborhoods, have also contributed to changing demographics. This amendment suggests electing representatives of the poor from anywhere within the City, based on contemporary geographical considerations, as opposed to 1980 Census data.

~~*C. The community service block grant (CSBG) target area shall comprise the total area from which three election districts are drawn. Each district will have approximately equal numbers of poverty families utilizing data from the 1980 Census.*~~

The section C revision (amended to be section B) intends to concurrently address the issue of the changing landscape of poverty by eliminating the Community Services Block Grant (CSBG) target area. The HWAC Commission relies on CSBG funding to accomplish commission goals, but needs to fulfill certain participant criteria to be able to access the funding. Currently, because there is precarious membership, the HWAC commission’s funding and resources are threatened. The proposed change expands the target area to cover the entire City, ensuring section B revision’s feasibility. The CSBG target area is no longer limited to the former poverty districts drawn according to the 1980 census because the community of individuals in poverty are now spread into a wider area of the community as a result of placement of homeless individuals into residence hotels and RV parking, along with other programs, into other geographical areas.

These amendments to Berkeley Municipal Code Section 3.78.010 ensure that the Berkeley Human Welfare and Community Action Commission remains effective in addressing their goals. These revisions are crucial to be successful in representing a series of contemporary socio-economic developments and demonstrating the City's commitment to adapt to changing circumstances.

FISCAL IMPACTS OF RECOMMENDATION

No fiscal impacts.

ENVIRONMENTAL SUSTAINABILITY

This budget referral has no effect on environmental sustainability.

CONTACT PERSON

Amend Berkeley Municipal Code Chapter 3.78 To Expand Eligibility Requirements for Representatives of The Poor to Serve on The Human Welfare and Community Action Commission

CONSENT CALENDAR  
November 28, 2023

Councilmember Kate Harrison, (510) 981-7140

ATTACHMENTS

1. Revised BMC Chapter 3.78

ORDINANCE NO. –N.S.

AMENDING CHAPTER 3.78 TO THE BERKELEY MUNICIPAL CODE TO EXPAND ELIGIBILITY REQUIREMENTS FOR REPRESENTATIVES OF THE POOR

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 3.78.010 is amended to read as follows:

**3.78.010 Creation of the Human Welfare and Community Action Commission.**

A Berkeley Human Welfare and Community Action Commission is hereby created. The membership of such commission shall be fifteen:

A. Nine of the members shall be appointed by Berkeley City Councilmembers, in accordance with the Fair Representation Ordinance.

1. Four of the nine members of the commission appointed by the council shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751, the language of which is incorporated herein by reference.

2. Representatives of private sector organizations shall be empowered to speak and act on behalf of the organizations they represent in connection with the board's business.

B. Six of the members shall be representatives of the poor, who shall to be elected as who shall be individuals residing anywhere within City limits who earn below the median area income or who have had significant lived experience in poverty. two from each of three districts as established by the City Council and shown on the map attached hereto, made a part hereof and marked "Exhibit A" (see Ch. 3.999).

C. The community service block grant (CSBG) target area shall comprise the total area from which three election districts are drawn. Each district will have approximately equal numbers of poverty families utilizing data from the 1980 Census.

~~1. Four of the nine members of the commission appointed by the council shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751, the language of which is incorporated herein by reference.~~

~~2. Representatives of private sector organizations shall be empowered to speak and act on behalf of the organizations they represent in connection with the board's business.~~

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Kate Harrison  
Councilmember, District 4

ACTION CALENDAR  
November 28, 2023

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Adopt Berkeley Municipal Code Chapter 13.89: Community/Tenant Opportunity to Purchase Act

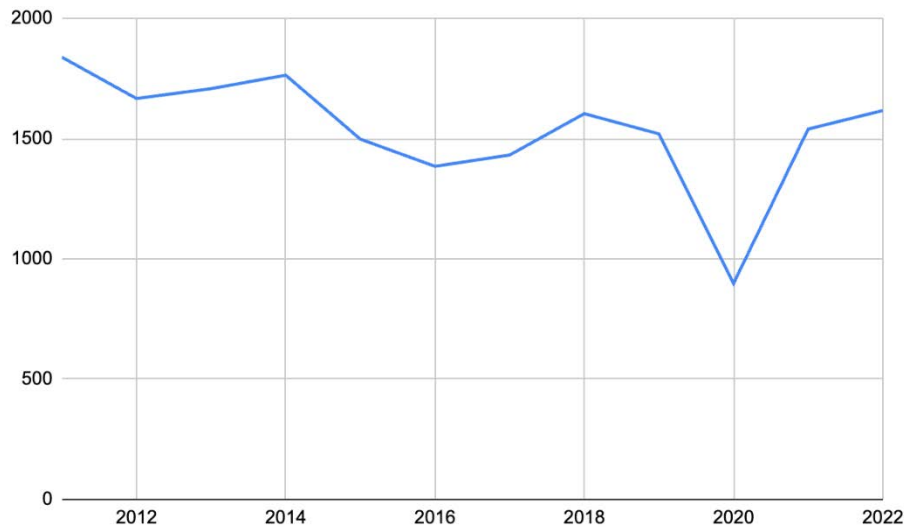
RECOMMENDATION

Adopt Berkeley Municipal Code Chapter 13.89: The Community/Tenant Opportunity to Purchase Act (COPA/TOPA).

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The City of Berkeley continues to grapple with enduring housing affordability and displacement crises, leaving increasingly limited prospects for property ownership and wealth accumulation amongst residents. In Berkeley, 58% of residents are renters. Berkeley residents who have been historically and institutionally marginalized based on race, income, and immigration status face the most barriers to wealth accumulation and property ownership. Discriminatory practices, often supported and/or facilitated by financial institutions and government policy, such as redlining, inequitable use of eminent domain, and ongoing demolition of affordable housing has led to disproportionate rates of displacement, housing injustice, and poverty among Black, Brown, Indigenous, and immigrant communities.

The preservation of affordable housing is key to reaching the housing and equity goals codified in Berkeley's recently adopted 2023-2031 Housing Element and strategic plan. Properly designed, the Community/Tenant Opportunity to Purchase Act (COPA/TOPA) can be an effective strategy to help break the cycle of displacement from multi-family housing by converting naturally affordable housing into permanently affordable units. Unfortunately, our City is losing affordable housing according to data from a *Berkeleyside* study. The number of one bedroom rent controlled units have decreased over the last 11 years by approximately 220 units, one of the reasons why renting in Berkeley has become increasingly more burdensome.



**# of 1 bedroom rent controlled units in Berkeley**

COPA/TOPA not only serves to stabilize housing for existing tenants and safeguard affordable housing units in Berkeley, it can also open avenues for tenants to embark on first-time homeownership through land trusts that convert rental property to ownership units. It is imperative to underscore that nothing about COPA/TOPA prevents property owners from seeking fair market value for their properties. In fact, it can benefit property owners by offering various cost-saving benefits through tax refunds and reduced relocation fees.

Attachment D provides a flowchart depicting the proposed process. In summary, the proposed legislation:

- **Excludes buildings with four-units or less that are owner-occupied** except for the financial incentive, which gives any property owner who sells to existing tenants a transfer tax refund.
- **Requires property owners to notify existing tenants (with the exception of four-unit and smaller owner-occupied buildings) of their intent to sell** between 20 and 45 days (depending on property size) in advance of putting the property on the market.
- **Allows existing tenants to express interest in purchasing the property** within the 20 or 45 days of notice.
- Requires tenants to create a tenant organization and select a supportive partner, or, alternatively, formally transfer their rights to a qualified nonprofit, and **make a formal offer, depending on property size, within another 30, 60 or 90 days** starting from the date the statement of interest is submitted.



- **Allows property owners to reject the offer** within a time frame suggested by California State standards,<sup>1</sup> however, this time frame is ultimately decided through buyer/seller negotiation. If the property owner rejects the offer or if the offer period expires, **the property owner may take the property to market.**
- **In buildings of more than four-units, COPA/TOPA requires the property owner to notify tenants or qualified nonprofits that issued a first offer of the market offer.** Expanding this requirement to smaller buildings will be assessed in year 4.
- **Requires qualified organizations to match the substantive terms of the market offer within 10 or 30 days** (depending on property size).<sup>2</sup>
- **Gives the property owner discretion to decide whether to accept the offer from the tenants or the qualified nonprofit.** The property owner is not compelled to sell their property to existing tenants or a qualified nonprofit, nor are they discouraged from selling it at market price.
- **Provides a financial incentive to property owners to sell to existing tenants or qualified nonprofits by refunding 50% of the city's base transfer tax,** excluding the additional share voted on in Measure P.<sup>3</sup>
- **Supports tenant organizations by providing technical guidance and educational resources.** Financial assistance may be offered upon the development of guidelines by the City Manager. Nothing in the ordinance commits the City Council to providing a specified level of funding for acquiring properties.

## BACKGROUND

COPA/TOPA was first introduced to Council in 2020 by Mayor Arreguin and referred to the Land Use, Housing, and Economic Development Policy Committee. After significant public input, Council Committee members recommended revisions to the legislation and planned to review it January of 2021, addressing budgetary, administrative, and outreach recommendations. However, due to the COVID-19 pandemic and subsequent lockdown, Council priorities shifted and, while agendaized once in March and once in April of 2021, action was not taken by Committee members until May of 2021. At that time, COPA/TOPA passed through Committee with a 2-1 vote with a positive recommendation on the condition of additional revisions. On January 27, 2022, the Mayor conducted an informational work session regarding COPA/TOPA to provide a

---

<sup>1</sup> California Department of Real Estate, "Chapter 20: Basic Contract Provisions and Disclosures in a Residential Real Estate Transaction," *California Real Estate Reference Book*, <https://dre.ca.gov/files/pdf/refbook/ref20.pdf> (accessed November 1, 2023).

<sup>2</sup> Substantive terms include purchase price, time to close, and contingencies.

<sup>3</sup> 50% of the City's total base transfer tax refund is .75% of the sale price. For a house sold at \$1.8 million, the amount of the base transfer tax would be \$27,000, of which 50% is \$13,500. "Property Transfer Tax," City of Berkeley, <https://berkeleyca.gov/city-services/report-pay/property-transfer-tax> (accessed October 9, 2023).

forum for the public, Council, and staff to convey their thoughts about the proposed policy. COPA/TOPA has not yet been put to a vote.

Councilmember Harrison's Office has since conducted significant outreach in collaboration with the NAACP, faith groups, senior centers, housing justice organizations, law centers, property owners, and tenant advocacy groups. Councilmember Harrison has also worked with the City Attorney's office to develop a revised version of COPA/TOPA based on the concerns and recommendations of our diverse community.

A factor that became apparent during our outreach is that, in addition to providing property owners full discretion choosing to whom they sell their properties, COPA/TOPA can also provide extensive cost saving benefits to property owners. On top of providing a transfer tax refund explained below, when a property owner sells to existing tenants, they are no longer obligated to cover relocation costs. In the case of owner move-in evictions, landlords must pay \$18,011 to any tenant household that has lived in the residence for one year or more. Moreover, the landlord may also have to pay an additional \$6,000 to any tenant household that is low-income, disabled, elderly, includes children, or tenancies that began prior to 1999.<sup>4</sup> Under COPA/TOPA, property owners can save on legal, real estate and renovation expenses.

### **Overview of Policy Differences Between the Proposed 2022 and 2023 COPA/TOPA**

To respond to salient community concerns shared by tenants, property owners, and nonprofit partners alike, the proposed ordinance includes the following revisions and additions:

1. Expanded exemptions for owner-occupied properties;
2. Changed Right-of-First-Refusal to only be applicable to properties of more than four-units; smaller properties to be considered after assessment of the initial program;
3. Altered requirements for smaller properties;
4. Revised timelines for notice, offer, and close period for all properties;
5. Added a lifelong lease provision;
6. Clarified that properties with one-unit may only be purchased/sold under TOPA to sitting tenants with or without the assistance of a tenant organization;
7. Added provisions for anti-speculation.

### ***Exemptions for Owner-Occupied Properties***

---

<sup>4</sup> City of Berkeley, "Tenant Relocation and Repairs," City of Berkeley, <https://berkeleyca.gov/doing-business/operating-berkeley/landlords/tenant-relocation-repairs> (accessed November 1, 2023).

One of the most significant concerns that emerged during earlier hearings was the potential issues for owner-occupied properties. It is important to acknowledge that many Black, Brown, Indigenous and low-income people are small property owners who live in their property in Berkeley and that these small properties may be one of their only sources of generational wealth accumulation.

The policy as redrafted intends to foster a more equitable housing environment for communities that have endured significant discrimination by exempting bona fide owner-occupied triplexes and quadruplexes (in addition to owner-occupied duplexes and single-family homes as called for in the original legislation).

### ***Smaller Properties***

To address concerns raised by smaller property owners who may not have the immediate resources to implement this policy, the following section excludes implementation of Section 13.89.110, Right of First Refusal, for smaller units (four or fewer units) and only adds that requirement to those properties upon a showing of results from application of COPA/TOPA to larger properties. The Right of First Refusal provision for will take effect for larger properties on January 1, 2024 and only come into effect for properties or four or fewer units on January 1, 2027 pending analysis and findings mandated by chapter 13.89.200. In the interim, non-owner-occupied smaller properties (four or fewer units) will be subject to the Right of First Offer. The limitation of right of first refusal to larger properties is intended to balance the rights of existing tenants with the needs of smaller property owners, who may not have the resources to afford the ongoing process necessary to fairly administer COPA/TOPA, and to give the City and qualified tenant organizations needed experience with administering COPA/TOPA.

The policy that was proposed in 2022 granted full exemption to single-family homes under TOPA, regardless of whether they were currently occupied by a tenant. In the current policy, tenant-occupied single-family homes are now included within TOPA's scope, while continuing to exempt owner-occupied and vacant single-family homes or single-family homes that are a person's primary residence. This exemption mechanism aims to balance the interests of owners and of existing tenants.

### **Revised Timeline for Notice, Offer, and Close Periods**

Councilmember Harrison's office also considered the impact longer timelines may have on smaller property owners. For many smaller property owners, time is money, and to wait between six months and a year to close on their property, is not a feasible financial option. In the revised ordinance, the timelines for each step of the TOPA process have shifted based on the concerns of many smaller property owners, shortening many of them and clarifying that instead of a dictated timeline for close of properties, tenant purchasers must match the substantive terms of the third-party market offer including

price, timeline to close, and contingencies.

|                                              | <b>2022 Policy</b>                                                                                                                | <b>2023 Policy</b>                                                                                                                                                               |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Offer Period</b>                          | <ul style="list-style-type: none"> <li>• 90 days for two-unit property</li> <li>• 120 days for three+ unit properties</li> </ul>  | <ul style="list-style-type: none"> <li>• 30 days for one-unit property</li> <li>• 60 days for two – four-unit properties</li> <li>• 90 days for five+ unit properties</li> </ul> |
| <b>Close Period</b>                          | <ul style="list-style-type: none"> <li>• 60 days for two-unit property</li> <li>• 120 days for three+ unit properties</li> </ul>  | <ul style="list-style-type: none"> <li>• 30 days for one-unit property</li> <li>• 60 days for two – four-unit properties</li> <li>• 90 days for five+ unit properties</li> </ul> |
| <b>Right of First Refusal – Accept Offer</b> | <ul style="list-style-type: none"> <li>• 10 days for two-unit properties</li> <li>• 30 days for three+ unit properties</li> </ul> | <ul style="list-style-type: none"> <li>• 10 days for one-unit property</li> <li>• 30 days for two+ unit properties</li> </ul>                                                    |
| <b>Right of First Refusal - Close</b>        | <ul style="list-style-type: none"> <li>• 90 days for two-unit properties</li> <li>• 120 for three+ unit properties</li> </ul>     | <ul style="list-style-type: none"> <li>• Must match terms of third-party offer including price, timeline to close, and contingencies.</li> </ul>                                 |

***Lifelong Lease Provision***

The Lifelong Lease Provision intends to maintain tenant protections for tenants who are not interested in purchasing their current residence, but want to still live there. The lifelong lease ensures that if another tenant/s or qualified nonprofit purchase the property, the tenant/s who want to remain there, are protected in doing so.

***Provisions for Anti-Speculation***

To prevent speculation, under which tenants purchase a property with the intention of selling it in the very short term for profit, the ordinance includes an Anti-Speculation penalty aimed at furthering the intention of COPA/TOPA as an anti-displacement and homelessness prevention mechanism. These provisions apply to properties not subject to an affordability covenant with the City of Berkeley (because those will remain affordable even on sale). Section 13.89.190 lays out these provisions; in brief, the ordinance includes language to prohibit and penalize this behavior, including:

- An affirmative agreement by tenant-owners to not engage in speculation.

- Placing a temporary restrictive covenant on the title to ensure the city is notified of property resales. The covenant will expire after the three-year anti-speculation period ends.
- Requiring an annual owner-occupancy certification to prove residency for the first three years, and
- Application of a 10-20% penalty on any profits for properties sold in less than three years, depending on the transaction date.

The combined strategy that penalizes wrongful behavior and mandates reporting, encourages accountability and transparency while creating a financial deterrent for those who may leverage the policy in bad faith. The anti-speculation section protects property owners, qualified nonprofits, and tenants who are operating in accordance with the principles of this policy.

**FISCAL IMPACTS OF RECOMMENDATION**

This policy requires funding for administration, implementation, and enforcement. Councilmember Harrison’s office submitted a budget referral that was delayed to the AAO1, which will be considered in December 2023.<sup>5</sup> The budget referral includes funding for:

- One Health, Housing, and Community Services (HHCS) Coordinator to develop education and outreach materials, assist and direct qualified organizations through the COPA/TOPA process, complete monitoring and data analysis to improve the policy and acquisition capacity needs.
- A portion of a Deputy City Attorney II position to manage any potential disputes or violations and support Tenant Organizations when necessary.
- Qualified organization capacity support for up to two projects a year, to assist tenants as they engage in the COPA/TOPA process.

|                                                                                                                |                                                                                               |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Community Development Project Coordination for acquisition capacity, outreach, and administrative needs (HHCS) | 1 FTE - \$220,676*<br><br>*Includes \$4,500 to support office, technology, and training needs |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|

<sup>5</sup> City of Berkeley, "City Council Meeting Agenda - Item 26 - Referring \$579,000 to the June 2023 Ballot," April 11, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-04-11%20Item%2026%20Referring%20579,000%20to%20the%20June%202023.pdf> (accessed October 31, 2023).

<sup>6</sup> An additional 1 FTE for a Community Development Project Coordinator was included in the original budget referral for programmatic capacity needs, namely, for identifying vacant or mostly vacant properties so that the City could more effectively partner with nonprofit housing providers to increase affordable housing stock. The funding request for the 1 FTE in the HHCS department will be delayed until fiscal year 2025, to allow COPA/TOPA programming to stabilize capacity and processes. Once COPA/TOPA is fully functioning, an additional HHCS FTE will be needed; funding has been requested in the budget process.

|                                                                                                                                                                     |                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Deputy City Attorney II                                                                                                                                             | 0.35 FTE - \$101,884 |
| Qualified organization capacity support for two additional projects per year (in addition to existing allocation of \$100,000 to the Bay Area Community Land Trust) | \$50,000             |

The initial direct fiscal impact is estimated at \$373,000 per year. With a considerable nexus with housing equity and the City’s Small Sites Program, the City may also be able to leverage funds from the Measure U1 tax, the Housing Trust Fund, Measure O, and Measure M Empty Homes (Vacancy) Tax.

In addition, to the extent that properties are refunded one-half of the base transfer tax, or 0.75% of the property value, for each project valued at a price of \$2 million, the amount of transfer tax foregone by the City would be \$15,000. To illustrate the scope of the figures, the associated foregone transfer tax for a \$1.8 million single-family residence would be \$13,500. For a 21-unit building, which is the largest building that has sold in Berkeley within the two years (November 2021 – November 2023), the amount of foregone property tax if sold under TOPA would be \$40,000.<sup>7</sup>

**ENVIRONMENTAL SUSTAINABILITY**

This budget referral has no effect on environmental sustainability.

**CONTACT PERSON**

Councilmember Kate Harrison, (510) 981-7140

**ATTACHMENTS**

- A. Revised BMC Chapter 13.89: Community/Tenant Opportunity to Purchase Act
- B. Comparison of Revised BMC Chapter 13.89 with 2022 Version
- C. 2022 Budget Referral: “Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multifamily Housing”
- D. COPA/TOPA Timeline Chart

<sup>7</sup> MLS Listings, "Property Listing 1," <https://www.mlslistings.com/Search/Result/ec6ddea7-ee1b-4620-9c3a-25190c068d1f/1> (accessed November 1, 2023); Redfin, "Property Listing 2," <https://www.redfin.com/CA/Berkeley/1626-Dwight-Way-94703/home/95473170> (accessed November 1, 2023).

ORDINANCE NO. -N.S.

ADDING CHAPTER 13.89 TO THE BERKELEY MUNICIPAL CODE  
COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Chapter 13.89 is hereby added to the Berkeley Municipal Code to read as follows:

**Chapter 13.89**

**COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT**

- 13.89.010 Title and Purpose**
- 13.89.020 Findings**
- 13.89.030 Definitions**
- 13.89.040 Applicability**
- 13.89.050 Sale Defined**
- 13.89.060 Exemptions**
- 13.89.070 Qualified Nonprofits**
- 13.89.080 Supportive Partners**
- 13.89.090 Notice of Intent to Sell; Statement of Interest**
- 13.89.100 Right of First Offer**
- 13.89.110 Right of First Refusal**
- 13.89.120 Contract Negotiation**
- 13.89.130 Incentive to Accept Offer from Qualified Organization**
- 13.89.140 Confidential Information Protected**
- 13.89.150 Prohibited Conduct**
- 13.89.160 Complying Anew with the Right of First Offer**
- 13.89.170 Financial Assistance**
- 13.89.180 Price Stabilization; Tenant Protections**
- 13.89.190 Anti-Speculation Penalty**
- 13.89.200 Implementation**
- 13.89.210 Enforcement**
- 13.89.220 Severability**
- 13.89.230 Effective Date**



**13.89.010 Title and Purpose.**

A. This Chapter shall be referred to as the “Berkeley Community/Tenant Opportunity to Purchase Act.”

B. The purpose of this Chapter is to confer upon Tenants of Rental Properties as defined herein a right of first offer and a right of first refusal upon the transfer or sale of Rental Property, and to create an incentive for Owners of Rental Properties to offer their property for sale to Tenants residing there.

**13.89.020 Findings.**

A. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise which leads to displacement of low-income residents.

B. The current need for affordable housing units in Alameda County is 51,732 units (California Housing Partnership). Approximately 20% of residents in Berkeley are living in poverty.

C. The lack of affordable housing for Berkeley’s low-income communities is resulting in Berkeley residents having no option but to leave the City entirely or risk becoming homeless. Currently, there are an estimated 2,000 people who experience homelessness in Berkeley each year, and in December 2019 the Council extended its declaration of a homeless shelter crisis to January 2022.

D. The nine-county Bay Area has been losing an annual average of 32,000 unsubsidized affordable homes occupied by low-income households since 2012. Unsubsidized affordable housing is the most common form of low-income housing, and at the same time is the most at risk of loss through rent increases, evictions, condo conversions, demolition and more. And, overall preservation is cost-effective compared to new production, at 50-70% of the cost of new affordable housing production (Enterprise Community Partners).

E. Affordable housing preservation and anti-displacement strategies will help keep low-income tenants in their homes and is codified in the Berkeley General Plan Housing Element. Furthermore, production and maintaining affordable housing, at all income levels, is a stated priority of the City Council in its Housing Action Plan.

F. The City Council finds that in the interest of preventing the displacement of lower-income tenants and preserving affordable housing, it is necessary and appropriate to require that the owners of rental properties in the City offer tenants and qualified nonprofit organizations the opportunity to purchase the property before it may be sold on the market to a third-party purchaser.

**13.89.030 Definitions.**

A. “Dwelling Unit,” “Accessory Dwelling Unit,” “Single-Family Dwelling,” “Multi-Family



Dwelling,” and “Group Living Accommodations” are defined in Section 23.502.020.

B. “Designated as the Owner’s Primary Residence” means any unit that the Owner has validly claimed as their principal residence for purposes of either the homeowners’ property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans’ exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

C. “Offer for Sale” means an offer to sell a Rental Property that includes all material and commercially reasonable terms.

D. “Qualified Nonprofit” means a nonprofit, which is either exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation, that has the capacity to acquire, provide, and manage affordable housing for moderate, low, very low, and extremely low-income households, and is certified by the City Manager pursuant to Section 13.89.070.A.

E. “Qualified Organization” means either a Tenant Organization or a Qualified Nonprofit.

F. “Owner” means any person, corporation, partnership, limited liability company, trustee, or any other entity, who is the owner of record of a Rental Property. Each Owner shall be jointly and severally responsible for compliance with the requirements of this Chapter.

G. “Rental Property” means any residential property containing one or more Rental Units and located in the City of Berkeley

H. “Rental Unit” means any Dwelling Unit or Group Living Accommodations sleeping quarters occupied by one or more Tenants in the City of Berkeley, consistent with the records of the City of Berkeley Rent Stabilization Board, and subject to the exemptions set forth in Section 13.89.060

I. “Sale,” “sell,” or “transfer” is defined in Section 13.89.050.

J. “Supportive Partner” means any person or organization certified by the City Manager pursuant to Section 13.89.080.A to provide Tenant counseling and technical support services on first-time homeownership, obtaining financing for the purchase of Real Properties, assisting in the process of closing on property transactions, the formation and governance of legal and collective ownership structures, and supporting Tenants in the exercise of their rights pursuant to this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents.

K. “Tenant” means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a renter’s interest, or any group of tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of

such Rental Unit.

L. "Tenant Organization" means any legal entity or unincorporated and/or informal association that is authorized to act on behalf of a majority of Tenants of a Rental Property. A Tenant Organization must adopt a Governing Document and Governing Principles and may appoint officers and any other authorized agents specifically designated to execute contracts on its behalf. If only one Tenant of a Rental Property seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter. For purposes of this Paragraph only, any and all lessees of a Dwelling Unit or Group Living Accommodations sleeping quarters are collectively considered to be one Tenant, and such lessees of a Group Living Accommodation or Dwelling Unit must consent to representation by the Tenant Organization, as furthered defined in Administrative Regulations.

M. "Third-Party Purchaser" means any prospective purchaser of a Rental Property other than a Qualified Organization as defined in Paragraph D.

N. "The City" shall mean the City of Berkeley, including any departments within the City that are assigned any responsibilities under this Chapter.

O. "City Manager" means the City Manager or their designee.

P. "Governing Document" means a constitution, articles, bylaws, operating agreement, or other writings that governs the purpose and operation of a Tenant Organization and the rights and obligations of its members, which shall include provisions on the Tenant Organization's decision-making processes and appointing officers and other authorized agents to act on its behalf.

Q. "Governing Principles" means the governance and management principles stated in a Tenant Organization's Governing Documents.

R. "Majority" means an affirmative vote of more than fifty percent (50%) required for decision-making under this Chapter.

#### **13.89.040 Applicability.**

This Chapter shall apply to the sale or transfer of all Rental Property in the City of Berkeley, unless otherwise exempted herein.

#### **13.89.050 Sale Defined.**

A. "Sale," "sell," or "transfer" is defined as the following:

1. The transfer, in exchange for money or any other thing of economic value, of a present interest in the Rental Property, including beneficial use, where the value of the present interest is the fee interest in the Rental Property, or substantially equal to the

value of that fee interest.

2. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c).

3. Multiple transfers of minority interests in the Rental Property which, in effect, result in a transfer of the Rental Property.

### **13.89.060 Exemptions.**

A. Residential Property Types Exempted. The following Rental Properties are not subject to the requirements of this Chapter.

1. Any Rental Property comprised entirely of owner-occupied Rental Units, including any owner-occupied Single-Family Dwelling.

2. Any Rental Property that has no more than one Single-Family Dwelling and is vacant at the time of sale.

3. A Rental Property containing a Dwelling Unit that is Designated as the Owner's Primary Residence, if and only if one of the following applies:

a. The Rental Property has no more than one Single-Family Dwelling, and either the Single-Family Dwelling or an Accessory Dwelling Unit (inclusive of any junior Accessory Dwelling Unit) on the same parcel as the Single-Family Dwelling is Designated as the Owner's Primary Residence.

b. The Rental Property has no more than one Duplex, and (1) one of the units in the Duplex is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

c. The Rental Property has no more than one Multi-Family Dwelling that contains no more than four Dwelling Units, and (1) one of the units is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

4. Rental Properties owned by the local, state, or federal government.

5. Rental Properties owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

6. Group Living Accommodations subject to monitoring by a Monitoring Organization, as defined in Section 13.42.020.E.

7. Properties owned by housing cooperatives, if the cooperative entity is owned and controlled by a majority of residents. This definition includes non-profit mutual

housing associations and limited equity housing cooperatives.

8. Properties defined as “assisted housing developments” pursuant to California Government Code Section 65863.10(a)(3) so long as the provisions of California Government Code Section 65863.10, 65863.11, and 65863.13 apply.

B. Transfers Exempted. The following transfers of Rental Properties are not subject to the requirements of this Chapter.

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren.

2. A transfer for consideration by a decedent’s estate if the consideration arising from the transfer will pass from the decedent’s estate to, or solely for the benefit of, charity.

3. A transfer of legal title or an interest in an entity holding legal title to a Rental Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Tenants or Qualified Nonprofits under the California Civil Code Sections 2924f-h, 2924m-n, or 2929.3.

4. A transfer of bare legal title into or out of a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.

5. A transfer by devise, descent, or operation of the law upon the death of a natural person.

6. A transfer pursuant to court order or court-approved settlement.

7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.

8. A transfer of a fractional interest in a Rental Property that is less than 50% of an undivided interest in the Rental Property, unless Section 13.89.050.A30 applies.

9. Any transfer in which the transferee receives a low-income housing credit under 28 U.S.C. § 42.

10. A transfer of a Rental Property that is the Owner’s sole Rental Property and has no more than five Rental Units made for the purpose of paying for imminently necessary health care expenses of an Owner of the Rental Property, or any such health care expenses incurred by a spouse, domestic partner, or child of any Owner (“Eligible Persons”), where requiring the Owner to comply with the requirements of this Chapter would result in medical financial hardship to an Eligible Person. For purposes of this subparagraph only, “Owner” shall be limited to a natural person having an undivided

interest in the Rental Property of at least 50%. The process and requirements for determining eligibility of this exemption shall be defined in Administrative Regulations implementing this Chapter.

C. Exemption Procedures and Burden of Proof.

1. Burden of Proof. The burden of proof to establish that a property or transfer is exempt from the requirements of this Chapter shall be on the Owner.
2. The Owner of a property exempt from the requirements of this chapter or claiming an exemption pursuant to this Section must provide written notice to all Tenants of the Rental Property at time of listing or marketing property for sale. The notice shall inform the Tenants of the Owners intent to sell the Rental Property and must state whether the property is exempt from the requirements of this Chapter and specify the specific exemption claimed.
3. An Owner who believes that they should be granted an exemption under this Section shall comply with procedures that the City shall create for claiming an exemption in its Administrative Regulations.

**13.89.070 Qualified Nonprofits.**

A. Certification, Term, and Renewal. The City Manager shall certify Qualified Nonprofits that meet the requirements of this Chapter. The Qualified Nonprofit shall be a nonprofit organization exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation that is committed to furthering permanent affordability, democratic residential control, and tenant ownership, as further defined in Administrative Regulations, and shall have demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property and to provide affordable housing for very low and/or low-income households. The City Manager may prescribe additional requirements necessary to effectuate the purpose of this Chapter by Administrative Regulation. A nonprofit organization's certification as a Qualified Nonprofit shall be valid for four years. The City Manager shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification. A list of Qualifying Nonprofits shall be published on the City's website and made available by the City Manager upon request.

B. Conflicts of Interest; Disqualification of Qualified Nonprofits. A Qualifying Nonprofit may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. A Qualifying Nonprofit may not act as a Supportive Partner if it exercises its right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110. The City Manager shall promptly investigate any complaint alleging that a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Qualified Nonprofit with notice and opportunity to be heard, the City Manager determines that an organization listed as a

Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Qualified Nonprofit.

C. A Qualified Nonprofit is conferred a right of first offer and right of first refusal as a Qualified Organization under this Chapter only if a Tenant Organization qualified to act on behalf of Tenants of a Rental Property (1) assigns in writing the Tenants' rights under this Chapter to the Qualified Nonprofit within the Notice Period;(2) executes a written waiver of the Tenants' rights under this Chapter within the Notice Period; or (3) no Tenant submits a statement of interest pursuant to Section 13.89.090.C. Subsequently, Qualified Nonprofits shall have the same amount of time conferred to Tenants to perform under this Chapter, except that Qualified Nonprofits shall only have the remaining time conferred to Tenants to perform within the Notice Period, and any extensions thereof, or a minimum of 5 days, whichever is greater. If no Tenant Organization has been formed to act on behalf of Tenants of a Rental Property, an assignment or written waiver of rights pursuant to this Paragraph shall be valid if signed by the majority of Tenants.

#### **13.89.080 Supportive Partners.**

A. Certification of Supportive Partners. The City Manager shall establish criteria for the identification and selection of persons or organizations who may serve as Supportive Partners under this Chapter. Supportive Partners shall be selected based on their expertise and ability to counsel Tenants on first-time homeownership, obtaining financing for the purchase of Rental Properties, and the formation and governance of collective ownership structures, and to otherwise provide support for Tenants who seek to exercise their rights under this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents. The certification as a Supportive Partner shall be valid for four years. The City Manager shall solicit new applications for Supportive Partner status at least once each calendar year, at which time existing Supportive Partners shall be eligible to apply for renewed certification. A list of Supportive Partners shall be published on the City's website and made available by the City Manager upon request.

B. Requirement to Select Supportive Partner. A Tenant Organization seeking to exercise a right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110 must select a Supportive Partner and disclose the Supportive Partner to the City and Owner of the Rental Property within the time set forth in the Notice Period and/or the Offer Period and any extensions thereof. The requirement to select a Supportive Partner shall not apply if there are no certified Supportive Partners on the list maintained by the City Manager pursuant to Paragraph A.

C. Conflicts of Interest; Disqualification of Supportive Partners. A Supportive Partner may not act in a manner that is adverse to the interests of Tenants occupying a Rental



Property that is subject to this Chapter. The City Manager shall promptly investigate any complaint alleging that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Supportive Partner with notice and opportunity to be heard, the City Manager determines that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Supportive Partner.

**13.89.090 Notice of Intent to Sell; Statement of Interest.**

A. Notice of Intent to Sell. An Owner of a Rental Property shall provide all Tenants (if any) notice of their intent to sell prior to listing or otherwise marketing a Rental Property for sale ("Notice of Intent to Sell"). The Notice of Intent to Sell shall be provided at least 45 days before marketing a Rental Property with two or more Rental Units, or at least 20 days before marketing a Rental Property with one Rental Unit ("Notice Period"). The Notice of Intent to Sell shall be sent to each Tenant address via certified mail and posted at conspicuous locations at the Rental Property and shall include the following:

1. A statement that the Owner intends to sell the Rental Property.
2. A statement describing the rights of Tenants under this Chapter and stating the deadlines for exercising those rights.
3. A list of units by address and the rent due for each unit, if occupied, and any available contact information for each occupant.
4. An itemized list of annual income and expenses for each of the two preceding calendar years, including but not limited to rent and other income collected and costs of management, insurance, utilities, and maintenance.
5. Instructions for submitting a Statement of Interest pursuant to Paragraph C.

B. Notice to Qualified Nonprofits. On the same date as notice is provided to any Tenants pursuant to Paragraph A, or if there are no Tenants, on the date on which such notice would have been provided pursuant to Paragraph A, the Owner shall provide a copy of the Notice of Intent to Sell the Rental Property via email to each Qualified Nonprofit certified by the City Manager. The City Manager shall maintain a list of email addresses for distribution of the Notice of Intent to Sell and shall make that list available on the City's website and upon request.

C. Statement of Interest. Prior to the expiration of the Notice Period set forth in Paragraph A, the majority of Tenants may deliver a statement of interest to the Owner of the Rental Property ("Statement of Interest"), unless the Tenants execute a written waiver of rights or assign rights to a Qualified Nonprofit pursuant to Section 13.89.060.C. The Statement of Interest shall notify the Owner of the Tenants' or Qualified Nonprofit's interest in exercising their rights under this Chapter. In the event that the majority of Tenants submit a Statement of Interest in response to a Notice of Intent to Sell, the right of first offer conferred by Section 13.89.090 may be exercised solely by a Tenant



Organization that satisfies the requirements of Section 13.89.030.J.; provided, however, nothing in this Paragraph shall prohibit a Tenant Organization from assigning the Tenants' right of first offer or right of first refusal to a Qualified Nonprofit prior to the expiration of the Notice Period. In the event that there are no Tenants in the Rental Property at the time the Owner's Notice of Intent to Sell is provided, and the Rental Property otherwise contains Rental Units that have not been lawfully withdrawn from the rental market, any Qualified Nonprofit that received a copy of the Notice of Intent to Sell pursuant to Paragraph B may submit a Statement of Interest to exercise its rights under this Chapter.

D. Formation of Tenant Organization; Selection of Supportive Partner. If the majority of Tenants submit a Statement of Interest, the Tenants of the Rental Property must identify or form a Tenant Organization as defined in Section 13.89.030.K and select a Supportive Partner, subject to Section 13.89.080.B. If there is only one Tenant of a Rental Property who seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter but shall not be exempt from the requirement to select a Supportive Partner. A Tenant Organization identified or formed pursuant to this Paragraph shall be entitled to exercise the rights of a Qualified Organization set forth in Sections 13.89.100 and 13.89.110.

E. Effect of Statement of Interest. Receipt of a timely Statement of Interest shall trigger an Offer Period of 30 days. For Rental Properties having two to nine Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted an additional 30-day extension of the Offer Period. For Rental Properties having ten or more Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted a total of two additional 30-day extensions of the Offer Period.

F. Prohibition on Marketing Property to Third-Party Purchasers During Notice Period and/or Offer Period. Prior to the expiration of the Notice Period and/or Offer Period, the Owner of a Rental Property shall be prohibited from listing or marketing the Rental Property for sale or entering into any agreement for the sale or transfer of the Rental Property to Third-Party Purchasers.

### **13.89.100 Right of First Offer.**

A. Right of First Offer. A Tenant or Qualified Nonprofit that submits a Statement of Interest shall have the right to make an offer to purchase a Rental Property prior to the sale of the Rental Property to a Third-Party Purchaser; provided, however, that in the event that any Tenant submits a Statement of Interest pursuant to Section 13.89.090.C, the right of first offer conferred by this Section may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.K unless an assignment or waiver of rights have been executed pursuant to Section 13.89.070.C.

B. The Qualified Organization may deliver to the Owner of the Rental Property an offer to purchase the property, together with disclosure of its selected Supportive Partner, at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Qualified Organization.

C. Acceptance of Offer of Purchase. Upon acceptance of any offer to purchase a Rental Property made pursuant to Paragraph A, the Owner and Qualified Organization shall make reasonable and good faith efforts to close the transaction. The Qualified Organization shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 60 days to close the transaction for the sale of property having two to nine Rental Units; and 90 days to close the transaction for the sale of property having ten or more Rental Units. The deadline to close a transaction for the sale of Rental Property having one Rental Unit shall be extended for an additional 60 days from the date of acceptance of the offer if the Qualified Organization provides written documentation that its lender will require a commercial loan for the purchase of the Rental Property. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or diligently pursuing the completion of other requirements to close the transaction. Nothing in this Paragraph shall prevent the Owner and the Qualified Organization for agreeing to further extend the deadline to close the transaction.

D. Termination of Right of First Offer. Upon (1) rejection of all offers to purchase made within the Offer Period, (2) the expiration of the Offer Period, or (3) the failure to close the transaction within the time period set forth in Paragraph B, the Owner may list and market for sale the Rental Property and may solicit and conditionally accept offers from a Third-Party Purchaser, subject to the requirements of Section 13.89.110. The requirements of Section 13.89.110 shall not apply if no Qualified Organization submits an offer to purchase the Rental Property under this Section.

#### **13.89.110 Right of First Refusal.**

A. Disclosure of Offer of Sale. The Owner shall disclose any Offer of Sale received from a Third-Party Purchaser to any Qualified Organization that exercised a valid right of first offer under Section 13.89.100, and shall provide said Qualified Organization a right of first refusal pursuant to the requirements of this Chapter. The Owner shall disclose to each Qualified Organization eligible to exercise a right of first refusal under this Section all material terms of any Offer of Sale of the Rental Property, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser. Any written offer received by the Owner shall be provided to said Qualified Organizations; provided, however, that any confidential information not necessary to comply with the requirements of this Paragraph may be redacted from such offers.

B. Right of First Refusal. Any Qualified Organization that exercised a valid right of first offer under Section 13.89.100 may exercise a right of first refusal and accept the Offer for Sale of the Rental Property within the time period set forth in Paragraph C. To exercise its right of first refusal, the Qualified Organization must accept all material terms of the Offer for Sale; provided, however, the financing of the Qualified Organization's purchase shall not be considered a material term of the Offer for Sale so long as it does not affect the net value of the Sale to the Owner. Specific obligations of material terms of sale are sale price, timeline to close, and contingencies.

C. Time to Exercise Right of First Refusal. The Owner shall provide any Qualified Organization eligible to exercise a right of first refusal under this Section at least 10 days to accept the Offer of Sale of a Rental Property having one Rental Unit, or at least 30 days to accept the Offer of Sale of Rental Property having two or more Rental Units. The acceptance of an Offer of Sale by any Qualified Nonprofit extinguishes any right of first refusal of other eligible Qualified Nonprofits.

D. Time to Close. Upon acceptance of the Offer of Sale, the Qualified Organization must agree to the material terms of the third-party offer. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction.

E. Rejection of Offer or Failure to Close. If each Qualified Organization entitled to receive an Offer of Sale rejects or fails to accept such offer of sale within the time set forth in Paragraph C or if a Qualified Organization that accepts an Offer for Sale fails to close the transaction within the time set forth in Paragraph D, the Owner may immediately proceed with the sale or transfer of the Rental Property to a Third-Party Purchaser.

F. Notwithstanding any other provision of this Section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement is subject to the contingency that no Qualified Organization exercises a right of first refusal conferred by this Chapter.

**13.89.120 Contract Negotiation.**

A. Bargaining in good faith. The Owner and any Tenant, Tenant Organization, and/or Qualified Organization shall bargain in good faith regarding the terms of any Offer for Sale. Any one of the following constitutes prima facie evidence of bargaining without good faith:

1. The failure of an Owner to offer a Tenant, Tenant Organization, or Qualified Organization a price and other material terms at least as favorable as that offered to a Third-Party Purchaser.
2. Any requirement by an Owner that a Tenant, Tenant Organization, or Qualified Organization waive any right under this Chapter.
3. The intentional failure of an Owner, Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter.

B. Termination of rights. The intentional failure of any Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter shall result in the termination of their rights under this Chapter.

**13.89.130 Incentive to Accept Offer from Qualified Organization.**

A. Transfer Tax Refund. An Owner that accepts an offer to purchase Rental Property from a Qualified Organization submitted pursuant to Section 13.89.100 and transfers title to a Rental Property to said Qualified Organization shall be entitled to reimbursement of half of any real property transfer tax imposed under Section 7.52.040.A. Said reimbursement shall not include the amount of any voter-approved transfer tax assessed pursuant to Section 7.52.040.B-C.

B. Exempt Properties. An Owner of a Rental Property that is exempt from this Chapter may comply with the requirements of this Section, and shall be entitled to reimbursement of real property transfer tax pursuant to Paragraph A upon sale of the Rental Property to a Qualified Organization.

**13.89.140 Confidential Information Protected.**

Any information exchanged between an Owner, Tenants, or Qualified Organizations under this Chapter shall be kept confidential to the greatest extent permitted by law. This Section shall not prohibit disclosure of information necessary to effectuate the purpose of this Chapter to any Owner, Tenant, or Qualified Organization, or to the City of Berkeley or its agents or contractors, nor shall this Chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

**13.89.150 Prohibited Conduct.**

A. The sale or transfer of any Rental Property subject to this Chapter and not exempt pursuant to Section 13.89.060 is prohibited unless the Owner complies with Sections 13.89.100 and 13.89.110.

B. A Tenant or Qualified Organization shall not buy or sell any right afforded to them under this Chapter or sell a waiver of any such right, nor shall any Tenant or Qualified Organization assign or otherwise transfer any such right except as authorized to do so under this Chapter.

C. An Owner shall not (1) coerce a Tenant or Tenant Organization to waive their rights under this Chapter; (2) retaliate against or harass a Tenant seeking to exercise their rights under this Chapter; or (3) engage in conduct intended to prevent a Tenant from exercising their rights under this Chapter.

D. Any agreement to shorten the time periods provided for exercise of any right afforded under this Chapter. Nothing in this Paragraph shall prohibit an agreement to extend the deadlines set forth herein.

**13.89.160 Complying Anew with the Right of First Offer.**

An Owner shall comply anew with the Right of First Offer if one of the following occur:

A. The Owner decides not to sell the Rental Property after providing the Notice of Intent to Sell, and then proceeds to undertake a Sale again as defined in Section 13.89.050; or the Owner cancels a contract of sale entered into with Tenant or Qualified Organization after escrow has opened.

B. 365 days have elapsed since a Tenant or Qualified Organization cancelled a contract of sale entered into with the Owner after escrow has opened, and the Owner has not sold the Rental Property to a Third-Party Purchaser.

C. 90 days have elapsed from the date of an Owner's rejection of an offer from a Tenant or Qualified Organization pursuant to Section 13.89.100.B and the Owner has not provided an Offer of Sale to the Tenant or Qualified Organization pursuant to Section 13.89.110.A; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

D. 180 days have elapsed since the expiration of an Offer Period and any extensions thereof and no Tenant or Qualified Organization submitted a Statement of Interest or offer and the Owner has not sold the Rental Property to a Third-Party Purchaser; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

#### **13.89.170 Financial Assistance.**

The City Manager shall develop guidelines for providing financial assistance to allow for the acquisition of Rental Properties pursuant to this Chapter. Financial assistance may be provided to Tenants, Tenant Organizations, or Qualified Nonprofits. Nothing in this provision commits the City Council to providing a specified level of funding for the acquisition of Rental Property under this Chapter.

#### **13.89.180 Price Stabilization; Tenant Protections.**

A. **Affordability Restriction.** Except as otherwise provided herein, any Rental Unit acquired pursuant to this Chapter shall be subject to a recorded affordability restriction that ensures that each Rental Unit acquired is available to very low-, low-, or moderate-income renters or buyers in perpetuity. The City Manager shall set standards for the provisions of affordable units by Administrative Regulation and for the enforcement of the requirements of this Section.

B. **Exemptions from Affordability Restriction.**

1. Any Rental Property purchased by a Tenant Organization that exercises its rights under this Chapter is exempt from the requirements of Paragraph A unless any Tenant or the Tenant Organization receives financial assistance pursuant to the guidelines established under Section 13.89.170.



2. A limited equity housing cooperative that meets the requirements of Civil Code Sections 817 and 817.1 is exempt from the requirements of Paragraph A.

C. The sale of a Rental Property pursuant to this Chapter shall not impair the rights of any Tenant under Chapter 13.76 or any other applicable state law or local ordinance. Further, any Tenant who resides in any Rental Unit at the time of the sale of a Rental Property under this Chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).

D. Rental Properties acquired pursuant to this Chapter and converted to condominiums or stock cooperatives (including limited equity housing cooperatives that meet the requirements of Civil Code Sections 817 and 817.1) subject to a recorded affordability restriction under this Section shall be exempt from the requirements of Section 21.28.070 ("Affordable housing mitigation fee").

E. Non-Purchasing Tenants, Life Lease. Any Tenant that does not join a Tenant Organization that acquires a Rental Property pursuant to this Chapter must be offered a life lease for their Rental Unit so long as the Rental Unit remains their principal residence.

### **13.89.190 Anti-Speculation Penalty.**

A. Purpose. Tenants, Tenant Organizations, and Qualified Nonprofits acknowledge the displacement prevention, affordable housing preservation, and neighborhood stability purposes of this Chapter, and as a condition for the rights and benefits conferred to them under this Chapter, agree not use any purchased Rental Property for speculative purposes. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must be conditioned on the terms described herein. The City Manager is authorized to impose a lien on said Rental Property to enforce the requirements of this Section.

B. Minimum Term and Owner-Occupancy Requirement. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant

Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must not resell the Rental Property, or any separate ownership interests in the Rental Property, within 36 months of acquiring it. From the date of the initial purchase of the Rental Property up until 36 months, the Tenant must submit an annual owner-occupancy certification to the City demonstrating the use of the acquired Rental Property as their primary residence. The requirements of this Section shall materialize as a restrictive covenant placed on the recorded title deed to the purchased Rental Property that runs with the land and is enforceable by the City against the Tenant or Tenant Organization. The failure to submit an annual owner-occupancy certification to the City is a violation of this Chapter that shall be subject to the civil penalties described in Section 13.89.210 (Enforcement). The City may create Administrative Regulations for further guidelines concerning any exemptions from the requirements of this Section only in the event of an exigent circumstance.

C. **Penalty.** The City shall impose a penalty on any profits gained from the transfer of the purchased Rental Property, or any separate ownership interests in the Rental Property, prior to the expiration of the 36-month term described herein. The City shall create Administrative Regulations concerning the procedures for imposing such a penalty, which shall include notice to the alleged violator and the opportunity to contest the penalty at a hearing. The City shall establish such penalty as follows:

1. When the transfer occurs less than 12 months from the initial purchase date, 20 percent of the profits gained from the resale of the Rental Property or the separate ownership interest in the Rental Property;
2. When the transfer occurs more than or equal to 12 months but less than 24 months from the initial purchase date, 15 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property; or
3. When the transfer occurs more than or equal to 24 months but less than 36 months from the initial purchase date, 10 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property.

D. **Required recordings and filings.**

1. All covenants created in accordance with this Section shall be recorded before or simultaneously with the close of escrow in the office of the county recorder where the purchased Rental Property is located and shall contain a legal description of the purchased property, indexed to the name of the Tenant or Tenant Organization who purchased the Rental Property as grantee.

2. The City may engage a third-party monitoring agent to monitor the compliance of the annual owner occupancy certification.

**13.89.200 Implementation.**



A. The City Manager shall adopt Administrative Regulations necessary to implement the requirements of this Chapter, and may adopt additional rules and regulations for purposes of administering this Chapter, including but not limited to rules and regulations governing the reporting of information regarding transactions subject to the requirements of this Chapter.

B. This ordinance shall take effect 90 days after the City Manager adopts Administrative Regulations pursuant to Paragraph A.

C. Supportive partners shall report annually on the implementation of this Chapter to the City Council or to such City Council Committee as the City Council may designate. Supportive partners shall collect and analyze data in partnership with tenants or tenant organizations to evaluate the number and types of sales of tenant-occupied properties including whether purchased by a Qualified Organization or Third-Party Purchaser; the number of Qualified Organizations that purchase Real Property pursuant to this Chapter; the number and types of units covered by this Chapter; and other data and information relevant to evaluating the effectiveness of this Chapter in creating and preserving affordable housing for residents in the City of Berkeley and in preventing displacement of City of Berkeley tenants.

D. The City Manager or their designee shall provide counseling and technical assistance to Owners regarding the requirements of this Chapter to assist in achieving compliance.

**13.89.210 Enforcement.**

A. Any violation of this Chapter or the Administrative Regulations promulgated under Section 13.89.200.A shall be subject to administrative citation under Chapter 1.28.

B. The City Attorney, any Tenant of a Rental Property subject to this Chapter, or a Qualified Organization eligible to purchase Rental Property under this Chapter may bring a civil action to enforce this Chapter, and shall be entitled to the remedies set forth in this Section to the greatest extent permitted by law.

C. Any violation of the requirements of this Chapter shall be subject to a civil penalty not to exceed \$1,000 per day of violation. Each failure to provide the required notice or disclosure under this Chapter shall be considered a separate violation for each Rental Unit on a Rental Property.

D. A prevailing plaintiff in any action to enforce this Chapter shall be entitled to damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may order that an Owner of Rental Property comply with the requirements of this Chapter.

**13.89.220 Severability**

If any word, phrase, clause, sentence, subsection, section, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void,

unconstitutional, or invalid for any reason by a decision of a court of competent jurisdiction, then such word, phrase, clause, sentence, subsection, section, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words had been declared invalid or unconstitutional.

**13.89.230 Effective Date.**

- A. Section 13.89.100 shall take effect January 1, 2024.
- B. Properties with five or more housing units will be subject to Section 13.89.110 on January 1, 2024.
- C. Properties with four or fewer housing units, pending analysis findings, shall be subject to section 13.89.110 on January 1, 2027.
- D. All other provisions in this ordinance are effective January 1, 2024.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

\_\_\_\_\_ORDINANCE NO. -N.S.

~~ADOPTING~~ADDING CHAPTER 13.89 ~~OFTO~~ THE BERKELEY MUNICIPAL CODE

COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Chapter 13.89 is hereby added to the Berkeley Municipal Code to read as follows:

**Chapter 13.89**

**COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT**

- 13.89.010 Title and Purpose**
- 13.89.020 Findings**
- 13.89.030 Definitions**
- 13.89.040 Applicability**
- 13.89.050 Sale Defined**
- 13.89.060 Exemptions**
- 13.89.070 Qualified Nonprofits**
- 13.89.080 Supportive Partners**
- 13.89.090 Notice of Intent to Sell; Statement of Interest**
- 13.89.100 Right of First Offer**
- 13.89.110 Right of First Refusal**
- ~~**13.89.120 Contract Negotiation**~~
- 13.89.130 Incentive to Accept Offer from Qualified Organization**
- 13.89.140 Confidential Information Protected**
- 13.89.150 Prohibited Conduct**
- 13.89.160 Complying Anew with the Right of First Offer**
- ~~**13.89.170 Financial Assistance**~~
- 13.89.180 Price Stabilization; Tenant Protections**
- 13.89.190 Anti-Speculation Penalty**
- 13.89.200 Implementation**
- 13.89.~~200~~210 Enforcement**
- 13.89.~~210~~220 Severability**
- 13.89.230 Effective Date**

### 13.89.010 Title and Purpose.

A. This Chapter shall be referred to as the "Berkeley Community/Tenant Opportunity to Purchase Act."

~~B.~~ The purpose of this Chapter is to confer upon Tenants of Rental Properties as 4

B. defined herein a right of first offer and a right of first refusal upon the transfer or sale of Rental Property, and to create an incentive for Owners of Rental Properties to offer their property for sale to Tenants residing there.

### 13.89.020 Findings.

A. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise which leads to displacement of ~~lowincome~~ low-income residents.

B. The current need for affordable housing units in Alameda County is 51,732 units (California Housing Partnership). Approximately 20% of residents in Berkeley are living in poverty.

C. The lack of affordable housing for Berkeley's low-income communities is resulting in Berkeley residents having no option but to leave the City entirely or risk becoming homeless. Currently, there are an estimated 2,000 people who experience homelessness in Berkeley each year, and in December 2019 the Council extended its declaration of a homeless shelter crisis to January 2022.

D. The nine-county Bay Area has been losing an annual average of 32,000 unsubsidized affordable homes occupied by low-income households since 2012. Unsubsidized affordable housing is the most common form of low-income housing, and at the same time is the most at risk of loss through rent increases, evictions, condo conversions, demolition and more. And, overall preservation is cost-effective compared to new production, at 50-70% of the cost of new affordable housing production (Enterprise Community Partners).

E. Affordable housing preservation and anti-displacement strategies will help keep ~~low-~~income tenants in their homes and is codified in the Berkeley General Plan Housing Element. Furthermore, production and maintaining affordable housing, at all income levels, is a stated priority of the City Council in its Housing Action Plan.

F. The City Council finds that in the interest of preventing the displacement of ~~lowerincome~~ lower-income tenants and preserving affordable housing, it is necessary and appropriate to require that the owners of rental properties in the City offer tenants and qualified nonprofit organizations the opportunity to purchase the property before it may be sold on the market to a third-party purchaser.

**13.89.030** Definitions.

A. “Dwelling Unit,” “Accessory Dwelling Unit,” “Single-Family Dwelling,” “Multi-Family Dwelling,” and “Group Living Accommodations” are defined in Section ~~23F.04.01~~23.502.020.

~~B.~~ “Designated as the Owner’s Primary Residence” means any unit that the Owner has validly claimed as their principal residence for purposes of either the homeowners’ property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans’ exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

~~A.C.~~ “Offer for Sale” means an offer to sell a Rental Property that includes all material and commercially reasonable terms.

~~B.~~ “Qualified Nonprofit” means a nonprofit, which is either exempt from federal ~~2~~

~~B.D.~~ income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation, that has the capacity to acquire, provide, and manage affordable housing for moderate, low, very low, and extremely low-income households, and is certified by the City Manager pursuant to Section 13.89.070.A.

~~C.E.~~ “Qualified Organization” means either a Tenant Organization or a Qualified Nonprofit.

~~D.F.~~ “Owner” means any person, corporation, partnership, limited liability company, trustee, or any other entity, who is the owner of record of a Rental Property. Each Owner shall be jointly and severally responsible for compliance with the requirements of this Chapter.

~~E.G.~~ “Rental Property” means any residential property containing one or more Rental Units and located in the City of Berkeley.

~~F.H.~~ “Rental Unit” means any Dwelling Unit or Group Living Accommodations sleeping quarters occupied by one or more Tenants in the City of Berkeley. ~~H. \_\_\_\_\_, consistent with the records of the City of Berkeley Rent Stabilization Board, and subject to the exemptions set forth in Section 13.89.060~~ “Sale,” “sell,” or “transfer” is defined in Section 13.89.050.

~~I.~~ “Sale,” “sell,” or “transfer” is defined in Section 13.89.050. ~~H.I.~~

~~J.~~ “Supportive Partner” means any person or organization certified by the City Manager pursuant to Section 13.89.080.A to provide Tenant counseling and technical support services on first-time homeownership, obtaining financing for the purchase of Real Properties, assisting in the process of closing on property transactions, the formation and governance of legal and collective ownership structures, and supporting Tenants in

the exercise of their rights pursuant to this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents.

K. ~~I.J.~~ "Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of such Rental Unit.

L. ~~J.K.~~ "Tenant Organization" means any legal entity or unincorporated and/or informal association that is authorized to act on behalf of a majority of Tenants of a Rental Property. A Tenant Organization must adopt a Governing Document and Governing Principles and may appoint officers and any other authorized agents specifically designated to execute contracts on its behalf. If only one Tenant of a Rental Property seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter. For purposes of this Paragraph only, any and all lessees of a Dwelling Unit or Group Living Accommodations sleeping quarters are collectively considered to be one Tenant, and such lessees of a Group Living Accommodation or Dwelling Unit must consent to representation by the Tenant Organization, as furthered defined in Administrative Regulations.

3

~~Organization, as furthered defined in Administrative Regulations.~~

M. ~~K.L.~~ "Third-Party Purchaser" means any prospective purchaser of a Rental Property other than a Qualified Organization as defined in Paragraph D.

N. ~~L.M.~~ "The City" shall mean the City of Berkeley, including any departments within the City that are assigned any responsibilities under this Chapter.

O. ~~M.N.~~ "City Manager" means the City Manager or their designee.

P. ~~N.O.~~ "Governing Document" means a constitution, articles, bylaws, operating agreement, or other writings that governs the purpose and operation of a Tenant Organization and the rights and obligations of its members, which shall include provisions on the Tenant Organization's decision-making processes and appointing officers and other authorized agents to act on its behalf.

~~O.P.~~

Q. "Governing Principles" means the governance and management principles stated in a Tenant Organization's Governing Documents.

R. ~~P.Q.~~ "Majority" means an affirmative vote of more than fifty percent (50%) required for decision-making under this Chapter.

#### 13.89.040 Applicability.

4

This Chapter shall apply to the sale or transfer of all Rental Property in the City of Berkeley, unless otherwise exempted herein.

**13.89.050 Sale Defined.**

A. "Sale," "sell," or "transfer" is defined as the following:

1. The transfer, in exchange for money or any other thing of economic value, of a present interest in the Rental Property, including beneficial use, where the value of the present interest is the fee interest in the Rental Property, or substantially equal to the value of that fee interest.

2. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c).

3. Multiple transfers of minority interests in the Rental Property which, in effect, result in a transfer of the Rental Property.

**13.89.060 Exemptions.**

A. Residential Property Types Exempted. The following Rental Properties are not subject to the requirements of this Chapter.

4

1. Any Rental Property comprised entirely of owner-occupied Rental Units, including any owner-occupied Single-Family Dwelling.

~~2. Any Rental Property havingthat has no more than one Single Family Dwelling (inclusive of an Accessory Dwelling Unit or a junior Accessory Dwelling Unit) and suchis vacant at the time of sale.~~

~~2.3. A Rental Property is the Ownerscontaining a Dwelling Unit that is Designated as the Owner's Primary Residence, if and only Rental Property in the City of Berkeley. For purposes of this subparagraph only, the "Owner" of such Rental Property must not be any if one of the following set forth under California Civil Code Section 1947.12(d)(5)(A)(i)-(iii) ("AB 1482"): a real estate investment trust, as defined in Section 856 of the Internal Revenue Code; a corporation; or a limited liability company in which at least one member is a corporation.applies:~~

~~a. 2.3 AnyThe Rental Property havinghas no more than one Single-Family Dwelling where the Owner occupies (or intends to reoccupy) as their principal residence, and either the Single-Family Dwelling or an Accessory Dwelling Unit (inclusive of any junior Accessory Dwelling Unit) on the same parcel as the Single-Family Dwelling. is Designated as the Owner's Primary Residence.~~

~~b. 4. AnyThe Rental Property havinghas no more than one Duplex where the Owner occupies (or intends to reoccupy) as their principal~~

5



~~residence, and (1) one of the units and such in the Duplex is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the OwnersOwner's only Rental Property in the City of Berkeley. \_~~

~~c. \_\_\_\_\_ 3.5.—The Rental Property has no more than one Multi-Family Dwelling that contains no more than four Dwelling Units, and (1) one of the units is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley. \_~~

4. Rental Properties owned by the local, state, or federal government.

5. ~~4.6.~~ Rental Properties owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

6. ~~5.7.~~ Group Living Accommodations subject to monitoring by a Monitoring Organization, as defined in Section 13.42.020.E.

7. ~~6.8.~~ Properties owned by housing cooperatives, if the cooperative entity is owned and controlled by a majority of residents. This definition includes non-profit mutual housing associations and limited equity housing cooperatives.

8. ~~7.9.~~ Properties defined as "assisted housing developments" pursuant to California Government Code Section 65863.10(a)(3) so long as the provisions of California Government Code Section 65863.10, 65863.11, and 65863.13 apply.

B. Transfers Exempted. The following transfers of Rental Properties are not subject to the requirements of this Chapter.

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren.

2. A transfer for consideration by a decedent's estate if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity.

~~3.~~ A transfer of legal title or an interest in an entity holding legal title to

a Rental ~~5~~

3. Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Tenants or Qualified Nonprofits under the California Civil Code Sections 2924f-h,

2924m-n, or 2929.3.

4. A transfer of bare legal title into or out of a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.

5. A transfer by devise, descent, or operation of the law upon the death of a natural person.

6. A transfer pursuant to court order or court-approved settlement.

7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.

8. A transfer of a fractional interest in a Rental Property that is less than 50% of an undivided interest in the Rental Property, unless Section 13.89.050.A30 applies.

9. Any transfer in which the transferee receives a low-income housing credit under 28 U.S.C. § 42.

10. A transfer of a Rental Property that is the Owner's sole Rental Property and has no more than five Rental Units made for the purpose of paying for imminently necessary health care expenses of an Owner of the Rental Property, or any such health care expenses incurred by a spouse, domestic partner, or child of any Owner ("Eligible Persons"), where requiring the Owner to comply with the requirements of this Chapter would result in medical financial hardship to an Eligible Person. For purposes of this subparagraph only, "Owner" shall be limited to a natural person having an undivided interest in the Rental Property of at least 50%. The process and requirements for determining eligibility of this exemption shall be defined in Administrative Regulations implementing this Chapter.

C. Exemption Procedures and Burden of Proof.

C.

1. Burden of Proof. The burden of proof to establish that a property or transfer is exempt from the requirements of this Chapter shall be on the Owner.
2. The Owner of a property exempt from the requirements of this chapter or claiming an exemption pursuant to this Section must provide written notice to all Tenants of the Rental Property at time of listing or marketing property for sale. The notice shall inform the Tenants of the Owners intent to sell the Rental Property and must state whether the property is exempt from the requirements of this Chapter and specify the specific exemption claimed.
- 6
3. An Owner who believes that they should be granted an exemption under this Section shall comply with procedures that the City shall create for claiming an exemption in its Administrative Regulations.

**13.89.070 Qualified Nonprofits.**

A. Certification, Term, and Renewal. The City Manager shall certify Qualified Nonprofits that meet the requirements of this Chapter. The Qualified Nonprofit shall be a nonprofit organization exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation that is committed to furthering permanent affordability, democratic residential control, and tenant ownership, as further defined in Administrative Regulations, and shall have demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property and to provide affordable housing for very low and/or low-income households. The City Manager may prescribe additional requirements necessary to effectuate the purpose of this Chapter by Administrative Regulation. A nonprofit organization's certification as a Qualified Nonprofit shall be valid for four years. The City Manager shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification. A list of Qualifying Nonprofits shall be published on the City's website and made available by the City Manager upon request.

B. Conflicts of Interest; Disqualification of Qualified Nonprofits. A Qualifying Nonprofit may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. A Qualifying Nonprofit may not act as a Supportive Partner if it exercises its right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110. The City Manager shall promptly investigate any complaint alleging that a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Qualified Nonprofit with notice and opportunity to be heard, the City Manager determines that an organization listed as a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Qualified Nonprofit.

C. A Qualified Nonprofit is conferred a right of first offer and right of first refusal as a Qualified Organization under this Chapter only if a Tenant Organization qualified to act on behalf of Tenants of a Rental Property (1) assigns in writing the Tenants' rights under this Chapter to the Qualified Nonprofit within the Notice Period;(2) executes a written waiver of the Tenants' rights under this Chapter within the Notice Period; or (3) no Tenant submits a statement of interest pursuant to Section 13.89.090.C. Subsequently, Qualified Nonprofits shall have the same amount of time conferred to Tenants to perform under this Chapter, except that Qualified Nonprofits shall only have the remaining time conferred to Tenants to perform within the Notice Period, and any extensions thereof, or a minimum of 5 days, whichever is greater. If no Tenant Organization has been formed to act on behalf of Tenants of a Rental Property, an assignment or written waiver of rights pursuant to this Paragraph shall be valid if signed by the majority of Tenants.

7

**13.89.080 Supportive Partners.**

A.——Certification of Supportive Partners. The City Manager shall establish criteria for the identification and selection of persons or organizations who may serve as Supportive Partners under this Chapter. Supportive Partners shall be selected based on their expertise and ability to counsel Tenants on first-time homeownership, obtaining financing for the purchase of Rental Properties, and the formation and governance of collective ownership structures, and to otherwise provide support for Tenants who seek to exercise their rights under this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents. The certification as a Supportive Partner shall be valid for four years. The City Manager shall solicit new applications for Supportive Partner status at least once each calendar year, at which time existing

A. Supportive Partners shall be eligible to apply for renewed certification. A list of Supportive Partners shall be published on the City's website and made available by the City Manager upon request.

B. Requirement to Select Supportive Partner. A Tenant Organization seeking to exercise a right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110 must select a Supportive Partner and disclose the Supportive Partner to the City and Owner of the Rental Property within the time set forth in the Notice Period and or the Offer Period and any extensions thereof. The requirement to select a Supportive Partner shall not apply if there are no certified Supportive Partners on the list maintained by the City Manager pursuant to Paragraph A.

C. Conflicts of Interest; Disqualification of Supportive Partners. A Supportive Partner may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. The City Manager shall promptly investigate any complaint alleging that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Supportive Partner with notice and opportunity to be heard, the City Manager determines that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Supportive Partner.

**13.89.090** Notice of Intent to Sell; Statement of Interest.

A.——Notice of Intent to Sell. An Owner of a Rental Property shall provide all Tenants (if any) notice of their intent to sell prior to listing or otherwise marketing a Rental Property for sale ("Notice of Intent to Sell"). The Notice of Intent to Sell shall be provided at least 45 days before marketing a Rental Property with threetwo or more Rental Units, or at least 20 days before marketing a Rental Property with two or fewerone Rental UnitsUnit ("Notice Period"). The Notice of Intent to Sell shall be sent to each Tenant address via certified mail and posted at conspicuous locations at the Rental Property and shall include the

A. following:

1. A statement that the Owner intends to sell the Rental Property.
2. A statement describing the rights of Tenants under this Chapter and stating the deadlines for exercising those rights.
3. A list of units by address and the rent due for each unit, if occupied, and any available contact information for each occupant.
4. An itemized list of annual income and expenses for each of the two preceding calendar years, including but not limited to rent and other income collected and costs of management, insurance, utilities, and maintenance.
5. Instructions for submitting a Statement of Interest pursuant to Paragraph C.

B. Notice to Qualified Nonprofits. On the same date as notice is provided to any Tenants pursuant to Paragraph A, or if there are no Tenants, on the date on which such notice would have been provided pursuant to Paragraph A, the Owner shall provide a copy of the Notice of Intent to Sell the Rental Property via email to each Qualified Nonprofit certified by the City Manager. The City Manager shall maintain a list of email addresses for distribution of the Notice of Intent to Sell and shall make that list available on the City's website and upon request.

C. Statement of Interest. Prior to the expiration of the Notice Period set forth in Paragraph A, the majority of Tenants may deliver a statement of interest to the Owner of the Rental Property ("Statement of Interest"), unless the Tenants execute a written waiver of rights or assign rights to a Qualified Nonprofit pursuant to Section 13.89.060.C. The Statement of Interest shall notify the Owner of the Tenants' or Qualified Nonprofit's interest in exercising their rights under this Chapter. In the event that the majority of Tenants submit a Statement of Interest in response to a Notice of Intent to Sell, the right of first offer conferred by Section 13.89.090 may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.J.; provided, however, nothing in this Paragraph shall prohibit a Tenant Organization from assigning the Tenants' right of first offer or right of first refusal to a Qualified Nonprofit prior to the expiration of the Notice Period. In the event that there are no Tenants in the Rental Property at the time the Owner's Notice of Intent to Sell is provided, and the Rental Property otherwise contains Rental Units that have not been lawfully withdrawn from the rental market, any Qualified Nonprofit that received a copy of the Notice of Intent to Sell pursuant to Paragraph B may submit a Statement of Interest to exercise its rights under this Chapter.

D. Formation of Tenant Organization; Selection of Supportive Partner. If the majority of Tenants submit a Statement of Interest, the Tenants of the Rental Property must identify or form a Tenant Organization as defined in Section 13.89.030.K and select a Supportive Partner, subject to Section 13.89.080.B. If there is only one Tenant of a Rental Property who seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter but shall not be exempt from the requirement to select a Supportive Partner. A Tenant



Organization identified or formed pursuant to this Paragraph shall be entitled to exercise the rights of a Qualified Organization set forth in Sections 13.89.100 and 13.89.110.

~~E.~~ Effect of Statement of Interest. Receipt of a timely Statement of Interest shall ~~9~~

~~E.~~ ~~extend the Notice~~ trigger an Offer Period ~~for 60~~ of 30 days. For Rental Properties having ~~10 or more~~ two to nine Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted an additional 30-day extension of the ~~Notice~~ Offer Period ~~upon timely written request.~~ For Rental Properties having ~~20~~ ten or more Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted a total of two additional 30-day extensions of the ~~Notice~~ Offer Period ~~upon timely written request.~~

F. Prohibition on Marketing Property to Third-Party Purchasers During Notice Period. ~~and/or Offer Period.~~ Prior to the expiration of the Notice Period and/or Offer Period, the Owner of a Rental Property shall be prohibited from listing or marketing the Rental Property for sale or entering into any agreement for the sale or transfer of the Rental Property to Third-Party Purchasers.

### 13.89.100 Right of First Offer.

A. Right of First Offer. A Tenant or Qualified Nonprofit that submits a Statement of Interest shall have the right to make an offer to purchase a Rental Property prior to the sale of the Rental Property to a Third-Party Purchaser; provided, however, that in the event that any Tenant submits a Statement of Interest pursuant to Section 13.89.090.C, the right of first offer conferred by this Section may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.K unless an assignment or waiver of rights have been executed pursuant to Section 13.89.070.C.

~~B.~~ ~~A.B.~~ The Qualified Organization may deliver to the Owner of the Rental Property an offer to purchase the property, together with disclosure of its selected Supportive Partner, at any time prior to the expiration of the ~~Notice~~ Offer Period. The Owner may accept or reject any offer to purchase received from a Qualified Organization.

~~C.~~ ~~B.C.~~ Acceptance of Offer of Purchase. Upon acceptance of any offer to purchase a Rental Property made pursuant to Paragraph A, the Owner and Qualified Organization shall make reasonable and good faith efforts to close the transaction. The Qualified Organization shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 60 days to close the transaction for the sale of property having two to nine Rental Units; and 90 days to close the transaction for the sale of property having two Rental Units; and 120 days to close the transaction for the sale of property having three ~~ten~~ or more Rental Units. The deadline to close a transaction for the sale of Rental Property having one Rental Unit shall be extended for an additional ~~60~~ days from the date of acceptance of the offer if the Qualified Organization provides written documentation that its lender will require a commercial loan for the purchase of the Rental Property. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or diligently pursuing the completion of other requirements to close the transaction. Nothing in this Paragraph shall prevent the Owner and the Qualified Organization for agreeing to further extend the deadline to close the transaction.

~~C.D.~~ Termination of Right of First Offer. Upon (1) rejection of all offers to purchase made within the NoticeOffer Period, (2) the expiration of the NoticeOffer Period, or (3) the failure to close the transaction within the time period set forth in Paragraph B, the Owner may list and market for sale the Rental Property and may solicit and conditionally accept offers from a

40

D. Third-Party Purchaser, subject to the requirements of Section 13.89.110. The requirements of Section 13.89.110 shall not apply if no Qualified Organization submits an offer to purchase the Rental Property under this Section.

### 13.89.110 Right of First Refusal.

A. Disclosure of Offer of Sale. The Owner shall disclose any Offer of Sale received from a Third-Party Purchaser to any Qualified Organization that exercised a valid right of first offer under Section 13.89.100, and shall provide said Qualified Organization a right of first refusal pursuant to the requirements of this Chapter. The Owner shall disclose to each Qualified Organization eligible to exercise a right of first refusal under this Section all material terms of any Offer of Sale of the Rental Property, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser. Any written offer received by the Owner shall be provided to said Qualified Organizations; provided, however, that any confidential information not necessary to comply with the requirements of this Paragraph may be redacted from such offers.

B. Right of First Refusal. Any Qualified Organization that exercised a valid right of first offer under Section 13.89.100 may exercise a right of first refusal and accept the Offer for Sale of the Rental Property within the time period set forth in Paragraph C. To exercise its right of first refusal, the Qualified Organization must accept all material terms of the Offer for Sale; provided, however, the financing of the Qualified Organization's purchase shall not be considered a material term of the Offer for Sale so long as it does not affect the net value of the Sale to the Owner. Specific obligations of material terms of sale are sale price, timeline to close, and contingencies.

C. Time to Exercise Right of First Refusal. The Owner shall provide any Qualified Organization eligible to exercise a right of first refusal under this Section at least 10 days to accept the Offer of Sale of a Rental Property having ~~no more than two~~one Rental ~~Units~~Unit, or at least 30 days to accept the Offer of Sale of Rental Property having ~~three~~two or more Rental Units. The acceptance of an Offer of Sale by any Qualified Nonprofit extinguishes any right of first refusal of other eligible Qualified Nonprofits.

D. Time to Close. Upon acceptance of the Offer of Sale, the Qualified Organization ~~shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 90 days to close the transaction for the sale of property having two Rental Units; and 120 days to close the transaction for the sale of property having three or more Rental Units.~~must agree to the material terms of the third-party offer. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction.

12



E. Rejection of Offer or Failure to Close. If each Qualified Organization entitled to receive an Offer of Sale rejects or fails to accept such offer of sale within the time set forth in Paragraph C or if a Qualified Organization that accepts an Offer for Sale fails to close the transaction within the time set forth in Paragraph D, the Owner may immediately proceed with the sale or transfer of the Rental Property to a Third-Party Purchaser.

44

F. Notwithstanding any other provision of this Section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement is subject to the contingency that no Qualified Organization exercises a right of first refusal conferred by this Chapter.

### **13.89.120 Contract Negotiation.**

A. Bargaining in good faith. The Owner and any Tenant, Tenant Organization, and/or Qualified Organization shall bargain in good faith regarding the terms of any Offer for Sale. Any one of the following constitutes prima facie evidence of bargaining without good faith:

1. The failure of an Owner to offer a Tenant, Tenant Organization, or Qualified Organization a price and other material terms at least as favorable as that offered to a Third-Party Purchaser.
2. Any requirement by an Owner that a Tenant, Tenant Organization, or Qualified Organization waive any right under this Chapter.
3. The intentional failure of an Owner, Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter.

~~B.~~ B. Termination of rights. The intentional failure of any Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter shall result in the termination of their rights under this Chapter.

### **13.89.130 Incentive to Accept Offer from Qualified Organization.**

A. Transfer Tax Refund. An Owner that accepts an offer to purchase Rental Property from a Qualified Organization submitted pursuant to Section 13.89.100 and transfers title to a Rental Property to said Qualified Organization shall be entitled to reimbursement of half of any real property transfer tax imposed under Section 7.52.040.A. Said reimbursement shall not include the amount of any voter-approved transfer tax assessed pursuant to Section 7.52.040.B-C.

B. Exempt Properties. An Owner of a Rental Property that is exempt from this Chapter may comply with the requirements of this Section, and shall be entitled to reimbursement of real property transfer tax pursuant to Paragraph A upon sale of the Rental Property to a Qualified Organization.

**13.89.140 Confidential Information Protected.**

Any information exchanged between an Owner, Tenants, or Qualified Organizations under this Chapter shall be kept confidential to the greatest extent permitted by law. This Section shall not prohibit disclosure of information necessary to effectuate the purpose of this Chapter to any Owner, Tenant, or Qualified Organization, or to the City of Berkeley

12

or its agents or contractors, nor shall this Chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

**13.89.150 Prohibited Conduct.**

A. The sale or transfer of any Rental Property subject to this Chapter and not exempt pursuant to Section 13.89.060 is prohibited unless the Owner complies with Sections 13.89.100 and 13.89.110.

B. A Tenant or Qualified Organization shall not buy or sell any right afforded to them under this Chapter or sell a waiver of any such right, nor shall any Tenant or Qualified Organization assign or otherwise transfer any such right except as authorized to do so under this Chapter.

C. An Owner shall not (1) coerce a Tenant or Tenant Organization to waive their rights under this Chapter; (2) retaliate against or harass a Tenant seeking to exercise their rights under this Chapter; or (3) engage in conduct intended to prevent a Tenant from exercising their rights under this Chapter.

D. Any agreement to shorten the time periods provided for exercise of any right afforded under this Chapter. Nothing in this Paragraph shall prohibit an agreement to extend the deadlines set forth herein.

**13.89.160 Complying Anew with the Right of First Offer.-**

An Owner shall comply anew with the Right of First Offer if one\_ of the following occur:

A. The Owner decides not to sell the Rental Property after providing the Notice of Intent to Sell, and then proceeds to undertake a Sale again as defined in Section 13.89.050; or the Owner cancels a contract of sale entered into with Tenant or Qualified Organization after escrow has opened.

B. 365 days have elapsed since a Tenant or Qualified Organization cancelled a contract of sale entered into with the Owner after escrow has opened, and the Owner has not sold the Rental Property to a Third-Party Purchaser.

C. 90 days have elapsed from the date of an Owner's rejection of an offer from a Tenant or Qualified Organization pursuant to Section 13.89.100.B and the Owner has not provided an Offer of Sale to the Tenant or Qualified Organization pursuant to Section

14

13.89.110.A; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a ~~ThirdParty~~Third-Party Purchaser.

D. 180 days have elapsed since the expiration of ~~a Noticean Offer~~ Period and any extensions thereof and no Tenant or Qualified Organization submitted a Statement of Interest or offer and the Owner has not sold the Rental Property to a Third-Party Purchaser; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

13

### **13.89.170 Financial Assistance.**

The City Manager shall develop guidelines for providing financial assistance to allow for the acquisition of Rental Properties pursuant to this Chapter. Financial assistance may be provided to Tenants, Tenant Organizations, or Qualified Nonprofits. Nothing in this provision commits the City Council to providing a specified level of funding for the acquisition of Rental Property under this Chapter.

### **13.89.180 Price Stabilization; Tenant Protections.**

A. Affordability Restriction. Except as otherwise provided herein, any Rental Unit acquired pursuant to this Chapter shall be subject to a recorded affordability restriction that ensures that each Rental Unit acquired is available to very low-, low-, or moderate-income renters or buyers in perpetuity. The City Manager shall set standards for the provisions of affordable units by Administrative Regulation and for the enforcement of the requirements of this Section.

B. Exemptions from Affordability Restriction.

1. Any Rental Property purchased by a Tenant Organization that exercises its rights under this Chapter is exempt from the requirements of Paragraph A unless any Tenant or the Tenant Organization receives financial assistance pursuant to the guidelines established under Section 13.89.170.

2. A limited equity housing cooperative that ~~meet~~meets the requirements of Civil Code Sections 817 and 817.1 is exempt from the requirements of Paragraph A.

~~A.~~—The sale of a Rental Property pursuant to this Chapter shall not impair the rights of any Tenant under Chapter 13.76 or any other applicable state law or local ordinance. Further, any Tenant who resides in any Rental Unit at the time of the sale of a Rental Property under this Chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental

Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual

14

C. adjustment be less than zero (0%) or greater than seven percent (7%).

D. Rental Properties acquired pursuant to this Chapter and converted to condominiums or stock cooperatives (including limited equity housing cooperatives that meet the requirements of Civil Code Sections 817 and 817.1) subject to a recorded affordability restriction under this Section shall be exempt from the requirements of Section 21.28.070 (“Affordable housing mitigation fee”).

E. Non-Purchasing Tenants, Life Lease. Any Tenant that does not join a Tenant Organization that acquires a Rental Property pursuant to this Chapter must be offered a life lease for their Rental Unit so long as the Rental Unit remains their principal residence.

### **13.89.190 Anti-Speculation Penalty.**

A. Purpose. Tenants, Tenant Organizations, and Qualified Nonprofits acknowledge the displacement prevention, affordable housing preservation, and neighborhood stability purposes of this Chapter, and as a condition for the rights and benefits conferred to them under this Chapter, agree not use any purchased Rental Property for speculative purposes. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must be conditioned on the terms described herein. The City Manager is authorized to impose a lien on said Rental Property to enforce the requirements of this Section.

B. Minimum Term and Owner-Occupancy Requirement. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must not resell the Rental Property, or any separate ownership interests in the Rental Property, within 36 months of acquiring it. From the date of the initial purchase of the Rental Property up until 36 months, the Tenant must submit an annual owner-occupancy certification to the City demonstrating the use of the acquired

16

Rental Property as their primary residence. The requirements of this Section shall materialize as a restrictive covenant placed on the recorded title deed to the purchased Rental Property that runs with the land and is enforceable by the City against the Tenant or Tenant Organization. The failure to submit an annual owner-occupancy certification to the City is a violation of this Chapter that shall be subject to the civil penalties described in Section 13.89.210 (Enforcement). The City may create Administrative Regulations for further guidelines concerning any exemptions from the requirements of this Section only in the event of an exigent circumstance.

C. Penalty. The City shall impose a penalty on any profits gained from the transfer of the purchased Rental Property, or any separate ownership interests in the Rental Property, prior to the expiration of the 36-month term described herein. The City shall create Administrative Regulations concerning the procedures for imposing such a penalty, which shall include notice to the alleged violator and the opportunity to contest the penalty at a hearing. The City shall establish such penalty as follows:

1. When the transfer occurs less than 12 months from the initial purchase date, 20 percent of the profits gained from the resale of the Rental Property or the separate ownership interest in the Rental Property;
2. When the transfer occurs more than or equal to 12 months but less than 24 months from the initial purchase date, 15 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property; or
3. When the transfer occurs more than or equal to 24 months but less than 36 months from the initial purchase date, 10 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property.

D. Required recordings and filings.

1. All covenants created in accordance with this Section shall be recorded before or simultaneously with the close of escrow in the office of the county recorder where the purchased Rental Property is located and shall contain a legal description of the purchased property, indexed to the name of the Tenant or Tenant Organization who purchased the Rental Property as grantee.

2. The City may engage a third-party monitoring agent to monitor the compliance of the annual owner occupancy certification.

### **13.89.200 Implementation.**

A. The City Manager shall adopt Administrative Regulations necessary to implement the requirements of this Chapter, and may adopt additional rules and regulations for purposes of administering this Chapter, including but not limited to rules and regulations governing the reporting of information regarding transactions subject to the requirements of this Chapter.

B. This ordinance shall take effect 90 days after the City Manager adopts Administrative Regulations pursuant to Paragraph A.

~~C. The City Manager~~C. Supportive partners shall report annually on the implementation of this Chapter to the City Council or to such City Council Committee as the City Council may designate. ~~The City Manager's report shall include~~Supportive partners shall collect and analyze data in partnership with tenants or tenant organizations to evaluate the number and types of sales of tenant-occupied properties including whether purchased by a Qualified Organization or Third-Party Purchaser; the number of Qualified Organizations that purchase Real Property pursuant to this Chapter; the number and types of units covered by this Chapter; and other data and information relevant to evaluating the effectiveness of this Chapter in creating and preserving affordable housing for residents in the City of Berkeley and in preventing displacement of City of Berkeley tenants.

~~C.D.~~ The City Manager or their designee shall provide counseling and technical assistance to Owners regarding the requirements of this Chapter to assist in achieving compliance.

**13.89.200210 Enforcement.**

A. Any violation of this Chapter or the Administrative Regulations promulgated under Section 13.89.~~190200~~.A shall be subject to administrative citation under Chapter 1.28.

B. The City Attorney, any Tenant of a Rental Property subject to this Chapter, or a Qualified Organization eligible to purchase Rental Property under this Chapter may bring a civil action to enforce this Chapter, and shall be entitled to the remedies set forth in this Section to the greatest extent permitted by law.

C. Any violation of the requirements of this Chapter shall be subject to a civil penalty not to exceed \$1,000 per day of violation. Each failure to provide the required notice or disclosure under this Chapter shall be considered a separate violation for each Rental Unit on a Rental Property.

15

D. A prevailing plaintiff in any action to enforce this Chapter shall be entitled to damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may order that an Owner of Rental Property comply with the requirements of this Chapter.

**13.89.210220 Severability**

If any word, phrase, clause, sentence, subsection, section, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason by a decision of a court of competent jurisdiction, then such word, phrase, clause, sentence, subsection, section, or other portion, or the prescribed application thereof, shall be severable, and the remaining

18



provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words had been declared invalid or unconstitutional.

**13.89.230 Effective Date.**

A. Section 13.89.100 shall take effect January 1, 2024.

B. Properties with five or more housing units will be subject to Section 13.89.110 on January 1, 2024.

C. Properties with four or fewer housing units, pending analysis findings, shall be subject to section 13.89.110 on January 1, 2027.

D. All other provisions in this ordinance are effective January 1, 2024.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Harrison  
 Subject: Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

RECOMMENDATION

Refer \$579,000 to the June 2023 Budget Process for annual City staffing costs and for allied non-profits to implement and administer programs associated with acquisition and prevention of displacement from multi-family housing including the Small Sites Program, investments related to the Empty Homes Tax, and administrative implementation of the proposed Berkeley Community and Tenant and Opportunity to Purchase Act (COPA/TOPA):

|                                                                                                                                                                     |                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Community Development Project Coordination for acquisition capacity of 3-6 additional projects per year (HHCS)                                                      | 1.5 FTE (1 FTE for the Empty Homes Tax and 0.5 FTE for COPA/TOPA) - \$318,915*<br><br>*Includes \$4,500 to support office, technology, and training needs |
| Community Development Project Coordination for COPA/TOPA (HHCS)                                                                                                     | 0.5 FTE - \$108,088                                                                                                                                       |
| Deputy City Attorney II                                                                                                                                             | 0.35 FTE - \$101,884                                                                                                                                      |
| Qualified Organization Capacity Support for two additional projects per year (in addition to existing allocation of \$100,000 to the Bay Area Community Land Trust) | \$50,000                                                                                                                                                  |

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City of Berkeley is experiencing a historic housing and displacement crisis. Between 2005 and 2019 gross median rent increased by over 50%. This has been

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

particularly burdensome in a city where 58% of residents are renters.<sup>1</sup> While in recent years Berkeley has met its RHNA goals for those earning above 120% Area Median Income (AMI), it has failed to build or acquire sufficient housing for everyone else. Further, housing at the >120% AMI category has not significantly improved affordability for lower income residents and has increased displacement in low-income neighborhoods.<sup>2</sup> Unfortunately, Alameda County's housing remains unaffordable for many of its residents, and this burden does not fall evenly across income and racial groups. While 47% of renters in Alameda County are rent burdened, the rate is 58% for Black renters and 87% for extremely low-income renters.<sup>3</sup>

As documented by the Rent Board-sponsored Anti-eviction Mapping Project Report, the crisis has contributed to extreme displacement, with the City losing "49.2% of its Black population between 1990 and 2020," and "only 30% of households below 80% of Area Median Income (AMI) occupy[ing] units that are [ ] affordable to them."<sup>4</sup>

The extraordinary gap between the housing needs of residents and the availability of housing can only be bridged through the use of numerous policy interventions including enhancing the resources of the Small Sites Program to support acquisitions under the Empty Homes Tax and COPA/TOPA, and staffing to implement and administer the COPA/TOPA. The market will not do this on its own. Acquiring and preserving affordable housing is key to reaching the housing and equity goals codified in Berkeley's recently adopted 2023-2031 Housing Element and strategic plan because this is a cost-effective way to ensure the city does not lose the affordable homes it already has while it invests in producing more affordable homes overall.<sup>5</sup> The City of Berkeley is pursuing a number of strategies to acquire properties and make them permanently affordable but is forced to do so without adequate resources for City staff, its non-profit partners and for acquisition of properties.

Before the 2008 financial crisis, Berkeley had a robust housing department. The department was downsized and merged with the health department to form Health, Housing, and Community Services (HHCS). Despite limited housing staff, the Department has excelled in face of unprecedented Council demand for housing and acquisition. In contrast to other housing strategies, acquiring existing properties does

<sup>1</sup> Anti-Eviction Mapping Project: *Densifying Berkeley: Potential Impacts on Displacement and Equity*, 2022, <https://www.berkeleyside.org/wp-content/uploads/2022/04/AEMP-UpzoningReport-Draft4-3.pdf>.

<sup>2</sup> Id.

<sup>3</sup> California Housing Partnership Housing Needs Dashboard, 2019, <https://chpc.net/housingneeds/?view=37.405074,-119.26758,5&county=California,Alameda&group=housingneed&chart=shortfall|current,cost-burden|current,cost-burden-re|current,homelessness,historical-rents,vacancy,asking-rents|2022,budgets|2021,funding|current,state-funding,lihtc|2010:2021:historical,rhna-progress,multifamily-production>.

<sup>4</sup> "Anti-Eviction Mapping Project: *Densifying Berkeley: Potential Impacts on Displacement and Equity*," 2022.

<sup>5</sup> *City of Berkeley Housing Trust Fund and Small Sites Program Guidelines*. <https://berkeleyca.gov/sites/default/files/2022-04/Housing-Trust-Fund-Guidelines.pdf>.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

not result in carbon-intensive demolition and it maximizes continuity and price security, minimizing displacement of long-term and low-income residents. However, to meet this demand in the face of the City's new Housing Element and other policies, it is critical to bolster staffing in the housing division.

### BACKGROUND

The Small Sites program, which acquires and renovates occupied, multifamily rental properties and converts into permanently affordable units or non-equity housing cooperatives, has successfully purchased properties, most recently 13 units of affordable housing on Solano Avenue and eight units in South Berkeley on a church property.<sup>6</sup> The program has been a critical piece of Berkeley's affordable housing strategy through the acquisition and rehabilitation of rental units. The sites guarantee below market rate rents.

On November 8, 2022 nearly two thirds of Berkeley voters approved Measure M, the Empty Homes Vacancy Tax, intended to incentivize owners of housing property to bring units back on the market and discourage speculation. The law will go into effect beginning January 1, 2024 and is expected to identify thousands of vacant units that could be candidates for acquisition, while also generating millions of dollars in revenue for housing acquisition and production. In addition to the staff needed to simply administer the tax, the City needs additional staff to help vet potential candidate properties identified as vacant and possibly available for acquisition. As a general tax, funds from the Empty Homes Tax will be placed into the General Fund. However, the voters in passing Measure M approved the non-binding intention of using the revenue in ways consistent with the Housing Trust Fund as well as other municipal purposes at the discretion of the Council.<sup>7</sup>

In addition, on March 10, 2020, COPA/TOPA was first presented to the Berkeley City Council's Land Use, Housing and Economic Development Policy Committee. The ordinance was heard again in March and May of 2021 before passing out of Committee on May 20, 2021 with a qualified positive recommendation. The Mayor held an informational work session on COPA/TOPA on January 27, 2022.<sup>8</sup> The ordinance would create legal rights for tenants to make the first offer or match any final offer to buy their home whenever the owner chooses to put it up for sale. Alternatively, tenants could assign these rights to an affordable housing developer so that it can prevent the displacement of the tenants by acquiring the property and preserving its affordability. COPA/TOPA would also provide technical assistance, education, and financing to help make these purchases possible.

---

<sup>6</sup> Savidge, Nico. "To Boost Affordable Housing, Berkeley Looks to Buy, Not Just Build." *Berkeleyside*, 19 Sept. 2022, <https://www.berkeleyside.org/2022/06/05/berkeleys-affordable-housing-acquisition-rehabilitation-small-sites>.

<sup>7</sup> As discussed in the August 2022 Council report that accompanied the Empty Homes Tax and the tax ordinance.

<sup>8</sup> Mayor Jesse Arreguín, "Tenant Opportunity to Purchase Act, Adding B.M.C. Chapter 13.89," January 27, 2022, <https://berkeleyca.gov/sites/default/files/2022-04/2022-01-27%20Item%2001%20Tenant%20Opportunity%20to%20Purchase%20Act.pdf>

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

Thus, COPA/TOPA provides pathways to stabilize existing housing for tenants and preserve affordable housing, allows tenants to become first-time homeowners, and facilitates opportunities for democratic ownership of residential property. To be effective, COPA/TOPA requires a well-funded staffing infrastructure to administer and enforce it. Education, legal and technical assistance to tenants is also needed during implementation to ensure the rights that COPA/TOPA provides can be meaningfully exercised.

### FUNDING DETAILS

HHCS' housing services are currently provided by two units; one unit, the Housing Development Unit, is dedicated to affordable housing development through the City's Housing Trust Fund, including the Small Sites Program. The unit has a total of 3.5 FTE. None of the staff are dedicated specifically to Small Sites. Instead, this program has been absorbed into the workload of the unit alongside other housing development projects.

The Department reports that at peak times ahead of multi-year predevelopment or development processes, each Small Sites Program project demands up to 0.5 FTE. The additional 1.5 FTE contemplated in this item could assist HHCS with expanding the capacity of the program and using data from the Empty Homes Tax to identify properties for acquisition and rehabilitation by the City or its partners, including the Land Trust, non-profit developers and the Berkeley Housing Authority.

Current Small Sites Program duties include, but are not limited to:

- Managing projects funded through the Small Sites Program, including acquisition, rehabilitation or new construction by other organizations (typically nonprofit developers);
- Coordinating the disposition of City-owned property for development as affordable housing as needed;
- Developing competitive solicitations (NOFAs, RFPs, RFQs) for development funding as well as consultant services;
- Providing technical assistance, reviewing funding applications, underwriting projects, and making funding recommendations;
- Preparing housing loan or grant agreements using boilerplate documents and negotiate revisions with borrowers. Researching and drafting other types of agreements as needed;
- Monitoring projects during predevelopment and construction. Reviewing and approving draw requests and work with the Department's fiscal unit to disburse funds;
- Preparing reports and presentations for the City Council and Housing Advisory Commission.

In addition, this budget referral includes the approximately .5 FTE as proposed by the Department in order to implement additional part-time support from HHCS to coordinate the acquisition of properties in connection with COPA/TOPA.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

The .5 FTE Community Development Project Coordinator duties will include:

- Program Design and Development, including coordinating with CAO to develop process, procedures, forms, etc.
- Developing and maintaining a webpage with certified Qualified Organizations (QO) and Supportive Partners (SP), active seller notices to tenants, and tenant/QO statements of interest
- Certifying and renewing QOs and SPs monitor and evaluate them on an ongoing basis
- Advising tenants and QOs on applying for SSP funding
- Developing targeted materials and provide ongoing education for landlords and tenants.
- Organizing trainings, meetings and webinars, and act as liaison to professional and civic groups, community organizations, and individuals

The City Attorney’s Office also indicates it will need additional resources to implement COPA/TOPA, as follows:

| <b>Deputy City Attorney II***</b>                                                                                                |              |                            |
|----------------------------------------------------------------------------------------------------------------------------------|--------------|----------------------------|
| <b>Task</b>                                                                                                                      | <b>% FTE</b> | <b>Ordinance Reference</b> |
| Adjudicate policy exemptions, such as definition of principal residence, family in family transfer, and medical hardship waivers | 5%           | 13.89.050                  |
| Adjudicate non-compliance with ROFR (verifies bona fide offers when dispute reported)                                            | 5%           | 13.89.100                  |
| Landlord/tenant mediation                                                                                                        | 5%           | 13.89.170                  |
| Legal Analysis of potential violations                                                                                           | 5%           | 13.89.170                  |
| Remedies/Civil Action for violations                                                                                             | 10%          | 13.89.170                  |
| Support advising of tenants and QOs                                                                                              | 5%           |                            |
|                                                                                                                                  | <b>35%</b>   |                            |

\*\*\*This is strictly related to ordinance implementation and does not reflect any staffing required for legal challenges to the ordinance

Finally, this request also includes an additional \$50,000 per year to assist Qualified Organizations with staff support to acquire up to two projects per year. The \$25,000 per project line item is included to build sufficient project management capacity for partners with the City. HHCS already acquires approximately two projects per year through the Small Sites Program and provides \$100,000 in capacity support to the Bay Area Community Land Trust. Berkeley will need to support additional start-up capacity and allow for ongoing support through pre-development funds related to specific small sites and/or COPA/TOPA projects.

Thanks to the foresight of Berkeley voters, the Council and staff, the Council has a wide variety of General Fund, Special Tax, and fee revenue that can be used to acquire housing and maintain it as affordable for current residents and future generations. The Measure U1 tax, the Housing Trust Fund, Measure O, and Measure M Vacancy Tax all have a strong nexus to property acquisition.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

It is in the public interest to consider funding staff and non-profit support for acquisition of housing to remain perpetually affordable as part of the June, 2023 budget process.

FISCAL IMPACTS OF RECOMMENDATION

\$579,000 per year in staffing costs to enhance the Small Sites Program, fund programmatic and investment of Empty Homes Tax proceeds, and implement and administer COPA/TOPA.

ENVIRONMENTAL SUSTAINABILITY

Acquiring and rehabilitating existing housing stock can be a lower carbon alternative to demolition and building new affordable housing.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

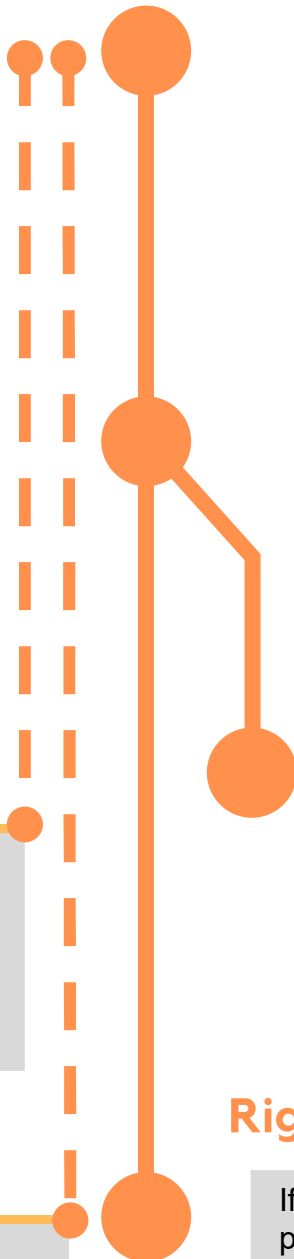


# TOPA Timelines

## Right of First Offer:

### Total time to close:

The maximum time required for a TOPA sale will depend on the size of the property and the phase of the process in which the owner accepts an offer.



### Step 1

Seller gives tenants and Qualified Nonprofits (QNP) **notice of intent to sell**.

Tenants or QNPs deliver **Statement of Interest** to Owner. If they do not, TOPA process ends; seller free to list on market/sell to 3rd party buyers.

Time to submit **statement of interest**:  
1 unit: 20 days | 2+ units: 45 days

### Step 2

Tenants/QNP who submitted a **statement of interest**, can submit an **offer**. Seller free to accept, counter, or reject offer. If tenants/QNP submits no offer, TOPA process ends.

Time to submit **offer**: 1 unit: 30 days | 2-9 units: 60 days  
10+ units: 90 days

### Step 3

If seller accepts offer, then parties execute contract, triggering the **closing** phase (seller eligible for transfer tax break). If offer rejected, seller is free to get 3rd party offer (subject to Right of First Refusal).

Time to **close**: 1 unit: 30 days | 2-9 units: 60 days  
10+ units: 90 days (for commercial loans: additional 30 days)

1 unit: 80 days  
2-9 units: 165 days  
10+ units: 255 days

1 unit: 60 days  
2-9 units: 135 days  
10+ units: 165 days  
+ time on market and time to close

## Right of First Refusal:\*

If seller wants to accept a **3rd party offer**, seller of building\* must provide tenants/QNP (whoever made the initial offer in **Step 2**) with opportunity to meet price and terms of 3rd party offer. If no tenant/QNP made offer in Step 2, then this obligation does not apply.

Time for buyer to **accept** price/terms: 1 unit: 10 days  
2+ units: 30 days

\* Applies only to buildings with 5 or more units in first 3 years of policy



### Upcoming Worksessions and Special Meetings

*start time is 6:00 p.m. unless otherwise noted*

| Scheduled Dates |                                                                                          |
|-----------------|------------------------------------------------------------------------------------------|
| Nov 14 (4:00pm) | 1. Alameda County Transportation Commission San Pablo Avenue Multimodal Corridor Program |
| Dec 5           | 1. Re-Imagining Public Safety Update (regular meeting agenda)                            |
| Jan 23          | 1. Draft Waterfront Specific Plan (Tentative)                                            |
| Feb 6           | 1. OED Economic Dashboards Presentation                                                  |

### Unscheduled Workshops and Special Meetings

None

### Unscheduled Presentations (City Manager)


1. Fire Dept Standards of Coverage and Community Risk Assessment (TBD regular agenda)
2. Dispatch Needs Assessment Presentation
3. Presentation on Homelessness/Re-Housing/Thousand-Person Plan (TBD regular agenda)

|  |                                                                                                          |
|--|----------------------------------------------------------------------------------------------------------|
|  | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b> |
|  | None                                                                                                     |

| <b>CITY CLERK DEPARTMENT</b>                                                        |                              |                               |                           |
|-------------------------------------------------------------------------------------|------------------------------|-------------------------------|---------------------------|
| <b>WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br/>BEFORE THE CITY COUNCIL</b> |                              |                               |                           |
| <b>Address</b>                                                                      | <b>Board/<br/>Commission</b> | <b>Appeal Period<br/>Ends</b> | <b>Public<br/>Hearing</b> |
| <b>NOD – Notices of Decision</b>                                                    |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
| <b>Public Hearings Scheduled</b>                                                    |                              |                               |                           |
| 2924 Russell Street                                                                 | ZAB                          | 10/31/2023                    | 2/27/2024                 |
| 3000 Shattuck Avenue - (construct 10-story mixed-use building)                      | ZAB                          |                               | TBD                       |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
| <b>Remanded to ZAB or LPC</b>                                                       |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |
| <b>Notes</b>                                                                        |                              |                               |                           |
|                                                                                     |                              |                               |                           |
|                                                                                     |                              |                               |                           |

11/7/2023





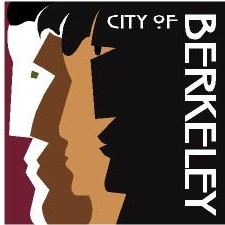
No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda Index Webpage:**  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>





Kate Harrison  
Councilmember District 4

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet**

**Meeting Date:**       **October 10, 2023**

**Item Number:**       **1**

**Item Description:**   **City Council Legislative Systems Redesign**

**Submitted by:**       **Councilmembers Harrison, Robinson, and Taplin**

Refer to the Agenda Committee the elements contained in the “Alternative Legislative Alignment Process” as described in the background section.





Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
October 10, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Taplin (Co-Sponsor)

Subject: Alternative Council Legislative Process

RECOMMENDATION

Refer to the Agenda Committee the elements contained in the “Alternative Legislative Alignment Process” as described below in the background section:

1. Incorporate positive elements of the Councilmember Hahn proposal, including mandatory Council memo guidelines, a formal process for City staff to provide conceptual input to authors, re-evaluating backlogged items for potential removal, and policy committees’ using a checklist to guide their analysis;<sup>1</sup>
2. Establish objective definitions and provide for comprehensive consideration of significant items;
3. Require referrals and budget requests over a given threshold to be considered first by a policy committee.
4. Preserve and formalize rolling deadlines for significant item submission;
5. Retain policy/budget judgement and prioritization to Council as a whole rather than policy committees, while tasking committees with role of ensuring items are drafted to form and sufficiently inform Council and the public’s consideration.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

At the October 2019 Council retreat, the Council and the City Manager discussed approaches to better align the legislative process to the budget and ensure implementation was feasible. In particular, many referrals to the City Manager were not well drafted and were not reviewed by policy committees before being referred. Many budget referrals were also not considered by policy committees despite their potential to have outsized impacts on staff and budgetary resources. Even with the referral ranking system, there remain a sizeable backlog of items that are not necessarily funded or considerate of staff resources. Councilmembers have not identified a sufficient number of lower-ranked items for removal from the list and may remain there for years.

---

<sup>1</sup> Councilmember Hahn, Draft Proposal, p. 44., <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-09-18%20Agenda%20Packet%20-%20Agenda%20Committee.pdf>  
2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7140 • TDD: (510) 981-6903 • Fax: (510) 981-6903 E-Mail: KHarrison@cityofberkeley.info

## Alternative Council Legislative Process

These considerations merit Council consideration and possible action. At the same time, proposals dictating how often Council can submit legislation and overly complex rules for policy committees risks veering into limiting councilmembers' legislative authority, fails to respond to emerging circumstances, is unprecedented in comparable cities and risks violating the spirit if not the letter of the City Charter. This item finds that (1) policy committee system created in 2018 is fundamentally sound with certain enhancements, and (2) that the problem that needs to be addressed is ending the practice of allowing significant policy and budget referrals to bypass the policy committee system.

Before Council could consider the issue in depth, the COVID-19 pandemic occurred. During the first year of the COVID-19 pandemic, the Mayor and Council briefly suspended consideration of nearly all non-emergency Council legislation and meetings of committees and commissions. As the pandemic wore on, the reality of governing and the needs of the people, including the pressing need for street improvements, responses to our affordable housing crisis, the murder of George Floyd and socio-economic factors – some related and some not to the pandemic – made introducing no new policy infeasible, and Council began legislating anew.

On June 15, 2021 City Management proffered its "Systems Alignment Proposal" proposal to Council. The proposal recommended restricting the time period for submitting Council items (exempting Departments and the City Manager) to only four months per year, among other details, citing the need for more in depth budgetary and implementation analysis. However, the Council's policy committees, created shortly before this time, were tasked with vetting items for any staffing impacts in light of vacancies and considering budget impacts Current rules provide that the policy committees are to:

- review items for completeness and alignment with Strategic Plan goals;
- ensure Council items include adequate discussion of budget implications, administrative feasibility, basic legal concerns, and staff resource demands to allow for informed consideration by the full Council;
- include a positive, qualified, or negative "Committee recommendation" based on these criteria.<sup>2</sup>

Many items improved significantly through the committee process.

Questions about the impact of the city management proposal on the City Charter were outlined in an alternative Council item submitted by Councilmember Harrison in June 2021.<sup>3</sup> Ultimately the City Manager's proposal was not adopted by Council, and was

<sup>2</sup> Berkeley City Council Rules of Procedure,  
<https://berkeleyca.gov/sites/default/files/documents/City%20Council%20Rules%20of%20Procedure%20-%20July%2011%202023%20-%20FINAL.pdf>.

<sup>3</sup> Councilmember Harrison, "Comments and Alternative Systems Alignment Proposal," June 15, 2021,  
<https://records.cityofberkeley.info/PublicAccess/api/Document/AemaKwyWOMW%C3%89OLzGWGj2m%C3%81pnQxBkfMC7W2S7PsoYWkE%C3%81c3kNbNXoWpsj%C3%891iLPosUUUV90e0sL0rH3HFNV2BEtmCo%3D/>.

## Alternative Council Legislative Process

instead referred to the Agenda Committee for consideration alongside alternative proposals. The City Manager has indicated that it would be inappropriate for the City Manager under the Charter to be recommending or determining how the Council makes policy decisions. Indeed, the policy and legislative function is firmly lodged under the Council per the Charter as was noted in Councilmember Harrison's 2021 alternative item.

Some of the elements of the City Manager's 2021 proposal have reemerged as part of a new proposal led by Councilmember Hahn through the Agenda Committee. According to the Agenda Committee record, Councilmember Hahn indicated that her proposal represents an understanding between the City Manager and City Clerk's office. The City Manager noted that "there are characteristics of my [the City Manager's] proposal woven into what you [Councilmember Hahn] will be providing [the Council]" but has indicated this is clearly a matter for Council to determine.

The Council's process is not fundamentally flawed, and does not require measures such as a nearly 300-day legislative process for "major items." The Council's Policy Committee and budget process systems are sound, and among other updates the main task before Council is to close outstanding loopholes to the committee process.

This alternative item builds upon the proposal submitted by Councilmember Harrison in 2021, comments directly to the positive and less positive elements of Councilmember Hahn's proposal, and offers an updated alternative proposal that better aligns the legislative process to the budget and staff implementation process without sacrificing Berkeley's democratic process, and directly deals with referrals and budget requests submitted without sufficient budget and implementation analysis.

Certain elements of the legislative processes that have largely bypassed the policy committee process include: (1) referrals to the City Manager, (2) departmental, City Manager, including some major policy items, and (3) departmental, City Manager and Council budget referrals. All of these can have an outsized impact on limited budget resources and staff time and should be incorporated in the policy committee process ahead of the respective budget process. The policy committees are where—before passing out an item—significant budgetary impacts and feasibility, in addition to the proposals merits, ought to be determined.

*We can fix the process without stripping the people's representatives of their Charter responsibility to respond to the public's needs and of due process to propose, debate, and consider legislation.*

## BACKGROUND

### ***Positive Aspects of the Councilmember Hahn Proposal***

## Alternative Council Legislative Process

- Council items are required to follow the guidelines already promulgated rather than leaving these guidelines as recommended only;<sup>4</sup>
- Formal process for City staff to provide high level conceptual input to authors before they submit proposals;<sup>5</sup>
- Process for addressing or re-prioritizing the “backlog” of unfunded items;<sup>6</sup>
- Major Items passed by Council but not funded are automatically rolled-over to future funding opportunities (this has already been implemented to a certain extent).<sup>7</sup>
- Policy Committees’ analysis is enhanced using a checklist (excluding Hahn proposal to rate items).<sup>8</sup>

**Concerns about the Councilmember Hahn Proposal**

- Does not clearly articulate the specific legislative problems it is trying to solve, or provide examples of how the current system is “[in]consistent[],” how it “overwhelm[s]” City staff, and how the current system fails to “[s]uccessfully implement state of the art and/or innovative programs and policies.”<sup>9</sup>
- Severely limits the public’s access to the democratic process and extends the legislative process for “Major Items” to nearly 300-days (September to July and beyond). This compares to the current expected 120-day timeline. Items can that quickly become stale or inadequate by the time they are finally implemented.<sup>10</sup> The proposal does not appreciate the September deadline artificially circumscribes Council’s ability to be responsive to public.<sup>11</sup> For example, if a Councilmember develops a non-time critical but nonetheless important piece of major legislation in October, the public will have to wait 11 months until September plus another nine months (July of the next year) before the item can be budgeted and implemented.
- Does not align with the fall budget process in which “excess equity” is considered and most council budget referrals are funded.
- Does not subject City Management’s “Major Items” to the same review. Neighboring cities such as Oakland require all non-time critical staff policy items to be routed through Policy Committees so all budgetary decisions (the purview of Council) are made against the same criteria.<sup>12</sup>
- Provides Agenda Committee with too much power to determine pick ‘winners and losers’ as to what constitutes a “Major Item” or time critical. Existing and proposed definition of “Major Item” and “Time Critical” are overly subjective.<sup>13</sup>
- Provides Policy Committees inappropriate authority to prioritize/score items they review. Currently, Policy Committees provide recommendations about individual

---

<sup>4</sup> Councilmember Hahn Draft Proposal, p. 44.

<sup>5</sup> Id., p. 43.

<sup>6</sup> Id., p. 47.

<sup>7</sup> Id., p. 44.

<sup>8</sup> Id., p. 36.

<sup>9</sup> Id., p. 24.

<sup>10</sup> Id., p. 43.

<sup>11</sup> Id. p. 27.

<sup>12</sup> Oakland City Council Rules of Procedure, March 8, 2023, <https://www.oaklandcityattorney.org/wp-content/city-council/89588%20CMS.pdf>. See also Councilmember Hahn Draft Proposal, p. 27.

<sup>13</sup> Id., p. 44.

## Alternative Council Legislative Process

policies, and Council as a whole is rightly tasked with prioritizing and scoring items in terms of approval and budgeting.<sup>14</sup>

- Asserts that Policy Committees are a burden on staff and the Council, when in fact they have been shown to benefit the legislative process and reduce discussion at full Council. The Council's policy committees would only be allowed to meet to consider major legislation during less than six months of the year (down from the current nine months).<sup>15</sup>
- Requires Council to score items as part of the budget process through opaque and non-public processes, rather than through the current deliberative Council meeting process, Budget Committee, and Mayoral budget process provided for in Charter.<sup>16</sup>
- Creates an implementation team that includes the Councilmember author after it is passed by a policy committee. The stated goal is to "establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc." These are functions that the policy committees are tasked to do. The role for the Councilmember should be circumscribed as to prevent inappropriate meddling in administrative matters that are assigned to the City Manager under the Charter.<sup>17</sup>

### ***Alternative Council Legislation Alignment Proposal***

From the perspective of the authors of this item, a workable and sensible democratic process proposal should include the following:

#### Incorporate Positive Elements of Councilmember Hahn Proposal

- The positive elements listed above under "Positive Aspects of the Councilmember Hahn Proposal."

#### Establish Objective Definitions and Comprehensive Consideration of Significant Items

- Establish *objective* definitions for items with "significant" or "insignificant" budgetary or staffing implications, e.g., a dollar figure threshold, number of FTE needed, or requirement for consultant work. The current system fails to define "moderate to significant" and leaves subjective discretion to the Agenda Committee. This would ensure fairness amongst all Councilmembers. Alternatively, items could be referred directly to Policy Committees for such determination bypassing the Agenda Committee, unless deemed time critical.

Under this proposal, significant items would be subject to the normal maximum 120-day Policy Committee review timeline and include some of the enhancements offered by Councilmember Hahn. Items with insignificant impacts could be routed directly to Council or be provided a more streamlined maximum 90-day timeline and a less intensive review. In the case that items referred under

---

<sup>14</sup> Id.

<sup>15</sup> Id., p. 26.

<sup>16</sup> Id.

<sup>17</sup> Id., p. 45

Alternative Council Legislative Process

the 90-day timeline are found by the Policy Committee to have more significant impacts, a committee would be empowered to extend the item to 120 days for enhanced review.

- Ensure that all items submitted as referrals to the City Manager or budget referrals over the threshold are thoroughly vetted by Policy Committees and include estimates of all budget and staffing implications before coming out of the committee process so that they can be properly routed to the budget process.
- Ensure that policy items from City Management and Departments (other than time critical contracts and strictly administrative matters) are routed to policy committees as in Oakland and San Francisco.

Preserve and Formalizing Rolling Deadlines for Significant Item Submission

- Provide rolling submission deadlines ahead of applicable biennial (July), annual adjustment (July), and annual appropriation ordinance budget processes (fall/spring). The Council and City Manager may strive to encourage Councilmembers to submit the bulk of their items to the biennial and AAO #1 processes, but circumstances and community demands may warrant submission and consideration at other budget process periods. The Council, Mayor, and Budget Committee should, as in the past, continue to defer items or not fund items with significant budgetary or staffing implications as appropriate. There does not need to be an artificial deadline imposed on items.

Retain Policy/Budget Judgement and Prioritization to Council as a Body, While Tasking Committees with Ensuring Items Are Drafted to Form and Sufficiently Inform Council and Public Consideration

- Pursuant to the Council's historic rules of procedures, *subjective judgements* of legislation are appropriately the purview of the Council as a whole, not Committees.

This alternative proposal would achieve the important goal of aligning Council items with significant budget and staff impacts with legislation in an objective way that is not detrimental to the Council's obligations under the Charter and the public's right to representative democracy.

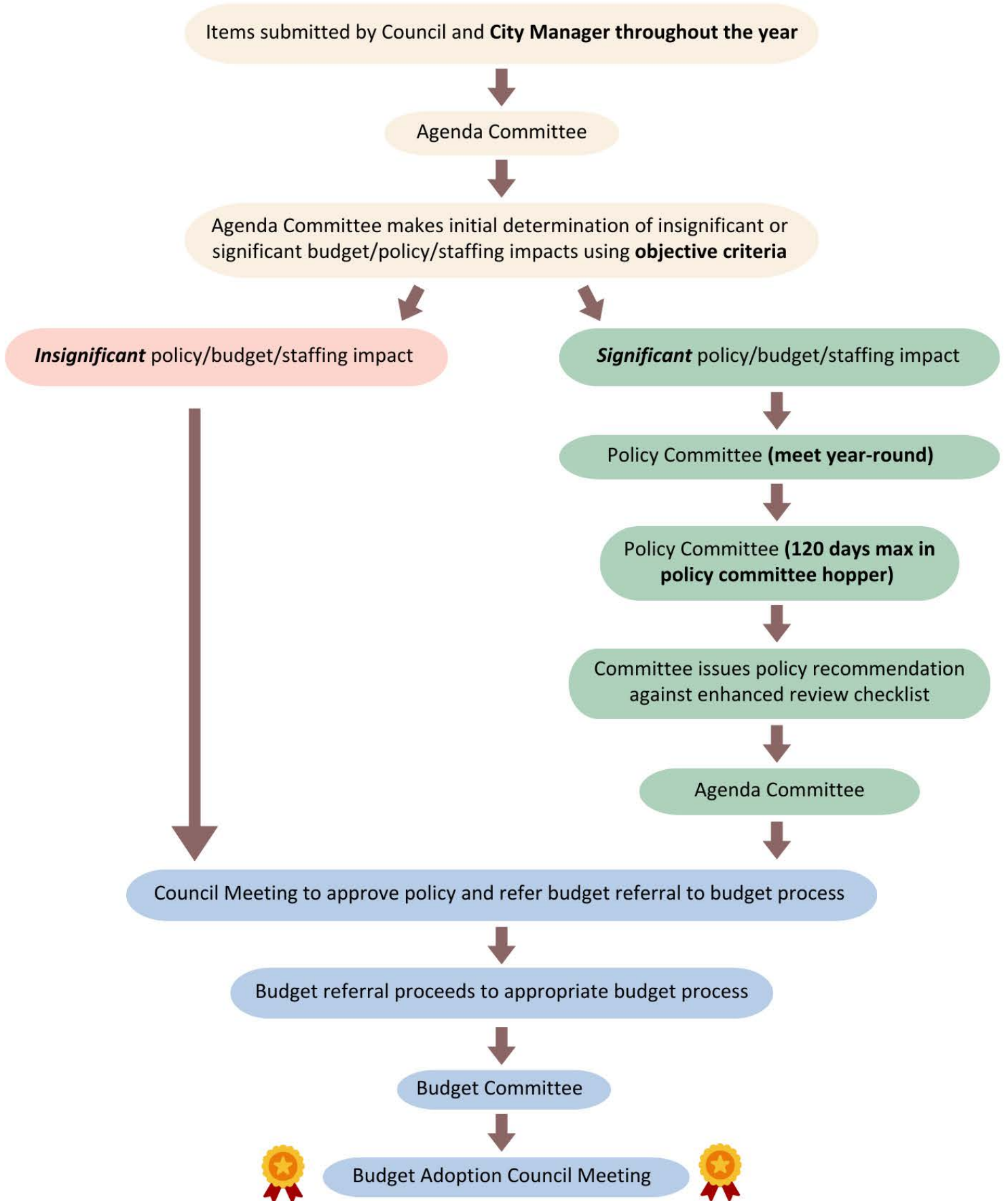
CONTACT

Councilmember Kate Harrison  
kharrison@cityofberkeley.info | 510-981-7140

ATTACHMENTS:

1. Flowchart of Alternative Systems Alignment Proposal

## Alternative Council Legislative Process Proposal







Office of the Mayor

WORKSESSION  
October 10, 2023

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: City Council Legislative Systems Redesign

### BACKGROUND

On February 8, 2021, at the direction of City Council during a retreat, the City Manager presented a Systems Alignment Proposal to the Agenda and Rules Committee. Following discussion, the Systems Alignment proposal was calendared for a future Council meeting.

On April 26, 2021 the Systems Alignment proposal was presented to All Council.

Councilmember Droste submitted a response to the Systems Alignment proposal at the May 18, 2021 meeting followed by Councilmembers Hahn and Harrison at the June 15, 2021 meeting. During the June 15, 2023 Council engaged in discussion and referred the Systems Alignment proposal to the Agenda and Rules Committee for further consideration.

On March 14, 2023, Councilmembers Robinson and Wengraf presented Reforms to Public Comment Procedures at meetings of the City Council for discussion and action.

At the Agenda & Rules Committee Councilmember Hahn, in collaboration with the City Clerk and other staff, presented "Major Item Legislative, Budgeting & Implementation Systems Redesign". Upon deliberation, the Agenda & Rules Committee set a worksession for full council discussion on October 10, 2023.

In order to assist Council in understanding the various recommendations from previous meetings, Mayor Arreguin directed his staff, with assistance from Councilmember Wengraf's staff, to create a matrix of all the proposals and responses from City Councilmembers at the relevant meetings which was reviewed at the September 26, 2023 Agenda and Rules Committee meeting.

### CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

City Council Legislative Systems Redesign

WORKSESSION  
October 10, 2023

**Attachments:**

- 1: PowerPoint Presentation
- 2: Council Rules of Procedure – Appendix B
- 3: Comparison Matrix
- 4: Background Materials

# MAJOR ITEM

## Submission, Review, Approval, Funding, & Implementation

### PROCESS SKETCH FOR DISCUSSION

Presented to Berkeley City Council  
by the Agenda & Rules Committee

October ##, 2023

# TERMINOLOGY

## MAJOR ITEM

Is an Item meeting the current/existing definition of a **Policy Committee Track Item**:

*Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts*

# BIG IDEAS

**COUNCIL/MAYOR** - Successfully develop and implement State of The Art/ Innovative Programs and Policies to serve Berkeley, and to model best practices

**CITY CLERK** - Consistency in process for Major Item Development, Budgeting and implementation

**CITY ATTORNEY** – Ensure legal and drafting compliance

**CITY MANAGER** - Help the Organization deliver without overwhelm; help staff be successful in their work

# YEARLY CYCLE

Built around **JUNE 30** Budget Adoption/Update

July – September

**COUNCIL**

Finalize Y2 Items

**CITY MANAGER**

Implement Y1 Items

October – March

**COMMITTEE  
SEASON**

April – June

**COUNCIL + BUDGET  
SEASON**

# LEGISLATIVE SESSION

## One Cycle - Benefits

- **Every Year, opportunity to submit** and have Council review/vote on and fund Major Items
- **Four Subject Matter Committees** only meet during a Committee Season (except if emergency or special circumstance)
- Staff can **focus on implementation** during the “off season,” and Councilmembers can finalize the next year’s items
- Significantly **reduce gap between approval and implementation**

# MAJOR ITEM DEVELOPMENT & SUBMISSION

*All Year* → *End of September*

- Must use **Major Item Guidelines** format  
(Appendix B to Council Rules of Procedure & Order)
- September 30 **Submission Deadline**
- Major Items **can be submitted prior** to September 30 and reviewed by Agenda & Rules for **compliance with guidelines**
- Timeline allows for Councilmembers to **work all year** on items, with **concentrated opportunity** July-September
- **Staff input** at Pre-submission = high level/conceptual; early vetting of concepts with **City Attorney** to identify legal & drafting inputs



# AGENDA COMMITTEE

## OCTOBER

### *Review & Assign Major Items to Committees*

- Early October **Special Meeting(s)**
- Review Major Items for **compliance with Guidelines**
- Assign *compliant* Major Items to Policy Committees
- Send *non-compliant* Major Items back to Authors for resubmission by End of October

# POLICY COMMITTEES

## OCTOBER - MARCH

- Organizing Meeting(s) Mid-October – Plan Committee Session/Schedule Hearings
- Major Items reviewed by Committee and move out on Rolling Basis, November - March
- [Committees may also prioritize/score items they review]
- All Major Items OUT of Policy Committees by March 30

# CITY COUNCIL

## APRIL

- Vote on all Major Items by **April 30**
- May require special meeting(s) in April
- **City Attorney** sign-off on **drafting and legal conformity** of Ordinances, Resolutions, and Formal Policies
- Approved items sent to **Budget Committee**

# PRIORITIZATION OF MAJOR ITEMS\* EARLY MAY

- All **Major Items** that have been passed by Council, both NEW and PENDING/previously unfunded, to be prioritized by Councilmembers
- Prioritization due Second Friday in May (process TBD)

*\* Not the same as All-Item prioritization*

# BUDGET COMMITTEE

## MAY - JUNE

- Council [and Committee?] Prioritizations provided to Budget Committee as guides, but **not binding**
- Budget Committee makes **Recommendations** to Full Council
- Budget passed; Major Items funded move forward to **Implementation**
- ROLLOVER: Major Items passed by Council but not funded get **automatically rolled-over** to future funding opportunities

# IMPLEMENTATION

## JULY +

- **Implementation Lead** assigned by **City Manager**
- **Implementation Team** assembled by **Lead + CM**
- Meet with **Author(s)** to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- **Implementation Team** prepares
  - **Launch Plan**
  - **Operating Plan**
- Program/Policy is **Launched + Implemented**

# OVERRIDE

## for Time Critical Items

SPECIAL TOPIC # 1

- Rules of Procedure and Order already provide Override:  
*An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item*
- Time Critical definition - may need to be reviewed/amended
- May still go to a Policy Committee or directly to Council, per A&R
- [**Possible Add:** Council-level override/appeal if Author doesn't agree with the A&R decision on Time Critical nature of a Major Item].

# PRE-SUBMISSION DETAILS

## SPECIAL TOPIC # 2

- **Guidelines Format Mandatory** for all Major Items
- **Only Authors (no Co-Sponsors) allowed** at Pre-Submission and Committee stages, to reduce Brown Act issues
- Available: **Pre-Submission Consult with City Manager** to recommend internal subject matter experts for high-level input
- Required: **Pre-Submission Consult with City Attorney** to identify legal and drafting considerations
- *Consider role for **COMMISSIONS** in Pre-Submission Phase*



# STRENGTHEN COMMITTEE REVIEW

## SPECIAL TOPIC # 3

### DEVELOP STANDARDS for review of Major Items:

- Relevance to Strategic Priorities or current needs/events
- Added value of program/policy
- Potential benefits/costs of program/policy to Community and COB
- Alternative means to achieve same or similar goals
- Phasing/timelines for implementation
- Staffing and Resources needed to Launch and Operate
- Evaluation/Metrics/Enforcement
- [Rate/Rank Major Items at end of Committee Session?]
- [Increase options re: positive and negative recommendations?]
- Other?

# STRENGTHEN COMMITTEE REVIEW

## SPECIAL TOPIC # 3

### Public, Staff, City Attorney, Commission Inputs

- Active Outreach to all identifiable Stakeholders
- Multiple Hearings to allow for robust community, Staff, and City Attorney inputs + Discussion
- ENHANCE/EMPOWER City Attorney & Staff participation to ensure meaningful input, without requirement for formal reports
- Committee Schedule (set early October) will help ensure the right staff/attorneys are present for each item
- *Consider how to obtain/integrate input from Commissions*

# PRIORITIZATION – SPECIAL *BACKLOGGED QUEUE*

Need a one-time process to “clear the backlog” of Major Items *currently* in queue. Suggest sending all pending (but not initiated) items to Policy Committees for review to suggest:

- Merging items and/or Updating Referrals
- Re-approval of items “as is”
- Recommendation to Sunset/Remove moot items
- Recommend disposition of all items, ranked By Lead Department
- Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
- May need some criteria - to ensure all council members get at least some of their priorities addressed
- May also include consideration of an RRV- or other kind of prioritization by full Council, organized by Lead Department and/or holistically

# PRIORITIZATION – REGULAR

## *YEARLY QUEUE*

- Enhanced Committee process should result in fewer or no backlogs and items implemented in a reasonable timeframe
- Prioritization becomes less of a BIG ISSUE

### **Prioritization in a rationalized system:**

- More fully conceived and vetted items
- Committee scoring and/or ranking of items at end of Committee Season
- Council Ranking of items by Lead Department and Overall

# Need Process & Criteria for funding Items at AA01 and AA02

## *High Level Suggestions – need input from Budget & Finance*

- Only Time Critical and Rollover (previously approved but unfunded) items considered - *same rule for Council and City Manager items*
- Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council initiatives going through yearly legislative process
- AA01 and 02 only for one-time and/or time sensitive needs, except special circumstances

# IMPLEMENTATION

Once Major Item is passed + funded, move to Implementation

- **Implementation Lead** is assigned by City Manager – *Single Individual* Responsible for managing and ensuring implementation
- **Implementation Team** assembled by Lead + City Manager
- **Consult with Author(s)** to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares **LAUNCH** and **OPERATING** Plans
  - **LAUNCH** elements + Timeline
  - **OPERATING** Plan
- Long term/ongoing operation of program/policy

# DISCUSSION + QUESTIONS

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.



---

Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
  - Adopt a resolution
  - Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
  - Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
  - Referral to a Commission or to a Standing or Ad Hoc Council Committee
  - Referral to the budget process
  - Send letter of support
  - Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
  - Designate members of the Council to perform some action
-

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

Systems Realignment Matrix - Updated 10-3-2023

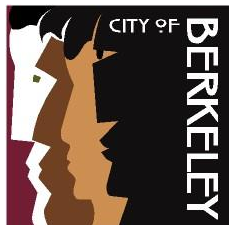
|                                  | JM                                                                                                                                                                                                                                                                                                                                                                            | LM                                                                                                                                                                                                                          | LM                                                                                                                                                                                                                                                                                              | JM                                                                                                                                                                                                                                                                                                                                                                                                                           | LM                                                                                                                             | LM                                                                                                                                                                                                                                                                                                                                                     | JM                                                                                                                                                                                                                                                                            | JM                                                                                                                                                                                                                                                              |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item Date                        | City Manager's System's Realignment Proposal<br>4/26/2021                                                                                                                                                                                                                                                                                                                     | Droste Response<br>5/18/2021                                                                                                                                                                                                | Council Feedback from Work Session<br>5/18/2021                                                                                                                                                                                                                                                 | Hahn Proposal<br>6/15/2021                                                                                                                                                                                                                                                                                                                                                                                                   | Harrison Proposal<br>6/15/2021                                                                                                 | 2021 Council Feedback<br>6/15/2021                                                                                                                                                                                                                                                                                                                     | Droste BERIPE Plan<br>3/14/2023                                                                                                                                                                                                                                               | Hahn/City Clerk Proposal to A & R<br>10/10/2023                                                                                                                                                                                                                 |
| <b>Item Summary</b>              |                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                 | Thesis: Legislative process should support Council in passing legislation of important local concerns and value-based issues with impact locally and more broadly. New legislation should be thoroughly researched, revised and vetted with input from stakeholders, the public, City Staff and Council colleagues. City staff contribute with increased levels of input and participation as the legislation moves forward. |                                                                                                                                | Thesis: Council recommendation was to review the proposal for systems alignment and provide edits and suggestions in order to compile Council feedback for the purpose of drafting a revised proposal for adoption. Sent back to A&R to prepare a new proposal and Council voices. No Councilmembers commented on the Consent Item during the meeting. |                                                                                                                                                                                                                                                                               | Thesis: Align with budget process, create consistency in process and proposal writing; ramp-up staff engagement as proposal moves through process. Create "seasons" (specific annual timeframes for development, policy committee, council and budget approval) |
| <b>Decisions/ Actions Taken</b>  | Thesis: Councilmembers to return with thoughts/proposals                                                                                                                                                                                                                                                                                                                      | Thesis: Supports CM Proposal. Recommends template adjustments to increase effectiveness and clarify reason for proposal and its recommendations and increase effectiveness.                                                 | Thesis: Mayor proposed and Council approved continuing the item to the June 15, 2021 regular meeting to allow Councilmembers to submit written comments for the public record.                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                 |
| <b>Process for Council Items</b> | A & R determines if Major Item<br>If not major, agendaized for Council meeting                                                                                                                                                                                                                                                                                                | Council Agenda Item Template recommended adjustments:<br>- add: Define the Problem<br>-Include Criteria Considered &<br>-Rationale for Recommendation<br>-Make Equity its own category<br>Sample red-lined template in item | Some Councilmembers expressed concern about the yearly April deadline for Major items because it would create stale items and/or limit ability to respond to the concerns of the moment. CM reminded public and Council that this process is just for the 15 -20 Major items drafted each year. | Guideline Format drives development of Council, City Manager or Commission proposals<br>All Major Items, regardless of where originated follow the prescribed process<br>Council is encouraged to consult with staff during proposal development but may wait until during the Committee process<br>CAO must provide preliminary review prior to initial submittal                                                           | Council Streamlines Existing Backlog of staff involved items through Policy Committees' review and recommendations to Council. | N/A                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                               | Built around June Budget Adoption<br>Divided into Seasons with deadlines for each phase                                                                                                                                                                         |
| <b>Major Item Definition</b>     | - Cannot be operationalized over time with existing resources<br>- Displaces an existing prioritized item<br>- Not implementable with existing resources<br>- Unable to sustain enforcement activities<br>- Subject to legal challenge and/or pre-emption<br>- Additional/new FTE on a temporary or permanent basis<br>- Additional or new infrastructure or technology costs |                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                 | Any law, program, or policy that represents a significant change or addition to existing law, program, or policy and/or is likely to call for or elicit significant study, analysis, or input from the community, staff or Council colleagues, and/or is likely to require significant new resources or staffing to implement.                                                                                               |                                                                                                                                | N/A                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                               | Definition required                                                                                                                                                                                                                                             |
| <b>Major Item Determination</b>  | A & R in consultation with CM<br>EXCEPTIONS:<br>- Grant deadlines<br>- Public Safety Issues<br>- Declared local emergencies<br>If exceptions granted, projects "in process" must be identified and delayed                                                                                                                                                                    | Major Item Determination Checklist recommended adjustments:<br>Define "smaller" and "less impactful" and state how that is determined.                                                                                      |                                                                                                                                                                                                                                                                                                 | (see definition above)<br>Can originate from Councilmembers, City Manager (often as referral responses) or Commissions<br>A & R makes determination if a submittal is a Major Item - can be sent back to originator for more information and compliance with Guidelines                                                                                                                                                      | Should be determined by Policy Committees, not Agenda Committee, via objective determination. No determination criteria given. | N/A                                                                                                                                                                                                                                                                                                                                                    | N/A                                                                                                                                                                                                                                                                           | Submittal Season: Year round submittal September 30 cut off for consideration through process<br>Submittals reviewed by A & R for Major Item Determination and compliance with Guidelines                                                                       |
| <b>Major Item Deadline</b>       | A & R agenda prior to April 30 to be considered in legislative year<br>Agendaized at A & R on rolling basis                                                                                                                                                                                                                                                                   | none provided                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                 | none provided                                                                                                                                                                                                                                                                                                                                                                                                                | 120 days maximum, which includes the Implementation Conference.                                                                | N/A                                                                                                                                                                                                                                                                                                                                                    | LIMITS NUMBER OF MAYOR ITEM SUBMITTALS<br>Councilmember limited to submitting 1 major legislative item or set of amendments to existing ordinances/yr<br>Mayor limited to submitting 2 major legislative items or set of amendments to existing ordinances/yr<br>DEADLINE TBD | September 30 for next fiscal year consideration                                                                                                                                                                                                                 |

Systems Realignment Matrix - Updated 10-3-2023

| Item Date                                        | JM                                                                                                                                                                                                                                                                                     | LM                                                                                                                                                                                                                                | LM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | JM                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | LM                                                                                                                                                                                                                              | LM                                 | JM                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | JM                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                  | City Manager's System's Realignment Proposal<br>4/26/2021                                                                                                                                                                                                                              | Droste Response<br>5/18/2021                                                                                                                                                                                                      | Council Feedback from Work Session<br>5/18/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Hahn Proposal<br>6/15/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Harrison Proposal<br>6/15/2021                                                                                                                                                                                                  | 2021 Council Feedback<br>6/15/2021 | Droste BERIPE Plan<br>3/14/2023                                                                                                                                                                                                                                                                                                                                                                                                                                            | Hahn/City Clerk Proposal to A & R<br>10/10/2023                                                                                                                                                                                                                                                                                                                               |
| <b>Policy Committee Review</b>                   | Referred by A & R Reviewed for completeness and alignment with Strategic Plan goals. Commission review. Once approved for consideration moves to Implementation Conference                                                                                                             | Policy Committee Ranking Form recommended adjustments: -Use score rather than rank NOTE: CM presentation no longer recommends using the Ranking Form                                                                              | See Implementation Conference                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | A & R makes determination if a proposal meets information in Guidelines prior to sending on to Committees - Author has right to appeal Committees plan a timeline for hearing over multiple meetings and identify stakeholders and experts to provide input. Committee meetings to discuss proposal should be taken in order of the required components of the Guidelines Staff agendized to engage in every discussion and provides budget resources needs for Launch and | Policy Committees send their recommendation and finalized Implementation report to A & R for scheduling at Council.                                                                                                             | N/A                                | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Committee Season: October 1 - March 1 A & R - October: will require special meetings. determines completeness based on Major Items Guidelines edits must be completed by 3rd Friday in October in order to move to Committees Committees determine order of hearings, create calendar, group like items together, understand staffing impacts, follow Enhanced Review Process |
| <b>Implementation Conference</b>                 | CM or designee, CAO, Department Head or designee Collaborate with author to detail fiscal and operational impacts. Implementation Conference outcomes to be incorporated into Concil Report (see detail in 4.26.21 proposal, p3)                                                       | Implementation Conference Worksheet recommended adjustments: -Reduce amount of redundant components and specify what impact means. -Include similar additions as Council Item Template. -See sample redlined template in the item | Timing for conference: Earlier timing, perhaps just after referred to policy committee, before the Committee takes it up.<br><br>Staff analysis: Former Auditor in her 2018 presentation talked about importance of Council needing a staff analysis, resource analysis and opportunity costs in their items. Councilmember noted incredible importance for Council to have this info before passing items. At the same time, don't want staff to spend too much time on an item that doesn't pass. Tension here.<br><br>Definitions: Council needs to be comfortable with them. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | The Policy Committee would facilitate an Implementation Conference hearing(s) with City staff, the author, and Committee members in order to prepare an Implementation Report. This happens during the Policy Committee Review. | N/A                                | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | N/A                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Implementation Conference Deadline</b>        | August 31                                                                                                                                                                                                                                                                              | No calendar deadline                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | No calendar deadline                                                                                                                                                                                                                                                                                                                                                                                                                                                       | No calendar deadline. Rolling basis.                                                                                                                                                                                            | N/A                                | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | N/A                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Initial Prioritization</b>                    | July 31. Policy Committees make recs Submitted to City Council                                                                                                                                                                                                                         | Sunset current RRV process Committee to "score" each proposal                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Prioritized on rolling basis. Upon Council adoption, the budget aspect of the item would proceed to either the June or November budget process.                                                                                 | N/A                                | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ONE TIME clearing of backlog on current list of projects                                                                                                                                                                                                                                                                                                                      |
| <b>Council Approval and Final Prioritization</b> | October Council Calendar Council approval, prioritization, assign fiscal year for implementation, identify removal of items that new initiatives will replace If Council does not approve, item can be reintroduced the following year November 30 deadline for all major item actions | Sunset current RRV process Committee to "score" each proposal                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Author revises proposal to include required changes/clarifications and resources required for Launch and Implementation                                                                                                                                                                                                                                                                                                                                                    | Council approves before item goes through budget process.                                                                                                                                                                       | N/A                                | Council prioritizes all new legislative submittals through RRV process. Year 1 ONLY: Combine new legislative submittals and outstanding/incomplete items for prioritization through RRV process. Council and staff should determine what can be reasonably accomplished by staff based on RRV outcome and delete those projects that did not rise to top of priorities and cannot be accomplished. Year 2 and ongoing: Only new legislative submittals will be prioritized | Council Season: Feb 1 - April 30 CAO must confirm compliance with Ordinances<br><br>Prioritization: Council and Committee prioritize and send to Budget Committee                                                                                                                                                                                                             |

Systems Realignment Matrix - Updated 10-3-2023

| Item Date                              | JM                                                                                                                                                                                                                                                                       | LM                                 | LM                                              | JM                                                                                                               | LM                                                         | LM                                 | JM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | JM                                                                                                                                                                                                                                                                                   |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                        | City Manager's System's Realignment Proposal<br>4/26/2021                                                                                                                                                                                                                | Droste Response<br>5/18/2021       | Council Feedback from Work Session<br>5/18/2021 | Hahn Proposal<br>6/15/2021                                                                                       | Harrison Proposal<br>6/15/2021                             | 2021 Council Feedback<br>6/15/2021 | Droste BERIPE Plan<br>3/14/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Hahn/City Clerk Proposal to A & R<br>10/10/2023                                                                                                                                                                                                                                      |
| <b>Budget &amp; Strategic Planning</b> | December/January<br>Staff to incorporate approved items into Budget/workplan ranked by priority<br><b>January - March</b><br>Council and Staff revise the budget based on department presentations to BC<br><b>May/June</b><br>Budget hearings, adjustments and adoption |                                    |                                                 | Budget Implementation Conference: approves moving toward implementation or implementation is declined to proceed | Council approved items go through the next budget process. | N/A                                | (see note above)<br>Budget referrals and allocations must be explicitly tied to previously established or approved policy program, planning/strategy document and/or external funding opportunity related to one of these.<br><br>No budget referral can directly fund a specific organization or event. Organizations receiving City funding must submit application that includes civic goals/purposes, previous funding history and quantitative/qualitative results/outcomes. Funding greater than \$20,000 must include data on number of persons served and other outcomes. | Budget Season: May 1 - June 30<br>Council prioritization to Budget committee not binding. Budget Committee makes recommendations to full Council<br>Funded Council approved items move to Implementation<br>Unfunded Council approved items rollover to future funding opportunities |
| <b>Implementation</b>                  |                                                                                                                                                                                                                                                                          |                                    |                                                 |                                                                                                                  |                                                            | N/A                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | July (Month 1 of new fiscal year)<br>Implementation Lead and Team assigned<br>Meeting with Authors for clarity, timelines, challenges<br>Implementation Team prepared Launch and Operational Plans                                                                                   |
| <b>Tools</b>                           | Council Item template outlining required information<br>Major Item checklist<br>Implementation Conference Worksheet<br>Major Item Deadline: April 30                                                                                                                     | Major Item Determination Checklist | Policy Committee Ranking Form                   | Guidelines for Proposals/Council Items                                                                           | Alternate Systems Alignment Proposal flowchart.            | N/A                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Major Items Guidelines Format Enhanced Review Process                                                                                                                                                                                                                                |
| <b>Consolidated Yearly Cycle</b>       | <b>Implementation Conference</b><br>Deadline: August 31<br><b>Council Prioritization</b><br>Deadline: July 31<br><b>Council Approval Deadline:</b><br>November 30<br><b>Budget Cycle:</b> January -                                                                      | none addressed                     | N/A                                             | none addressed                                                                                                   | Rolling basis rather than yearly cycle.                    | N/A                                | Based on "to be established" deadline to align with RRV process                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Submittal Season:</b> Year round with August 1 deadline for next fiscal year consideration<br><b>Committee Season:</b> Sept 1 - January 30<br><b>A &amp; R and council committee review</b><br><b>Council Season:</b> Feb 1 - April 30<br><b>Budget Season:</b> May 1 - June 30   |
| <b>Consensus</b>                       | 1 - Staff input in legislative drafting is important                                                                                                                                                                                                                     |                                    |                                                 |                                                                                                                  |                                                            |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                      |
| <b>Variable Differences</b>            | 1 - Different timelines for different types of items (some staggered, some ongoing)                                                                                                                                                                                      |                                    |                                                 |                                                                                                                  |                                                            |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                      |
| <b>Outstanding Questions</b>           | 1 - What impact does this have on the RPP process? What needs to change? What limits revisions to a systems redesign process?                                                                                                                                            |                                    |                                                 |                                                                                                                  |                                                            |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                      |



Office of the City Manager

## BACKGROUND MATERIAL

The following documents were previously submitted to the City Council for consideration, and are being provided with this item as background material.

The City Manager has removed staff's Systems Alignment Proposal from consideration. It is included in this attachment for reference and context.

Attachments:

### March 14, 2023 Council Meeting

1. Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)
  - a. Report – Submitted by Councilmember Droste

### June 15, 2021 Council Meeting

2. Systems Alignment Proposal
  - a. Supplemental Material – Submitted by Councilmember Hahn
  - b. Supplemental Material – Submitted by Councilmember Harrison
  - c. Report – Submitted by City Manager

### May 18, 2021 Council Meeting

3. Systems Alignment Proposal
  - a. Supplemental Material – Submitted by Councilmember Droste
  - b. Presentation – Submitted by City Manager
  - c. Report – Submitted by City Manager





Lori Droste  
Councilmember, District 8

25

Action Calendar  
March 14, 2023

**To:** Honorable Mayor Jesse Arreguín and Members of the City Council

**From:** Councilmember Lori Droste

**Subject:** Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)

### **Recommendation**

In order to ensure that the City focuses on high-priority issues, projects, and goals and affords them the resources and funding such civic efforts deserve, the City Council should consult with the City Manager's Office to develop and adopt a suite of revisions to the City Council Rules of Procedure and Order that would implement the following provisions:

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may **not** submit budget referrals which direct funds to a

specific organization or event. Organizations which receive City funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than \$20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

5. Ensuring that any exceptions to these provisions are designed to ensure flexibility in the face of an emergency, disaster, or urgent legal issue/liability and narrowly tailored to be consistent with the goals of enhanced efficiency, effectiveness, fairness, and focus.

### **Policy Committee Recommendation**

On February 14, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process. Vote: All Ayes.

### **Current Situation and Its Effects**

Over the past few years (excluding the COVID-19 state of emergency), City Council has grappled with potential options to reduce the legislative workload on the City of Berkeley staff. While a significant portion of this workload is generated from non-legislative matters and staffing vacancies, it is important to recognize that staff also continue to struggle to keep up with Council directives while still accomplishing the City's core mission or providing high quality public infrastructure and services.

### **Background and Rationale**

Berkeley faces an enormous staffing crisis due in part to workload concerns; as such, Council should take steps to hone its focus on legislative priorities. [November 2022's Public Works Off-Agenda Memo](#) offers a benchmark for problems faced by City departments. Public Works staff struggles to complete its top strategic plan projects, respond to audit findings, and provide basic services, in addition to fulfilling legislative priorities by Council. While the "Top Goals and Priorities" outlined by Public Works is tied to 130+ directives by the City Council, it is not reasonable to assume that all will be implemented.

The challenges faced by the Public Works department are not an anomaly. Other departments share the same challenges. In addition to needing to ensure that the City can adopt a compliant state-mandated Housing Element, process permits, secure new grant funding, mitigate seismic risks, and advance our Climate Action Plan, Planning Department staff have been tasked with addressing multiple policy proposals from the City Council. The sheer number of referrals also impacts the ability of staff in the City Attorney's office to vet all ordinances, protect the City's interests, participate in litigation, and address the City's other various legal needs.

### **Best Practices**

A number of nearby, similarly-sized cities were contacted to request information about how these cities approach Councilmember referrals and prioritizations processes. Cities contacted

included Richmond, Vallejo, Santa Clara, Concord, and Sunnyvale. Of these cities, Santa Clara, Concord, and Sunnyvale replied.

### **Santa Clara**

Overall, Santa Clara staff indicated that—similar to Berkeley—the Council referrals and prioritization process is not especially formalized, with additional referrals being made outside of the prioritization process.

Each year, the Council holds an annual priority setting session at which the Council examines and updates priorities from the previous year and considers what progress was made toward those priorities. The prioritization process takes place in February so that any priorities that rise to the top may be considered for funding ahead of the budget process. In any given year, some priorities may go unfunded and even holding those priorities over to a second year is not necessarily a guarantee of funding.

Despite conducting this annual prioritization exercise, Councilmembers in Santa Clara often still do bring forward additional referrals outside of this process. Part of this less restricted approach in Santa Clara's 030 ("zero thirty") policy, which allows members of the the City Council to add items to the Council agenda with sufficient notice and even allows members of the public to petition to have items added to a special section of the Council agenda.

Despite the overall looseness of Santa Clara's approach. Council members still rely upon staff to provide direction with respect to what priorities are or are not feasible based upon available funding and staff bandwidth.

### **Concord**

According to Concord City staff, although Concord—like Berkeley and Santa Clara—does have a process for Councilmembers to request items be added to Council agendas, Councilmembers generally agree not to add referrals outside of the formal priority-setting process.

Concord City staff only work on "new" items/policies that are mandated by law, recommended by the City Manager, and have been recommended for review/work of some kind by a majority (three of the five members) of the City Council.

In general, Councilmembers agree to not add work items outside of the Council's formal priority setting process. The Concord City Council has a once-a-year goal setting workshop each spring where the City plans its Tier 1 and Tier 2 priorities for the year (or sometimes for a 2-year cycle). Most Councilmembers abide by this process and refrain from bringing forward additional items. However any Councilmember may put forward a referral outside of the process and use the method outlined below.

Outside of the prioritization process, Councilmembers can request that their colleagues (under Council reports at any Council meeting) support placing an item on a future Council meeting agenda for a discussion. The Concord City Attorney has advised councilmembers that they can make a three sentence statement, e.g. "I would like my colleagues' support to agendize [insert item]" or "to send [insert item] to a Council standing committee for discussion." Followed by: "This is an important item to me or a timely item for the Council because [insert reasoning]. Do I have your support?" The other Councilmembers then cannot engage in any detailed discussion or follow up, but may only vote yes or no to agendizing the item.

If two of the Councilmember's colleagues (for a total of 3 out of 5) agree to the request to have the item agendaized for a more detailed discussion by Council, then the item will be added to a future agenda for fuller consideration. An additional referral outside the prioritization process is suggested perhaps once every month in Concord, but the Concord City Council usually does not provide the majority vote to agendaize these additional items.

### **Sunnyvale**

Of all the cities surveyed, Sunnyvale has the most structured approach for selecting, rating, and focusing on City Council priorities. "Study issues" require support from multiple councilmembers before being included in the annual priority setting, and then must go through a relatively rigorous process to rise to the top as Council priorities. And, perhaps most importantly, policy changes *must* go through the priority setting process to be considered. The Sunnyvale City Council's Policy 7.3.26 Study Issues reads, in part:

*Any substantive policy change (large or relatively small) is subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).*

*Policy related issues include such items as proposed ordinances, new or expanded service delivery programs, changes to existing Council policy, and/or amendments to the General Plan. Exceptions to this approach include emergency issues, and urgent policy issues that must be completed in the short term to avoid serious negative consequences to the City, subject to a majority vote of Council.*

If a study issue receives the support of at least two Councilmembers, the issue will go to staff for the preparation of a study issue paper. Council-generated study issues must be submitted to staff at least three weeks ahead of the priority-setting session, with an exception for study issues raised by the public and carried by at least two Councilmembers, if the study issues hearing takes place less than three weeks before the priority setting.

At the Annual Study Issues Workshop, the Council votes whether to rank, defer, or drop study issues. If a majority votes to drop the issue, it may not return the following year; if the issue is deferred, it returns at the following year's workshop; and if a majority votes to rank an issue, it proceeds to the ranking process. Sunnyvale's process uses "forced ranking" for "departments" with ten or fewer issues and "choice ranking" for departments with eleven or more issues. (The meaning of "departments" and the process for determining the number of issues per department are not elucidated within the policy.) Forced ranking involves assigning a ranking to every policy within a given subset, while choice ranking only assigns a ranking to a third of policies within a given subset, with the others going unranked.

After the Council determines which study issues will be moving forward for the year based on the rankings, the City Manager advises Council of staff's capacity for completing ranked issues. However, if the Council provides additional funding, the number of study issues addressed may be increased.

In 2022, Sunnyvale had 24 study issues (including 17 from previous years and only 7 new ones) and **zero** budget proposals. Although Sunnyvale does consider urgency items outside the prioritization process, this generally happens only 1 to 3 times per year and usually pertains to highly urgent items, such as gun violence.

### **Status Quo and Its Effects**

Council currently uses a reweighted range proportional representation voting method to determine which priorities represent both a) a consensus and b) district/neighborhood concerns. This process allows Council to coalesce around a particular common area of concern; but if there is a specific neighborhood or district issue that is not addressed by Council consensus, it also allows for that district's councilmember's top priority to be elevated in the ratings even without broad consensus, so long as there are not multiple items designated as that councilmember's "top" item. More information about this process can be found [here](#). This [system was established](#) in 2016 due to the sheer amount of referrals by Council and the lack of cohesive direction on which of the 100+ referrals the City Manager should act upon.

Subsequent to this effort, Council created a "short-term referral" pool which was intended to be light-lift referrals that could be accomplished in less than 90 days. However, that designation was always intended to be determined by the City Manager, not Council, with respect to what was operationally feasible in terms of the 90 day window. The challenge with Council determining what is a short-term referral is that it is not always realistic given other duties that the staff has to attend to and inappropriate determinations can stymie work on other long term priorities if staff have to drop everything they are doing to attend to an "short-term" or "emergency" referral.

An added challenge is that the City Auditor [reported in 2018](#) that the City of Berkeley's Code Enforcement Unit (CEU) had insufficient capacity to enforce various Municipal Code provisions. This was due to multiple factors, including understaffing—some of which have since improved. Nevertheless, the City Auditor wrote,

*"Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections."*

Subsequent to that report, [an update](#) was published in September of 2022. A staffing and resource analysis for Code Enforcement is still needed to ensure that the laws Council passes can be implemented.

### **Fiscal Impacts**

These reforms are likely to result in significant direct savings related to reduced staff time/overtime as well as potential decreases to costs associated with the recruitment/retention of staff.

### **Alternatives Considered**

Alternatives were considered using effectiveness and efficiency as the evaluative criteria for referrals. One missing criterion that will be necessary in developing this process will be operational considerations so the City of Berkeley can continue to deliver basic services in an efficient manner.

*All-Council determination*

Council could vote *as a body* on the top 10 legislative priorities. The drawback of this method is that it, by default, eliminates any remaining priorities that have been passed by Council. It also eliminates “minority” voices which may disproportionately impact neighborhood-specific concerns as the remainder of the Council may not value district-specific concerns outside of their council district.

*Councilmember parameters*

Councilmembers could select their top two legislative priorities (as a primary author) for the year and the Mayor could select four legislative priorities for the year for a total of 10 legislative priorities per year. These “legislative priorities” would not include resolutions of support, budget referrals for infrastructure or traffic mitigations or other non-substantive policy items.....

*Status Quo Sans Short-Term Referrals*

The status quo of rating referrals is the fairest and most equitable if Council wishes to continue to pass the same quantity of referrals; however, it does not address the overall volume and that certain legislative items skip the prioritization queue due to popularity or perceived community support. Council enacts ordinances that fall outside of the priority setting process and designates items as short-term referrals. This loophole has made this process a bit more challenging. One potential option is to continue the prioritization process but eliminate the short-term referral option unless it is undeniably and categorically an emergency or time-sensitive issue.

**Contact Person**

Councilmember Lori Droste (legislative aide Eric Panzer)  
[erpanzer@cityofberkeley.info](mailto:erpanzer@cityofberkeley.info)  
Phone: 510-981-7180

**Attachments**

Update on Public Works’ Goals, Projects, Measures, and Challenges



Office of the City Manager

November 15, 2022

To: Honorable Mayor and Members of the City Council  
 From: *DWR* Dee Williams-Ridley, City Manager  
 Re: Update on Public Works' Goals, Projects, Measures, and Challenges

This memo shares an update on the department's *Performance Measures* and *FY 2023 Top Goals and Projects*, and identifies the department's highest priority challenge. I am proud of this department's work, its efforts to align its work with City Council's goals, and the department's dedication to improving project and program delivery.

#### *Performance Measures*

The department's performance measures were first placed on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>) in 2020. They are updated annually in April. Progress continues in preventing trash from reaching the Bay, reducing waste, increasing bike lane miles, reducing the City fleet's reliance on gas, increasing City-owned electric chargers, expanding acres treated by green infrastructure, and reducing the sidewalk repair backlog. Challenges remain with the City's street condition and safety.

#### *Top Goals and Projects*

Public Works' top goals and projects are also on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>). Department goals are developed annually. This year, after reviewing the 130+ directives from open City Council referrals, FY 2023 adopted budget referrals, audit findings, and strategic plan projects, staff matched existing resources with City Council's direction and the ability to deliver on this direction while ensuring continuity in baseline services.

The *FY 2023 Top Goals and Projects* is staff's projection of the work that the department has the capacity to advance this fiscal year. This list is intended to be both realistic and a stretch to achieve. More than three-quarters of the work on the *FY 2023 Top Goals and Projects* is tied to the existing 130+ directives from City Council referrals, budget referrals, audit findings, and strategic plan projects. The remainder are initiatives internal to the department aimed at increasing effectiveness and/or improving baseline services.

Public Works conducts quarterly monitoring of progress on the goals and projects, and status updates are shared on the department's website using a simple status reporting

Page 2

November 15, 2022

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

procedure. Each goal or project is coded green, yellow, or red. A project coded green is either already completed or is on track and on budget. A project in yellow is at risk of being off track or over budget. A project in red either will not meet its milestone for this fiscal year or is significantly off track or off-budget. Where a project or goal has multiple sub-parts, an overall status is color-coded for the numbered goal and/or project, and exceptions within the subparts are identified by color-coding. Quarter 1's status update is [here](#). The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarter results will be posted at the same location.

### *Challenge*

Besides the volume of direction, the most significant challenge in delivering on City Council's directions is the department's high vacancy rate. The Public Works Department is responsible for staff retention and serves as the hiring manager in the recruitment and selection process. Both retention and hiring contribute to the department's vacancy rate, and the department collaborates closely with the Human Resources Department to reduce the rate. Over the last year, the vacancy rate has ranged from 12% to 18%, and some divisions, such as Equipment Maintenance (Fleet), Transportation,<sup>1</sup> and Engineering, have exceeded 20%. While the overall vacancy rate is lower than in Oakland and San Francisco, it is higher than in Public Works Departments in Alameda, Albany, Emeryville, and San Leandro.

The high vacancy rate obviously reduces the number of services and projects that staff can deliver. It leaves little room for new direction through the course of the fiscal year and can lead to delays and diminished quality. It also detracts from staff morale as existing staff are left to juggle multiple job responsibilities over long periods with little relief. The department's last two annual staff surveys show that employee morale is in the lowest quarter of comparable public agencies and the vacancy rate is a key driver of morale.

Attachment 1 offers an excerpted list of programs and projects that the department is unable to complete or address in this fiscal year due to the elevated vacancy rate and/or the volume of directives.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

cc: Paul Buddenhagen, Deputy City Manager  
 LaTanya Bellow, Deputy City Manager  
 Jenny Wong, City Auditor  
 Mark Numainville, City Clerk  
 Matthai Chakko, Assistant to the City Manager

---

<sup>1</sup> Three of the City's five transportation planner positions will be vacant by December 3. Before January 1, 2023, the City Manager will share an off agenda memo that explains the impact of transportation-specific vacancies on existing projects and programs.



## **Attachment 1: Selected list of program, project, referral, and audit finding impacts**

### *Project and Program Impacts*

- Major infrastructure planning processes are 6+ months behind schedule, including comprehensive planning related to the City's Zero Waste goal, bicycle, stormwater/watershed, sewer, and streetlight infrastructure.
- Some flashing beacon installations have been delayed for more than 18 months, new traffic maintenance requests can take 2+ months to resolve, and the backlog of neighborhood traffic calming requests stretches to 2019.
- The City may lose its accreditation status by the American Public Works Association because of a lack of capacity to gain re-accreditation.
- Some regular inspections and enforcement of traffic control plans for the City's and others' work in the right of way are missed.
- Residents experience missed waste and compost pickups as drivers and workers cover unfamiliar routes and temporary assignments.
- Illegal dumping, ongoing encampment, and RV-related cleanups are sometimes missed or delayed.
- The backlog of parking citation appeals has increased.
- Invoice and contracting approvals can face months-long delays.
- The Janitorial Unit has reduced service levels and increased complaints.
- Maintenance of the City's fleet has declined, with preventative maintenance happening infrequently, longer repair response times, and key vehicles being unavailable during significant weather events.

### *Prior Direction Deferred or Delayed*

- Referral: Expansion of Paid Parking (DMND0003994)
- Referral: Long-Term Zero Waste Strategy (DMND0001282)
- Referral: Residential Permit Parking (PRJ0016358)
- Referral: Parking Benefits District at Marina (DMND0003997)
- Referral: Prioritizing pedestrians at intersections (DMND0002584)
- Referral: Parking Districts on Lorin and Gilman (DMND0003998)
- Budget Referral: Durant/Telegraph Plaza, 12/14/2021
- Referral: Traffic Calming Policy Revision (PRJ0012444)
- Referral: Public Realm Pedestrianization Opportunities (PRJ0019832)
- Referral: Long-Term Resurfacing Plan (PRJ0033877)
- Referral: Street Sweeping Improvement Plan (DMND0002583)
- Audit: Leases: Conflicting Directives Hinder Contract Oversight (2009)
- Audit: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal (2014)
- Audit: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity (2016)



**SOPHIE HAHN**

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

## **SUPPLEMENTAL AGENDA MATERIAL**

### **for Supplemental Packet 2**

**Meeting Date:** June 15, 2021

**Item Number:** 3

**Item Description:** Systems Alignment Proposal

**Submitted by:** Councilmember Sophie Hahn

This Supplemental offers suggestions for a legislative process better aligned with the goal of creating and supporting meaningful and effective change. Our current system is strengthened by (1) supporting the completeness of Major Items as introduced by Authors by requiring adherence to the existing Guidelines, and (2) significantly strengthening the Committee process - to support robust analysis and community/stakeholder consultation and ensure items moving forward to Council include realistic estimates of resources required related to launch and implement new programs and policies.



**SOPHIE HAHN**  
Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

CONSENT CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Sophie Hahn (Author)  
Subject: Systems Alignment Proposal

COMMENTS ON SYSTEMS REALIGNMENT

**My Frame for Systems Realignment: *Systems Aligned to Support Change***

We are in a time of rapid change both locally and globally. The impacts of climate change, globalization, and inequality; growing threats to democracy; and the rise of a new generation of leaders illustrate that change is both a fact and an imperative.

Berkeley has been and should continue to be on the cutting edge of that change, and our legislative processes as well as our City organization must be designed to do more than just manage the status quo, with change viewed as a threat, cost, or nuisance. *Our systems must be aligned to stimulate, support, and implement meaningful change across all sectors - quickly.*

With that framing in mind, I believe the legislative process in Berkeley should be designed to support Councilmembers and the Mayor in producing and passing legislation that addresses important local concerns as well as value-based issues with both local and broader impact. Some legislation may simply strengthen the City of Berkeley as an organization - improving the basic functions and services we provide to our community. Other legislation is designed to address city, community, regional, national, and sometimes global needs, values and priorities.

Because of the City's commitment to progressive and democratic principles and its role as a leader and innovator across many sectors, legislation will often push the envelope, which I believe requires a nimble, can-do City organization. While logistics, staffing, costs and other elements of feasibility and implementation are key to the ultimate success of any new policy or program, I view the exploration of these questions as a supporting rather than driving force for legislation; internal feasibility under the status quo should not be an end unto itself.

**Systems Aligned to Support Excellence and Effectiveness in Change:**

While I believe change is an imperative and innovation should be core to our City systems, I also know that not every idea brought forward is ultimately optimal, relevant, or feasible. We are much more than an incubator for ideas and concepts - we serve a real community and must balance a wide variety of needs and viewpoints with every decision we make. I believe our systems must therefore be aligned to ensure new programs and policies are thoroughly researched, revised, and vetted for Berkeley - to meet the needs of our community without overwhelming the City organization. If the Council has priorities for which funds or capacity are not currently available, we must identify resources to build capacity.

To achieve these goals in this frame, I envision a process wherein major items of legislation that begin with the well-researched and articulated proposals of one or a few councilmember/mayor-authors are progressively reviewed and improved with input from stakeholders, members of the public, City staff and Council colleagues.

The end result should be high quality, relevant, thoughtfully tailored and right-sized programs and policies accompanied by realistic assessments of the resources required for successful launch and implementation. City staff, with their subject matter expertise and knowledge of operations play a uniquely important role in contributing to legislative success, and should actively partner throughout the process, *with progressively increased levels of input and participation as legislation is moved forward.*

The adoption of Guidelines for legislative items and the implementation of the Committee system provide a good foundation. By clarifying expectations and improving the value we derive from our existing processes we can avoid bogging things down with too many steps.

The following are my suggestions for a legislative process better aligned with the goal of creating and supporting meaningful and effective change. Our current system is strengthened by (1) supporting the completeness of Major Items as introduced by Authors by requiring adherence to the existing Guidelines, and (2) significantly strengthening the Committee process - to support robust analysis and community/stakeholder consultation and ensure items moving forward to Council include realistic estimates of resources required related to launch and implement new programs and policies.

## Proposed Systems Alignment Improvements for Major Items:

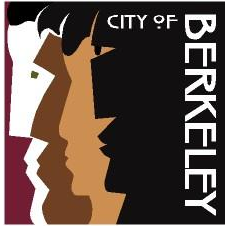
| PROCESS ELEMENT                                                             | CONTENT                                                                                                                                                                                                                                                                                                                           | NOTES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MAJOR ITEM SUBMISSION</b>                                                | <b><i>Strongly encourage Authors to present Major Items in the full Guidelines format, which prompts for deep research, analysis and consultation</i></b>                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Define Major Item</b>                                                    | Any law, program, or policy that represents a significant change or addition to existing law, program, or policy, and/or is likely to call for or elicit significant study, analysis, or input from the community, staff, or Council colleagues, and/or is likely to require significant new resources or staffing to implement . | Major items are, essentially, “Policy Committee Track” items (see Rules) that are routed to a Policy Committee because they are substantial. <i>The adoption of a definition for Major Items clarifies a practice that is already in place.</i><br><br>Some items are not “Major” because they propose less significant changes or additions to existing law, programs or policies. In addition, some Major Items may be routed directly to the City Council due to urgency (“Time Critical Track”). <i>All of this is already reflected in the Rules governing Policy Committees.</i> |
| <b>Major Item Routing</b>                                                   | Major items may originate with Councilmembers, the City Manager (often as referral responses), or Commissions. Major Items generally should be routed to a Committee to be reviewed by Committee members and, if necessary, revised, with input from stakeholders, the public, and City staff.                                    | Currently, only Councilmember/Mayor items are subject to review by Policy Committees. <i>The Rules should be amended to require all Major Items, regardless of where they originated, to be reviewed in Committee</i> unless they fall under the Time Critical Track or another exception.                                                                                                                                                                                                                                                                                             |
| <b>Make Guidelines Mandatory</b> for presentation of Major Items for review | Council/Mayor and Commission authors of Major Items should present their items in accordance with the Guidelines at Appendix B of the City Council Rules of Procedure and Order. Authors should make a good faith effort to undertake the research, analysis and consultation necessary to complete all sections in substance.    | Need to specify format for “non-Major” items.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Staff Consultation is encouraged, but not required</b> at the initial    | Councilmembers and the Mayor are encouraged to consult with Staff before presenting Major Items, but may choose to engage with staff later, through the Committee process.                                                                                                                                                        | Staff should keep confidential and seek to support the positive development of ideas and initiatives of electeds who reach out for initial                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| development of a legislative item.                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                          | input. Concerns, if any, should be addressed with a problem-solving lens.                                                                                                                                                                                                                                                         |
| <b>City Attorney Consultation</b>                                                                                                                                               | Authors should submit Major Items for preliminary review by the City Attorney to determine if there are any legal implications - which may need to be addressed before the item is submitted or could be developed/addressed later. The author should state in the section on consultation that the City Attorney has been consulted.                                                                                    | Not all items have legal implications. The City Attorney's role at this juncture would be to identify whether there are legal considerations, or not. If there are, the Author can work with the City Attorney's office to determine if the issues can be avoided/addressed, or if the legislation may not be possible/advisable. |
| <b>Agenda Committee makes an initial determination</b> of whether an Item is "Major" and will be referred to a Committee, with input from the Author(s).                        | <i>This tracks the current practice</i> - except that with an adopted definition of a Major Item the determination to send an item to Committee will be made according to more clearly articulated, objective standards.                                                                                                                                                                                                 | Per the existing rules, proclamations, sponsorships, ceremonial and similar items; Time Critical Items; and "Policy Track" items that are complete and have minimal impacts are currently <i>not</i> referred to Committees. <i>This practice will be unchanged.</i>                                                              |
| The Agenda Committee may <b>require a Major Item not presented and/or fully rendered according to the Guidelines to be more amply developed</b> before being sent to Committee. | <p>Authors of Major Items should do substantial research, analysis, and consultation before sending them to a Committee for further input and development.</p> <p>The Agenda Committee should be authorized to request that a major item not presented according to the Guidelines, or not substantially meeting the requirements, be further developed by the Author(s) before being sent to Committee.</p>             | Analysis should go beyond diagnosing the problem to be solved and focus on explaining and understanding the specific solutions/policies/programs being proposed, as well as alternatives considered.                                                                                                                              |
| <b>Appeal/Override</b> of Agenda Committee recommendation to revise Major Item before submission to a Committee                                                                 | Authors should be offered the opportunity to discuss an Agenda Committee recommendation to rework a Major Item at the time the recommendation is made. If, after discussion, the lead author disagrees with the Agenda Committee's request for further elaboration according to the Guidelines, the item may be referred to a Committee "as is" with a note that the Agenda Committee had requested the item be revised. | Authors should have a means to appeal a decision of the Agenda Committee to send an item back to the author for revision/expanded research, analysis or consultation and still move their items forward if they disagree with the request.                                                                                        |
| <b>Major Items that are Complete</b> go to Committee (or items that are incomplete but subject to an override)                                                                  | <i>Per existing rules</i> , Major Items will be routed to a policy committee unless an exception applies.                                                                                                                                                                                                                                                                                                                | Exceptions are already listed in the Rules.                                                                                                                                                                                                                                                                                       |

|                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MAJOR ITEM COMMITTEE REVIEW</b>                                                                            | <b><i>Clarify and significantly improve process and substance of Major Item review @ Committee, including development of a preliminary launch and implementation plan and associated costs</i></b>                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                        |
| <b>Committee hears Major Item more than once -</b><br>First hearing includes development of a plan for review | As a general matter, Committees should plan to schedule Major Items to be heard more than once. At the first hearing, the Committee should discuss the level of analysis and consultation envisioned, identify specific stakeholders and questions Committee members would like to explore, and sketch a process for moving the item forward over several Committee meetings.                                                                                                                                      | Depending on how complex and significant the Major Item appears to be, the Committee can plan out its process of review and consultation.                                                                                                                                                                                              |
| <b>Committee reviews specific elements</b> of the proposed Major Item                                         | The Guidelines require, under bullets 5-9, (5) full background on the problem/issue to be addressed, (6) the existing regulatory/legal framework, (7) potential alternative solutions to address the identified concern, (8) consultation with stakeholders, and (9) a rationale for the recommendation.<br><br>Each of these sections should be specifically agendized for discussion (can all be same day, but should be individually considered) to ensure robust consideration of the legislation as proposed. | By requiring the Committee to focus on each of these elements as a baseline review, Committee members are encouraged to do a deep dive into the basis, rationales and alternatives for the Major Item.                                                                                                                                 |
| <b>Committee identifies and does specific outreach to Stakeholders and Experts</b>                            | The “public” is always welcome at Committee Meetings. In addition to general public notice, the Committee in its first meeting to review a Major Item should identify stakeholders and experts who may have valuable input. If needed, those individuals/groups should be invited by the Committee to share their perspectives.<br><br>Staff can support outreach to ensure identified stakeholders and experts are aware of the opportunity to comment.                                                           | Sectors/individuals that are supported or otherwise impacted by new policies and programs are well positioned to provide useful comments and input for the Committee. Subject matter experts may also be helpful to hear from.                                                                                                         |
| <b>Staff input is agendized and includes preliminary review of Launch and Implementation</b>                  | Staff is encouraged to provide input and answer questions throughout the Committee process. Staff should be encouraged to volunteer comments and Committee Chairs should call on staff to ensure time is provided for their comments throughout the process. <i>In addition, a specific time for staff input should be agendized.</i><br><br>The Staff presentation should include <i>preliminary review of staffing and budget/resource needs for both Launch and Implementation.</i>                             | Launching a new program or policy and running it are two different undertakings. Staff should specify what will need to be in place to LAUNCH (development of regulations, preparation of informational mailings, website updates, back-end systems, funding, etc. ) and to RUN/IMPLEMENT new programs and policies over the long run. |



|                                                                  |                                                                                                                                                                                                                                 |                                                                                                                                                                                                                         |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Manage/reduce <b>Staffing of Committees</b></p>               | <p>With a better articulated “plan” for Committee review of Major Items, staffing of meetings can be more closely managed to reduce waiting time for staff members/City Attorney when not needed for one or another matter.</p> | <p>Only need Clerk + Staff Lead - Chair can work with Staff Lead to bring other Staff into discussions on as-needed basis. The City Attorney may be able to be on standby for advice when presence is not required.</p> |
| <p>Major Item moves forward to Council (all recommendations)</p> | <p>Lead Author must revise/update item to include information about resources required for Launch and Implementation of the Major Item, and to reflect any other changes, before submission to City Council.</p>                |                                                                                                                                                                                                                         |
| <p>Major Item gets <b>passed by Council</b></p>                  | <p>Goes to Budget Implementation Conference, or vote no and it's over</p>                                                                                                                                                       |                                                                                                                                                                                                                         |



Kate Harrison  
Councilmember District 4

## REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** June 15, 2021

**Item Number:** 3

**Item Description:** Systems Alignment Proposal

**Submitted by:** Councilmember Harrison

The attached item includes Councilmember Harrison's comments about the proposed Systems Alignment Proposal as well as an alternative proposal.

It is in the public interest that the Council consider this alternative proposal as part of the Mayor's development of a revised proposal for discussion and adoption at a later date.



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Comments and Alternative Systems Alignment Proposal

COMMENTS AND ALTERNATIVE PROPOSAL

At the October 2019 Council retreat, the Council and the City Manager discussed various approaches to better align the legislative process to budget and implementation resources. These considerations are important and merit Council consideration and possible action. However, the proposed solution from the City Manager would also limit the voice of the public and the Council by restricting the time period for Council referrals to only four months per year.

At a Worksession on May 18, 2021 dedicated to the Systems Alignment proposal, the Council heard overwhelming public comment strongly opposed to such an approach.

A better solution lies in reexamining and modifying certain elements of the Policy Committee process as opposed to overhauling fundamental elements of Council duties.

This Supplemental discusses the shortcomings of the proposal in greater detail and advances an alternative and simpler approach to “Systems Alignment” achieving the original objective of the October 2019 retreat without sacrificing and abdicating fundamental values and responsibilities.

**A. The Proposed Systems Alignment Proposal Unduly Limits Council Duties and Responsibilities Under the City Charter**

The City Charter provides that the City Council is the “governing body of the municipality” and “shall exercise the corporate powers of the City, and... be vested with all powers of legislation in municipal affairs adequate to a complete system of local government.”

However, the proposal subjects “new significant legislation” to a labyrinth of new bureaucratic processes that will invariably and unduly limit the democratic organ of city government—the City Council—which is directly answerable to the will of the people.

## Comments and Alternative Systems Alignment Proposal

The following list provides a non-comprehensive overview/discussion of the ways the current Systems Alignment Proposal could violate the letter and spirit of the Charter:

- The proposal limits Council from submitting “new significant legislation” to four months out of the year, effectively making the Council only responsive to the people’s “significant” needs on a part-time basis as any legislation that misses the deadline is inactive for the remainder of the year. Not only does this violate the necessity of providing the Council with “all powers of legislation in municipal affairs,” but it appears to contradict the voter’s will pursuant to Measure JJ, wherein they reaffirmed the scope and appropriate remuneration of Council’s myriad legislative and oversight responsibilities.
- The determination of which legislation will be subject to additional scrutiny and processes is based on *subjective* findings by the Agenda Committee in consultation with the City Manager. This is in contrast to alternative approaches, such as those adopted in other cities, which rely upon *objective* measures such as the consideration of a piece of legislation’s budgetary or staffing implications informed by thorough discussion and investigation by Policy Committees. Furthermore, pursuant to the Council’s historic rules of procedures, *subjective judgements* of legislation are appropriately the purview of the Council as a whole, not subcommittees. The current proposal adopts an inherently conservative and subjective framework that judges all legislation by whether it “represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff.” Legislation meeting that definition is then subjected to lengthy bureaucratic processes of more than a year.

In short, the proposed framework stands in contrast to the current Policy Committee system, whereby subcommittees are tasked with improving the quality, thoroughness and comprehension of legislation, as opposed to a subjective consideration and determination of whether a given policy change is merited largely within the narrow confines of considering limited budget and staff resources.

- Under the Charter, the Council is responsible for adopting a biannual budget. However, the proposal limits Council’s ability to adopt significant new legislation with budget implications at only one of the two primary budget processes per year.
- Legislative consultation with City staff is absolutely necessary. But the proposal encourages authors to “initially consult[] with the City Manager or city staff regarding their proposed Major Item and [note] the substance of those conversations, and initial staff input” before the item is even introduced. This system could potentially create an inappropriate layer of staff power over Council legislative prerogative, a division that the Charter is very clear about.
- The proposal requires that items align with Strategic Plan goals. While these goals are important and represent a snapshot of Council and City Staff’s vision for the city, they do not necessarily represent the totality of the people’s will as expressed

through their elected representatives at any given time.

- The Council is artificially constrained from acting upon legislation receiving an unfavorable review at the Policy Committee level. Council is reduced to a choice between proceeding through the next phase, or to vetoing a matter for the remainder of the legislative calendar if a policy committee forwards a negative recommendation. Currently, under the committee system, items not acted upon in committee within 120 days are forwarded to the Council. In this way, the proposal violates the Charter by imposing unreasonable hurdles to the exercise of “all powers of legislation in municipal affairs adequate to a complete system of local government.”
- The proposal states that all significant legislation must be submitted by April 30, and City Council Policy Committees must complete review of all Major Items assigned to them no later than June 30 of each year. This raises the question of what the Council is engaged in for the majority of the year?
- Implementation Conferences, while a good idea, are currently crafted in a way that they will delay items unnecessarily and remove discussion of budgetary impacts from the substantive discussion by policy committees. Furthermore, the proposal imposes an artificial limit with respect to holding Implementation Conferences to once per year, which will further constrain the Council’s legislative obligations.
- After the implementation conference, Policy Committees are required to provide an additional subjective consideration of major items through prioritization. This is late in the life of an item. Additionally, under this proposal, the Council is expected to once again rank significant items as part of the RRV process (behind closed doors), despite the items having already endured the lengthy Systems Alignment process and final Council approval.
- When an item fails to receive Council approval, the author is barred from resubmitting it until the following year.

## **B. Alternative Systems Alignment Proposal**

This item presents a simpler and less disruptive Systems Alignment proposal that conforms to the existing Council and Policy Committee processes and prioritizes research and investigation of items with significant budgetary and staff implications in order to better inform Council’s decision-making process as opposed to hard limits on legislation:

1. To address the backlog of outstanding items that may impact staff resources and availability to implement Council and other citywide priorities, the Council should immediately direct Policy Committees to review all such referrals and items in staff’s queue for which implementation work has not yet begun.

## Comments and Alternative Systems Alignment Proposal

Upon this review, Policy Committees would be tasked with making a recommendation to the full Council to modify or reconsider certain items in the queue.

Next, the Council should schedule worksessions (outside of the RRV process) to consider Policy Committee recommendations in a public forum and prepare a Resolution potentially dispensing with and/or reprioritizing items in the queue.

In totality, this process would contribute to streamlining the existing queue, and facilitate staff resources for implementation and development of other new and existing legislative items. In sum, through revisiting the existing queue, Council can continue to conduct substantial legislative work throughout the year.

2. The Council should revise Policy Committee process with respect to the budget and legislative implementation.

Specifically, to address potential incongruity between Council items with significant budget implications, the Council should modify its Rules of Procedure to task Policy Committees (not the Agenda Committee) with making an initial and objective determination of whether a prospective item has significant budget and/or staffing impacts (**See Attachment 1** for a detailed flowchart of the Alternative Proposal):

- Upon an insignificant budget determination, the item and any related budget referral would proceed through the normal Policy Committee track process on a maximum 90-day timeline.
- Upon a significant determination, the item would be placed on a different Policy Committee track such that the Policy Committee would have a maximum of 120 days to research and investigate the budget and staffing implications of the item, any related budget referral, and policy implications, in order to *inform* Council's ultimate consideration. As part of the 120 day process, the Committee would facilitate an Implementation Conference hearing(s) with City staff, the author, and Committee members in order to prepare an Implementation Report.
- Once the Committee has made its policy recommendation and finalized its Implementation Report, the item would proceed to the Agenda Committee for scheduling at Council.
- Upon Council adoption of items with either significant or insignificant budget/staffing implications, the budget aspect of the item would proceed to either the June or November budget process pursuant to Council-established deadlines for consideration of budget items. For example, the

Comments and Alternative Systems Alignment Proposal

Council could establish deadlines of May and October for the respective budget processes. Therefore, the Budget Committee would only consider budget items that were passed ahead of the respective deadlines. Those that miss the deadline or are ultimately unfunded would be automatically carried over to the next budget process.

This alternative proposal would achieve the important goal of aligning Council items with significant budget and staff impacts with legislation in an objective way that is not detrimental to the Council's obligations under the Charter.

It is in the public interest that the Council consider this alternative proposal as part of the Mayor's development of a revised proposal for discussion and adoption at a later date.

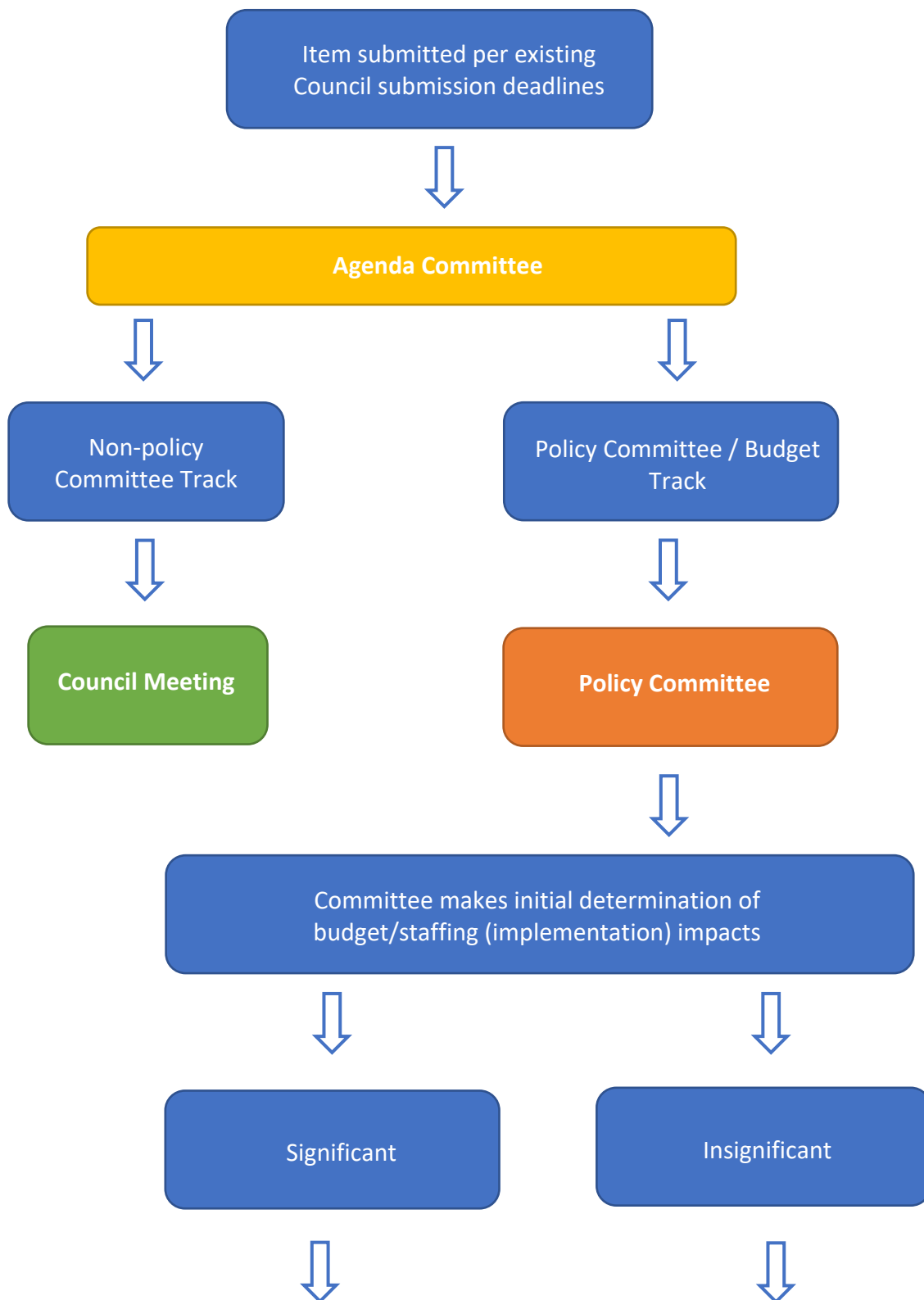
CONTACT

Councilmember Kate Harrison  
kharrison@cityofberkeley.info | 510-981-7140

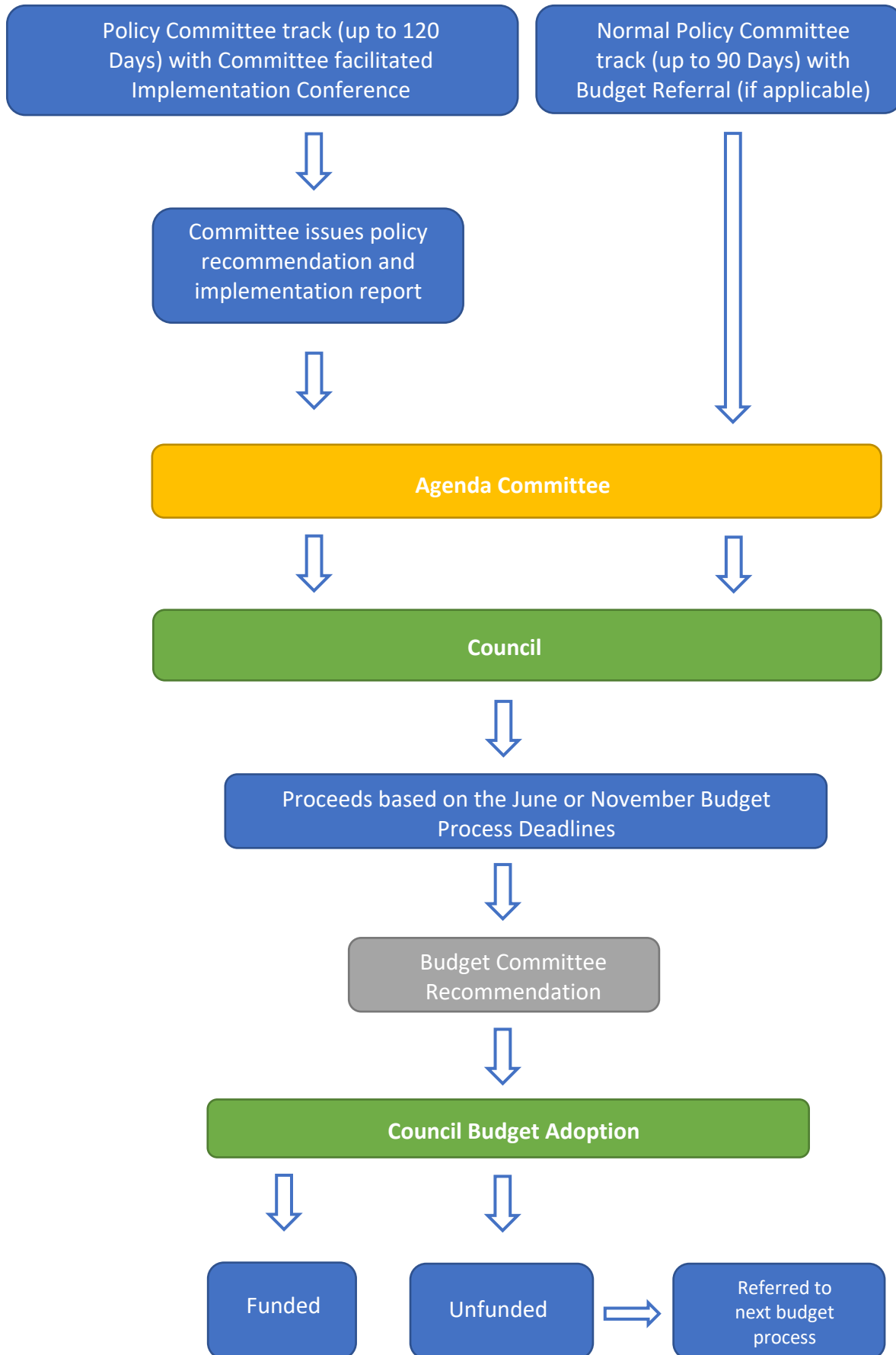
ATTACHMENTS:

1. Flowchart of Alternative Systems Alignment Proposal

### Alternative Systems Alignment Proposal









Office of the City Manager

CONSENT CALENDAR

June 15, 2021

*(continued from May 18, 2021)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David White, Deputy City Manager

Subject: Systems Alignment Proposal

RECOMMENDATION

Review the proposal for systems alignment and provide edits and suggestions in order to compile Council feedback for the purpose of drafting a revised proposal for adoption.

SUMMARY

The City Council discussed the Systems Alignment proposal at a Worksession on May 18, 2021. The item was continued to June 15 to allow Councilmembers to submit suggestions and changes to the original plan. The Mayor will consolidate the input from the Council and the public and return with a revised proposal for discussion and adoption at a later date.

FISCAL IMPACTS OF RECOMMENDATION

While the recommendation of this report would not entail fiscal impacts, if adopted, the proposal would have budgetary effects. Broadly speaking, the proposal is designed to better ensure adequate financial and staffing resources are identified and approved with any adopted significant legislation<sup>1</sup> (Major Item).

CURRENT SITUATION AND ITS EFFECTS

This report proposes a process to integrate various systems (e.g., budget, Strategic Plan, prioritization of referrals, etc.) to ensure that resources are appropriately allocated, to focus the organization and employees on those priorities established by the City Council and City Manager, and to enhance legislative and budget processes. Ultimately, aligning systems will help ensure our community's values as reflected in the policies of our City Council are implemented completely and efficiently, with increased fiscal prudence, while supporting more meaningful service delivery. In light of the economic and financial impacts of COVID-19 and resource constraints, it is imperative to improve

---

<sup>1</sup> New significant legislation is defined, with some explicit exceptions, as "any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public". See Council Rules of Procedure, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure.pdf).

vetting and costing of new projects and legislative initiatives to ensure success. In addition, the purpose of this proposal will align our work with the budget process.

The proposed changes outlined in this memorandum will better guide and inform budget development, clarify tradeoffs by identifying operational impacts, and develop a more effective and time-efficient path to implementation. These changes support a clear and full realizing of City Council policies, programs, and vision. The major features of the proposal are:

- Changing the order of the legislative process to ensure that Major Items (defined below) passed by Council are funded, as well as folded into staff workplans and staffing capacity,
- Making the City Council Rules of Procedure Appendix B guidelines mandatory,
- Ensuring that Major Items that are adopted by City Council are vetted and clearly identify the resources needed for implementation,
- Consolidating and simplifying reporting and tracking of Major Items, and
- Creating a deadline for each year's Major Items that allows for alignment with prioritization, the Strategic Plan, and the budget process.

Additionally, the proposed Systems Alignment would advance the City's Strategic Plan goal to provide an efficient and financially-healthy City government.

## **PROPOSED PROCESS**

The proposed process outlined in this memorandum replaces the current system of referrals (short and long term, as well as Commission referrals), directives, and new proposed ordinances, that is, all Major Items, regardless of "type" or origin will be subject to this process.

### **Step 1: Major Item Determination**

The systems alignment proposal outlines a process for Major Items.

#### ***Defined in Council Rules of Procedure***

Major Items are "new significant legislation" as defined in Appendix D of the [City Council Rules of Procedure](#):

Except as provided below, "new significant legislation" is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.

The exceptions to the definition of new significant legislation and process state:

New significant legislation originating from the Council, Commissions, or Staff related to the City's COVID-19 response<sup>2</sup>, including but not limited to health and

---

<sup>2</sup> If this proposal is adopted, "COVID-19" should be replaced with "declared emergency response" in the exception language.

economic impacts of the pandemic or recovery, or addressing other health and safety concerns, the City Budget process, or other essential or ongoing City processes or business will be allowed to move forward, as well as legislative items that are urgent, time sensitive, smaller, or less impactful.

The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item, using the Major Item Determination Checklist (see attachment 1). At any time in the process, if evidence demonstrates that the initial determination of the proposal as a Major Item proves incorrect, then it is no longer subject to this process. Additionally, if any legislation it originally deemed not to be a Major Item, the author or City Manager may appeal to the Agenda and Rules Committee or to the full Council and present evidence to the contrary.

### ***Required Conformance and Consultation***

All Major Items must use the agenda guidelines in Appendix B of the Council Rules, which require more detailed background information and analysis. The Agenda and Rules Committee can send the item back to the author if it is not complete and/or does not include all of the information required in Appendix B. The author must make a good faith effort to ensure all the guideline prompts are completed in substance not just in form.

Major Items must include a section noting whether the author has initially consulted with the City Manager or city staff regarding their proposed Major Item and the substance of those conversations, and initial staff input.

### ***Required Submission Date***

A Major Item must be submitted in time to appear on the agenda of an Agenda & Rules Committee meeting occurring no later than April 30 of every year. Any item submitted after that deadline, that does not meet an exemption, will be continued to the following year's legislative process.

Major Items will be referred by the Agenda & Rules committee on a rolling basis.

### **Step 2: Policy Committee Review**

A Major Item, once introduced and deemed complete and in conformance by the Agenda and Rules Committee, will be referred to one of City Council's Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.), for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [\*Council Rules of Procedure\*](#),<sup>3</sup> the Policy

---

<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf)

Committee will review the Major Item and the completed Major Item Determination Checklist to confirm Agenda & Rules initial determination that the Major Item is complete in accordance with Section III.B.2 and aligns with Strategic Plan goals. If the Major Item receives a positive or qualified positive recommendation, then it will go to an Implementation Conference (See step 3, Vetting and Costing).

If the Major Item receives a negative or qualified negative recommendation, then it will be returned to the Agenda and Rules Committee to be placed on a City Council Agenda. When heard at a City Council meeting, the author can advocate for the Major Item to be sent to an Implementation Conference. If the Major Item does not receive a vote by the majority of City Council at this step, it becomes inactive for that year's legislative calendar but may be reintroduced for the next year's calendar.

City Council Policy Committees must complete review of all Major Items assigned to them no later than June 30 of each year.

### **Step 3: Implementation Conference (Vetting and Costing)**

At an Implementation Conference, the primary author will meet with the City Manager or designee, City Manager-selected staff subject matter experts, and the City Attorney or designee.

#### ***Identifying Fiscal, Operational and Implementation Impacts***

The intended outcome of an Implementation Conference is a strong analysis containing all of the considerations and resources necessary to support implementation should Council choose to approve the Major Item.

The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager, City Attorney, and staff to better define the Major Item and identify more detailed fiscal and operational impacts, as well as implementation considerations. The information discussed during the Implementation Conference will be summarized in the Council Report as part of newly required sections (see attachment 2), in conformance with Appendix B:

- *Initial Consultation*, which
  - Lists internal and external stakeholders that were consulted, including whether item was concurrently submitted to a Commission for input,
  - Summarizes and confirms what was learned from consultation,
  - Confirms legal review addressing any legal or pre-emption issues, ensuring legal form,<sup>4</sup>
- *Implementation, Administration, and Enforcement*, which
  - Identifies internal and external benefits and impacts, and

---

<sup>4</sup> While consultation with the City Attorney is mentioned in Appendix B, the legal review and "confirmations" recommended in this proposal is a more specific and robust requirement.

- Considers equity implications, launch/initiation of Major Item and its ongoing administration, and
- *Fiscal & Operational Impacts*, which
  - Summarizes any operational impacts,
  - Identifies necessary resources, including specific staff resources needed and costs.<sup>5</sup>

As part of the Implementation Conference, staff will provide a high level work plan, indicating major deliverables/milestones and dates. This information can be collected and recorded using the Implementation Conference Worksheet (see attachment 2).

Implementation Conferences will be date certain meetings held in July.

### ***Revising the Major Item***

After the Major Item's author revises the original Council Report based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process. If additional full time equivalent employee(s) (FTE) or fiscal resources are needed, the Major Item must include a referral to the budget process and identify the amount for implementation of the policy or program.

### **Step 4: Initial Prioritization**

At their first meetings in September, Policy Committees must complete the ranking of the Major Items which were referred to them and also completed the Implementation Conference. The Policy Committees will provide these rankings in the form of a recommendation to the City Council. The Policy Committees prioritization will use the Policy Committee Ranking Form (see attachment 3) to standardize consideration of Major Items across Policy Committees. The Policy Committee priority rankings will be submitted to the City Council when the Council is considering items to move forward in the budget and Strategic Plan process.

### **Step 5: City Council Approval and Final Prioritization**

Under this proposal, all Major Items that the City Council considers for approved prioritization must have:

1. Received a City Council Policy Committee review and recommendation,
2. Received a City Council Policy Committee prioritization,
3. Completed the Implementation Conference, and
4. Been placed on the Agenda for a regular or special Council meeting in October for approval and inclusion in the RRV process.

---

<sup>5</sup> Appendix B does require a Fiscal Impacts section, but the inclusion of operational impacts and specific noting of required staff resources and costs recommended in this proposal is a more specific and robust requirement.

At the designated Council meeting in October, staff will provide the Council with a list of all approved Major Items, including the initial prioritization by Policy Committee. The Council will consider each Major Item for approval. All approved Major Items then will be added to the RRV process (i.e., with other items, referrals, etc) and ranked. The RRV ranking will begin in late October. These rankings will be adopted by Council and used to inform the development of the draft budget. Approved and ranked Major Items have multiple opportunities to be approved for funding, when the biennial budget or mid-cycle budget is adopted in June or when the Annual Appropriations Ordinances are adopted in May and November.

If a Major Item *does not receive the endorsement* of City Council at this step, it becomes inactive for that year's legislative calendar and may be reintroduced for the next year's calendar.

City Council must complete its Major Items approval, and RRV process no later than the final meeting in December of each year.<sup>6</sup> This ensures that staff is able to develop the budget starting from and based on Council priorities.

#### **Step 6: Budget & Strategic Plan Process**

The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward that year and will be added to a list of unfunded proposals for the future budget process.

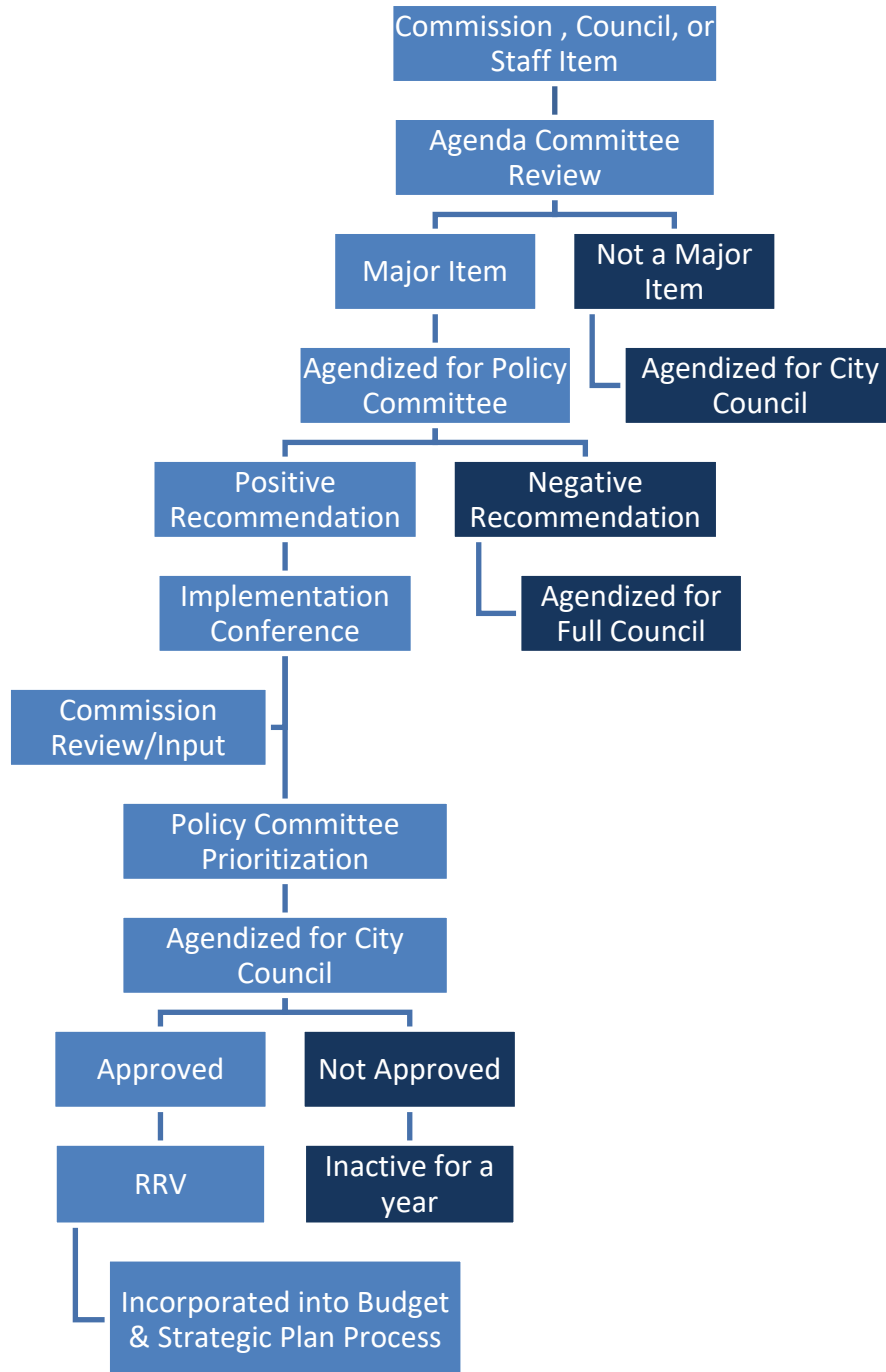
During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Items, Strategic Plan, and work plan development. In the late winter/early spring, the City Manager and Budget Office will present the draft budget to Council. This will be followed by department presentations to the Budget and Finance Policy Committee. From late March and through early May, Council and staff will refine the budget. Council will hold budget hearings in May and June, with adoption of the budget by June 30. Although the legislative process (i.e., Policy Committee review, Implementation Conference, Prioritization) is annual, staff recommends the budget process remain biennial. A significant mid-cycle budget update can easily accommodate additions to or changes in priorities arising through the legislative process.

The proposed process is depicted in Figure 1 and the proposed launch calendar in Figure 2.

---

<sup>6</sup> Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

Figure 1, Proposed Process<sup>7</sup>



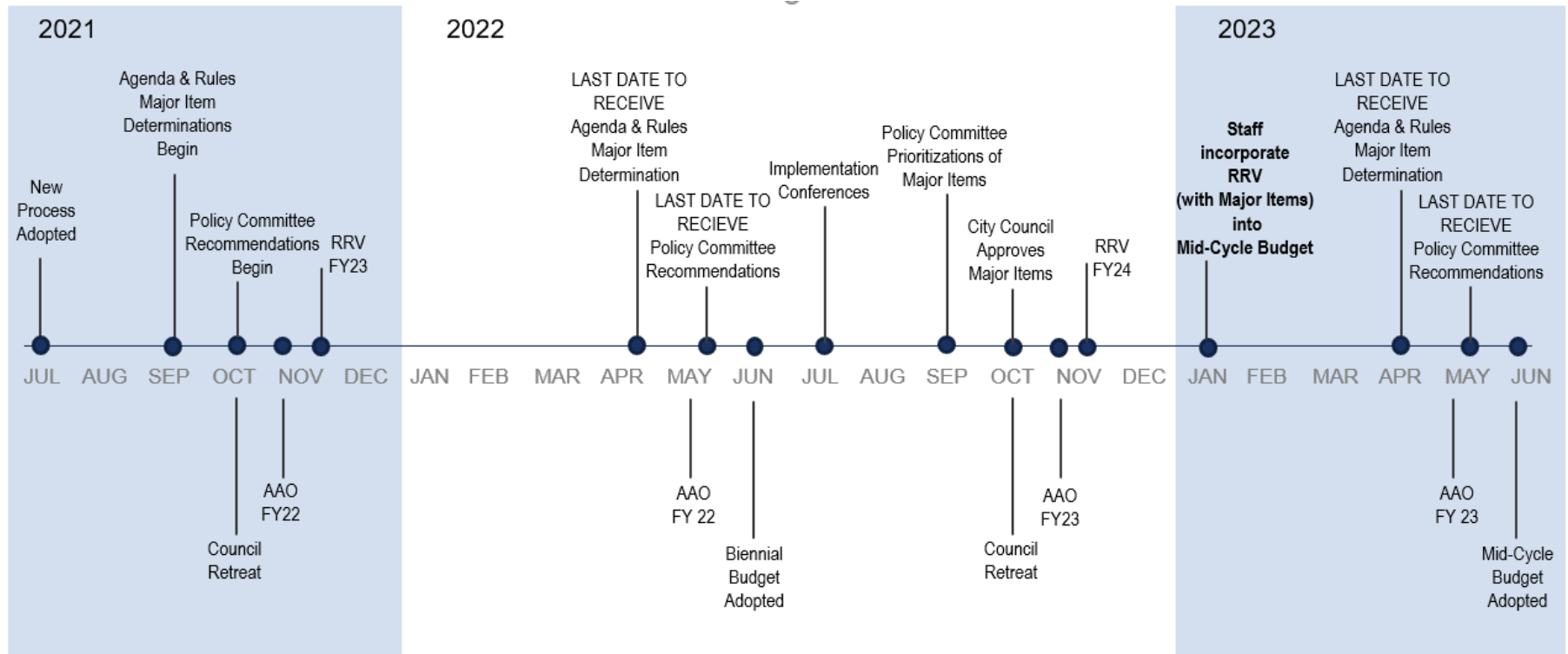
<sup>7</sup> Major Items that are ordinances will need to be examined on a case-by-case basis. Once adopted, ranked, and, if requiring resources, budgeted, the ordinance will need to be given an effective date and scheduled for first and second readings at Council.





Office of the City Manager

Figure 2, Proposed Launch





Office of the City Manager

### **Next Steps**

Staff will reach out to legislative aides for input and the City Manager will meet individually with Councilmembers to discuss this proposal. Staff will incorporate Council input from the worksession, and from subsequent input into a resolution and return to Council with a final Systems Alignment item for adoption by July 2021.

### **Benefits**

The addition of an Implementation Conference will ensure that Major Items considered by Council are properly resourced, improving our City's responsible management of fiscal resources. Analysis from the Implementation Conference will help Council to balance and consider each Major Item within the context of related programs and potential impacts (positive and negative). When considered holistically, new policy implementation can be supportive of existing work and service delivery.

Since the proposed process places the City Council prioritization of Major Items immediately before budget preparation, the Prioritization will guide and inform budget development, including components such as the Strategic Plan and work plans. Fixing the sequencing of the process is a key benefit. Currently, with prioritization occurring in May and June, the budget process is nearing completion when City Council's priorities are finally decided. This leads to inconsistencies between adopted priorities and budgeting for those priorities.

Under the current process, an idea may go into prioritization, proceed to the short term referral list or referred to the budget process. However, the resulting Major Item may not have addressed operational considerations. Adding such items to a department's work at any given time of the year may lead to staff stopping or slowing work on other prioritized projects in order to develop and implement new Major Items. Also, it may be difficult for staff to prioritize their projects: is stopping/slowing of work that is already underway in order to address new items the preference of the full Council?

Also, because consideration of implementation currently occurs after the adoption of a Major Item, features of the adopted language may unintentionally constrain effective implementation, complicating and slowing progress on the Major Item and hindering the effectiveness of the new program or regulation.

With the proposed process, a Major Item does not go through prioritization until there is an opportunity for staff to identify operational considerations. Finally, since implementation only occurs after operational considerations are reported, and funds are

allocated, the resulting Major Item should move more quickly from idea to successful completion.

### BACKGROUND

In October 2019, City Council held a half-day worksession to discuss systems realignment and provide direction on potential changes to the city's legislative process. The purpose of the meeting was to develop recommendations for how various systems (e.g., budget, Strategic Plan, RRV, etc) could better work together to ensure that the organization is able to focus on the priorities established by the City Council. The City Manager took direction from that meeting and worked with department directors and the Budget Office to create this proposal.

### ENVIRONMENTAL SUSTAINABILITY

By improving efficiency, ensuring adequate resources, and strengthening implementation, this proposal would increase the speed and full adoption of new significant legislation, including sustainability work.

### RATIONALE FOR RECOMMENDATION

The City of Berkeley is unique in comparison to many cities. It considers and approves many more policies, often at the cutting edge, than a typical city and especially for a city of its size. This proposal is a hybrid, incorporating city processes while mirroring State and Federal legislative processes which accommodate a larger number of policies and items in a given cycle. The disadvantage of this proposal is that it introduces additional steps, such as the implementation conference. The advantages of this proposal, are:

- Ensuring adopted legislation is adequately resourced, in terms of both staffing and budget;
- Providing adequate context for Council to balance and consider items in relation to potential positive and negative impacts; and
- Strengthening the effectiveness and efficiency of policy implementation.

### ALTERNATIVE ACTIONS CONSIDERED

At the Council retreat in October 2019, a variety of approaches and ideas were discussed and considered. Additionally, the original version of this proposal was substantively revised through the Policy Committee process.

If the Council takes no action on this item, the existing process will continue to result in inadequately resourced adopted legislation and inefficient and complicated implementation.

### CONTACT PERSON

David White, Deputy City Manager, (510) 981-7012

Attachments:

- 1: Major Item Determination Checklist
- 2: Council Report Template and Implementation Conference Worksheet
- 3: Policy Committee Ranking Form
- 4: Vice Mayor Droste Supplemental



# Major Item Determination Checklist

**Item Name:**

**Item Author:**

**Is this a Major Item?**

- |                          |                          |                                                                                                                                |
|--------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Yes                      | No                       |                                                                                                                                |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant change to existing law, program, or policy.                                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant addition to existing law, program, or policy.                                                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public |

**Is this eligible for an Exemption?**

- |                          |                          |                                                                     |
|--------------------------|--------------------------|---------------------------------------------------------------------|
| Yes                      | No                       |                                                                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related the City's COVID-19 response.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to the City Budget process.                         |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to essential or ongoing City processes or business. |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is urgent.                                                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is time-sensitive.                                             |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is smaller.                                                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is less impactful.                                             |

**Agenda Committee Determination:**

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

**Policy Committee Confirmation:**

Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council

From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
or other recommendation....

FINANCIAL-FISCAL & OPERATIONAL IMPACTS IMPLICATIONS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

[Title of Report]

CALENDAR

Macrobutton NoMacro [Meeting Date (MM dd, yyyy)]

- be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.
- attract and retain a talented and diverse City government workforce.

BACKGROUND

INITIAL CONSULTATION

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

ENVIRONMENTAL SUSTAINABILITY

CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution

Exhibit A: [Title or Description of Exhibit]

Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

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

SHORT TITLE OF RESOLUTION HERE

WHEREAS, (Whereas' are necessary when an explanation or legislative history is required); and

WHEREAS, (Insert Additional 'Whereas Clauses' as needed); and

WHEREAS, enter text here; and

WHEREAS, enter text here; and

WHEREAS, (The last "Whereas" paragraph should contain a period (.) .

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that (Action to be taken) - ends in a period (.).

BE IT FURTHER RESOLVED that (for further action if needed; if not delete) - ends in a period (.).

Exhibits **[Delete if there are NO exhibits]**

A: Title of the Exhibit

B: Title of the Exhibit





## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

The author of the item may complete this section to help record required information for the report.

|                                                                               |
|-------------------------------------------------------------------------------|
| Descriptive title:                                                            |
| Is this for Consent, Action, or Information Calendar?                         |
| Recommendation:                                                               |
| Summary statement:                                                            |
| Background (history, circumstances and concerns to be addressed by the item): |
| Plans, programs, policies and/or laws were taken into consideration:          |
| Actions/alternatives considered:                                              |
| Internal stakeholders consulted:                                              |
| Name/date of Commission(s) item submitted to for input:                       |
| List of external stakeholders consulted:                                      |

|                                                                                       |
|---------------------------------------------------------------------------------------|
| Summary of what was learned from consulting stakeholders:                             |
| Rationale for recommendation:                                                         |
| Internal Benefits of Implementation:                                                  |
| Internal Impacts of Implementation:                                                   |
| External Benefits of Implementation:                                                  |
| External Impacts of Implementation:                                                   |
| Equity Considerations:                                                                |
| Launch and Implementation Milestones (see staff section)                              |
| Environmental Impacts:                                                                |
| Operational Impacts:                                                                  |
| Staff Resources Needed:<br><br>Number of FTE/hours:<br>Type of staff resource needed: |
| Costs:<br><br>Amount(s):<br>Funding Source:                                           |

**STAFF SECTION**

Staff may complete section to provide required information for the report.

|                                                            |                    |
|------------------------------------------------------------|--------------------|
| <b>Estimated Launch/implementation Deliverables/Dates:</b> |                    |
| <i>Month/Year</i>                                          | <i>Deliverable</i> |
| <b>Estimated Administration Deliverables/Dates:</b>        |                    |
| <i>Month/Year</i>                                          | <i>Deliverable</i> |

**Legal Consultation:**

Confirmed

Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed

Name(s)/Date(s) \_\_\_\_\_





Lori Droste  
Vice Mayor District 8

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 3**

**Meeting Date:** May 18, 2021

**Item Number:** 2

**Item Description:** Systems Realignment

**Submitted by:** Vice Mayor Lori Droste

**Subject:** Comments on Systems Realignment



Lori Droste  
Vice Mayor District 8

To: Mayor and Council  
From: Vice Mayor Lori Droste  
Subject: Comments on the Systems Realignment

P. 13- what is “smaller” and “less impactful” and how is that determined?

P. 14- the council item template should include a problem definition and frontload the evidence (background, consultation, review) and include criteria considered. Strategic plan alignment, fiscal and operational impacts, environmental sustainability can be embedded under this heading. I would also argue that “Benefit” or “Effectiveness” should be included in Criteria Considered. Also, equity and administrative feasibility are separate criteria to be considered. Council is not involved in enforcement so I recommend that it be eliminated. Furthermore, as currently written the Current Situation and Its Effects describes the Strategic Plan goals and not the status quo situation.

General Template Outline:

- 1) Recommendation
- 2) Problem Statement
- 3) Background and Consultation
- 4) Current Situation and Its Effects
- 5) Criteria Considered (*new heading*)
  - a) Benefit or Effectiveness (*new*)
  - b) Fiscal Considerations
  - c) Strategic Plan Alignment (pick a goal)
  - d) Environmental Sustainability
  - e) Equity
  - f) Operational and Administrative Considerations (*moved operational considerations to a separate category*)
- 6) Rationale for Recommendation (*new*)

P. 15 Implementation Conference Worksheet

I recommend reducing the amount of redundant components in the implementation conference worksheet and specifying what “impact” means. Does it mean benefit? Does it mean tradeoff? In either case, I believe it is covered by other elements of this worksheet.

P. 19- There is no description of *how* policy committee members' rankings will be aggregated. Furthermore, the "ranking" is orthogonal and could be completely contradictory to the staffing, benefit, and costs. Scoring legislative items instead of ranking them will allow for easier prioritization. A cardinal voting system like this is more expressive, accurate and easier to understand. It also lessens vote splitting.

[CONSENT OR ACTION] CALENDAR [Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION Adopt a Resolution... or Support ... or write a letter to \_\_\_ in support of \_\_\_\_\_... or other recommendation....

**PROBLEM STATEMENT**

**This section should identify the problem with specifics and enough context to explain why it merits public amelioration.**

*(Background and Evidence Should be Provided At the Beginning)*

BACKGROUND **AND** INITIAL CONSULTATION This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.

**CURRENT SITUATION AND ITS EFFECTS**

*This section should explain the status quo and how it attempts to address the defined problem.*

**CRITERIA CONSIDERED**

- FINANCIAL FISCAL & OPERATIONAL IMPACTS IMPLICATIONS This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.

~~IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented. Equity should be a standalone category separate from administrative feasibility. Rename this section Operational and Administrative Considerations~~

- ~~CURRENT SITUATION AND ITS EFFECTS~~ For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section: [Insert project name] is a Strategic Plan **Alignment** Priority Project, advancing our goal to [pick one:]
  - provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
  - provide an efficient and financially-health City government.
  - foster a dynamic, sustainable, and locally-based economy.
  - create affordable housing and housing support service for our most vulnerable community members.
  - create a resilient, safe, connected, and prepared city.
  - champion and demonstrate social and racial equity.



- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.
- be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.
- attract and retain a talented and diverse City government workforce.
- ENVIRONMENTAL SUSTAINABILITY

**RATIONALE FOR RECOMMENDATION**

This section should describe how the author landed on the recommendation using the criteria considered. This section can also describe other alternatives considered.

**CONTACT PERSON**

Councilmember [First Last Name] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution Exhibit A: [Title or Description of Exhibit] Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

## Implementation Conference Worksheet

|                                                                                    |
|------------------------------------------------------------------------------------|
| Descriptive Title                                                                  |
| Consent Action or Information                                                      |
| Recommendation                                                                     |
| <b><u>Problem Statement</u></b>                                                    |
| Background, etc                                                                    |
| Plans, etc.                                                                        |
| <b><u>Current Situation and Its Effects</u></b>                                    |
| Actions/Alternatives Considered                                                    |
| <b><u>Stakeholders Consultation and Results</u></b>                                |
| Internal Stakeholders Consulted                                                    |
| Name/date of Commission(s) item submitted to for input                             |
| List of external stakeholders consulted                                            |
| Summary of what was learned from consulting stakeholders                           |
| Rationale for Recommendation <i>should go at the end after evaluative criteria</i> |
| <b><u>Policy Benefit</u></b>                                                       |
| Internal Benefits of Implementation:                                               |
| Internal Impacts of Implementation:                                                |
| External Benefits of Implementation:                                               |
| External Impacts of Implementation:                                                |
| Equity Considerations                                                              |
| Environmental Considerations                                                       |
| Operational Impacts                                                                |
| <b><u>Strategic Plan Goal Alignment</u></b>                                        |
| Staff Resources Needed (Number of FTE/hours, Type of staff resource needed):       |
| Costs (Amount(s), Funding Source):                                                 |
| <b><u>Rationale for Recommendation</u></b> <i>(after analysis)</i>                 |





Lori Droste  
Vice Mayor District 8

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 3**

**Meeting Date:** May 18, 2021

**Item Number:** 2

**Item Description:** Systems Realignment

**Submitted by:** Vice Mayor Lori Droste

**Subject:** Comments on Systems Realignment



Lori Droste  
Vice Mayor District 8

To: Mayor and Council  
From: Vice Mayor Lori Droste  
Subject: Comments on the Systems Realignment

P. 13- what is “smaller” and “less impactful” and how is that determined?

P. 14- the council item template should include a problem definition and frontload the evidence (background, consultation, review) and include criteria considered. Strategic plan alignment, fiscal and operational impacts, environmental sustainability can be embedded under this heading. I would also argue that “Benefit” or “Effectiveness” should be included in Criteria Considered. Also, equity and administrative feasibility are separate criteria to be considered. Council is not involved in enforcement so I recommend that it be eliminated. Furthermore, as currently written the Current Situation and Its Effects describes the Strategic Plan goals and not the status quo situation.

General Template Outline:

- 1) Recommendation
- 2) Problem Statement
- 3) Background and Consultation
- 4) Current Situation and Its Effects
- 5) Criteria Considered (*new heading*)
  - a) Benefit or Effectiveness (*new*)
  - b) Fiscal Considerations
  - c) Strategic Plan Alignment (pick a goal)
  - d) Environmental Sustainability
  - e) Equity
  - f) Operational and Administrative Considerations (*moved operational considerations to a separate category*)
- 6) Rationale for Recommendation (*new*)

P. 15 Implementation Conference Worksheet

I recommend reducing the amount of redundant components in the implementation conference worksheet and specifying what “impact” means. Does it mean benefit? Does it mean tradeoff? In either case, I believe it is covered by other elements of this worksheet.

P. 19- There is no description of *how* policy committee members' rankings will be aggregated. Furthermore, the "ranking" is orthogonal and could be completely contradictory to the staffing, benefit, and costs. Scoring legislative items instead of ranking them will allow for easier prioritization. A cardinal voting system like this is more expressive, accurate and easier to understand. It also lessens vote splitting.

[CONSENT OR ACTION] CALENDAR [Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION Adopt a Resolution... or Support ... or write a letter to \_\_\_ in support of \_\_\_\_\_... or other recommendation....

### **PROBLEM STATEMENT**

**This section should identify the problem with specifics and enough context to explain why it merits public amelioration.**

*(Background and Evidence Should be Provided At the Beginning)*

BACKGROUND **AND** INITIAL CONSULTATION This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.

### **CURRENT SITUATION AND ITS EFFECTS**

*This section should explain the status quo and how it attempts to address the defined problem.*

### **CRITERIA CONSIDERED**

- FINANCIAL FISCAL & OPERATIONAL IMPACTS IMPLICATIONS This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.

~~IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented. Equity should be a standalone category separate from administrative feasibility. Rename this section Operational and Administrative Considerations~~

- ~~CURRENT SITUATION AND ITS EFFECTS~~ For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section: [Insert project name] is a Strategic Plan **Alignment** Priority Project, advancing our goal to [pick one:]
  - provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
  - provide an efficient and financially-health City government.
  - foster a dynamic, sustainable, and locally-based economy.
  - create affordable housing and housing support service for our most vulnerable community members.
  - create a resilient, safe, connected, and prepared city.
  - champion and demonstrate social and racial equity.

- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.
- be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.
- attract and retain a talented and diverse City government workforce.
- ENVIRONMENTAL SUSTAINABILITY

**RATIONALE FOR RECOMMENDATION**

This section should describe how the author landed on the recommendation using the criteria considered. This section can also describe other alternatives considered.

**CONTACT PERSON**

Councilmember [First Last Name] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution Exhibit A: [Title or Description of Exhibit] Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]



## Implementation Conference Worksheet

|                                                                                    |
|------------------------------------------------------------------------------------|
| Descriptive Title                                                                  |
| Consent Action or Information                                                      |
| Recommendation                                                                     |
| <b><u>Problem</u></b> Statement                                                    |
| Background, etc                                                                    |
| Plans, etc.                                                                        |
| <b><u>Current Situation and Its Effects</u></b>                                    |
| Actions/Alternatives Considered                                                    |
| <b><u>Stakeholders Consultation and Results</u></b>                                |
| Internal Stakeholders Consulted                                                    |
| Name/date of Commission(s) item submitted to for input                             |
| List of external stakeholders consulted                                            |
| Summary of what was learned from consulting stakeholders                           |
| Rationale for Recommendation <i>should go at the end after evaluative criteria</i> |
| <b><u>Policy Benefit</u></b>                                                       |
| Internal Benefits of Implementation:                                               |
| Internal Impacts of Implementation:                                                |
| External Benefits of Implementation:                                               |
| External Impacts of Implementation:                                                |
| Equity Considerations                                                              |
| Environmental Considerations                                                       |
| Operational Impacts                                                                |
| <b><u>Strategic Plan Goal Alignment</u></b>                                        |
| Staff Resources Needed (Number of FTE/hours, Type of staff resource needed):       |
| Costs (Amount(s), Funding Source):                                                 |
| <b><u>Rationale for Recommendation</u></b> <i>(after analysis)</i>                 |

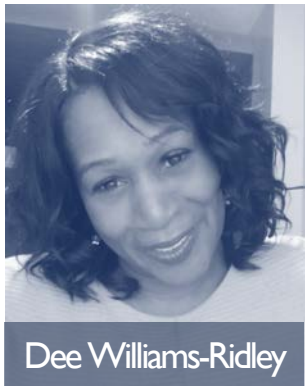


# SYSTEMS ALIGNMENT

PROCESS PROPOSAL FOR VETTING & PRIORITIZING MAJOR ITEMS



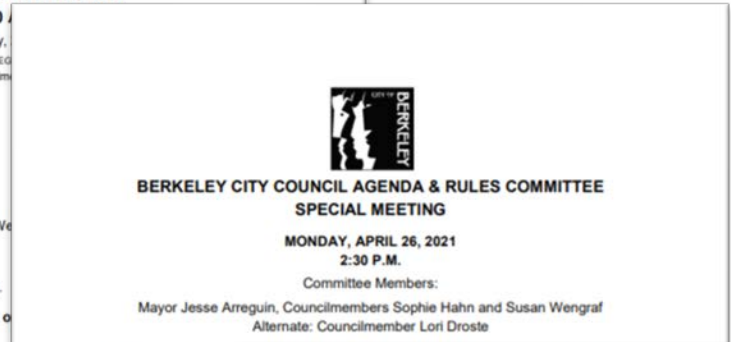
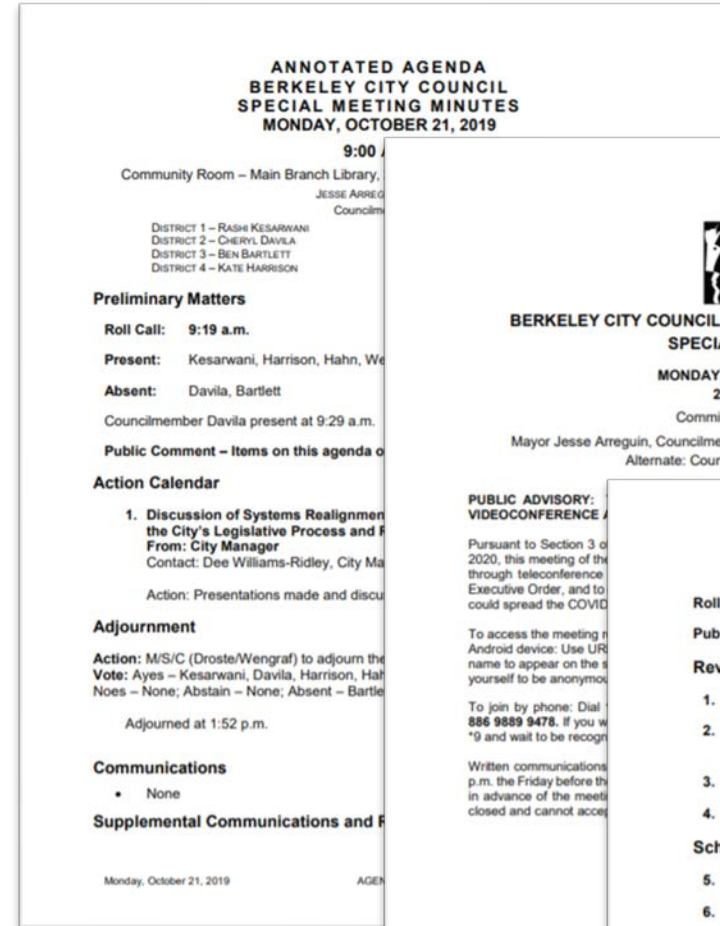
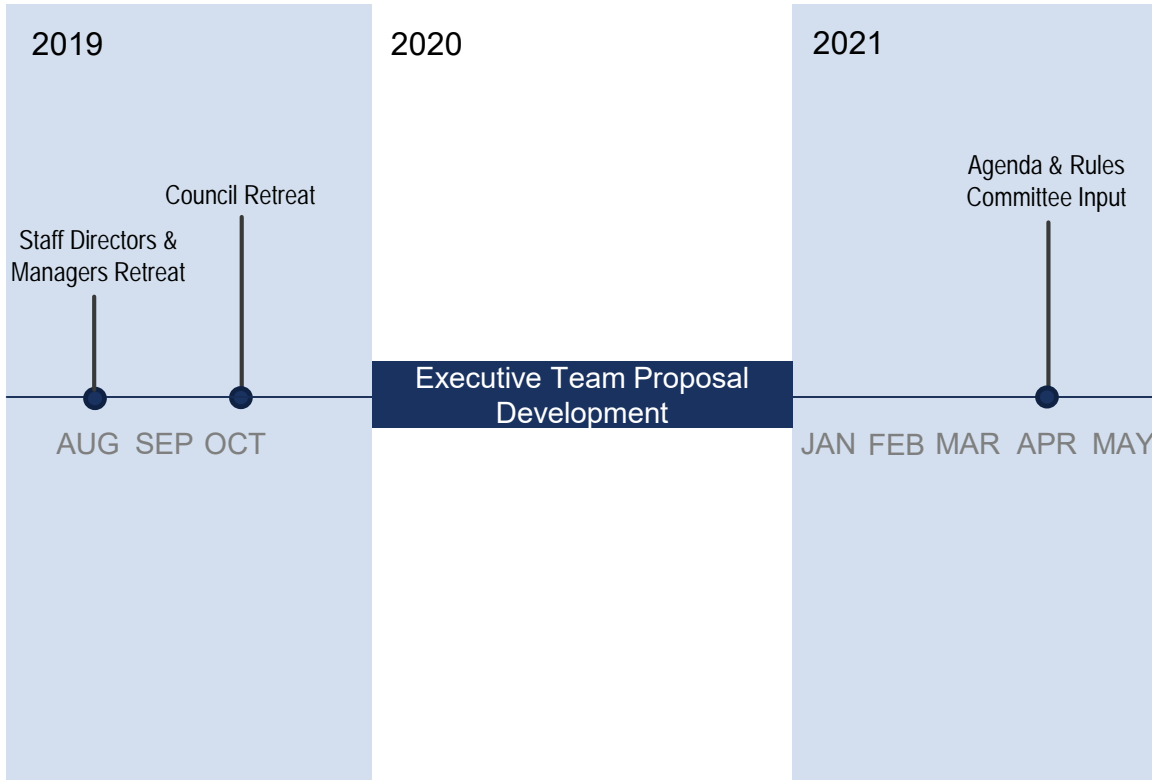
# THE TEAM



## AGENDA & RULES COMMITTEE



# BACKGROUND

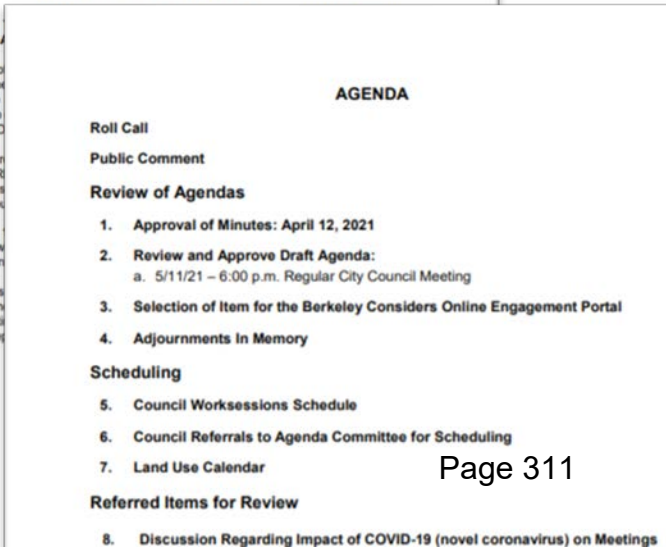


**PUBLIC ADVISORY:  
VIDEOCONFERENCE /**

Pursuant to Section 3 of the City Charter, this meeting of the Berkeley City Council will be held through teleconference in accordance with Executive Order, and to protect the health and safety of the community and to prevent the spread of the COVID-19 virus.

To access the meeting on a computer, tablet or Android device: Use the URL: <https://www.berkeleyca.gov/teleconference> and enter the meeting ID: 886 9889 9478. If you are calling in, please dial 886 9889 9478 and wait to be recognized.

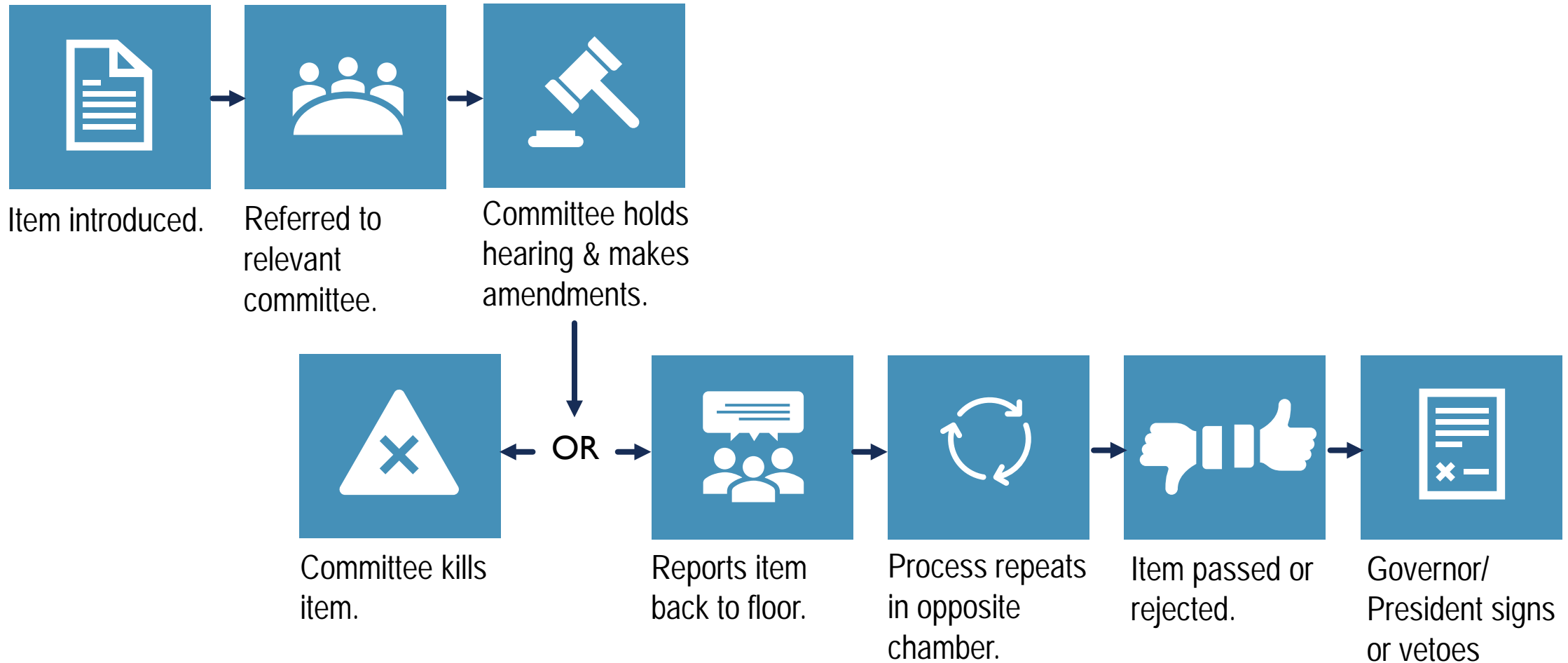
Written communications should be submitted in advance of the meeting. Written communications received after the meeting is closed and cannot be accepted for consideration.



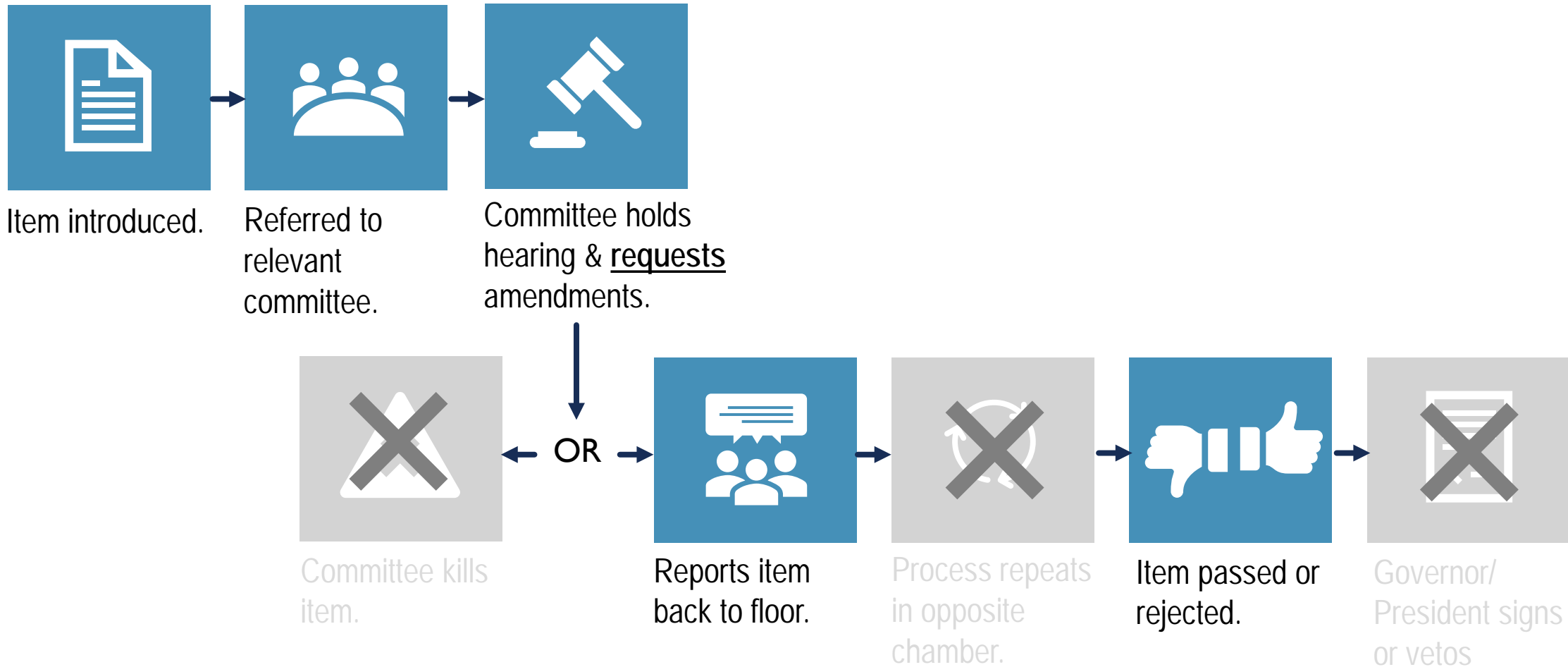
# OBJECTIVES

- Align timing of Council approval and resource (budget) allocation
- Communicate resource needs (and any tradeoffs) well
- Ensure Council priorities are resourced and implemented

# STATE OR FEDERAL MODEL

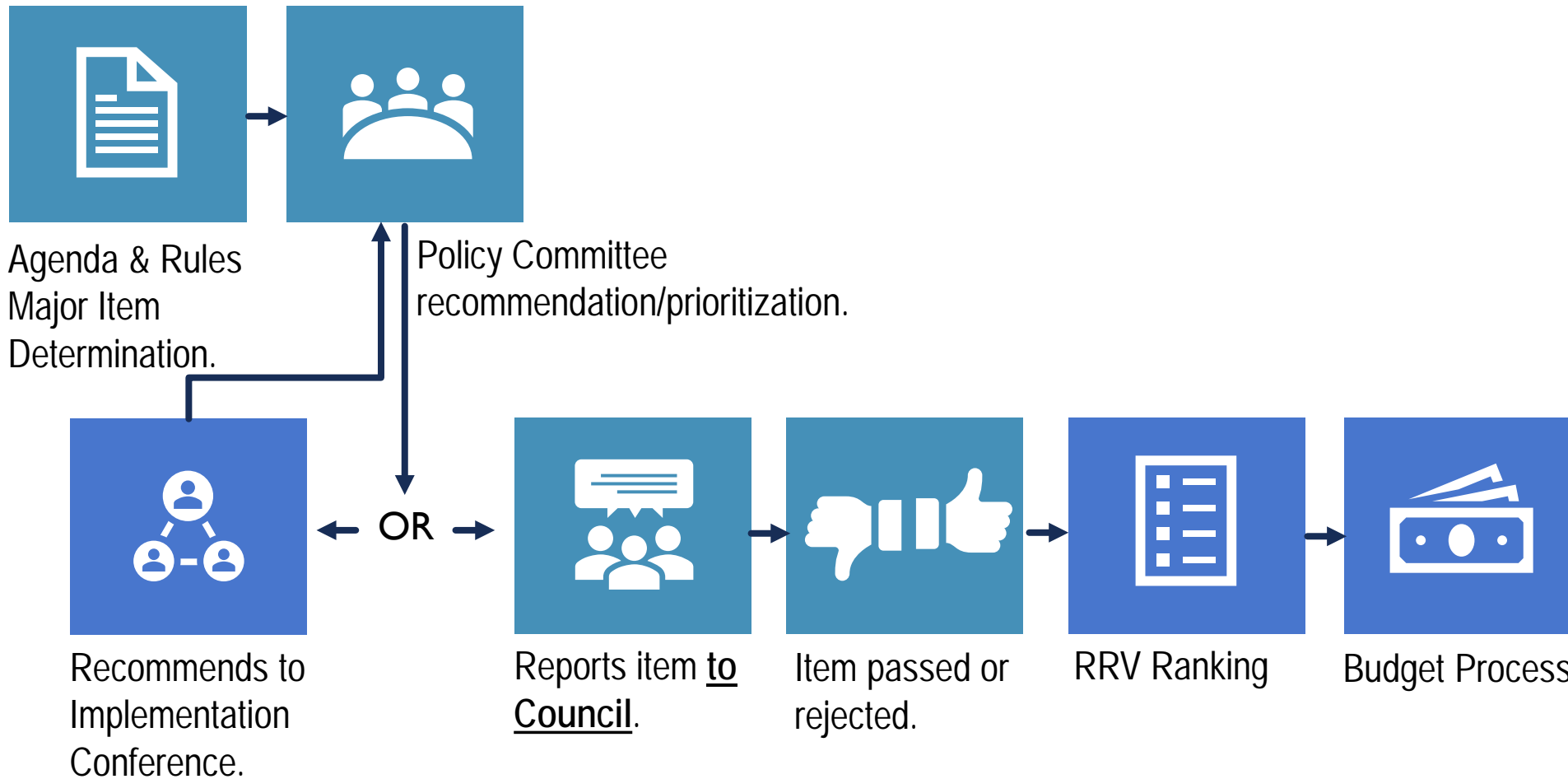


# HYBRID MODEL





# PROPOSED MODEL



# IMPLEMENTATION CONFERENCE?

- What: Strong analysis and collaborative consultation
  - Identify costs\benefits
  - Identify resource needs
  - Outline high level work plan
- Who:
  - Commission Input (e.g, Chair or Vice Chair)
  - Staff & Legal
  - External Stakeholders
- How:
  - Ensure you've done your due diligence with the above
  - Meet with staff/legal



# VETTING IS TIME WELL SPENT!

## Cousin Janice

- Researched online, in magazines
- Talked to friends, designer, contractor
- Obtained supplies
- Contractor starts work
- Moved out for **weeks**
- **Loves** the result

## Friend Cathy

- Talked to contractor
- Contractor starts work
- Waited for supplies → Contractor stops work
- Supplies arrive → Contractor restarts work
- Moved out for **months**
- **Still refining** the result

# WHY PRIORITIZE AT POLICY COMMITTEE

**NOT RECOMMENDED**

- Agenda & Rules Committee

- Appointees:

- Jesse Arreguin, [Mayor](#)
- Sophie Hahn, [Councilmember, District 5](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Alternate: Lori Droste, [Councilmember, District 7](#)

- Budget & Finance Committee

- Appointees:

- Jesse Arreguin, [Mayor](#)
- Kate Harrison, [Councilmember, District 4](#)
- Rigel Robinson, [Councilmember, District 7](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Public Safety, Transportation, Environment & Sustainability Committee

- Appointees:

- Terry Taplin, [Councilmember, District 2](#)
- Kate Harrison, [Councilmember, District 4](#)
- Rigel Robinson, [Councilmember, District 7](#)

- Alternate: Sophie Hahn, [Councilmember, District 5](#)

- Government, Equity & Community Committee

- Appointees:

- Rashi Kesarwani, [Councilmember, District 1](#)
- Terry Taplin, [Councilmember, District 2](#)
- Ben Bartlett, [Councilmember, District 3](#)

- Alternate: Rigel Robinson, [Councilmember, District 7](#)

- Land Use, Housing & Economic Development Committee

- Appointees:

- Sophie Hahn, [Councilmember, District 5](#)
- Rigel Robinson, [Councilmember, District 7](#)
- Lori Droste, [Councilmember, District 8](#)

- Alternate: Ben Bartlett, [Councilmember, District 3](#)

- Public Safety Committee

- Appointees:

- Rashi Kesarwani, [Councilmember, District 1](#)
- Ben Bartlett, [Councilmember, District 3](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Alternate: Terry Taplin, [Councilmember, District 2](#)

# A QUICK NOTE ON FORMS

- Major Item Determination Checklist
- Implementation Conference Worksheet
- Policy Committee Ranking Form
- Revised Report Template





### Major Item Determination Checklist

**Item Name:**

**Item Author:**

**Is this a Major Item?**

Yes No

- Item represents a significant change to existing law, program, or policy.
- Item represents a significant addition to existing law, program, or policy.
- Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public

**Is this eligible for an Exemption?**

Yes No

- Item is related the City's COVID-19 response.
- Item is related to the City Budget process.
- Item is related to essential or ongoing City processes or business.
- Item is urgent.
- Item is time-sensitive.
- Item is smaller.
- Item is less impactful.

**Agenda Committee Determination:**

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

**Policy Committee Confirmation:**

Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

Use this section to help record required information

|                                                                |
|----------------------------------------------------------------|
| Descriptive title:                                             |
| Is this for Consent, Action, or Information Calendar?          |
| Recommendation:                                                |
| Summary statement:                                             |
| Background (history, circumstances and context)                |
| Plans, programs, policies and/or laws were taken into account: |
| Actions/alternatives considered:                               |
| Internal stakeholders consulted:                               |
| Name/date of Commission(s) item submitted to:                  |
| List of external stakeholders consulted:                       |

Summary of what was learned from consultation:

Rationale for recommendation:

Internal Benefits of Implementation:

Internal Impacts of Implementation:

External Benefits of Implementation:

External Impacts of Implementation:

Launch and Implementation Milestones (see Environmental Impacts):

Operational Impacts:

Staff Resources Needed:

### STAFF SECTION

Use this section to provide required information for the report.

|                                                     |                    |
|-----------------------------------------------------|--------------------|
| Estimated Launch/implementation Deliverables/Dates: |                    |
| <i>Month/Year</i>                                   | <i>Deliverable</i> |
| Estimated Administration Deliverables/Dates:        |                    |
| <i>Month/Year</i>                                   | <i>Deliverable</i> |

**Legal Consultation:**

Confirmed

Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed







[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council  
From: [Councilmember (lastname)]  
Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
of other recommendation....

FISCAL IMPACTS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also describe the launch or initiation of the item, as well as its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental

[Title of Report]

CALENDAR

- attract and retain a talented and diverse City government workforce.

BACKGROUND

CONSULTATION OVERVIEW

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

ENVIRONMENTAL SUSTAINABILITY

CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

- 1: Resolution
  - Exhibit A: [Title or Description of Exhibit]
  - Exhibit B: [Title or Description of Exhibit]
- 2: [Title or Description of Attachment]
- 3: [Title or Description of Attachment]

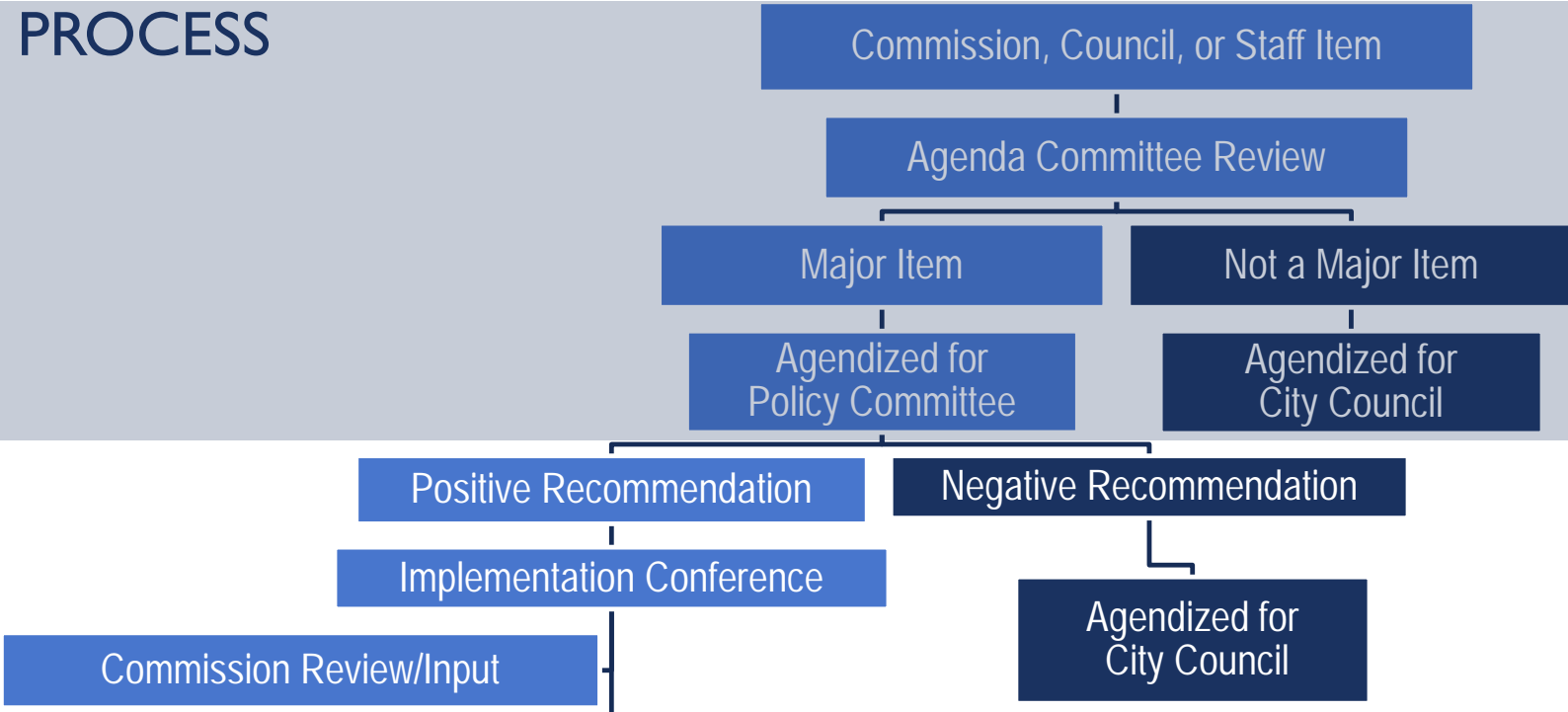
# PROPOSED PROCESS

FLOW CHART



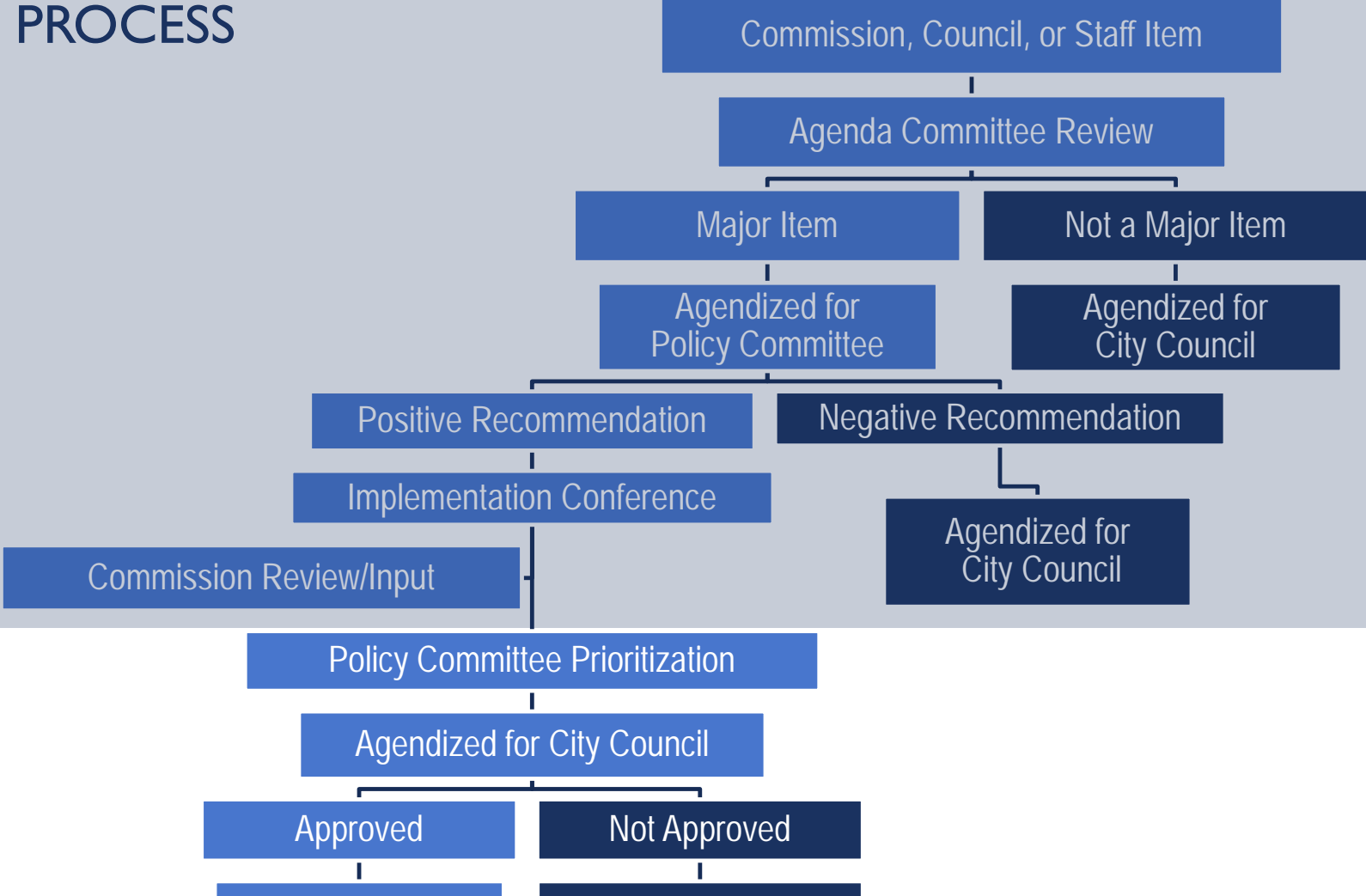
# PROPOSED PROCESS

FLOW CHART



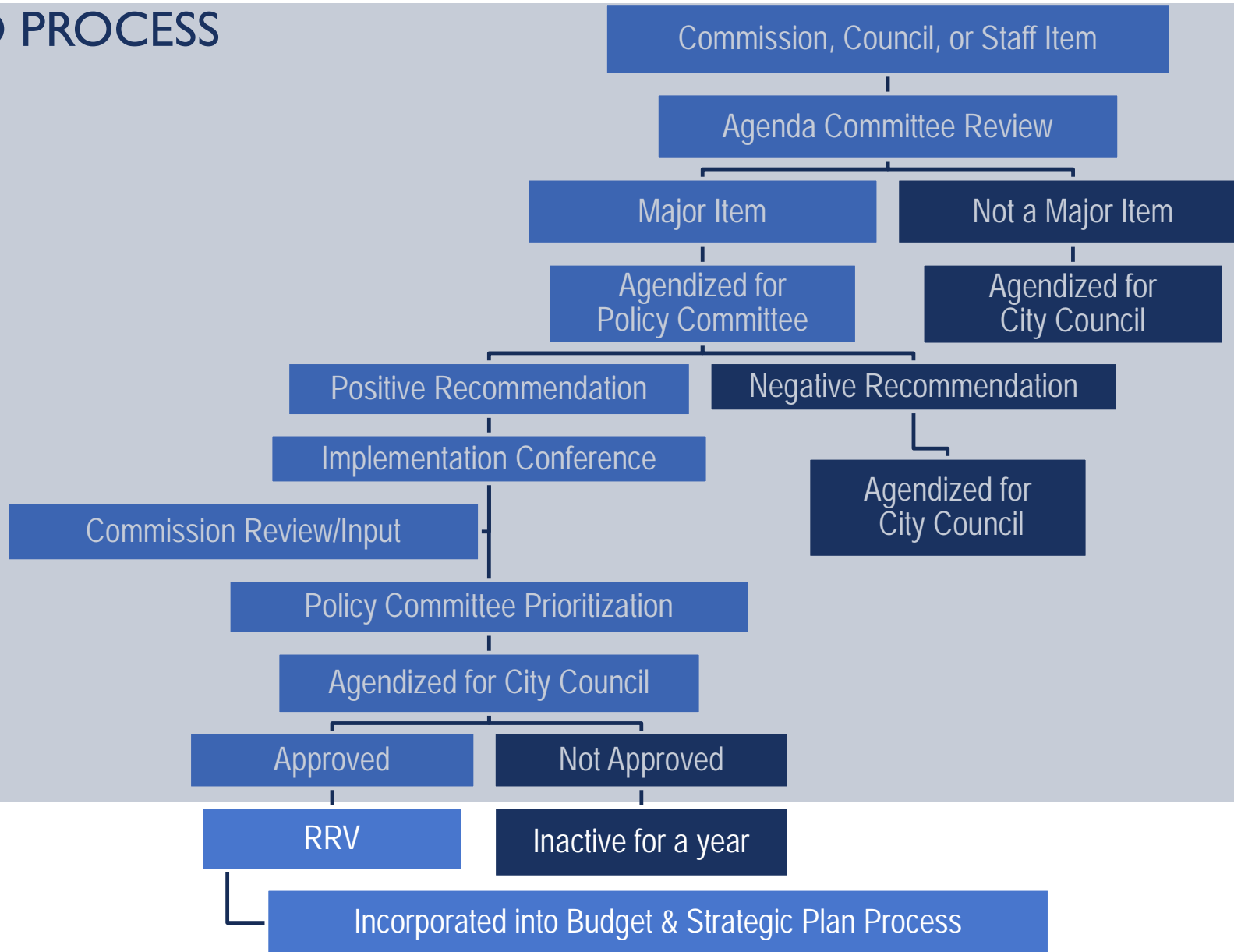
# PROPOSED PROCESS

FLOW CHART



# PROPOSED PROCESS

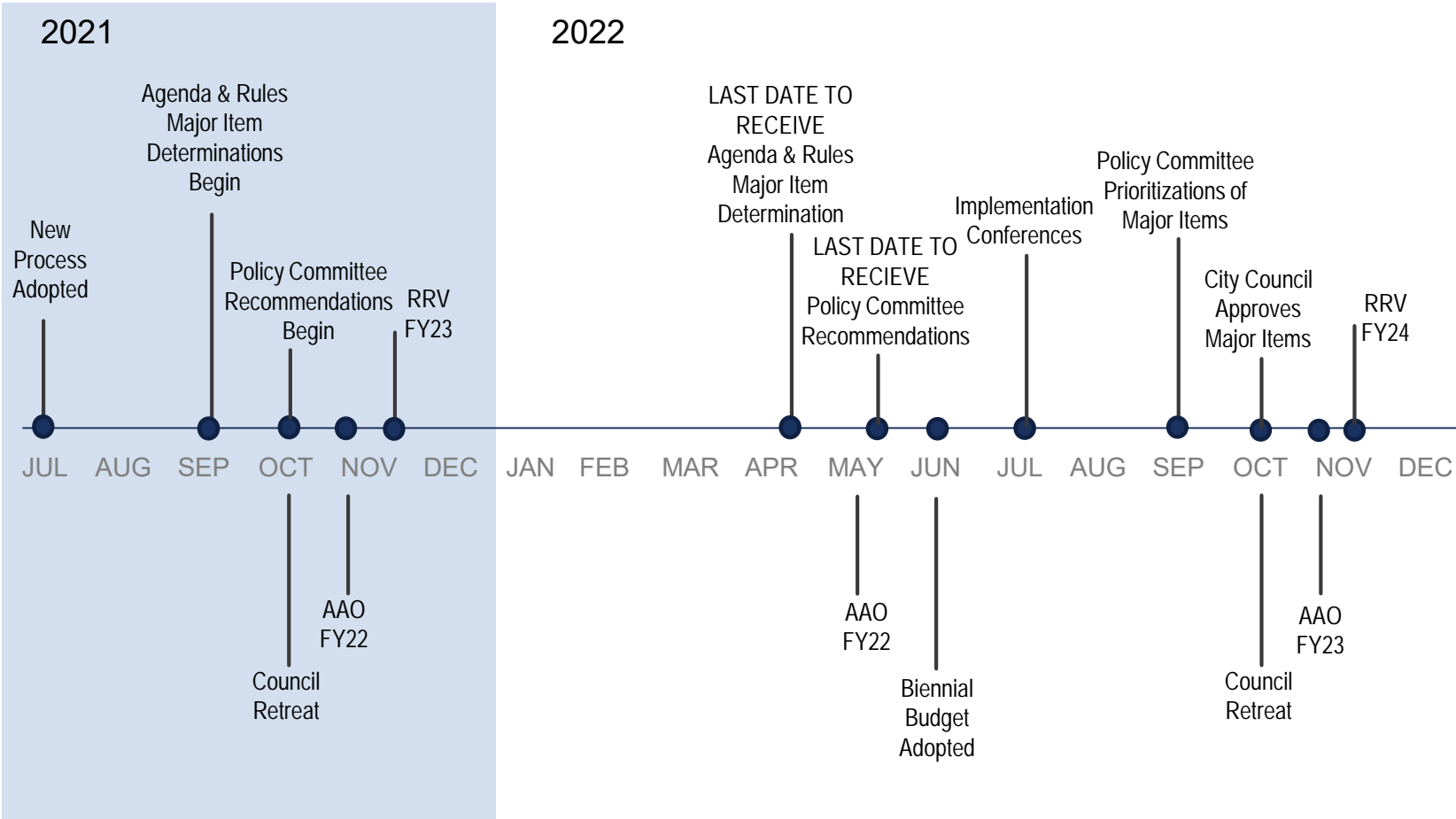
FLOW CHART





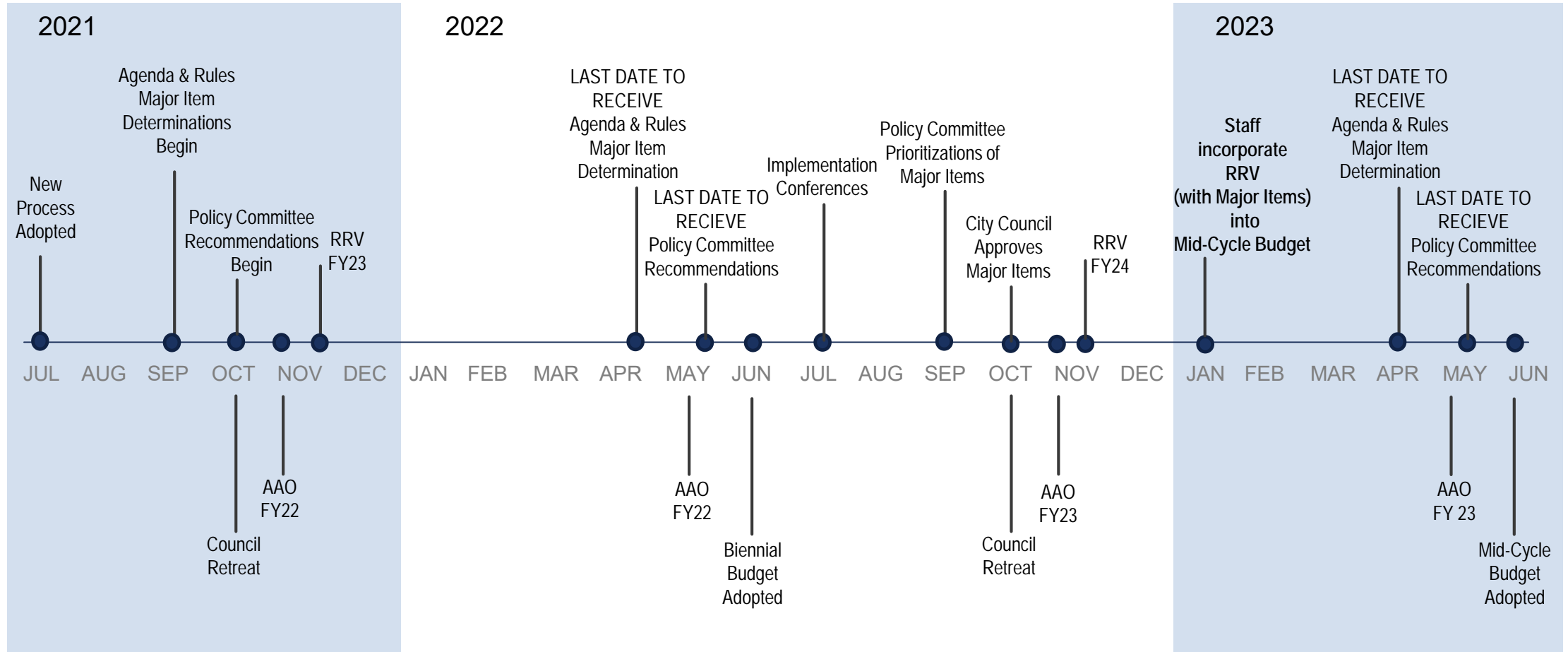
# PROPOSED IMPLEMENTATION

PHASE-IN OF SYSTEMS ALIGNMENT



**PROPOSED IMPLEMENTATION**  
PHASE-IN OF SYSTEMS ALIGNMENT





# PROPOSED IMPLEMENTATION

PHASE-IN OF SYSTEMS ALIGNMENT



# SEQUENCING & TIMING

## Existing

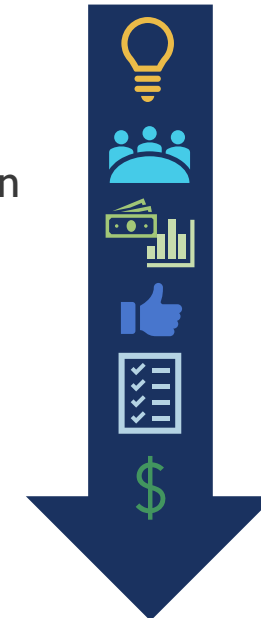
1. Idea
2. Committee Consideration
3. Council Approval
4. Costing
5. Budget development
6. RRV



Uncertain Timeline

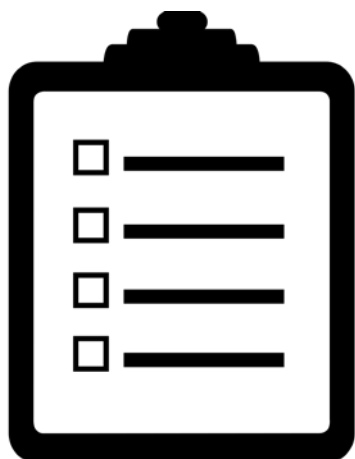
## Proposed

1. Idea
2. Committee Consideration
3. Vetting & Costing
4. Council Approval
5. RRV
6. Budget development



Certain Timeline

# WHAT'S DIFFERENT



Mandatory Guidelines

Implementation Conferences

Policy Committee Prioritization

Moving the RRV process

New required forms and processes

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide "additional analysis" if the item as submitted evidences a "significant lack of background or supporting information" or "significant grammatical or readability issues."

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## SO, HOW DO WE MAKE THIS HAPPEN?

- Adopting aligned timeline and new process
  - Incorporating vetting and costing (i.e., implementation conferences)
  - Prioritizing vetted Major Items (prioritize, assign fiscal year, identify projects to remove to accommodate new Major Items)
  - Revising City Council Rules of Procedure and Order
- Making Appendix B guidelines mandatory
- Addressing adopted, open referrals
- Addressing Council items under consideration

## BENEFITS



Ensures **continuous improvements**



Provides adequate context and impacts of items to **enhance Council decision-making**



Identifies appropriate and necessary resources so that **adopted items are adequately resourced**



Aligns processes to **ensure efficient implementation/realization of Council items**



**Increases collaboration** among and between stakeholders

## NEXT STEPS



Legislative aide roundtable



City Manager and Councilmember One-on-Ones



Revise and return item in July

THANK YOU.



Office of the City Manager

01

Worksession Item

WORKSESSION

May 18, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David White, Deputy City Manager

Subject: Systems Alignment Proposal

RECOMMENDATION

Direct the City Manager to bring back a resolution for adoption of the Systems Alignment proposal as described in this document and incorporating direction and input received from City Council during the worksession.

SUMMARY

This report proposes a process to integrate various systems (e.g., budget, Strategic Plan, prioritization of referrals, etc.) to ensure that resources are appropriately allocated, to focus the organization and employees on those priorities established by the City Council and City Manager, and to enhance legislative and budget processes. Ultimately, aligning systems will help ensure our community's values as reflected in the policies of our City Council are implemented completely and efficiently, with increased fiscal prudence, while supporting more meaningful service delivery. In light of the economic and financial impacts of COVID-19 and resource constraints, it is imperative to improve vetting and costing of new projects and legislative initiatives to ensure success. In addition, the purpose of this proposal will align our work with the budget process.

FISCAL IMPACTS OF RECOMMENDATION

While the recommendation of this report would not entail fiscal impacts, if adopted, the proposal would have budgetary effects. Broadly speaking, the proposal is designed to better ensure adequate financial and staffing resources are identified and approved with any adopted significant legislation<sup>1</sup> (Major Item).

CURRENT SITUATION AND ITS EFFECTS

The proposed changes outlined in this memorandum will better guide and inform budget development, clarify tradeoffs by identifying operational impacts, and develop a more effective and time-efficient path to implementation. These changes support a clear and

---

<sup>1</sup> New significant legislation is defined, with some explicit exceptions, as "any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public". See Council Rules of Procedure, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure.pdf).

full realizing of City Council policies, programs, and vision. The major features of the proposal are:

- Changing the order of the legislative process to ensure that Major Items (defined below) passed by Council are funded, as well as folded into staff workplans and staffing capacity,
- Making the City Council Rules of Procedure Appendix B guidelines mandatory,
- Ensuring that Major Items that are adopted by City Council are vetted and clearly identify the resources needed for implementation,
- Consolidating and simplifying reporting and tracking of Major Items, and
- Creating a deadline for each year's Major Items that allows for alignment with prioritization, the Strategic Plan, and the budget process.

Additionally, the proposed Systems Alignment would advance the City's Strategic Plan goal to provide an efficient and financially-health City government.

## **PROPOSED PROCESS**

The proposed process outlined in this memorandum replaces the current system of referrals (short and long term, as well as Commission referrals), directives, and new proposed ordinances, that is, all Major Items, regardless of "type" or origin will be subject to this process.

### **Step 1: Major Item Determination**

The systems alignment proposal outlines a process for Major Items.

#### ***Defined in Council Rules of Procedure***

Major Items are "new significant legislation" as defined in Appendix D of the [City Council Rules of Procedure](#):

Except as provided below, "new significant legislation" is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.

The exceptions to the definition of new significant legislation and process state:

New significant legislation originating from the Council, Commissions, or Staff related to the City's COVID-19 response<sup>2</sup>, including but not limited to health and economic impacts of the pandemic or recovery, or addressing other health and safety concerns, the City Budget process, or other essential or ongoing City processes or business will be allowed to move forward, as well as legislative items that are urgent, time sensitive, smaller, or less impactful.

---

<sup>2</sup> If this proposal is adopted, "COVID-19" should be replaced with "declared emergency response" in the exception language.



The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item, using the Major Item Determination Checklist (see attachment 1). At any time in the process, if evidence demonstrates that the initial determination of the proposal as a Major Item proves incorrect, then it is no longer subject to this process. Additionally, if any legislation it originally deemed not to be a Major Item, the author or City Manager may appeal to the Agenda and Rules Committee or to the full Council and present evidence to the contrary.

### ***Required Conformance and Consultation***

All Major Items must use the agenda guidelines in Appendix B of the Council Rules, which require more detailed background information and analysis. The Agenda and Rules Committee can send the item back to the author if it is not complete and/or does not include all of the information required in Appendix B. The author must make a good faith effort to ensure all the guideline prompts are completed in substance not just in form.

Major Items must include a section noting whether the author has initially consulted with the City Manager or city staff regarding their proposed Major Item and the substance of those conversations, and initial staff input.

### ***Required Submission Date***

A Major Item must be submitted in time to appear on the agenda of an Agenda & Rules Committee meeting occurring no later than April 30 of every year. Any item submitted after that deadline, that does not meet an exemption, will be continued to the following year's legislative process.

Major Items will be referred by the Agenda & Rules committee on a rolling basis.

### **Step 2: Policy Committee Review**

A Major Item, once introduced and deemed complete and in conformance by the Agenda and Rules Committee, will be referred to one of City Council's Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.), for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [Council Rules of Procedure](#),<sup>3</sup> the Policy Committee will review the Major Item and the completed Major Item Determination Checklist to confirm Agenda & Rules initial determination that the Major Item is complete in accordance with Section III.B.2 and aligns with Strategic Plan goals. If the Major Item receives a positive or qualified positive recommendation, then it will go to an Implementation Conference (See step 3, Vetting and Costing).

---

<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf)

If the Major Item receives a negative or qualified negative recommendation, then it will be returned to the Agenda and Rules Committee to be placed on a City Council Agenda. When heard at a City Council meeting, the author can advocate for the Major Item to be sent to an Implementation Conference. If the Major Item does not receive a vote by the majority of City Council at this step, it becomes inactive for that year's legislative calendar but may be reintroduced for the next year's calendar.

City Council Policy Committees must complete review of all Major Items assigned to them no later than June 30 of each year.

### **Step 3: Implementation Conference (Vetting and Costing)**

At an Implementation Conference, the primary author will meet with the City Manager or designee, City Manager-selected staff subject matter experts, and the City Attorney or designee.

#### ***Identifying Fiscal, Operational and Implementation Impacts***

The intended outcome of an Implementation Conference is a strong analysis containing all of the considerations and resources necessary to support implementation should Council choose to approve the Major Item.

The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager, City Attorney, and staff to better define the Major Item and identify more detailed fiscal and operational impacts, as well as implementation considerations. The information discussed during the Implementation Conference will be summarized in the Council Report as part of newly required sections (see attachment 2), in conformance with Appendix B:

- *Initial Consultation*, which
  - Lists internal and external stakeholders that were consulted, including whether item was concurrently submitted to a Commission for input,
  - Summarizes and confirms what was learned from consultation,
  - Confirms legal review addressing any legal or pre-emption issues, ensuring legal form,<sup>4</sup>
- *Implementation, Administration, and Enforcement*, which
  - Identifies internal and external benefits and impacts, and
  - Considers equity implications, launch/initiation of Major Item and its ongoing administration, and
- *Fiscal & Operational Impacts*, which
  - Summarizes any operational impacts,

---

<sup>4</sup> While consultation with the City Attorney is mentioned in Appendix B, the legal review and "confirmations" recommended in this proposal is a more specific and robust requirement.

- Identifies necessary resources, including specific staff resources needed and costs.<sup>5</sup>

As part of the Implementation Conference, staff will provide a high level work plan, indicating major deliverables/milestones and dates. This information can be collected and recorded using the Implementation Conference Worksheet (see attachment 2).

Implementation Conferences will be date certain meetings held in July.

### ***Revising the Major Item***

After the Major Item's author revises the original Council Report based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process. If additional full time equivalent employee(s) (FTE) or fiscal resources are needed, the Major Item must include a referral to the budget process and identify the amount for implementation of the policy or program.

### **Step 4: Initial Prioritization**

At their first meetings in September, Policy Committees must complete the ranking of the Major Items which were referred to them and also completed the Implementation Conference. The Policy Committees will provide these rankings in the form of a recommendation to the City Council. The Policy Committees prioritization will use the Policy Committee Ranking Form (see attachment 3) to standardize consideration of Major Items across Policy Committees. The Policy Committee priority rankings will be submitted to the City Council when the Council is considering items to move forward in the budget and Strategic Plan process.

### **Step 5: City Council Approval and Final Prioritization**

Under this proposal, all Major Items that the City Council considers for approved prioritization must have:

1. Received a City Council Policy Committee review and recommendation,
2. Received a City Council Policy Committee prioritization,
3. Completed the Implementation Conference, and
4. Been placed on the Agenda for a regular or special Council meeting in October for approval and inclusion in the RRV process.

At the designated Council meeting in October, staff will provide the Council with a list of all approved Major Items, including the initial prioritization by Policy Committee. The Council will consider each Major Item for approval. All approved Major Items then will be added to the RRV process (i.e., with other items, referrals, etc) and ranked. The RRV ranking will begin in late October. These rankings will be adopted by Council and

---

<sup>5</sup> Appendix B does require a Fiscal Impacts section, but the inclusion of operational impacts and specific noting of required staff resources and costs recommended in this proposal is a more specific and robust requirement.

used to inform the development of the draft budget. Approved and ranked Major Items have multiple opportunities to be approved for funding, when the biennial budget or mid-cycle budget is adopted in June or when the Annual Appropriations Ordinances are adopted in May and November.

If a Major Item *does not receive the endorsement* of City Council at this step, it becomes inactive for that year's legislative calendar and may be reintroduced for the next year's calendar.

City Council must complete its Major Items approval, and RRV process no later than the final meeting in December of each year.<sup>6</sup> This ensures that staff is able to develop the budget starting from and based on Council priorities.

### ***Step 6: Budget & Strategic Plan Process***

The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward that year and will be added to a list of unfunded proposals for the future budget process.

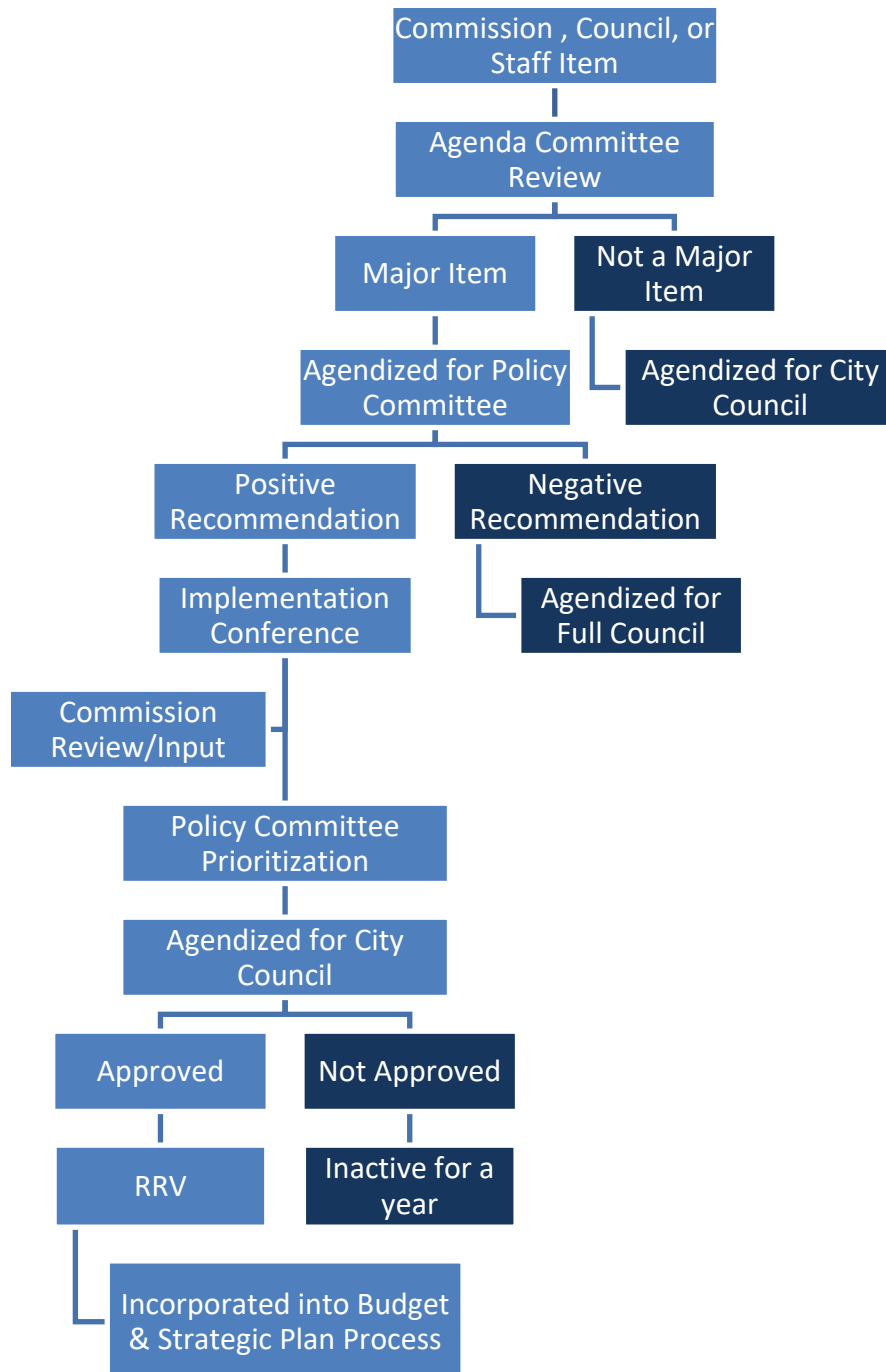
During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Items, Strategic Plan, and work plan development. In the late winter/early spring, the City Manager and Budget Office will present the draft budget to Council. This will be followed by department presentations to the Budget and Finance Policy Committee. From late March and through early May, Council and staff will refine the budget. Council will hold budget hearings in May and June, with adoption of the budget by June 30. Although the legislative process (i.e., Policy Committee review, Implementation Conference, Prioritization) is annual, staff recommends the budget process remain biennial. A significant mid-cycle budget update can easily accommodate additions to or changes in priorities arising through the legislative process.

The proposed process is depicted in Figure 1 and the proposed launch calendar in Figure 2.

---

<sup>6</sup> Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

Figure 1, Proposed Process<sup>7</sup>

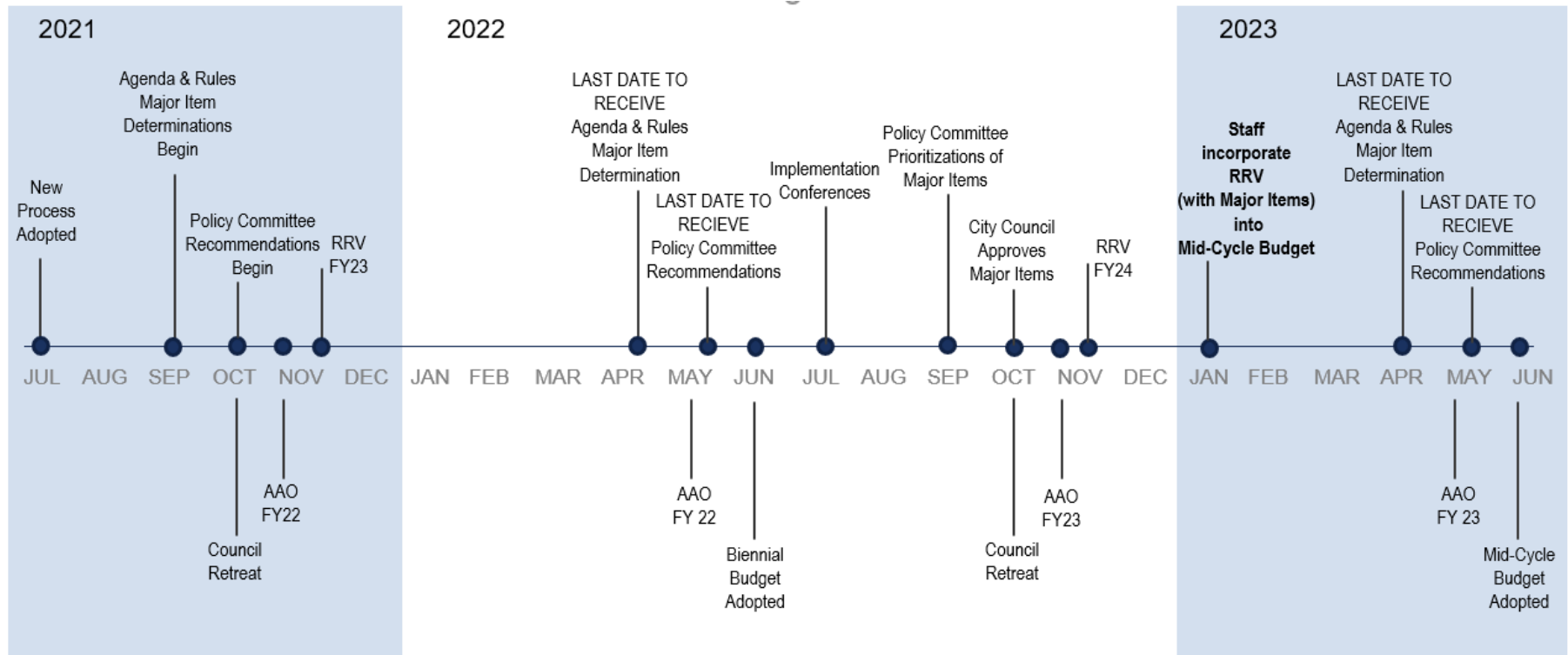


<sup>7</sup> Major Items that are ordinances will need to be examined on a case-by-case basis. Once adopted, ranked, and, if requiring resources, budgeted, the ordinance will need to be given an effective date and scheduled for first and second readings at Council.



Office of the City Manager

Figure 2, Proposed Launch





Office of the City Manager

### **Next Steps**

Staff will reach out to legislative aides for input and the City Manager will meet individually with Councilmembers to discuss this proposal. Staff will incorporate Council input from the worksession, and from subsequent input into a resolution and return to Council with a final Systems Alignment item for adoption by July 2021.

### **Benefits**

The addition of an Implementation Conference will ensure that Major Items considered by Council are properly resourced, improving our City's responsible management of fiscal resources. Analysis from the Implementation Conference will help Council to balance and consider each Major Item within the context of related programs and potential impacts (positive and negative). When considered holistically, new policy implementation can be supportive of existing work and service delivery.

Since the proposed process places the City Council prioritization of Major Items immediately before budget preparation, the Prioritization will guide and inform budget development, including components such as the Strategic Plan and work plans. Fixing the sequencing of the process is a key benefit. Currently, with prioritization occurring in May and June, the budget process is nearing completion when City Council's priorities are finally decided. This leads to inconsistencies between adopted priorities and budgeting for those priorities.

Under the current process, an idea may go into prioritization, proceed to the short term referral list or referred to the budget process. However, the resulting Major Item may not have addressed operational considerations. Adding such items to a department's work at any given time of the year may lead to staff stopping or slowing work on other prioritized projects in order to develop and implement new Major Items. Also, it may be difficult for staff to prioritize their projects: is stopping/slowing of work that is already underway in order to address new items the preference of the full Council?

Also, because consideration of implementation currently occurs after the adoption of a Major Item, features of the adopted language may unintentionally constrain effective implementation, complicating and slowing progress on the Major Item and hindering the effectiveness of the new program or regulation.

With the proposed process, a Major Item does not go through prioritization until there is an opportunity for staff to identify operational considerations. Finally, since implementation only occurs after operational considerations are reported, and funds are

allocated, the resulting Major Item should move more quickly from idea to successful completion.

### BACKGROUND

In October 2019, City Council held a half-day worksession to discuss systems realignment and provide direction on potential changes to the city's legislative process. The purpose of the meeting was to develop recommendations for how various systems (e.g., budget, Strategic Plan, RRV, etc) could better work together to ensure that the organization is able to focus on the priorities established by the City Council. The City Manager took direction from that meeting and worked with department directors and the Budget Office to create this proposal.

### ENVIRONMENTAL SUSTAINABILITY

By improving efficiency, ensuring adequate resources, and strengthening implementation, this proposal would increase the speed and full adoption of new significant legislation, including sustainability work.

### RATIONALE FOR RECOMMENDATION

The City of Berkeley is unique in comparison to many cities. It considers and approves many more policies, often at the cutting edge, than a typical city and especially for a city of its size. This proposal is a hybrid, incorporating city processes while mirroring State and Federal legislative processes which accommodate a larger number of policies and items in a given cycle. The disadvantage of this proposal is that it introduces additional steps, such as the implementation conference. The advantages of this proposal, are:

- Ensuring adopted legislation is adequately resourced, in terms of both staffing and budget;
- Providing adequate context for Council to balance and consider items in relation to potential positive and negative impacts; and
- Strengthening the effectiveness and efficiency of policy implementation.

### ALTERNATIVE ACTIONS CONSIDERED

At the Council retreat in October 2019, a variety of approaches and ideas were discussed and considered. Additionally, the original version of this proposal was substantively revised through the Policy Committee process.

If the Council takes no action on this item, the existing process will continue to result in inadequately resourced adopted legislation and inefficient and complicated implementation.

### CONTACT PERSON

David White, Deputy City Manager, 510-981-7012



Attachments:

- 1: Major Item Determination Checklist
- 2: Council Report Template and Implementation Conference Worksheet
- 3: Policy Committee Ranking Form



# Major Item Determination Checklist

**Item Name:**

**Item Author:**

**Is this a Major Item?**

- |                          |                          |                                                                                                                                |
|--------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Yes                      | No                       |                                                                                                                                |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant change to existing law, program, or policy.                                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant addition to existing law, program, or policy.                                                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public |

**Is this eligible for an Exemption?**

- |                          |                          |                                                                     |
|--------------------------|--------------------------|---------------------------------------------------------------------|
| Yes                      | No                       |                                                                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related the City's COVID-19 response.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to the City Budget process.                         |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to essential or ongoing City processes or business. |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is urgent.                                                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is time-sensitive.                                             |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is smaller.                                                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is less impactful.                                             |

**Agenda Committee Determination:**

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

**Policy Committee Confirmation:**

Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council

From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
or other recommendation....

FINANCIAL-FISCAL & OPERATIONAL IMPACTS IMPLICATIONS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

[Title of Report]

CALENDAR

Macrobutton NoMacro [Meeting Date (MM dd, yyyy)]

- be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.
- attract and retain a talented and diverse City government workforce.

BACKGROUND

INITIAL CONSULTATION

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

ENVIRONMENTAL SUSTAINABILITY

CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution

    Exhibit A: [Title or Description of Exhibit]

    Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

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

SHORT TITLE OF RESOLUTION HERE

WHEREAS, (Whereas' are necessary when an explanation or legislative history is required); and

WHEREAS, (Insert Additional 'Whereas Clauses' as needed); and

WHEREAS, enter text here; and

WHEREAS, enter text here; and

WHEREAS, (The last "Whereas" paragraph should contain a period (.).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that (Action to be taken) - ends in a period (.).

BE IT FURTHER RESOLVED that (for further action if needed; if not delete) - ends in a period (.).

Exhibits **[Delete if there are NO exhibits]**

A: Title of the Exhibit

B: Title of the Exhibit



## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

The author of the item may complete this section to help record required information for the report.

|                                                                               |
|-------------------------------------------------------------------------------|
| Descriptive title:                                                            |
| Is this for Consent, Action, or Information Calendar?                         |
| Recommendation:                                                               |
| Summary statement:                                                            |
| Background (history, circumstances and concerns to be addressed by the item): |
| Plans, programs, policies and/or laws were taken into consideration:          |
| Actions/alternatives considered:                                              |
| Internal stakeholders consulted:                                              |
| Name/date of Commission(s) item submitted to for input:                       |
| List of external stakeholders consulted:                                      |

|                                                                                       |
|---------------------------------------------------------------------------------------|
| Summary of what was learned from consulting stakeholders:                             |
| Rationale for recommendation:                                                         |
| Internal Benefits of Implementation:                                                  |
| Internal Impacts of Implementation:                                                   |
| External Benefits of Implementation:                                                  |
| External Impacts of Implementation:                                                   |
| Equity Considerations:                                                                |
| Launch and Implementation Milestones (see staff section)                              |
| Environmental Impacts:                                                                |
| Operational Impacts:                                                                  |
| Staff Resources Needed:<br><br>Number of FTE/hours:<br>Type of staff resource needed: |
| Costs:<br><br>Amount(s):<br>Funding Source:                                           |

**STAFF SECTION**

Staff may complete section to provide required information for the report.

|                                                            |                    |
|------------------------------------------------------------|--------------------|
| <b>Estimated Launch/implementation Deliverables/Dates:</b> |                    |
| <i>Month/Year</i>                                          | <i>Deliverable</i> |
| <b>Estimated Administration Deliverables/Dates:</b>        |                    |
| <i>Month/Year</i>                                          | <i>Deliverable</i> |

**Legal Consultation:**

Confirmed

Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed

Name(s)/Date(s) \_\_\_\_\_







*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BERKELEY SPECIAL MEETING

TUESDAY, OCTOBER 10, 2023

# Unofficial Text File

>> GOOD AFTERNOON.

THANK YOU FOR WAITING PAITENTLY.

I WOULD NOW LIKE TO CALL TO ORDER THE SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL FOR TUESDAY, OCTOBER 10<sup>TH</sup>, 2023 AT 4 P.M..

IF THE CITY CLERK CAN PLEASE CALL THE ROLL.

[ROLL CALL]

>> CLERK: COUNCILMEMBER KESARWANI.

>> R. KESARWANI: HERE.

>> CLERK: TAPLIN.

>> T. TAPLIN: PRESENT.

>> CLERK: BARTLETT.

>> B. BARTLETT: HERE.

>> CLERK: HARRISON.

>> K HARRISON: HERE.

>> CLERK: HAHN.

>> S. HAHN: PRESENT.

>> CLERK: WENGRAF.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> S. WENGRAF: PRESENT.

>> CLERK: ROBINSON.

>> R. ROBINSON: PRESENT.

>> CLERK: HUMBERT.

>> M. HUMBERT: PRESENT.

>> CLERK: AND MAYOR ARREGUIN.

>> MAYOR J. ARREGUIN: PRESENT.

>> CLERK: OKAY.

>> MAYOR J. ARREGUIN: OKAY.

ALL MEMBERS ARE PRESENT.

THANK YOU VERY MUCH.

SO THIS IS A SPECIAL CITY COUNCIL MEETING TO HOLD A WORK SESSION TO POTENTIAL PROPOSALS FOR THE REDESIGN OF OUR CITY COUNCIL'S LEGISLATIVE PROCESS.

AND I JUST WANT TO PROVIDE SOME INTRODUCTORY COMMENTS AND THEN TURN IT OVER TO COUNCILMEMBER HAHN, WHO IS GOING TO GO THROUGH PRESENTING THE PROPOSED FRAMEWORK THAT WE WANTED COUNCIL INPUT ON.

AND THEN, I'LL GIVE COUNCILMEMBER HARRISON AN OPPORTUNITY TO PRESENT ON HER CONCEPTS AS WELL.

SO AS THE COUNCIL KNOWS, WE HAVE BEEN DISCUSSING A REDESIGN OF OUR LEGISLATIVE SYSTEM FOR SEVERAL YEARS NOW.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

ADD OUR RETREAT IN OCTOBER, 2019, WE HAD I THINK A VERY EXCELLENT DISCUSSION AROUND POTENTIAL CHANGES TO THE PROCESS IN WHICH WE INTRODUCE AND REVIEW AND APPROVE LEGISLATION AT THE CITY COUNCIL LEVEL.

AND THERE WERE SEVERAL GOALS WE WANTED TO ACHIEVE. ONE, WE WANTED TO MAKE SURE THAT THERE WAS ALIGNMENT OF OUR LEGISLATIVE PROCESS WITH THE BUDGET PROCESS.

BECAUSE WHILE WE MAY ADOPT LAWS OR PROPOSED COUNCIL REFERRALS, IF THOSE LAWS OR PROGRAMS ARE NOT FUNDED, AND WE DON'T HAVE STAFF RESOURCES OR FUNDING ALLOCATED, THEN THEIR IMPLEMENTATION WILL NOT BE EFFECTUATED, IT WILL BE DELAYED.

IN ORDER TO FULLY REALIZE THE IMPACT OF THE LEGISLATION WE ADOPT WE WANTED TO ALIGN THE ADOPTION OF MAJOR ITEMS IN LEGISLATION WITH OUR BUDGET PROCESS TO MAKE SURE WE CAN CONSIDER THE BUDGET NEEDS, TO MAKE SURE WE CAN SET ASIDE FUNDING IN THE BUDGET FOR CITY STAFF AND IMPLEMENTATION.

ANOTHER AREA WAS LOOKING AT HOW CAN WE ENSURE MORE THOROUGH REVIEW OF ITEMS.

TO MAKE SURE THAT THEY HAVE COMPLETE INFORMATION AND ARE LOOKING AT PHYSICAL IMPACTS.

ANOTHER ISSUE WAS LOOKING AT WHAT WOULD BE AN EFFECTIVE PROCESS FOR THESE ITEMS IT BE CONSIDERED TO ALIGN WITH OUR BUDGET PROCESS, TO ALIGN WITH THE A.A.O.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND ON TOP OF THAT WE HAD A PRIORITIZATION PROCESS.

WHAT IS THE RELATIONSHIP TO THE PRIORITIZATION PROCESS AND THIS PROCESS.

SO WE HAD A LOT OF GOOD DISCUSSION WITH THE CITY MANAGER CAME FORWARD AFTER THAT WITH A PROPOSAL THAT WE DISCUSSED IN 2021.

AND/OR THE CITY MANAGER PUT THAT FORWARD TO STIMULATE DISCUSSION.

SHE SAID TO THE AGENDA COMMITTEE SHE HAS WITHDRAWN THAT PROPOSAL.

SO THAT IS NOT, SHE'S NOT PRESENTING THAT FOR ACTION AT THE PRESENT TIME BY COUNCIL.

BUT THAT DID SPARK A LOT OF REALLY GOOD IDEAS THAT HAD BEEN BROUGHT FORWARD THE LAST SEVERAL YEARS, ALL OF WHICH WERE INCLUDED IN THE PACKET.

WE WANT TODAY MAKE SURE THE PROPOSALS AND IDEAS THAT COUNCILMEMBERS CURRENTLY PROPOSED AROUND HOW TO IMPROVE AND STREAMLINE THE LEGISLATIVE PROCESS.

THOSE WERE INCLUDED SO WE CAN LOOK AT THE COMPREHENSIVE RECORD.

AND SO, THE AGENDA RULES COMMITTEE TASKED BY THE CITY COUNCIL TO NOT JUST APPROVE THE DRAFT AGENDA BUT TO ALSO REVIEW AND MAKE RECOMMENDATIONS ON CHANGES TO OUR COUNCIL RULES.

HAS BEEN DISCUSSING FOR SEVERAL YEARS NOW THE CHANGES TO OUR LEGISLATIVE PROCESS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND OUT OF THAT, COUNCILMEMBER HAHN HAS BEEN WORKING WITH, I THINK THE CITY CLERK DEPARTMENT, THE CITY MANAGER'S OFFICE AND OTHERS TO COME UP WITH A CONCEPTUAL FRAMEWORK TO PRESENT SOME IDEAS FOR COUNCIL CONSIDERATION.

SO THAT WE CAN GATHER INPUT AND COME BACK WITH A PROPOSAL SO WE CAN FINALLY MOVE THIS CONVERSATION FORWARD.

THE PURPOSE OF TONIGHT'S WORK SESSION IS NOT TO TAKE ACTION BUT TO HEAR THE WHOLE COUNCIL'S INPUT.

BECAUSE THE AGENDA AND RULES COMMITTEE THERE ARE ONLY THREE MEMBERS THAT SIT ON THAT COMMITTEE, WE CANNOT ASK FOR YOUR IDEAS, UNFORTUNATELY.

SO REALLY, THIS IS WE'RE THE AGENDA RULES COMMITTEE PUTTING THIS FORWARD TO HEAR THE WHOLE COUNCIL'S IDEAS, SO WE CAN TAKE BACK THAT INPUT AND COME FORWARD WITH A RECOMMENDATION IN THE COMING MONTHS.

SO I REALLY APPRECIATE COUNCILMEMBER HAHN COMING FORWARD WITH A CONCEPTUAL, THOUGHTFUL FAKE WORK.

THE COMMITTEE DID NOT APPROVE THIS, I WANT TO CLARIFY.

WE WANT TO SEND IT FORWARD TO ALL COUNCIL, SO THE WHOLE COUNCIL CAN PROVIDE ITS FEEDBACK AND WE CAN TAKE THAT INTO CONSIDERATION AS WE'RE DELIBERATING ON IT.

I APPRECIATE COUNCILMEMBER HARRISON AND ROBINSON AND TAPLIN'S INPUT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THERE MAY BE OTHER IDEAS WE HEAR TONIGHT.

THIS IS INTENDED TO BE A DISCUSSION, AN OPPORTUNITY FOR COUNCIL INPUT AND OUR GOAL IS TO TAKE ALL THESE GOOD IDEAS, AND TO COME BACK WITH A PROCESS THAT WORKS FOR OUR CITY COUNCIL, OUR STAFF AND COMMUNITY, FOR OUR COMMISSIONS.

AND SO, WITH THE GOAL OF TRYING TO HAVE A PROCESS THAT HELPS REALIZE THE IMPACTS OF THE LEGISLATION WE'RE ADOPTED FOR THE BENEFIT OF THE PEOPLE OF BERKELEY.

AND I THINK AN IMPORTANT PART IS OUR BOARDS AND COMMISSIONS AND THE ROLE THEY PLAY ALSO IN REVIEWING A MAJOR LEGISLATION.

SO WITH THAT INTRODUCTION IN MIND, WITH THE UNDERSTANDING WE'RE NOT TAKING ACTION TONIGHT BUT INTENDED FOR DISCUSSION.

I WANT TO TURN IT OVER TO COUNCILMEMBER HAHN WHO WILL PRESENT ON THE SORT OF THE PROPOSED FRAMEWORK THAT WAS PRESENTED AT THE AGENDA RULES COMMITTEE AND THEN COUNCILMEMBER HARRISON THEREAFTER.

>> S. HAHN: THANK YOU SO MUCH, MAYOR.

SOME PRELIMINARY REMARKS.

AND I'LL ASK THE CITY CLERK IF THEY CAN GO AHEAD AND PUT UP THE FIRST PAGE.

FIRST OF ALL, I WANT TO CLARIFY THAT THE AGENDA COMMITTEE WAS WE WERE DELEGATED THE TASK OF COMING BACK TO COUNCIL WITH SOMETHING.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND AS YOU ALL KNOW FROM YOUR OWN COMMITTEES YOU CANNOT WORK TWO PEOPLE ON A COMMITTEE CANNOT WORK TOGETHER BEHIND THE SCENES. I WAS DESIGNATED AS A PERSON WHO WOULD WORK ON BRINGING SOMETHING FORWARD.

AND I DID I WAS ABLE TO WORK WITH THE CITY MANAGER AND THE CITY CLERK'S OFFICE, NOT JUST TO GET THEIR INPUT BUT BECAUSE I NEEDED BUDDIES TO HELP DEVELOP THIS AND HAD NO OPPORTUNITY TO WORK WITH MY COLLEAGUES.

I ALSO JUST WANT TO BE REALLY CLEAR, I'M EXTREMELY PROUD OF THE WORK PRODUCT BEING BROUGHT FORWARD AS A THOUGHT EXERCISE HERE TODAY.

BUT THIS IS NOT MY PROPOSAL.

THE PACKET HAS MY PROPOSAL.

MY PROPOSAL IS ON PAGE 43 OF THE PACKET.

AND IF ANYONE WANTS TO KNOW WHAT MY PROPOSAL IS, THAT IS IT.

I AM HAPPY TO TAKE CREDIT FOR HAVING LISTENED TO MANY DIFFERENT STAKEHOLDERS AND LOOKED AT MANY DIFFERENT PROPOSALS THAT ARE HERE IN THE RECORD.

AND TO HAVE WORKED, TO PUT SOMETHING TOGETHER THAT HOPEFULLY REFLECTS AN AMALGAMATION OF MANY DIFFERENT IDEAS AND THAT PROVIDES A CONVERSATION OPPORTUNITY FOR THE WHOLE COUNCIL, WHICH IS WHAT WAS ALWAYS INTENDED.

SO I JUST, I DO THINK THERE HAS BEEN A LITTLE CONFUSION.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND I WANTED TO CLARIFY WHILE I'M PROUD TO HAVE DONE WORK ON THIS, THIS IS NOT MY PROPOSAL.

MY PROPOSAL IS ELSEWHERE IN THE PACKET.

I ALSO WANTED TO JUST BRING YOUR ATTENTION TO THIS FIRST PAGE. PROCESS SKETCH FOR DISCUSSION.

WE NAMED IT THAT FOR A REASON.

IT'S ACTUALLY NOT A PROPOSAL.

IT IS A SKETCH OF A POTENTIAL PROCESS.

THAT IS INTENDED TO SPARK CONVERSATION.

IT'S NOT A PROPOSAL.

I WANTED TO MAKE THAT CLEAR AS WELL.

GIVEN THE VARIETY OF WORK PRODUCT THAT WE HAD TO GO BACK AND LOOK AT, AND TO KIND OF DIGEST AND PULL TOGETHER, IT'S NOT POSSIBLE FOR A SINGLE SKETCH TO INCLUDE ABSOLUTELY ALL THE IDEAS AT ONCE.

AND I THINK AS THE REASON WHY WE AS THE AGENDA COMMITTEE DID NOT APPROVE THIS AS A BODY IS BECAUSE WE WANT YOUR INPUT.

WHAT WE MIGHT FINALLY BRING FORWARD MAYBE VERY DIFFERENT FROM THIS.

BUT YOU HAVE TO START SOMEWHERE WITH A CONVERSATION.

AND I REALLY WANT TO MAKE SURE THAT ANY MISCHARACTERIZATION OF WHAT IS HERE IS CLEARED UP.

ALL RIGHT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SO LET'S GO THROUGH THIS SKETCH.

AND THE PURPOSE TODAY IS FOR US TO GET ALL YOUR IDEAS AND INPUT.

AND THERE IS NO DECISION POINT TODAY.

I ALSO WANT TO SAY THAT AS WE WERE GOING THROUGH THIS, IT'S ACTUALLY VERY COMPLEX.

AND THERE IS A LOT OF MOVING PIECES AND THERE IS A LOT OF PLACES WHERE YOU WANT TO STEP INTO A MORE COMPLICATED CORNER AND GO DOWN THAT LITTLE RABBIT HOLE.

THE WAY IT'S ORGANIZED THERE IS KIND OF AN OVERVIEW AND WE ACTUALLY DID A LITTLE WAYS DOWN A FEW RABBIT HOLES TO SORT OF SUGGEST SOME OF THE CONSIDERATIONS IN EACH OF THOSE SPECIAL TOPICS.

BUT IT IS OUR INTENT THAT WITH AN OVER-- CLEAR WITH THE OVERVIEW WE WOULD THEN TOGETHER DEVELOP AND REFINE SOME OF THE SPECIAL TOPICS.

>> MAYOR J. ARREGUIN: CAN I ADD ONE THING, COUNCILMEMBER HAHN, IF I MAY.

I FORGOT TO MENTION THAT WHAT WE INCLUDED IN THE PACKETS WAS A MATRIX, WHICH SUMMARIZED ALL THE DIFFERENT PROPOSALS THAT HAVE BEEN PUT FORWARD IN THE LAST WHAT THREE OR FOUR YEARS, INCLUDING THE MOST RECENT PROPOSAL THAT COUNCILMEMBER HAHN IS ABOUT TO PRESENT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND KIND OF REALLY BROKE IT DOWN BY SORT OF ISSUE AREA, MAJOR  
ITEM DEFINITION PROCESS.

SO YOU CAN SEE ACROSS WHERE EACH PROPOSAL HAPPENED AND -- LANDED  
AND THE EVOLUTION THAT LED TO THIS PROPOSAL THAT COUNCILMEMBER  
HAHN WILL PRESENT.

I WANT TO THANK MY STAFF, JACQUELINE MCCORMICK AND LAURIE, AND  
COUNCILMEMBER WENGRAF'S OFFICE WHO WORKED QUICKLY TO PUT THIS  
TOGETHER SO WE HAD SOMETHING TO LOOK AT FOR COMPARATIVE  
PURPOSES.

BACK TO YOU.

>> S. HAHN: THANK YOU.

I ALSO WANT TO ACKNOWLEDGE AND THAT CAN THEM.

AS YOU CAN SEE BY LOOKING AT THE MATRIX, IT WAS VERY FORGET  
COMPLICATED.

AND THERE WERE A LOT OF DIFFERENT IDEAS THAT HAD BEEN FLOATED  
OVER TIME.

AND AGAIN, THIS SKETCH IS ONE OF MANY POTENTIAL PATHS FORWARD.

LET'S GO AHEAD AND WALK DOWN THE SKETCH PATH.

HOPEFULLY, THAT WILL TRIGGER MANY IDEAS AND INPUTS.

SO FIRST OF ALL, LET'S GO TO THE -- WELL, LET ME START HERE BY  
SAYING THIS IS BY MAJOR ITEMS.

SO VERY QUICKLY, YOU HAVE TO IMAGINE THAT THERE IS LOTS OF ITEMS  
THAT ARE NOT INCLUDED THAT ARE NOT BEING DISCUSSED.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

WHAT IS A MAJOR ITEM?

CURRENTLY, WE HAVE A DEFINITION.

SO IT'S NOT -- WE CALL IT A POLICY COMMITTEE TRACK ITEM.

THAT WAS TOO MUCH A MOUTHFUL.

WE'LL CALL THEM MAJOR ITEMS.

BUT IT IS THE SAME DEFINITION THAT WE HAVE CURRENTLY.

THIS IS NOT A NEW DEFINITION.

THIS IS THE OPERATIVE DEFINITION IN OUR COUNCIL RULES AND PROCEDURE AND ORDER, AND I HAVE NOT HEARD ANY CONCERNS ABOUT THE DEFINITION TO DATE.

IT IS THE ONE WE'VE BEEN USING FOR A COUPLE OF YEARS.

HOWEVER, AS WITH EVERYTHING THAT WE'RE LOOKING AT TODAY, IT'S ENTIRELY POSSIBLE FOR US TO ADJUST THE DEFINITION.

SO THAT'S NOT SET IN STONE.

IT'S JUST TO EXPLAIN WHERE WE GOT THAT TERMINOLOGY FROM.

WE CAN GO TO THE NEXT SLIDE.

THESE BIG IDEAS YOU CAN EACH BRING YOUR OWN TO THIS.

THIS WAS SORT OF THE BIG IDEAS, AGAIN, I WASN'T ABLE TO WORK TOGETHER WITH ANY OTHER COMMITTEE MEMBERS.

SO THE BIG IDEA FOR COUNCIL THAT CAME FROM MYSELF, SUCCESSFULLY DEVELOP AND IMPLEMENT STATE OF THE ART AND INNOVATIVE PROGRAM AND POLICIES TO SERVE BERKELEY AND MODEL BEST PRACTICES FOR OTHER JURISDICTIONS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THE CITY CLERK'S BIG IDEA WAS CONSISTENCY IN PROCESS FOR MAJOR ITEM DEVELOPMENT, BUDGETING AND IMPLEMENTATION.

OBVIOUSLY, CITY ATTORNEY IS INTERESTED IN ENSURING LEGAL AND DRAFTING COMPLIANCE.

AND THE CITY MANAGER'S BIG IDEA WAS TO HELP THE ORGANIZATION DELIVER WITHOUT OVERWHELM, AND HELP STAFF BE SUCCESSFUL IN THEIR WORK.

AND I THINK THAT EVEN THOUGH THOSE ARE COME FROM ONE INDIVIDUAL EACH, I THINK THEY ACTUALLY REALLY REFLECT WHAT THESE DIFFERENT ROLES MIGHT HAVE TOP OF MIND.

BUT OBVIOUSLY, YOU ALL MAY HAVE YOUR OWN RENDITIONS OF THIS AS WELL.

GOING TO THE NEXT SLIDE.

SO OBVIOUSLY, THIS IS A BIG POTENTIAL CHANGE.

BUT NOT AT ALL NECESSARY.

BUT THE IDEA OF YEARLY CYCLE REALLY I WOULD SAY IS BUILT BACKWARDS FROM THE IDEA THAT WE WANT TO GET TO A PLACE WHERE WE DON'T HAVE BACKLOGS, WHERE ITEMS WE PASS AND EVEN THAT WE FUND DON'T GET IMPLEMENTED FOR YEARS.

AND WE'RE -- THERE IS KIND OF A TIGHTER AND LOGICAL PROGRESSION FROM PROPOSALS TO BEING VET, TO BEING ELIGIBLE FOR FUNDING, TO RECEIVING FUNDING, TO HOPEFULLY BEING IMPLEMENTED PRETTY MUCH IMMEDIATELY AFTER.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SO THAT THE CONVERSATION ABOUT IMPLEMENTATION BEGINS ESSENTIALLY AFTER THE ITEM IS FUNDED.

SO WHILE IT COULD ENTAIL A LONGER TIMELINE BEFORE AN ITEM IS PASSED AND BUDGETED, IT IS INTENDED TO SIGNIFICANTLY REDUCE THE AMOUNT OF TIME THAT IT TAKES FROM APPROVAL OR BUDGET TO IMPLEMENTATION.

AND THERE ARE OTHER WAYS TO ACHIEVE THIS.

AND PEOPLE MAY WISH TO FRONT LOAD THE WEIGHT OR BACK LOAD THE WEIGHT OR DISTRIBUTE IT DIFFERENTLY.

BUT -- I DID WANT TO EXPLAIN WHY THE IDEA OF A YEARLY CYCLE SEEMED LIKE SOMETHING WE MIGHT WANT TO PUT FORWARD.

SO, IF THERE WAS A YEARLY CYCLE, AGAIN ALL OF THESE DATES CAN BE CHANGED.

LOOKING AT IT WITH THE CITY MANAGER AND THE CITY CLERK, AND TRYING TO UNDERSTAND SORT OF THE DEADLINES BY WHICH THE BUDGET COMMITTEE NEEDS THINGS AND OTHER CONSIDERATIONS, WE CAME TO THE IDEA THAT JULY THROUGH SEPTEMBER COUNCIL WOULD BE FINALIZING ITEMS, NOW JUST TO BE CLEAR, THEY COULD DEVELOP AND SUBMIT THEM AT ANY TIME DURING THE YEAR.

BUT THERE WOULD BE FOUR MONTHS WHERE -- THREE MONTHS WHERE YOU COULD REALLY FOCUS ON THAT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

DURING THAT TIME, THE CITY MANAGER WOULD BE FOCUSED ON STARTING TO IMPLEMENT ITEMS FROM THE PREVIOUS YEAR THAT HAD JUST BEEN FUNDED.

OCTOBER TO MARCH WOULD BE COMMITTEE SEASON.

RECOGNIZING THAT THERE IS PROBABLY A PRETTY BIG GAP IN DECEMBER.

AND THERE MIGHT BE QUITE A FEW ITEMS AND THE COMMITTEES WOULD BE DOING ROBUST REVIEWS AND WOULD NEED TO HEAR ITEMS MORE THAN ONCE.

AND THEN, APRIL THROUGH JUNE WOULD BE THE TIME WHEN COUNCIL WOULD REVIEW AND APPROVE ITEMS AND THE BUDGET WOULD FUND THOSE ITEMS THAT COUNCIL DEEMED READY TO FUND THAT YEAR.

SO IT'S BUILT BACK FROM THAT JUNE 30 BUDGET ADOPTION.

THE NEXT SLIDE.

SO SOME OF THE BENEFITS WERE WRITTEN HERE.

OBVIOUSLY, THERE IS DOWN SIDES AS WELL.

EVERYTHING CHOICE WE ME, INCLUDING THE CHOICE WE HAVE RIGHT NOW HAS UP SIDES AND DOWN SIDES.

BUT IN INTRODUCING A NEW IDEA, WE THOUGHT WE WOULD SHARE WHAT SOME OF THE BENEFITS MIGHT BE.

A YEARLY OPPORTUNITY.

THE FOUR SUBJECT MATTER COMMITTEES WOULD HAVE MORE OF A SEASON.

ALTHOUGH, THEY ABSOLUTELY COULD MEET AT ANY TIME.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

STAFF WOULD HAVE A PERIOD OF TIME WHEN THEY COULD FOCUS IN A MUCH MORE ROBUST WAY THAN THEY DO NOW.

ON IMPLEMENTATION AND COUNCILMEMBER SAID DURING THAT TIME WOULD ALSO HAVE SORT OF MORE FREE TIME, QUOTE/UNQUOTE, WITHOUT COMMITTEE MEETINGS TO FINALIZE ITEMS THEY WANTED TO SUBMIT BY THE DEADLINE.

AND AGAIN, THE IDEA BEING TO REDUCE THE GAP BETWEEN APPROVAL AND IMPLEMENTATION.

AND JUST TO BE CLEAR, WE DON'T REALLY HAVE EXPLICIT DEADLINES FOR ITEMS.

BULT BECAUSE WE HAVE A BUDGET CYCLE, THERE IS A DEADLINE, THERE IS A DATE AFTER WHICH AN ITEM CAN NO LONGER BE CONSIDERED FOR THAT BUDGET CYCLE.

EXACTLY.

SO WE DON'T HAVE THOSE DEADLINES DELINEATED VERY CLEARLY RIGHT NOW.

AND I THINK THAT CAN BE A PROBLEM.

BECAUSE PEOPLE DON'T REALLY KNOW HOW MUCH TIME THEY HAVE TO SUBMIT AN ITEM THAT MIGHT HAVE TO GO TO COUNCIL.

AND THEY DON'T KNOW IF THEY WILL MISS BEING CONSIDERED FOR ONE OR ANOTHER BUDGET CYCLE.

BY CLARIFYING, IT WOULD BE VERY FAIR AND EVERYONE WOULD BE ON NOTICE.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THIS IS THE DATE BY WHICH YOUR ITEMS HAVE BEEN TO BE IN IN ORDER TO BE CONSIDERED FOR THIS CYCLE.

THERE IS OBVIOUSLY DOWN SIDES AS WELL, TRADEOFFS.

AND I THINK IT'S SOMETHING FOR EVERYONE HERE TO CONSIDER.

SO LET'S GO TO THE NEXT SLIDE.

MAJOR ITEM DEVELOPMENT AND SUBMISSION.

AGAIN, YOU WOULD HAVE ALL YEAR TO SUBMIT.

IT'S NOT THAT YOU WOULD ONLY BE ABLE TO SUBMIT DURING A THREE-MONTH PERIOD.

BUT THAT YOU WOULD HAVE LESS OTHER RESPONSIBILITIES DURING THAT TIME AND YOU COULD FOCUS MORE.

SO FIRST THE MAJOR ITEM GUIDELINES WOULD BECOME MANDATORY.

RIGHT NOW THEY ARE RECOMMENDED AND I THINK A LOT OF PEOPLE DON'T REALIZE THEY ARE RECOMMENDED.

AND THE AGENDA COMMITTEE HAS NOT NECESSARILY BEEN CONSISTENT AND APPLYING THAT.

FIRST IDEA WOULD BE MAJOR ITEM GUIDELINES.

WHY?

BECAUSE THEY REQUIRE ROBUST RESEARCH AND CONSULTATION.

AND THAT WOULD MEAN THAT ITEMS CAME TO US AS A COUNCIL MORE FULLY FORMED.

THEN THE SEPTEMBER 30 SUBMISSION DEADLINE.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT ITEMS CAN BE SUBMITTED PRIOR AND THEY COULD BE REVIEWED BY THE AGENDA AND RULES COMMITTEE JUST FOR THE QUESTION OF DO THEY COMPLY WITH THE GUIDELINES.

TIMELINE ALLOWS FOR COUNCILMEMBERS TO WORK ALL YEAR WITH CONCENTRATED OPPORTUNITY JULY THROUGH SEPTEMBER.

AND ALSO STAFF INPUT AT THE PRESUBMISSION LEVEL AND INPUT FROM THE CITY ATTORNEY WOULD BE MORE FORMALIZED.

RATHER THAN SORT OF CATCH US IF YOU CAN AND SOMETIMES A DEPARTMENT HEAD HAS TIME TO WORK WITH YOU AND SOMETIMES THEY DON'T.

IT WOULD BE EXPLICIT, THE LEVEL OF INPUT AND CONSULTATION AVAILABLE TO COUNCILMEMBERS AS THEY ARE DEVELOPING THEIR ITEMS.

WE CAN GO TO THE NEXT SLIDE.

SO IN OCTOBER, AGAIN, MAYBE OCTOBER, IT'S ALL UP TO YOUR COMMENT.

WE WOULD HAVE THE AGENDA COMMITTEE WOULD REVIEW ALL MAJOR ITEMS THAT CAME IN TOWARDS THE DEADLINE FOR COMPLIANCE WITH THE GUIDELINES.

COMPLIANT MAJOR ITEMS WOULD GO TO COMMITTEES.

IF AN ITEM WAS NONCOMPLIANT THERE WOULD BE AN OPPORTUNITY FOR THE AUTHOR TO RESUBMIT AND STILL CATCH THAT CYCLE.

NEXT SLIDE.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

OCTOBER THROUGH MARCH, THE POLICY COMMITTEES WOULD ORGANIZE THEMSELVES.

MID OCTOBER THEY WOULD PLAN THEIR SESSION.

MAYBE THERE ARE SEVERAL ITEMS ON A SIMILAR TOPIC AND IT MAKES MORE SENSE TO HEAR THEM TOGETHER.

MAYBE THERE ARE ITEMS THAT THEY FEEL ARE GOING TO REQUIRE VERY SIGNIFICANT OUTREACH AND THEY WANT TO SCHEDULE THEM IN THAT WAY. AND THIS OF COURSE IS HOW IT IS DONE IN COMMITTEES, COMMITTEE SYSTEMS THAT HAVE AN ANNUAL CYCLE AT THE STATE LEVEL AND IN OTHER CITIES.

AND IT'S NOT UNCOMMON THAT THERE IS A TIME WHEN THE COMMITTEE IS ESSENTIALLY PLANS OUT THEIR HEARINGS.

THE MAJOR ITEMS WOULD BE REVIEWED ON A ROLLING BASIS.

AND ALL THE ITEMS WOULD BE OUT OF THE POLICY COMMITTEE BY MARCH 30.

THIS BULLET POINT WITH COMMITTEES MAY PRIORITIZE OR SCORE ITEMS THEY REVIEW.

THE REASON IT'S IN BRACKETS BECAUSE IT'S A BIG QUESTION MARK.

SO MAYBE THEY WOULD MAYBE THEY WOULDN'T.

BUT THAT IS IN BRACKETS BECAUSE IT'S REALLY A QUESTION MARK HERE.

NEXT SLIDE.

SO, IN APRIL ALL MAJOR ITEMS WOULD HAVE BEEN VOTED ON.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THEY ARE NOT ALL VOTED ON IN APRIL.

BUT THEY WOULD ALL BE VOTED ON BY APRIL 30.

MAY MIGHT REQUIRE US, IT MIGHT REQUIRE A SPECIAL MEETING IN APRIL.

THERE WERE A WHOLE LOT OF THEM.

THE CITY ATTORNEY WOULD SIGN OFF ON THE DRAFTING AND LEGAL CONFORMITY OF THE ORDINANCE AS RESOLUTIONS AND FORMAL POLICIES.

AND APPROVE ITEMS WOULD GO TO THE BUDGET COMMITTEE.

AND THEN NEXT SLIDE.

AND THEN, POSSIBLY, AGAIN, POSSIBLY MAJOR ITEMS.

AND JUST TO BE CLEAR, THAT'S NOT THE SAME AS ALL ITEMS

PRIORITIZATION, BUT POSSIBLY THERE WOULD BE A PROCESS OF TAKING

ALL THOSE MAJOR ITEMS FROM THAT CYCLE AND HAVING A

PRIORITIZATION OF THEM.

AND SENDING THAT IN BY THE MIDDLE OF MAY.

AND THAT WOULD BE GOING TO THE BUDGET COMMITTEE.

BUT NOT BE BINDING.

IT WOULD BE A NONBINDING PRIORITIZATION.

AND NEXT SLIDE.

THEN THE BUDGET COMMITTEE WOULD HAVE ALL THESE.

THE PRIORITIZATIONS AGAIN IN BRACKETS AND COMMITTEE WITH A

QUESTION MARK WOULD GO TO THE BUDGET COMMITTEE AS GUIDES BUT NOT

BE BINDING.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT THE BUDGET COMMITTEE WOULD ALREADY HAVE AN IDEA OF WHAT THE COUNCIL THOUGHT WHERE THE PRIORITIZATIONS.

THE BUDGET COMMITTEE WOULD DO NORMAL RECOMMENDATION TO THE FULL COUNCIL.

THE BUDGET WOULD GET PASSED.

MAJOR ITEMS THAT WERE FUNDED WOULD MOVE FORWARD TO IMPLEMENTATION.

THAT MEANS IMMEDIATE IMPLEMENTATION.

AND THAT IS ONE OF THE BIG CHANGES THAT THIS KIND OF A SET UP HOPEFULLY WOULD ALLOW.

AS WE ALL KNOW, RIGHT NOW MAJOR ITEMS THAT ARE PASSED AND FUNDED GO INTO A BIG BUCKET AND OFTEN TIMES ARE NOT BROUGHT FORWARD TO FRUITION FOR MANY YEARS, SOMETIMES 10 YEARS.

WE HAVE SEEN THINGS LIKE THAT.

ITEMS PASSED BY COUNCIL BUT NOT FUNDED WOULD GET AN AUTOMATIC ROLL OVER TO BE CONSIDERED AT FUTURE FUNDING OPPORTUNITIES.

TO BE CLEAR, THAT ISN'T THE NEXT YEAR.

THAT'S NOT 12 MONTHS LATER.

IT WOULD BE A FUTURE FUNDING OPPORTUNITIES THROUGHOUT THE YEAR. NEXT SLIDE.

THIS IS REALLY, I THINK REALLY THE DOMAIN OF THE CITY MANAGER.

AND THIS SLIDE REFLECTS I THINK AND CITY MANAGER PLEASE STEP IN IF I DON'T PRESENT THIS CORRECTLY.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT THIS REFLECTS HER THINKING.

AND I THINK WE ALL KNOW THAT SHE HAS BEEN VERY FOCUSED ON IMPLEMENTATION.

SHE WANTS THE WORK THAT WE DO TO BE SUCCESSFUL.

AND IT IS HER DREAM THAT WE ARE ABLE TO CLEAR OUR BACKLOGS AND THAT WE ACTUALLY START IMPLEMENTING RIGHT AWAY.

AND THAT THESE PROGRAMS AND POLICIES SEE THE LIGHT OF DAY SOON AFTER THEY ARE APPROVED AND FUNDED.

SO THE IDEA WOULD BE THAT THE CITY MANAGER WOULD ASSIGN A SINGLE IMPLEMENTATION LEAD, THAT THE LEAD AND CITY MANAGER WOULD ASSEMBLE THEIR TEAM, THAT MIGHT BE A COUPLE OF DIFFERENT DEPARTMENT HEADS.

THAT THEY MIGHT MEET WITH THE AUTHORS TO CLARIFY ANY INTENTIONS OR TO SKETCH TIMELINES OR DISCUSS OPPORTUNITIES, IDEAS OR CHALLENGES.

AND LET ME BE CLEAR, THOSE ARE AROUND IMPLEMENTATION.

NOT CHALLENGES WITH THE LEGISLATION ITSELF.

WHEN YOU SIT DOWN TO ACTUALLY DO AN IMPLEMENTATION PLAN, IT'S VERY DIFFERENT FROM KIND OF THE HIGH LEVEL THINKING ABOUT IMPLEMENTATION THAT OBVIOUSLY HAS TO HAPPEN BEFORE THE ITEM IS APPROVED.

THE IMPLEMENTATION TEAM HAS PREPARED TWO SEPARATE THINGS.

ONE IS A LAUNCH PLAN AND ONE IS AN OPERATING PLAN.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THAT IS THE CITY MANAGER REALLY RECOGNIZING THAT LAUNCHING SOMETHING AND RUNNING IT ARE TWO DIFFERENT THINGS.

BUILDING A STRUCTURE AND KEEPING IT FUNCTIONING OVER TIME ARE DIFFERENT THINGS.

PUTTING IN A GARDEN AND KEEPING IT GOING OVER TIME ARE TWO DIFFERENT THINGS.

AND SO BOTH OF THOSE WOULD BE DEVELOPED AND THEN AS SOON AS POSSIBLE, THE PROGRAM OR POLICY WOULD BE LAUNCHED AND IMPLEMENTED.

SO LET'S GO TO THE NEXT SLIDE.

SO THAT IS, THAT WAS IT FOR THE OVERVIEW OF WHAT A WHOLE CYCLE MIGHT LOOK LIKE.

NOW, WE'RE GOING INTO WHAT I CALL SPECIAL TOPICS.

THESE ARE SOME OF THOSE THINGS THAT WE CAME UPON AS WE WERE THINKING THESE THINGS THROUGH.

THAT WOULD BE QUESTIONS WE PROBABLY WOULD WANT TO MAKE SURE WE HAD COVERED.

AND BY THE WAY, OUR SPECIAL TOPICS ARE NOT DEFINITIVE.

THERE ARE MANY MORE.

WE CHOOSE TO JUST GIVE YOU A LITTLE BIT OF A NIBBLE AND HAVE YOU UNDERSTAND THAT WE DIDN'T NOT THINK ABOUT THESE THINGS.

SO THE FIRST OBVIOUSLY IMPORTANT THING IS WHAT DID YOU DO IF THERE ARE A TIME CRITICAL MAJOR ITEM?



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

IF WE'RE STUCK IN A CYCLE WHAT DO WE DO IF THERE IS AN URGENT NEED AND WHAT COMES TO MIND FOR ME IS AFTER GEORGE FLOYD WAS MURDERED, THERE WAS A VERY, VERY INTENSE DESIRE ON THE PART OF THE COMMUNITY AND OUR COUNCIL TO BE ABLE TO BE RESPONSIVE VERY QUICKLY WITH PRETTY COMPREHENSIVE IDEAS THAT WERE PUT FORWARD. I DON'T THINK ANY OF US WOULD WANT SOMETHING LIKE THAT TO HAVE TO SIT AND WAIT FOR SEVERAL MONTHS TO BE SENT TO A COMMITTEE OR TO BE CONSIDERED.

SO THE OVERRIDE FOR TIME CRITICAL ITEMS IS A CRITICAL COMPONENT OF THIS.

WE ALREADY HAVE SOME TERMS FOR OVERRIDE IN OUR COUNCIL RULES AND PROCEDURE AND ORDER.

AN ITEM THAT WOULD OTHERWISE BE ASSIGNED TO A POLICY COMMITTEE MAY BY-PASS, IF IT'S DEEMED TIME CRITICAL.

AND THE AGENDA AND RULES COMMITTEE DETERMINES WHETHER IT IS TIME CRITICAL.

LIKE EVERY THING WE COULD EXPAND THIS, WE COULD REWRITE IT, WE COULD MAKE IT HAVE MORE SPECIFICITY.

BUT THE IDEA THAT WE WOULD HAVE A SAFETY VALVE FOR TIME CRITICAL ITEMS IS VERY IMPORTANT.

AND I THINK BECOMES MORE IMPORTANT IF WE'RE GOING TO HAVE A PROCESS THAT IS A YEARLY PROCESS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

ANOTHER IDEA THAT I THINK IS IMPORTANT FOR US TO CONSIDER, IS THAT IF THE AGENDA COMMITTEE GETS TO MAKE THESE DECISIONS WE MAY ACTUALLY WANT TO HAVE AN OVER RIDE THAT TAKES THAT DETERMINATION TO THE FULL COUNCIL.

SO LET'S SAY A COUNCILMEMBER BRINGS SOMETHING FORWARD, THEY THINK IT'S TIME CRITICAL, THE AGENDA AND RULES COMMITTEE DOESN'T AGREE.

THEY COULD THEN BRING THAT DECISION TO THE FULL COUNCIL AND THE FULL COUNCIL WOULD BE ABLE TO WEIGH IN ON WHETHER THAT ITEM WAS TIME CRITICAL.

ALL RIGHTY.

NEXT TOPIC.

MOVING TO ANOTHER SPECIAL TOPIC.

THE DETAILS OF PRE SUBMISSION.

THE GUIDELINES FORMAT WOULD BE MANDATORY.

ANOTHER SUGGESTION IS THAT AT THIS STAGE THERE WOULD ONLY BE AUTHORS AND NO CO-SPONSORS AND THAT WOULD HELP WITH BROWN ACT ISSUES AS THINGS MOVE THROUGH COMMITTEE.

THAT A PRE-SUBMISSION CONSULTATION WITH THE CITY MANAGER WOULD BE AVAILABLE.

EXPLICITLY AVAILABLE SO THAT PEOPLE DON'T FEEL LIKE THEY ARE KIND OF BUGGING SOMEBODY BY REACHING OUT AND ASKING FOR HELP OR ADVICE ON SOMETHING THEY ARE THINKING OF DEVELOPING.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THEN A REQUIRED PRE-SUBMISSION CONSULTATION WITH THE CITY ATTORNEY SO HER OFFICE HAS THE OPPORTUNITY TO IDENTIFY POTENTIAL LEGAL AND DRAFTING CONSIDERATIONS VERY EARLY IN THE PROCESS. I THINK IT'S PROBABLY A GOOD IDEA FOR THE CITY ATTORNEY TO DECIDE IF THERE ARE ISSUES.

AND THIS WOULD PROVIDE NOT JUST OPPORTUNITY BUT A REQUIREMENT TO RUN THINGS BY THE CITY ATTORNEY'S OFFICE.

THE LAST BULLET POINT IS VERY IMPORTANT.

HOW DO WE FOLD IN COMMISSIONS.

THIS IS SOMETHING BIG THAT THE AGENDA AND RULES COMMITTEE MEMBERS FELT VERY STRONGLY ABOUT.

I HAVE TO SAY THAT JUST TRYING TO HARNESS A SKETCH FOR THE COUNCIL PROCESS WAS A LOT.

BUT WE'RE VERY CLEAR THAT WHATEVER PROCESS WE STICK WITH OR MOVE TOWARDS, WE HAVE TO HAVE MORE EXPLICIT ABOUT HOW OUR COMMISSIONS ARE CONSULTED AND HOW WE GET THEIR IMPORTANT ADVICE AND REVIEW AND HOW THAT GETS WOVEN IN.

WE THOUGHT THERE MIGHT BE AN IMPORTANT ROLE FOR THAT IN THE PRE SUBMISSION PHASE.

LET'S SAY YOU START DEVELOPING SOMETHING EARLY IN THE CYCLE, IT'S POSSIBLE THAT IT COULD GO TO A COMMISSION BEFORE YOU EVEN SUBMIT IT.

THERE MIGHT BE OTHER WAYS AND OTHER TIMES IN THE PROCESS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT I REALLY WANT TO HIGHLIGHT THAT AS WE GO THROUGH THIS, THE AGENDA AND RULES COMMITTEE WAS VERY CONCERNED THAT THE COMMISSIONS NOT BE SIDE LINED AND ON THE CONTRARY, THAT WE FIND EXPLICIT WAYS FOR THEIR CONTRIBUTIONS AND THOUGHTS AND OPINIONS TO BE INTEGRAL TO THE PROCESS OF MOVING LEGISLATION FORWARD.

OKAY.

NEXT SLIDE.

STRENGTHENING THE COMMITTEE REVIEW.

LOTS OF IDEAS FOR HOW TO DO THAT.

AND I'M SURE THERE IS GOING TO BE A LOT MORE.

BUT SOME OF THE IDEAS OBVIOUSLY WOULD BE THAT FOR EVERY ITEM THERE IS A WHOLE SERIES OF QUESTIONS, A CHECKLIST IF YOU WANT TO CALL IT.

BUT A SERIES OF INQUIRIES THE COMMITTEE IS REQUIRED TO MAKE SO EVERY ITEM OF LEGISLATION IN COMMITTEE AND ACROSS COMMITTEES IS GETTING THE SAME SCRUTINY AND SAME OPPORTUNITY FOR INPUT.

ONE IDEA IS RELEVANCE TO STRATEGIC PRIORITIES.

ADDED VALUE OF THE PROGRAM OR POLICY.

BENEFITS AND COSTS OF THE PROGRAM OR POLICY TO THE COMMUNITY AND THE CITY.

POTENTIAL ALTERNATIVE MEANS TO ACHIEVE THE SAME OR SIMILAR GOALS THAT MIGHT BE MORE FRUITFUL OR MORE QUICK OR LESS EXPENSIVE.

PHASING IN TIMELINES FOR IMPLEMENTATION.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

STAFFING AND RESOURCES NEEDED.

HOW THE PROGRAM OR POLICY WOULD BE EVALUATED.

HOW IT WILL BE ENFORCED.

AND THEN AGAIN, IN BRACKETS ARE THINGS WITH A REAL QUESTION MARK.

WOULD THE COMMITTEE DO SOME KIND OF RATING OR RANKING, YES OR NO, POSSIBLY.

SHOULD WE INCREASE THE OPTIONS AROUND THE POSITIVE AND NEGATIVE RECOMMENDATIONS.

I THINK YOU ARE ALL FAMILIAR.

WE HAVE ONLY FOUR OPTIONS.

WHEN WE SEND SOMETHING TO CITY COUNCIL, MAYBE THERE IS SOME ROOM TO CHANGE OR REFINE THINGS THERE.

OTHER WITH A QUESTION MARK.

THIS QUESTION OF STRENGTHENING COMMITTEES REGARDLESS OF OUR OVERALL PROGRAM IS A SPECIAL TOPIC THAT WE ARE GOING TO HAVE TO ADDRESS AS A COUNCIL.

GOING TO THE NEXT SLIDE.

CONTINUING ON THE STRENGTHENING COMMITTEES IDEA, WE WOULD ALSO NEED TO CONSIDER HOW ARE WE GOING TO GET THE INPUTS WE NEED FROM THE PUBLIC, FROM STAFF, FROM CITY ATTORNEY.

THE COMMITTEES WOULD NEED TO DO ACTIVE OUTREACH WITH STAFF SUPPORT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

ACTUALLY IDENTIFY STAKEHOLDERS THAT WOULD EITHER BE IMPACTED OR WOULD NEED TO TAKE ACTION ON ONE OR ANOTHER PRIORITY AND DO ACTIVE OUTREACH, NOT JUST HOPE THAT THEY MIGHT HAPPEN UPON AN AGENDA SOMEWHERE.

MULTIPLE HEARINGS TO ALLOW FOR A BEST COMMUNITY STAFF AND CITY ATTORNEY INPUTS AND DISCUSSION.

ENHANCE AND EMPOWER THE CITY ATTORNEY AND STAFF PARTICIPATION. SO THAT THEY COULD GIVE MEANINGFUL VERBAL INPUT WITHOUT THE REQUIREMENT FOR A FORMAL REPORT.

AND I KNOW THAT BOTH THE CITY ATTORNEY'S OFFICE AND THE CITY MANAGER ARE VERY HESITANT TO GIVE US AND HAVE THEIR STAFF GIVE US SORT OF PRELIMINARY ADVICE THAT DOES NOT REFLECT FULL AND DEEP CONSIDERATION.

AND I THINK THIS WILL BE SOMETHING FOR THE CITY ATTORNEY'S OFFICE AND THE CITY MANAGER'S OFFICE TO THINK ABOUT WHAT KIND OF INPUT THEIR STAFF COULD PROVIDE THEY WOULD FEEL COMFORTABLE WITH THAT WOULD BE SUBSTANTIAL AND MOVE THINGS ALONG.

THE COMMITTEE SCHEDULE.

HAVING A SCHEDULE AHEAD OF TIME COULD HELP THE CITY ATTORNEY AND THE CITY MANAGER SEND THE RIGHT PEOPLE TO EACH MEETING.

KNOWING AHEAD OF TIME WHAT ITEMS ARE GOING TO BE CONSIDERED AT DIFFERENT TIMES, I THINK COULD ALLOW US TO HAVE THE RIGHT PEOPLE THERE AND MORE ROBUST INPUT FROM OUR IMPORTANT PARTNERS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THEN, AGAIN CONSIDER HOW TO ATTAIN AND INTEGRATE INPUT FROM COMMISSIONS.

AGAIN, WE DID NOT GO DEEP THERE.

BUT WE IDENTIFIED IT AS SOMETHING CRITICALLY IMPORTANT.

NEXT SLIDE.

SO ANOTHER SPECIAL TOPIC.

PRIORITIZATION.

AND WHEN WE TALKED ABOUT THIS A LOT, BUT IN DISCUSSING THIS WITH THE CITY MANAGER, I THINK WE CAME TO UNDERSTAND THAT THERE IS KIND OF TWO ISSUES.

ONE IS THAT WE WHILE REDUCED, WE STILL HAVE THE BACKLOG NOW.

WE HAVE A BIG BACK LOG.

AND SO WE NEED TO FIGURE OUT SORT OF AN END GAME FOR HOW WE'RE GOING TO DEAL WITH THOSE BACKLOG ITEMS.

AND THE END GAME MIGHT BE THAT WE SORT OF FIGURE OUT WHAT TO DO.

THE SECOND TOPIC AROUND PRIORITIZATION IS ASSUMING THE DREAM OF A SYSTEM THAT HAS NO BACKLOGS, WE STILL WOULD HAVE TO DO

PRIORITIZATION.

SO LOOKING AT THE BACKLOG QUEUE, ONE IDEA WAS A ONE TIME PROCESS FOR MAJOR ITEMS THAT ARE CURRENTLY IN THE QUEUE THAT ALL PENDING BUT NOT INITIATED ITEMS EXPONENTIALLY WOULD GO BACK TO THE POLICY COMMITTEES FOR LIKE A REREVIEW.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THE POLICY COMMITTEES WOULD LOOK AT THEM AND CONSIDER MERGING ITEMS OR UPDATING REFERRALS IN CASE THEY ARE STALE OR OTHER INITIATIVES THAT COME FORWARD THAT MAYBE MAKE THEM, MAKE IT WORTH CHANGING THEM A LITTLE BIT. REAPPROVAL OF ITEMS AS IS. RECOMMENDATIONS TO SUNSET OR REMOVE ITEMS THAT HAVE BEEN SUPERSEDED MAYBE BY STATE LAW, MAYBE BY SOMETHING ELSE THE CITY HAS DONE. RECOMMEND DISPOSITION OF ALL THE ITEMS. POTENTIALLY RANKED BY LEAD DEPARTMENT. AND BRING ALL THOSE RECOMMENDATIONS FROM EACH COMMITTEE TO THE COUNCIL FOR US TO DECIDE WHAT WE WANT TO CONSOLIDATE, WHAT WE WANT TO REMOVE, WHAT DO WE WANT TO RESTATE AND WHAT DO WE WANT TO RESUPPORT. WE MIGHT NEED SOME CRITERIA. WE MIGHT NEED SOME KIND OF R.R.V. THE POINT HERE IS WE WOULD HAVE TO DEAL WITH A BACKLOG IN ORDER TO GET TO THAT BEAUTIFUL DAY WHERE EVERY YEAR, THE ITEMS THAT WERE APPROVED AND FUNDED COULD BE IMPLEMENTED OR THE IMPLEMENTATION COULD BEGIN RIGHT AWAY. SO NEXT SPECIAL TOPIC. IS THE PRIORITIZATION ON AN ONGOING BASIS OF A YEARLY QUEUE WITH THE DREAM OF THE BACKLOG HAVING BEEN CLEARED.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

FIRST OF ALL, IT IS HOPED THE ENHANCED COMMITTEE PROCESS WOULD RESULT IN FEWER BACKLOGS, AND THAT ITEMS WOULD BE IMPLEMENTED IN A REASONABLE TIMEFRAME.

AND THEREFORE, PRIORITIZATION WOULD BECOME LESS OF AN ISSUE. OBVIOUSLY WHEN YOU HAVE 150 ITEMS YOU HAVE TO PRIORITIZE.

IF YOU HAVE 10 OR 15, IT'S MUCH LESS OF A CHALLENGE.

BUT IN A RATIONALIZED SYSTEM, ONE, YOU WOULD HAVE MORE FULLY CONCEIVED AND VETTED ITEMS.

MAYBE YOU WOULD HAVE COMMITTEE SCORING AND/OR RANKING.

AND THEN, COUNCIL RANKING.

AND IT IS SUGGESTED THAT WOULD BE EITHER BY LEAD DEPARTMENT OR OVERALL.

I THINK WE'VE ALL SEEN A SITUATION WHERE WE RANK EVERYTHING TOGETHER.

AND IT TURNS OUT THE FIRST 15 ITEMS ARE FOR PUBLIC WORKS OR PLANNING.

AND THEN OTHER DEPARTMENTS THEIR ITEMS ARE SPRINKLED IN THE QUEUE.

WE MAY WANT TO LOOK AT RANKING BY DEPARTMENT RATHER THAN JUST DOING THE UNIVERSAL RANKING.

AND AGAIN, THESE ARE ALL IDEAS.

IT'S BIG.

THERE WAS A LOT FOR US TO COVER.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

ALL RIGHT.

NEXT SPECIAL TOPIC.

WE WOULD NEED A PROCESS AT THE MIDYEAR BUDGET OPPORTUNITIES.

HERE YOU SEE IN BLUE VERY HIGH-LEVEL SUGGESTIONS.

WE'LL FELT THIS WOULD BE A TOPIC THAT WOULD HAVE TO GO TO

BUDGET AND FINANCE.

ONE IDEA WAS THAT ONLY TIME CRITICAL AND ROLL OVER ITEMS

PREVIOUSLY APPROVED BUT UNFUNDED WOULD BE CONSIDERED.

NOT JUST FOR COUNCIL ITEMS BUT ALSO FOR CITY MANAGER ITEMS.

ANOTHER WOULD BE THAT NOT ALL THE EXTRA FUNDS WOULD GET

ALLOCATED AND MORE FUNDS WOULD BE AVAILABLE FOR THE ANNUAL

BUDGET PROCESS FOR COUNCIL INITIATIVE SAID THAT GO THROUGH THE

YEAR PROCESS.

AND POSSIBLY THAT A.A.O.1 AND 2 ARE ONE TIME OR SENSITIVE NEEDS,

EXCEPT IN SPECIAL CIRCUMSTANCES.

REALLY WE FELT THIS SHOULD GO TO BUDGET AND FINANCE TO THINK

ABOUT SHOULD WE ADOPT SOMETHING LIKE A YEARLY PROCESS.

BUT WITH ANY PROCESS, THESE THINGS WOULD NEED TO BE CLARIFIED.

ALL RIGHT, NEXT SPECIAL TOPIC.

IMPLEMENTATION.

WE ALREADY SAW WHAT THAT LOOKS LIKE.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT I THINK THE CITY MANAGER REALLY WOULD WANT TO WORK ON FILLING OUT WITH MORE DETAIL WHAT THE IMPLEMENTATION PROCESS WOULD LOOK LIKE.

AND I KNOW SHE'S VERY COMMITTED TO HAVING A LEAD SO THAT EVERYBODY KNOWS WHO SAID RESPONSIBLE FOR MAKING SOMETHING HAPPEN.

BUT ALSO, HAVING A TEAM AND ALSO MAKING SURE THAT THERE IS CLARITY ABOUT INTENTIONS AND OFTEN TIMES AN AUTHOR WILL HAVE THOUGHT ABOUT IMPLEMENTATION.

AND HAVE SOME GOOD IDEAS.

WE'LL HAVE CONSULTED WITH STAKEHOLDERS AND THE COMMUNITY AND MAY HAVE SOME ADDITIONAL HELPFUL IDEAS BUT ULTIMATELY, IT'S UP TO THE CITY MANAGER TO DETERMINE IMPLEMENTATION, THAT CONSULTATION IS OBVIOUSLY A COURTESY, WHICH I THINK SHE IS VERY GENEROUSLY INTERESTED IN EXTENDING.

AND I CAN'T REMEMBER DO WE HAVE ONE MORE SPECIAL TOPIC?

NO.

WE DON'T.

THAT'S IT.

SO THANK YOU VERY MUCH.

>> MAYOR J. ARREGUIN: THE LAST PIECE ON IMPLEMENTS, THAT HAS BEEN HOW WE HAVE DONE -- IMPLEMENTATION, IMPLEMENTATION OF MAJOR NEW LAWS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

IS AFTER WE WHILE WE'RE DEVELOPING IT AND WE GET INPUT ON OPERATIONAL IMPACTS, IMPLEMENTATION, THEN WE REFER TO THE CITY MANAGER DEVELOP IMPLEMENTATION PLAN, RESOURCE THAT AND THEN IMPLEMENTATION.

SO I THINK IT'S OPERATIONALIZING THE KIND OF AD HOC PRACTICE THAT WE'VE IMPLEMENTED.

I WANT TO TURN IT OVER TO COUNCILMEMBER HARRISON.

>> K HARRISON: FIRST OF ALL, I WANT TO THANK YOU COUNCILMEMBER HAHN FOR HER HARD WORK.

IT IS NOT EASY TO TACKLE SUCH A BROAD TOPICKISM SOMEONE HAS TO START.

IF YOU DON'T START YOU NEVER GET ANYWHERE.

SO THANK YOU VERY MUCH FOR THAT.

I REALLY COMMEND YOU FOR LEADING THIS EFFORT.

SINCE WE FIRST DISCUSSED IT IN 2021, AND THE CITY MANAGER CONTRIBUTION AND DEFERRING TO COUNCIL FOR THE SHAPE ANY CHANGES TAKE.

I HEARD HER SAY A COUPLE OF TIMES, IT IS NOT HER PROPOSAL.

I WANT TO MAKE THAT STATEMENT.

I'M NOT ON THE AGENDA COMMITTEE.

AND AS YOU NOTED, I WASN'T ABLE TO WORK WITH YOU, BUT I WORKED WITH COUNCILMEMBERS ROBINSON AND TAPLIN.

THANK YOU TO BOTH.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND I THINK COUNCILMEMBER BARTLETT IS INTERESTED IN THE PROPOSAL ABOUT TO DISCUSS, TO UPDATE AND BUILD ON IT.

I SUBMITTED AN ALTERNATIVE.

THIS IS NOT AN ALTERNATIVE TO COUNCIL HAHN, IT WAS AN ALTERNATIVE TO THEN COUNCILMEMBER DROSTE'S PROPOSAL IN 2021.

WHICH WAS MUCH MORE CONVEIN STRAINING OF US.

CONSTRAINING OF US.

I UPDATED TO RESPOND TO COUNCILMEMBER HAHN.

IT'S MEANT TO BE TAKEN CONSIDERATION HERE AND THE PUBLIC AND COUNCIL AND THE AGENDA COMMITTEE.

THERE IS REALLY POSITIVE ASPECTS OF COUNCILMEMBER HAHN'S PROPOSAL I WANT TO HIGHLIGHT.

AND I THINK WE SHOULD MOVE AHEAD.

COUNCIL ITEMS SHOULD FOLLOW THE GUIDELINES ALREADY PROMULGATED RATHER THAN USING THEM AS RECOMMENDATIONS.

WE GET THINGS IN VERY DIFFERENT FORMAT SAID IN COMMITTEES.

AND IT MEANS WE DON'T HAVE FAIR CRITERIA AGAINST WHICH THINGS ARE EVALUATED.

I THINK WE NEED TO ADOPT THESE AS BEING MANDATORY.

I LIKE THE IDEA OF A FORMAL PROCESS FOR CITY STAFF TO PROVIDE HIGH LEVEL CONCEPTUAL INPUT TO AUTHORS BEFORE SUBMITTING PROPOSALS.

I ALWAYS DO THAT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I PROBABLY NEVER SUBMIT ANYTHING WITHOUT FIRST TALKING TO THE DEPARTMENTS AND THE CITY ATTORNEY'S OFFICE.

I THINK THIS IS GOOD PRACTICE AND WE'RE PROBABLY ALL DOING IT.

I LIKE THE PROCESS FOR ADDRESSING THE BACKLOG OF UNFUNDED ITEMS.

I DON'T THINK IT SHOULD BE IN THE POLICY COMMITTEE.

I'LL EXPLAIN MORE IN A MINUTE.

I LIKE THE ENHANCED CHECKLIST FOR THE POLICY COMMITTEE.

I THINK WE NEED THAT.

WE OFTEN STRUGGLING, AS CHAIR OF ONE OF THEM.

EXCLUDING THE PROPOSAL THAT WE RATE ITEMS.

I DON'T WANT TO RANK ITEMS.

I'M IN A THREE PERSON COMMITTEE.

WE ALL BRING THINGS FORWARD.

I DON'T WANT TO SAY, I'M GOING TO RANK MINE AHEAD OF

COUNCILMEMBER TAPLIN.

THAT IS AWKWARD.

IT'S THE JOB OF THE FULL COUNCIL TO DO THE RANKING.

AND I DO LIKE THE IDEA OF SOMEHOW GETTING BETTER INPUT FROM

COMMISSIONS.

BUT I DON'T WANT TO DO BEFORE AN ITEM GOES BEFORE COUNCIL.

WE DON'T WORK FOR THE COMMISSION.

THAT STRUCK ME AS A LITTLE ODD, THERE ARE TIMES I HAVE WRITTEN

LEGISLATION, ASKED THEM TO HOLD HEARINGS, WHICH IS SOMETHING WE

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

CAN CONSIDER DOING IF IT'S COMPLICATED AND WE BENEFIT FROM A LOT OF MORE HEARINGS THAN WE'RE ABLE TO HAVE.

BUT I DON'T WANT IT TO BE MANDATORY ANYWAY.

AND I GUESS MY MAJOR CONCERN ABOUT PROPOSALS, I'M A REALLY STRONG SUPPORTER OF THE POLICY COMMITTEE SYSTEM.

THAT COUNCILMEMBER HAHN ACTUALLY PROPOSED.

AND I DON'T BELIEVE OUR CENTRAL PROCESS IS FUNDAMENTALLY FLAWED ON MAJOR ITEMS.

I THINK WE'RE DOING A GOOD JOB ON THAT.

I'M GOING TO DESCRIBE IN A MINUTE WHY THE PROCESS WILL GO THROUGH A LENGTHY PROCESS AND DELAY US GETTING THINGS DONE.

I THINK THE MAIN THINGS WE'RE NOT DOING AS GOOD A JOB ON ARE REFERRALS AND BUDGET REQUESTS.

AND WHAT I SEE EMBEDDED IN BUDGET REQUESTS, BEING ON THE BUDGET COMMITTEE IS A LOT OF POLICY QUESTIONS NOBODY ANSWERED YET.

AND THAT REALLY CONCERNED ME.

IF WE CAN'T REALLY DISCUSS THE MONEY UNTIL WE KNOW HOW IT WILL WORK.

I'M HOPING YOUR INTENTION WAS TO INCLUDE IN THE GROUP OF ITEMS ORDINANCES WE WRITE NOW, REFERRALS, AND BUDGET REQUESTS OVER A CERTAIN DOLLAR AMOUNT.

I'M GOING TO MAKE A PROPOSAL HOW TO DO THAT.

I DON'T WANT TO SEE BUDGET REFERRALS JUST GO THROUGH.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I THINK THAT'S NOT GOOD EITHER WHEN THEY ENTAIL A LOT OF BUDGETARY, POLICY ASPECTS.

A COUNTER EXAMPLE.

RECENTLY COUNCILMEMBER KESARWANI RECOMMENDED PUTTING MORE MONEY IN PAVING.

THAT DIDN'T NEED TO GO TO A POLICY COMMITTEE BECAUSE IT WASN'T CHANGING THE PAVING PLAN ANY WAY.

IT WAS SAYING PUT MORE MONEY IN.

IT WAS STRICTLY A BUDGET THING.

I'M NOT SURE WHY WE HAD IT AT OUR COMMITTEE.

OTHER TIMES WE HAVE THINGS THAT HAVE A LOT OF POLICY IMPLICATIONS BUT NOT MUCH MONEY AND GOING STRAIGHT TO BUDGET AND WE'RE LEFT AT BUDGET SAYING HOW ARE WE GOING TO DO THIS.

I THINK THAT IS THE WRONG PLACE TO ASK THOSE QUESTIONS.

I THINK THAT SHOULD GET WORKED OUT IN ADVANCE.

SOME OF THE MY CONCERNS ABOUT THE PROPOSAL I HAVE I AM GRATEFUL FOR, I THINK IT'S SIGNIFICANTLY LIMITS ACCESS TO THE LEGISLATIVE PROCESS BY EXTENDING TIMELINES.

RIGHT NOW, MAJOR ITEMS CAN BE SUBJECT TO NEARLY 300 DAYS.

THIS COMPARES THE CURRENT 120 DAYS IN COMMITTEE.

THAT HAPPENS BECAUSE OF THE SEPTEMBER DEADLINE.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

IF YOU TURN SOMETHING IN IN OCTOBER THAT IS NOT TIME CRITICAL BUT NONETHELESS IMPORTANT TO THE COMMUNITY IT WILL SIT THERE UNTIL NEXT YEAR.

AND THEN IT WILL SIT THERE UNTIL THE JUNE BUDGET PROCESS, THE WAY I READ IT NOW.

WE COULD BE LOOKING AT 18 MONTHS.

I DON'T THINK WE NEED TO BUILD IN EXTRA TIME.

SO I'M GOING TO SUGGEST WAYS TO NOT DO THAT.

IT ALSO DOESN'T ALIGN TIMELY LEGISLATIVE ITEMS WITH THE FALL BUDGET PROCESS.

THIS HAS BEEN A HUGE CONFUSION.

I HEARD THIS IN TWO DIFFERENT DIRECTIONS FROM THE CITY MANAGER.

ONE, SHE WOULD LIKE US TO GET ALL OF OUR PROPOSALS IN BEFORE THE JUNE BUDGET.

BUT TWO, ALSO SHE WOULD LIKE US TO NOT SUBMIT ANYTHING EXCEPT FOR THE A.A.O.

THAT'S WHEN WE KNOW MORE ABOUT REVENUES.

WE NEED A DEFINITIVE ANSWER ABOUT THE BEST PROCESS.

BUT I DO NOT WANT TO ASSUME THE BUDGET PROCESS.

I PERSONALLY THINK WE CAN HAVE TWO CYCLES.

ONE OF WHICH IS TO JUNE AND ONE OF WHICH IS TO A.A.O.

I THINK I'M RECOMMENDING WE DO THAT.

THAT WILL GET THINGS THROUGH MORE QUICKLY.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I REALLY DON'T WANT POLICY COMMITTEES TO PRIORITIZE AS I'VE  
ALREADY DISCUSSED.

AND I THINK THAT IS REALLY A COUNCIL JOB.

ALSO, THERE IS SOMEWHERE IN HERE AN IMPLICATION THE POLICY  
COMMITTEES ARE A TIME COMMITMENT BURDEN. ON STAFF AND THE  
COUNCIL.

I THINK IT'S THE OPPOSITE.

PERSONALLY FOR ME THE STUFF WE GET AT COUNCIL IS SO MUCH BETTER  
BECAUSE OF YOUR SYSTEM, COUNCILMEMBER HAHN, OF SETTING OF THESE  
COMMITTEES AND REVIEW IT GOES THROUGH THAT I THINK THE STAFF  
BURDEN IS LESS.

AND SO THE BURDEN ON THE PUBLIC VERY CONFUSING PROPOSALS IS  
LESS.

THINGS ARE BETTER BECAUSE THEY HAVE GONE THROUGH THESE  
COMMITTEES.

SO I REALLY DON'T THINK WE SHOULD BE LIMITING THE COMMITTEES TO  
OPERATING SIX MONTHS OF THE YEAR.

WHEN WE DON'T HAVE SOMETHING TO DO.

I THINK IT'S OKAY TO KEEP THEM OPERATING DURING THE ENTIRE TIME  
THE COUNCILMEMBER IS MEETING AND TAKE THINGS UP AS THEY COME  
ALONG.

I'M GOING TO PROPOSE THAT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THEN FINALLY, I DON'T LIKE THE IMPLEMENTATION TEAM AT THE  
END AFTER THE ITEM HAS GONE OUT OF THE COMMITTEE, INCLUDING THE  
COUNCILMEMBER.

IT FEELS LIKE, BECAUSE IT INDICATES THEY WOULD BE ESTABLISHING  
CLARITY OF INTENTIONS, TIMELINES, OPPORTUNITIES, IDEAS AND  
CHALLENGES.

THAT SHOULD ALL HAPPEN AT THE COMMITTEE PROCESS.

IF WE HAVEN'T FIGURED OUT TIMELINES AND OPPORTUNITIES THEN, I  
DON'T THINK I'M COMFORTABLE WITH ONE COUNCILMEMBER BEING IN  
CHARGE OF THAT.

EVEN WHEN IT'S MINE, I DON'T THINK I LIKE THAT.

THAT I'M NOW I'M NEEDING TO FIGURE OUT HOW WE'RE REALLY GOING TO  
DO IT.

THAT SHOULD HAVE ALL BEEN TALKED ABOUT UP FRONT IN A COMMITTEE  
PROCESS.

SO I HAVE A FLOW CHART THAT TRIES TO SHOW WHERE THE DIFFERENCES  
ARE.

BUILDING OUNCILMEMBER HAHN'S EXCELLENT WORK.

GIVE ME ONE SECOND.

I'M ALWAYS TERRIBLE AT THIS.

I DON'T KNOW HOW TO SHARE A SCREEN.

HOLD ON A MINUTE PLEASE.

YOU WILL LAUGH AT ME BECAUSE I'M NOT GOOD AT THIS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I JUST FOUND IT.

THANK YOU, MR. MAYOR.

I SO APPRECIATE THAT.

HERE'S MY FLOW CHART, WHICH TRIES TO SHOW WHERE THERE ARE DIFFERENCES BETWEEN THE TWO PROPOSALS.

I'M PROPOSING THAT WE STILL SUBMIT ITEMS THROUGHOUT THE YEAR.

I THINK YOU SAID YOU WERE INTENDING FOR THE COUNCIL TO DO THAT.

A BIG DISTINCTION FOR ME IS ANOTHER THING THAT DOESN'T GO THROUGH THIS RIGOROUS ANALYSIS YOU ARE CALLING FOR ARE CITY MANAGER ITEMS.

AND I WOULD LIKE THOSE TO ALL GO THE COMMITTEE PROCESS.

THAT'S HOW THEY DO IT IN ON THE GROUND AND SAN FRANCISCO.

MY STAFF SPEND TIME LOOKING AT THOSE RULES.

IF IT'S A SIGNIFICANT THING, IT SHOULD BE USING THE SAME PROCESS THAT WE USE FOR OUR THINGS.

WE ARE THE BODY, WE APPROVE THE BUDGET AND THE ITEMS.

SO I WANT MAJOR ITEMS FROM THE CITY MANAGER TO ALSO GO TO THESE COMMITTEES.

AND I WANT TO DO IT ALL YEAR.

I ALSO WANT SOME OBJECTIVE CRITERIA FOR DETERMINING FROM THE AGENDA COMMITTEE, WHAT IS MAJOR.

I THINK RIGHT NOW THE LANGUAGE NEEDS TO BE TIGHTENED UP BUT IT IS A GOOD START.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I THINK WE NEED TO IS SAY BUDGET ITEMS MORE THAN "X" DOLLAR.

BUDGET ITEMS THE DOLLARS THAT CAUSE OPERATIONAL DIFFERENCES OR SOMETHING.

BUT WE NEED SOME CRITERIA IN THERE.

AND I WOULD HAVE THE POLICY COMMITTEES CONTINUE TO MEET DURING THE ENTIRE PERIOD.

AND AGAIN, KEEP THINGS FOR 120 DAYS MAXIMUM IN THE POLICY COMMITTEE HOPPER.

ALTHOUGH I THINK THE MAYOR WAS THINKING WE WANT TO EXTEND THAT TIME.

I THINK WE START WITH THE 120 AND IF WE NEED TO EXTEND, WE CAN ALWAYS GET ACCOMMODATIONS FROM OUR COLLEAGUES ON THAT.

ISSUING THE POLICY RECOMMENDATIONS AGAINST THE ENHANCED REVIEW CHECKLIST, WHICH IS I THINK IS REALLY CRITICAL.

GOES BACK TO THE AGENDA COMMITTEE.

THEN IT GOES TO COUNCIL MEETING.

THEN IT GOES TO ONE OR THE OTHER OF THE BUDGET PROCESSES

DEPENDING ON WHAT TIME OF YEAR YOU ARE IN THROUGH THE BUDGET COMMITTEE.

AND THEN IT'S ADOPTED AS PART OF THE BUDGET.

A COUPLE OF OTHER COMMENTS I WANTED TO MAKE.

I'M NOT CERTAIN I THINK ALL BUDGET PROPOSALS SHOULD AUTOMATICALLY ROLL TO THE NEXT PERIOD.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THE MAYOR HAS A UNIQUE AND DIFFERENT ROLE IN OUR GOVERNMENT.

WE DO HAVE A STRONG CITY MANAGER FORM OF GOVERNMENT.

AND WE DO HAVE A COLLABORATIVE COUNCIL IN WHICH HE SITS.

BUT THE CHARTER IS REALLY CLEAR THE MAYOR PRESENTS A BUDGET.

IF HE DOESN'T LIKE SOMETHING OR THINKS IT SHOULD NEVER BE

BUDGETED, I WANT HIM TO HAVE THAT OPPORTUNITY.

I'VE ACTUALLY NEVER SEEN YOU DO THAT.

BUT THERE COULD COME A TIME WHEN IT COULD HAPPEN.

AND SO I THINK THAT TAKING THAT AWAY FROM YOU IS NOT A GOOD

THING.

I DON'T THINK EVERYTHING SHOULD ROLL.

I THINK WE CAN HAVE A WORKING EXPECTATION THINGS WILL ROLL OVER

BUT I DON'T WANT EVERYTHING TO ROLL.

BECAUSE YOU MIGHT HAVE SOMETHING THAT ISN'T YOU THINK IS NOT A

GREAT IDEA OR THE CITY MANAGER MIGHT SAY THAT IS NEVER GOING TO

WORK BUDGETARILY SO DON'T DO THAT.

AND WE WANT TO MOVE ON WITH IT.

I ALSO FEEL WE HAVE TO VERY CLEARLY ESTABLISH THESE CRITERIA FOR

WHAT IS A SIGNIFICANT ITEM.

AND AGAIN IT SHOULD APPLY TO EVERYTHING FROM THE CITY MANAGER

AND FROM US.

AND ORDINANCES, REFERRALS AND BUDGET REQUESTS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

MOST OF THE PROBLEMS I'VE SEEN IN MY COMMITTEE ARE NOT  
ORDINANCES.

WE ALREADY HAVE A GOOD PROCESS ON ORDINANCES.

THE PROBLEM ARE REFERRALS.

AND I WOULD BE PANICKED IF I WERE YOU I SAW THAT LONG LIST LIKE  
OH, MY GOD.

I JUST CAN'T GET THROUGH IT.

SO WE DO NEED, AND I SHOULD HAVE SAID THIS IN A POSITIVE ASPECT  
PARTS.

WE NEED AN ACTIVE PROCESS FOR GETTING RID OF REFERRALS.

AND I'M GOING TO SAY ON MY OWN BEHALF, I'M THE ONLY ONE IN THE  
LAST THREE CYCLES THAT HAS IDENTIFIED OTHER PEOPLE'S REFERRALS  
TO GET RID OF OTHER THAN MY OWN OR MY PREDECESSORS.

AND YOU KNOW WHAT, WE'VE SEEN THE ENEMY, AND IT IS US.

WE KEEP PUSH STUFF FORWARD.

WE DON'T WANT TO SAY NO TO EACH OTHER.

OUR PROBLEM IS US.

AND I THINK WE HAVE TO BE BRAVER IN SAYING I DON'T WANT TO  
PRIORITIZE THIS AT ALL.

I DON'T CARE IF IT COMES IN 43.

I REALLY DON'T THINK WE SHOULD BE DOING THIS THING OR 43 FITS  
WITH 22.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BECAUSE NOW I'M "D" AND I HAVE 43 ITEMS AND I'M NEVER GOING TO DO 43.

OKAY. IT'S NEVER GOING TO HAPPEN BUT IT IS STILL THERE.

SOMEBODY IS STILL GOING TO CALL AND SAY WHAT THE HECK HAPPENED TO THAT THING WITH THE REFRIGERATORS FOR THE HOMELESS, WHICH I NOTICED WAS STILL ON THE LIST LAST YEAR.

SO YOU KNOW, WE SHOULD KILL IT.

IF WE DON'T LIKE IT, LET'S GET RID OF IT.

LET'S BE BRAVE HERE, PEOPLE.

LET'S DO OUR JOB SO DEE CAN DO HERS.

I THINK THAT'S KIND OF ONE OF MY BASIC PREMISES HERE.

I WANT US TO BE A LOT OF MORE SYSTEMATIC ABOUT THAT REFERRAL LIST.

AND I THINK WITH THOSE CHANGES, I THINK THAT I LIKE THIS GENERAL FLOW.

AGAIN, A FEW THINGS I DON'T WANT POLICY COMMITTEES DOING A COUPLE THINGS I WANT BETTER DEFINED.

AND I DON'T WANT THIS LONG TIMELINE.

I THINK IT'S WAY TOO LONG.

WE CAN DO MORE WORK THAN THIS.

WE'VE BEEN DOING MORE WORK THAN THIS.

AND I THINK WOULD BE KEEP IT UP WITH SOME BETTER STANDARDS AND FORMS.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SO THANK YOU, COUNCILMEMBER HAHN.

>> MAYOR J. ARREGUIN: OKAY, THANK YOU VERY MUCH.

WE'LL GO TO COUNCILMEMBER HUMBERT.

>> M. HUMBERT: YES, THANK YOU, MR. MAYOR.

THOSE TWO PRESENTATIONS ARE HARD ACTS TO FOLLOW CERTAINLY.

I WANT TO SAY HOW MUCH I APPRECIATE ALL OF THE WORK THAT AGENDA AND RULES COMMITTEE DID TO REVIEW AND SUMMARIZE THE PROPOSALS CURRENTLY ON THE TABLE.

AND TO ESPECIALLY THANK THE MAYOR, COUNCILMEMBER WENGRAF AND THEIR STAFF FOR THE WORK THEY DID TO CREATE THE MATRIX.

IT WAS A LOT OF MATERIAL.

THE MATRIX TO ME WAS REALLY HELPFUL IN BEING ABLE TO DO A MORE APPLES TO APPLE COMPARISON BETWEEN THE PROPOSALS THAT HAVE COME DOWN DURING A SIGNIFICANT PERIOD OF HISTORY.

AND HOW THEY WOULD POTENTIALLY IMPACT VARIOUS COMPONENTS OF THE LEGISLATIVE PROCESS.

I ALSO WANT TO DEEPLY THANK COUNCILMEMBER HAHN FOR HER WORK IN PRESENTING A MORE STRUCTURED PROCESS THAT IMPLEMENTED WOULD CERTAINLY HELP ENSURE THE DETAILS AND POLICIES AND PROPOSALS ARE DRILLED INTO WELL BEFORE THEY REACH THE COUNCIL STAGE.

I ALSO WANT TO THANK COUNCILMEMBER HARRISON, ALONG WITH COUNCILMEMBERS TAPLIN AND ROBINSON FOR THEIR WORK TO PUT FORWARD AN ALTERNATIVE LEGISLATIVE CYCLE APPROACH.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I APPRECIATE HAVING DIFFERENT OPTIONS TO CONSIDER.

AND I THINK THIS ALTERNATIVE HAS SOME ADDITIONAL POSITIVE CHARACTERISTICS.

INCLUDING SIMPLICITY THAT MERIT STRONG CONSIDERATION.

OVERALL THOUGH I HAVE TO AGREE, ALTHOUGH I AGREE THAT PROPOSALS SOMETIMES NEED MORE WORK BEFORE COMING TO COUNCIL, BASED ON MY LIMITED EXPERIENCE ON COUNCIL, I DON'T NECESSARILY FEEL THAT A LACK OF COMPLETENESS IS THE BIGGEST PROBLEM WE FACE IN TERMS OF COUNCIL'S APPROACH TO MAJOR ITEMS.

I THINK THAT OUR EXISTING COMMITTEE APPROACH AND EXTREMELY CAPABLE STAFF ALREADY DO A PRETTY GOOD JOB OF ENSURING ITEMS EITHER GET TO COUNCIL OR COME OUT OF COUNCIL IN DESCENT SHAPE. AND THERE IS ALSO THE FACT THAT COUNCIL WAS A POLICY SETTING BODY WITH IMPLEMENTATION AND OPERATIONS BEING THE PROVINCE OF STAFF.

I DON'T KNOW THAT COUNCIL AND COUNCIL COMMITTEES GETTING EVEN MORE INTO THE WEEDS ON MINUTE DETAILS IS NECESSARILY GOING TO HELP STAFF DO THEIR JOBS.

IT MIGHT EVEN HAVE THE OPPOSITE EFFECT FOR POLICIES AND PROGRAMS AND HAVE LESS FLEXIBILITY.

THIS BRINGS ME TO WHAT I THINK IS THE FUNDAMENTAL PROBLEM WITH OUR APPROACH TO LEGISLATING, WE DO TOO MUCH OF IT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I THINK THE CITY MANAGER HAS BEEN JUST ABOUT AS CLEAR AS SHE CAN BE IN TELLING US WE NEED TO SLOW OUR GENERATION OF REFERRALS WHEN IT COMES TO THE MAJOR POLICIES AND PROGRAMS COMING OFF OF THIS DAIS.

AND I JUST DON'T FEEL A LEGISLATIVE SEASON APPROACH REALLY TACKLES THE FUNDAMENTAL ISSUE.

THAT'S WHY I LEAN STRONGLY TOWARD USING MY PREDECESSOR FORMER COUNCILMEMBER DROSTE BE RIGHT PROPOSAL AS A STARTING POINT WORKING OUT FROM THERE.

IN GENERAL, I'M RELUCTANT TO SUPPORT A LEGISLATIVE OVER HAUL WITHOUT LIMITS ON COUNCIL ITEMS OR TIME OUR REWEIGHTED RANGE VOTING PRIORITIZATION EXERCISE TO TAKE PLACE BEFORE STAFF AND COMMITTEES REALLY DIVE INTO THE DETAILS OF PROPOSALS THAT COULD CLEAR OUT SOME OF THE ITEMS EFFICIENTLY.

THIS LEGISLATIVE SEASON APPROACH SEEMS POISED TO RESEARCH OUTREACH AND NATIONAL BURDENS ASSOCIATED WITH ANY GIVEN ITEM, BOTH FOR COUNCIL STAFF AND POTENTIALLY OTHER CITY STAFF.

WITHOUT SOME LIMITS ON COUNCIL ITEMS THIS PROPOSAL SEEMS LIKELY TO INCREASE THE COMPLEXITY AND WORKLOAD ASSOCIATED WITH ITEMS COMING FROM COUNCIL.

IN ADDITION, BECAUSE ALL MAJOR ITEMS WOULD BE HELD TO THE SAME TIMELINE OR SAME TIMELINES THESE INCREASED NEEDS FOR REVIEW

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

HEARINGS, AND ANALYSIS SEEM LIBEL TO EXACERBATE CRUNCH TIMES DURING THE YEAR AND POSSIBLY EVEN CREATE NEW ONES.

I THINK THAT THE HARRISON, TAPLIN, ROBINSON PROPOSAL IS BETTER THAT WOULD REDUCE STAFF EFFORTS AND AVOID GIVING COMMITTEES AN APPROPRIATE VETO POWER OVER COUNCIL REFERRALS.

AGAIN, THAT SAID, I STILL THINK THIS ALTERNATIVE ALSO GIVES SHORT SHIFT TO THE FUNDAMENTAL ISSUE, THE SHEER VOLUME OF COMPLEX AND WORK INTENSIVE POLICY AND PROGRAMS COMING OUT OF COUNCIL.

THIS REMAINS THE NUMBER ONE ISSUE TO ME.

AND THIS FEELS CONSISTENT WITH WHAT WE HEARD FROM THE CITY MANAGER.

I'M NOT GOING TO SUGGEST A MORATORIUM ON NEW MAJOR NONEMERGENCY ITEMS WOULD BE IN ORDER.

I'M SURE I WOULDN'T FIND SUPPORT AND MAYBE IT DOESN'T MAKE SENSE BUT A CAP OF SOME SORTED AND PERHAPS A TEMPORARY NUMERICAL CAP IS WHAT WE SHOULD AIM FOR.

I DON'T FEEL LIKE IN SUPPORT ANY PROPOSAL THAT DOESN'T SET A FIRM LIMIT ON MAJOR COUNCIL ITEMS.

BUT I DO WANT TO THANK EVERYBODY FOR ALL THE REALLY COMPLICATED AND HARD WORK THAT THEY PUT IN ON THIS.

AND I'VE SPENT A LOT OF TIME LOOKING AT THESE PROPOSALS.

AND THANK YOU SO MUCH.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> MAYOR J. ARREGUIN: OKAY.

COUNCILMEMBER HAHN WANT TO MAKE A CLARIFYING COMMENT.

AND THEN, ARE THERE ANY OTHER CITY COUNCIL MEMBERS THAT HAVE COMMENTS?

WE NEED TO TAKE PUBLIC COMMENTS AS WELL.

>> S. HAHN: THANK YOU.

COUNCILMEMBER HARRISON, I WANT TO BETTER UNDERSTAND.

I COMPLETELY AGREE WITH YOU THAT CITY MANAGER ITEMS WOULD ALSO BENEFIT FROM THE SAME REVIEW.

BUT I'M TRYING TO UNDERSTAND WHERE THAT COMES UP, BECAUSE MOST OF WHAT THEY BRING TO US ARE REFERRAL RESPONSES.

AND I WAS TRYING TO REMEMBER A TIME WHEN THE CITY MANAGER SORT OF BROUGHT US SOMETHING NEW THAT HADN'T BEEN REFERRED BY THE CITY COUNCIL.

THE ONLY THING I CAN THINK OF WAS THE KIOSKS IS WHEN THE REFERRAL RESPONSE COMES BACK THAT RESPONSE SHOULD THEN BE VETTED BY A COMMITTEE?

IF YOU COULD CLARIFY WHAT YOU MEAN BY THAT.

>> K HARRISON: YES, MANY PAST REFERRALS WERE SO VAGUE THAT WE, AND WE HAD COMPLETELY DIFFERENT PEOPLE ON COUNCIL THAT I WOULD HOPE THEY WOULD COME BACK TO US.

IF WE START DOING A BETTER JOB OF REFERRALS, THE WON'T BE AS BIG AN ISSUE.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I THINK SOMETIMES STAFFING IN THE DARK TO FIGURE OUT HOW TO RESPOND.

IT MIGHT NOT BE ON POINT WITH WHAT WE WERE THINKING.

I CAN'T THINK OF AN EXAMPLE.

THERE HAVE BEEN EXAMPLES ABOUT HOMELESS POLICY, SHE'S TRYING TO DO SOMETHING REASONABLE BUT MANY THINGS HAVE CHANGED IN THE LEGAL LANDSCAPE THAT HAVE CHANGED WHAT WE MIGHT BE ABLE TO DO OR NOT DO.

FOR EXAMPLE, WE HAD CERTAIN POLICIES ABOUT SLEEPING IN CARS AND THAT CHANGED AS YOU RECALL, THEN IT CAME BACK.

I THINK IF THAT'S GOING TO BE SOMETHING WITH A LOT OF IMPLICATIONS, IT SHOULD GO TO COMMITTEE.

>> S. HAHN: NOT NECESSARILY SOMETHING WRITTEN, A CHANGE IN POLICY.

>> K HARRISON: I THINK SHE WAS COMING BACK WITH CHANGE IN WRITTEN POLICY BASED ON CHANGE IN THE LAW.

>> S. HAHN: I SEE.

>> K HARRISON: SO I THINK AT THAT POINT DEPENDING ON HOW COMPLEX IT IS, CRITERIA, IT WOULD GO TO A COMMITTEE.

MANY THINGS AREN'T THAT COMPLEX.

SO OBUT AND STILL THINK THERE ARE ITEMS --

>> S. HAHN: YEAH.

>> K HARRISON: -- [ MULTIPLE SPEAKERS ]

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

>> S. HAHN: I WAS TRYING TO UNDERSTAND EXACTLY WHAT YOU WERE REFERRING TO.

WE'RE JUST TAKING NOTES AND WE'LL TAKE IT BACK TO THE AGENDA AND RULES COMMITTEE.

BUT I WONDERED, I THINK THE CITY MANAGER MIGHT HAVE HAD, MAYOR, IF I MAY, I THOUGHT IT LOOKED THE CITY MANAGER MIGHT HAVE A COMMENT ON THAT.

>> I JUST WANTED TO ECHO YOUR CONCERNS, COUNCILMEMBER HAHN, THAT WE RARELY IN EVER BRING FORWARD OUR OWN MAJOR, I DON'T BRING FORWARD POLICY.

I'M RESPONDING TO THIS BODY'S POLICY.

BUT IF THAT'S THE ROUTE THAT IS BEING RECOMMENDED WE BRING IT BACK TO A POLICY COMMITTEE BEFORE BRINGING IT TO THE FULL COUNCIL FOR ADOPTION, WE'RE OPEN TO THAT AS WELL.

>> S. HAHN: OKAY.

ANYTHING ELSE COUNCILMEMBER HARRISON, FOR US TO FULLY UNDERSTAND YOUR VISION ON THIS?

>> K HARRISON: AS AN EXAMPLE.

I THINK THE RESPONSE TO A.L.P.R.'S IS A GOOD EXAMPLE.

WE HAD A REFERRAL A LONG TIME AGO.

WE HAVE SO MUCH COMPLICATION, THE PARKING L.P.R.'S, THE OTHER CAMERAS THAT DID FINALLY GO TO PUBLIC SAFETY BUT IT WENT TO BUDGET FIRST.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND THAT WAS ODD.

SO IT'S REALLY NEED THAT NEEDED THAT PUBLIC SAFETY COMMITTEE  
REVIEW.

AND YOU GUYS DID A GREAT JOB BUT THAT WAS A BIG DEAL.  
IT IS THINGS LIKE THAT.

I DON'T THINK IT WILL COME UP EVERY DAY.

BUT WE'RE DEALING, YOU ARE DEALING WITH A LOT NOW, CITY MANAGER,  
MADAM CITY ATTORNEY, COMPLICATED ITEMS, AND I THINK SOMETIMES  
THEY BENEFIT FROM THAT FORUM.

THE COMMITTEES ARE BETTER FOR HAVING PUBLIC INPUT.

ONE REASON I LOVE THEM, WE REDUCED CONFUSION AT THE COUNCIL  
ABOUT WHAT THINGS ARE.

IT'S BEEN VERY HELPFUL.

>> THANK YOU.

VERY HELPFUL FOR US TO BETTER UNDERSTAND THE VISION ON THAT.

>> MAYOR J. ARREGUIN: COUNCILMEMBER ROBINSON.

>> R. ROBINSON: SURE.

GOOD AFTERNOON, I'LL TAKE THIS OPPORTUNITY TO JUMP IN.

AND FIRST, THANK YOU TO THE AGENDA COMMITTEE WHO HAVE BEEN  
ENGAGING WITH THE DISCUSSION AND INCREDIBLY DEEP LEVEL.

THE REST ARE STUCK OUTSIDE WITH OUR FACES PUSHED AGAINST THE  
WINDOW EAVESDROPPING AND UNABLE TO PARTICIPATE.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

COUNCILMEMBER HAHN, IT IS SO MUCH EASIER FOR THE REST OF US TO  
POKE AT PROPOSALS AND IDENTIFY THINGS WE'RE CRITICAL OF TO  
ASSEMBLE FOR CONSIDERATION.

THANK FOR THE HEAVY LIFTING.

MY FEEDBACK IS LARGELY REFLECTED IN THE SERIES OF NOTES WITH  
COUNCILMEMBER HARRISON.

I'M GLAD THE COMMITTEE WILL BE ABLE TO WEIGH THAT AND CONSIDER  
ALL PATHS AVAILABLE TO US.

REALLY I THINK COUNCILMEMBER HARRISON, TAPLIN, AND I, IT'S NOT  
REALLY A PROPOSAL.

IT'S A STRING OF IDEAS AND PRIORITIES REALLY FOR THE PROPOSAL  
THAT I THINK WILL BE SHAPED BY THE AGENDA COMMITTEE.

I'LL FOCUS MY COMMENTS ON THE TINY HANDFUL OF THOUGHTS IN MY  
TIME SITTING HERE.

ONE, WHICH I THINK COUNCILMEMBER HUMBERT ALLUDED TO, BUT WE  
HAVEN'T TALKED TO SUPER DIRECTLY.

THE IDEA OF QUANTITATIVE LIMITS ON THE NUMBER OF PIECES OF LIMITED  
LEGISLATION THAT COUNCILMEMBERS AND INTRODUCE, THIS HAS BEEN  
FLOATED BEFORE AND IT'S SOMETHING I THINK CANDIDLY INITIALLY I  
HAD A BIT MORE HOSTILE OF A REACTION TO.

I THINK IT FELT A LITTLE UNDEMOCRATIC IF YOU WILL.

WE'RE REPRESENTATIVES OF OUR DISTRICTS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I THINK WE SHOULD BE ABLE TO INTRODUCE THE VOLUME OF LEGISLATION THAT OUR RESIDENTS EMPOWER US TO.

BUT THAT SAID, WE HAVE A REAL ISSUE HERE.

AND I THINK IF I'M A LITTLE HONEST WITH MYSELF, I THINK THERE IS PROBABLY NUMBERS OUT THERE, MAYBE IT'S FIVE.

A NUMBER OF MAJOR ITEMS THAT ONE COUNCIL MEMBER COULD INTRODUCE THAT IS HIGHER THAN THE NUMBER OF MAJOR ITEMS I OR SOMEONE WAS GOING TO INTRODUCE ANYWAY BUT COULD HAVE AN INTERESTING SELECTIVE AFFECT IN OUR DECISION-MAKING PROCESS, TO EXERCISE JUST A LITTLE BIT MORE HESITATION TO VET AN IDEA JUST A LITTLE BIT MORE BECAUSE YOU KNOW THERE IS AN OPPORTUNITY COST TO INTRODUCING IT.

THAT LEVEL OF ANALYSIS, THAT LEVEL OF PATIENCE, REALLY THAT LEVEL OF HESITATION I THINK IS VALUABLE.

AND COUNCILMEMBER HARRISON, AS YOU SAID, IF THE PROBLEM IS US, IT'S REALLY HARD TO DEFINE RULES THAT WILL SHAPE THAT.

BUT I THINK THERE IS PROMISE THERE.

I THINK THERE ARE LIMITS SO WE COULD PUT IN PLACE THAT REALLY DON'T MEANINGFULLY CURTAIL THE EXTENT TOO MUCH WE CAN BE INNOVATIVE AND PUT THINGS ON THE TABLE AND FORCE US TO ASK OURSELVES BEFORE WE THROW SOMETHING ON THE HOPPER IF IT'S THE HILL WE WANT TO DIE ON.

I'M RUMINATING ON THAT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

OPEN TO POSSIBILITY SAID THERE.

A LOT OF OTHER THINGS I LIKE THAT ARE IN THE MIX ACROSS PROPOSALS, I THINK REQUIRING THE ITEM GUIDELINES WE HAVE BE IN PLACE WOULD BE VALUABLE.

I'M CERTAINLY NOT ALWAYS THE BEST AT FOLLOWING THEM.

I THINK EXPLICIT CLARITY ABOUT ITEM DEADLINES FOR BUDGETING/IMPLEMENTATION WILL BE VALUABLE.

I THINK IT WILL BE GOOD, REALLY WE'RE DOING THIS CYCLE I THINK IT'S A GOOD PRACTICE TO MAKE PERMANENT TO BE CLEAR ABOUT WHAT THE ROLE OF BUDGET REFERRALS FOR A.A.O. ONE AND TWO SHOULD BE. AS ONE TIME OR SENSITIVE NEEDS.

THAT I THINK WOULD BE REALLY POSITIVE.

AND I CALLED TOGETHER A LIST OF THINGS I WOULDN'T EVEN SAY I'M OPPOSED TO BUT THINGS I WORRY A LITTLE ABOUT.

IN CONTEMPLATING SORT OF THE IDEA OF A SESSION.

OBVIOUSLY THAT WORKS AT A LOT OF OTHER LEVELS OF GOVERNMENTS.

I FIND MYSELF BEING ANXIOUS THE SURGES OF CERTAIN TYPES OF WORKLOAD AT CERTAIN TIMES MIGHT BE UNTENABLE.

I THINK OF THE WORK THAT OUR COMMITTEES ARE DOING RIGHT NOW SOMETIMES THEY EBB AND FLOW, SOMETIMES THEY HAVE SWELLS, SOMETIMES A LITTLE BACK LOG THAT TAKES MONTHS, SOMETIMES I GO FOUR MONTHS WITHOUT A LAND USE MEETING.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

TO DO THAT AT ONCE, TO HAVE PACKED AGENDAS FOR THAT COMMITTEE, WE HAVE A HARD TIME GETTING TO TWO AGENDA ITEMS AT THE COMMITTEE LEVEL.

I THINK AT OUR TUESDAY EVENING COUNCIL MEETINGS THERE IS OFTEN A LOT ON THE AGENDA AND WE HAVE AN INCENTIVE TO BE BRISK AND MAKE SURE WE GET TO WHATEVER ELSE WE HAVE.

I THINK THE BEAUTIFUL THING ABOUT THE POLICY COMMITTEE, WE CAN RUN IN CIRCLES AND ASK ALL SORTS TECHNICAL SMALL QUESTIONS TO REALLY VET SOMETHING AND SPEND THREE HOURS WITH ONE ITEM WORKSHOPPING IT.

AND SO I THINK I HAVE LOGISTICAL WORRIES ABOUT WHAT IT WOULD LOOK LIKE TO PACK THAT STAGE TO HAVE THE POLICY VETTING PROCESS FOR THE WHOLE CYCLE INTO A FEW MONTHS.

I SHARE AND WANT TO RESONATE WITH COMMENTS MADE ABOUT A ROLE FOR COMMITTEES PRIORITIZING OR SCORING ITEMS.

I THINK IT'S VERY VALUABLE THAT IS COMING FROM THE FULL COUNCIL. AND ALSO, WANTS US TO STIR AWAY FROM BEING LIMITED TO ONLY HAVING AUTHORS NOT CO-SPONSORS AT THE PRE-SUBMISSION STAGE.

I FLOAT AROUND A LOT OF IDEAS WITH COLLEAGUES AND I THINK HAVING THE OPPORTUNITY TO BRAINSTORM AND VET SOMETHING WITH OTHER COUNCILMEMBERS BEFORE I BRING IT FORWARD IS VALUABLE AND OFTEN RESULTS IN ME NOT INTRODUCING THINGS BECAUSE THERE IS A BETTER WAY TO GO ABOUT IT OR SOMETHING I DIDN'T KNOW.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THAT IS VALUABLE AND I DON'T WANT TO MAKE THAT HARDER TO DO.

IN SUMMATION, THANK YOU TO EVERYONE WHO PUT ITEMS ON THE TABLE.

I DO NOT ENVY THE COMMITTEE TO FIGURE OUT A PATH FORWARD.

THANK YOU.

>> MAYOR J. ARREGUIN: COUNCIL WENGRAF.

>> S. WENGRAF: YEAH, THANK YOU VERY MUCH.

FIRST, I WANT TO THANK COUNCILMEMBER HAHN FOR DOING ALL OF THE HARD WORK.

AND TAKING ON THE BURDEN OF FORMULATING THIS WITH THE CLERK, CITY MANAGER AND PRESENTING IT TO US.

I THINK IT WAS A HUGE TASK.

AND I'M VERY GRATEFUL TO HER FOR DOING IT.

AND AS SHE EXPLAINED, THE MAYOR AND I COULD NOT PARTICIPATE BECAUSE OF THE BROWN ACT.

SO THANK YOU VERY MUCH, COUNCILMEMBER HAHN.

I ALSO WANT TO THANK COUNCILMEMBER HARRISON FOR PUTTING FORWARD AN ALTERNATIVE.

BUT THESE ARE NOT THE ONLY TWO THINGS THAT ARE BEFORE US.

WE CAN, BOTH OF THESE THINGS I CONSIDER JUMPING OFF POINTS FOR THE DISCUSSION.

AND I WOULD LIKE TO SUGGEST WE TAKE A STEP BACK AND THINK ABOUT WHAT OUR GOAL IS.

IT'S BEEN YEARS YOU KNOW, WE'VE HAD SO MANY PROPOSALS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

WHAT IS THE PROBLEM WE'RE TRYING TO SOLVE.

AND BOTH PROPOSALS BEFORE US ARE PRETTY COMPLEX.

I'M NOT SURE THAT LEVEL OF COMPLEXITY IS NECESSARY.

I THINK IT WAS COUNCIL HUMBERT WHO BROUGHT UP THE IDEA OF  
LIMITING THE NUMBER OF ITEMS.

ORIGINALLY, YOU KNOW, I REMEMBER THE CITY MANAGER COMING TO US  
AND BASICALLY BEGGING US TO STOP DOING MAJOR ITEMS BECAUSE STAFF  
WAS SO OVERWHELMED.

AND I THINK THERE IS STILL A BACKLOG.

I DON'T KNOW WHAT IT IS.

BUT MAYBE 90 ITEMS OR SOMETHING LIKE THAT.

YOU KNOW, GIVEN THE STAFFING SITUATION MAYBE WHAT WE DECIDE TO  
DO WILL BE TEMPORARY.

MAYBE WE CAN LINK IT TO STAFFING.

BUT I THINK THERE IS AN URGENCY IN US DOING SOMETHING RIGHT NOW  
TO ALLEVIATE THE PROBLEM THAT STAFF IS FACING, WHICH IS THAT  
THEY JUST CAN'T DEAL WITH EVERYTHING WE'RE GIVING THEM.

SO I WOULD LIKE TO AT OUR NEXT, WHEN WE DISCUSS THIS AGAIN, I  
DON'T THINK WE'RE GOING TO BE ABLE TO MAKE A DECISION TONIGHT,  
ARE WE MAYOR?

>> MAYOR J. ARREGUIN: WE'RE NOT MAKING A DECISION TONIGHT.

>> S. WENGRAF: YEAH, OKAY.

SO I WOULD LIKE TO REVISIT THE GOAL.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND REVISIT THE PROBLEM THAT WE'RE TRYING TO SOLVE.

BECAUSE I CERTAINLY DON'T WANT TO REPLACE A NEW BUNCH OF BUREAUCRATIC AND VERY COMPLICATED PROCEDURES WITH WHAT WE HAVE NOW.

I'M NOT SURE THAT IS GOING TO FIX ANYTHING.

SO THAT'S MY SUGGESTION FOR TONIGHT.

THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

VICE MAYOR BARTLETT.

>> B. BARTLETT: THANK YOU, MR. MAYOR.

I WANT TO THANK COUNCILMEMBER HAHN FOR YOUR DILIGENT WORK.

DEEP, DEEP WORK HERE.

SCHEMATICS OF A MICROCHIP.

[ LAUGHTER ]

>> B. BARTLETT: AND THANK YOU, AS WELL, COUNCILMEMBER HARRISON FOR YOUR APPROACH, COUNCILMEMBER ROBINSON, COAUTHORING.

WE TALKED ABOUT THIS THROUGH THERE YEARS.

AND YOU KNOW, A COUPLE OF THINGS COME TO MIND.

ONE, YOU KNOW, I THINK JUST A KNEE JERK I HAVE A KNEE JERK

RESPONSE WHEN I FUNDAMENTALLY TEND NOT TO SUPPORT LIMITATIONS ON DEMOCRACY AND REPRESENTATION.

BUT YOU HAVE ANSWERS SOME OF THE ISSUES WITH THE EXCEPTIONS YOU PROVIDE TO TIME CRITICAL MEASURES.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BUT I GUESS THE REAL QUESTION IS, AND IT'S THIS KIND OF HARKENS TO WHAT COUNCILMEMBER WENGRAF JUST MENTIONED.

DOES ANYONE KNOW HOW MANY MAJOR ITEMS THE COUNCIL PRODUCED IN THE LAST YEAR?

I CAN'T THINK OF TOO MANY.

THERE ANY DATA ON THAT?

>> I'LL SAY I THINK JUST GOING OFF OF THE FLOW THROUGH THE AGENDA COMMITTEE, OBVIOUSLY NOTHING SCIENTIFIC, BUT I THINK DURING THE PANDEMIC WE SORT OF HAD A UNSPOKEN AGREEMENT.

THAT WE WERE GOING TO LEAVE THE

>> S. HAHN: CITY MANAGER TO ADDRESS THE PANDEMIC.

SO THE FLOW WENT DOWN.

AND SINCE THAT IS LIFTED I WOULD SAY THE FLOW OF MAJOR ITEMS IS LOWER THAN IT WAS BEFORE THE PANDEMIC.

MAYOR, WOULD THAT?

I MEAN, IF YOU LOOK AT FOR EXAMPLE OUR AGENDA TONIGHT, I THINK IT'S THE FIRST TIME IN MY TIME ON THE AGENDA COMMITTEE THAT WE ACTUALLY DON'T HAVE AN ACTION ITEM EITHER FROM STAFF OR FROM THE COUNCIL --

I THINK PEOPLE ARE BEING MORE I DON'T KNOW, RESTRAINED.

>> B. BARTLETT: THAT WAS MY ANECDOTAL OBSERVATION AS WELL.

IT SEEMS WE UNDERSTAND THE STAFF IS OVERWHELMED.

WE LOST MANY MEMBERS OF OUR TRANSPORTATION DIVISION.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I SEE US WITHHOLDING AND WAITING FOR THINGS TO NORMALIZE.

I FOR ONE HAVE TAKEN MUCH TIME TO WORK WITH CITY STAFF ON MAJOR ITEMS THAT ARE IN DEVELOPMENT.

AND MAYBE DO ONE THIS YEAR.

WHICH SHOULD BE AMAZING TOO.

I CAN'T WAIT TO SHARE WITH YOU ALL.

[ LAUGHTER ]

>> B. BARTLETT: YOU KNOW, BUT THE YOU KNOW, THE LEANING INTO LEGISLATION THAT IS, AND THIS IS WHAT WE DO THROUGH THE PROCESS, THROUGH THE COMMITTEE PROCESS, WHICH I'M A FAN OF, IT HELPS YOU THINK IT THROUGH.

WE HELP OTHERS COME WITH THEIR -- WE LEND OUR EXPERTISE AND GROUP KNOWLEDGE AND HELP AUTHOR REFINE THEIR WORK.

WE HELP THEM SIMPLIFY THEIR WORK.

AND SO I THINK THIS MEASURE WE'RE TALKING ABOUT TO UNDERSTAND IS PRIORITIZATIONS, THEY KIND OF NEED THE SAME PROCESS, THEY NEED TO BECOME SIMPLIFIED.

THIS IS TOO COMPLEX.

THERE IS A MORE ELEGANT WAY.

PARTICULARLY IN THE LIGHT OF THE FACT THAT THE COUNCIL APPEARS TO BE RESPONSIVE TO THE NEEDS OF THE BUREAUCRACY.

BUT NOT GIVING THEM ANYTHING TO DO.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

IT SEEMS LIKE WE MAY NOT NEED TO OVERLAY THIS MUCH BUREAUCRATIC TO SOMETHING THAT IS NOT EXISTING RIGHT NOW.

WITH ALSO ANOTHER QUESTION, DOES THIS KEEP THE R.V. V. PROCESS AS WELL OR SUPPLANT IT?

>> S. HAHN: I THINK THE IDEA WAS THAT WHEN YOU DON'T HAVE A BIG BACK LOG OF OLD ITEMS THAT HAVEN'T BEEN IMPLEMENTED AND YOU HAVE A RESTRICTED FLOW BASICALLY MORE BASED ON QUALITY THEN ON QUOTAS, BY RAISING OUR STANDARDS, THE IDEA WOULD BE THAT LESS WOULD BE GOING FORWARD.

THEN THE PRIORITIZATION BECOMES MUCH EASIER.

YOU ARE NOT PRIORITIZING 100 ITEMS, MAYBE 15 OR 20.

AND MAYBE YOU USE R.R.V. OR MAYBE THERE IS ANOTHER PROCESS.

IT DEFINITELY DID NOT RECOMMEND GETTING RID OF IT.

BUT THE IDEA WAS THAT IT WOULD ESSENTIALLY BECOME LARGELY MOOT.

>> B. BARTLETT: IF UNDER THIS PROPOSAL YOU HAVE TO WAIT 16 MONTHS TO SUBMIT SOMETHING OR THEN YOU GET R.R.V.ED TO THE BOTTOM OF THE LIST, YOU EFFECTIVELY DENIED THE RESIDENTS WHO PAY EXORBITANT PROPERTY TAXES AND RENTED, THE OPPORTUNITY TO HAVE SOMETHING THEY CARE ABOUT SEEN BY THE COUNCIL.

FOR NEXT, THAT PERSON IS OUT OF OFFICE.

IT'S OVER.

YOU ARE TALKING SEVEN YEARS LATER.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND TRUST ME, I LIVED HERE SEVEN YEARS CYCLES OF LEGISLATION AND IT TAKES DILIGENCE TO SEE IT THROUGH.

AGAIN, I DON'T THINK -- I DON'T SEE THE NEED TO KEEP ADDING SO MUCH TIME AND DISTANCE BETWEEN PEOPLE AND THEIR ASPIRATIONS.

AND THEN, THE CO-SPONSOR'S MEASURE, COUNCILMEMBER ROBINSON BROUGHT IT UP.

I THINK IT'S IMPORTANT FOR COLLEAGUES AND COUNCILMEMBERS TO THINK THROUGH THE STRATEGIES AND YOU KNOW, IT'S PART OF THE KEY TO SUCCESS.

YOU KNOW, NEWER COUNCILMEMBERS COME ON AND TEAM UP WITH OTHERS AND FIGURE OUT HOW TO WIN THE RIGHT COMBINATIONS, I THINK IT'S A GOOD PROVING GROUND FOR LEGISLATION BECAUSE IN THE DAY THE AUTHORS GOAL IS TO GET IT PASSED ON BEHALF OF THE CONSTITUENTS WHO REQUESTED IT OR BENEFIT FROM THEM.

SO I THINK WE NEED TO BAN THEIR ABILITY TO STRATEGIZE ESSENTIALLY.

RIGHT?

AND GET HELP TOO. RIGHT?

AND THEN, LASTLY, I DO SUPPORT ATTACKING THE BACKLOG QUEUE.

SPECIAL TOPIC NUMBER FOUR.

I THINK THAT'S IMPORTANT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SITTING ON THIS DEEP BENCH OF MATERIALS THAT IS RAPIDLY TURNING FROM COAL INTO DIAMONDS AS IT SITS THE TECTONIC PRESSURE OF BUREAUCRATIC TIME, RIGHT?

YES, ABSOLUTELY, I THINK THAT'S IMPORTANT.

WE SHOULD GO THROUGH THIS AND GET THESE THINGS DEALT WITH.

THOSE ARE MY POINTS.

THAT'S ALL.

I THINK ULTIMATELY, I DON'T THINK ANY OF THIS IS NECESSARY.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON, AGAIN.

>> K HARRISON: I WANT TO ANSWER COUNCILMEMBER BARTLETT'S

QUESTION ABOUT MY PROPOSAL DOES NOT GET RID OF R.R.V.

IT'S STILL THERE.

I DON'T THINK WE SHOULD DO IT AT THE COMMITTEE LEVEL.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU.

ARE THERE ANY OTHER CITY COUNCIL MEMBERS THAT HAVE COMMENTS?

COUNCILMEMBER WENGRAF?

>> S. WENGRAF: YES.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

>> S. WENGRAF: YEAH, I JUST WANT TO SAY THAT YOU KNOW, THE STAFF ISN'T JUST WORKING ON OUR ITEMS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I MEAN, THEY HAVE TO WORK ON ALL KINDS OF OTHER STUFF AS WELL.  
AND THEY HAVE PARTNERS, THE SCHOOL BOARD, THE RENT BOARD, YOU  
KNOW, ALL OF THESE STATE AGENCIES THAT THEY HAVE TO WORK WITH.  
SO I THINK WE'RE BEING A LITTLE NEAR SIGHTED WHEN WE THINK THAT  
STAFF ONLY WORKS WITH OUR ITEMS.

I THINK THEIR WORKLOAD IS HUGE.

AND WE'RE ONLY THINKING OF A LITTLE PART OF IT.

SO MAYBE IT WOULD BE ACTUALLY HELPFUL FOR US TO KNOW MORE ABOUT  
WHAT THE DEMANDS ARE ON THE DEPARTMENTS FROM ALL OF OUR  
PARTNERING AGENCIES.

SO THAT WE WOULD HAVE A BETTER UNDERSTANDING AND A BETTER  
PERSPECTIVE ON THE WORKLOAD.

THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU.

SO FOLLOWING UP ON THAT POINT, I RECALL I THINK IT WAS THE LAST  
BIENNIAL BUDGET PROCESS, WE GOT A COMPREHENSIVE LIST OF  
OUTSTANDING COUNCIL REFERRALS THAT HAD NOT BEEN PRIORITIZED I  
BELIEVE.

AND WE DO GET STATUS UPDATES FROM THE CITY MANAGER ON THE  
IMPLEMENTATION OF COUNCIL REFERRALS, SHORT TERM AND LONG TERM.  
AND WE HAD THAT DATABASE.

BUT I DO THINK, YOU KNOW, AT SOME POINT YOU KNOW PROBABLY  
LEADING UP TO THE NEXT BUDGET DEVELOPMENT, I THINK GOING OVER

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THAT LIST AGAIN WOULD BE HELPFUL BECAUSE THINGS MAYBE OBSOLETE OR REDUNDANT.

I SEEM TO RECALL MULTIPLE REFERRALS ABOUT ADU POLICY OR HOUSING POLICY, MULTIPLE FIRE SAFETY RECOMMENDATIONS.

AND YOU KNOW, WE MAY BE ABLE TO FIND A WAY TO CONSOLIDATE OR ELIMINATE REDUNDANT OR OBSOLETE COUNCIL REFERS SO WE CAN FOCUS ON THE THINGS WE THINK ARE RELEVANT AND WE WANT TO HAVE STAFF DEDICATE TIME TO ADDRESS.

SO I HEAR THAT AS AN OVERARCHING AGREEMENT AMONGST COUNCIL WE NEED TO LOOK AT DEALING WITH THE QUOTE, BACK LOG.

I HOPE WE CAN WHETHER IT'S THROUGH NEW PROCESS OR JUST LEADING UP TO THE BUDGET ADOPTION, WE CAN DO THAT.

I THOUGHT THAT WAS VERY HELPFUL.

SO MAYBE IN ALIGNMENT WITH THE R.R.V. PROCESS THAT MAYBE ONE WAY TO DO IT BEFORE THE R.R.V. PROCESS.

I'M SURE ASSOCIATION WITH THE APPRECIATE IF WE CAN CLARIFY AND REDUCE THE OUTSTANDING NUMBER OF ITEMS.

SO WITH THAT, WHY DON'T WE PROCEED TO PUBLIC COMMENT.

ANY MEMBER HERE THAT WOULD LIKE TO SPEAK TO THE ITEM ON OUR 4:00 P.M. SPECIAL CITY COUNCIL MEETING AGENDA, THE CITY COUNCIL LEGISLATIVE SYSTEMS REDESIGN?

YES, MISS MOROSOVIC.

>> THANK YOU.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I ATTENDED THE JUNE 29TH RETREAT.

AND I HEARD THE CITY MANAGER'S FRUSTRATION, AND TOTALLY UNDERSTOOD IT.

HOW THERE WERE TOO MANY ITEMS THAT WERE POSSIBLE FOR STAFF TO POSSIBLY IMPLEMENT PROPERLY.

AND IT SEEMED AS IF SOME ITEMS COULD BE CONSOLIDATED AS THE MAYOR JUST MENTIONED AND SOME COULD BE FOLDED INTO ONE ANOTHER.

I UNDERSTAND THAT'S CHANGED THAT THERE AROUND AS MANY ITEMS COMING BEFORE COUNCIL BUT THERE ARE STILL OUTSTANDING ITEMS THAT ARE OUT THERE.

THERE IS A NEED FOR TIME CRITICAL ITEMS FOR OBVIOUS REASONS, STATE LAWS CHANGE, FEDERAL LAWS CHANGE, AND FUNDING CHANGES THAT COMES IN.

AND SO YOU ARE GOING TO HAVE TO HAVE TIME CRITICAL ITEMS THAT CANNOT BE LIMITED IN NUMBER IF THEY ARE GENERALLY TIME CRITICAL ITEMS.

THERE IS A NEED TO WORK WITH COMMISSIONS.

NOT ONLY HAS TO REFERRALS TO THEM, BUT ALSO REFERRALS FROM THEM.

NOW, THIS IS PERHAPS A SEPARATE ITEM.

BUT I BELIEVE IT'S IMPORTANT TO HAVE TRANSPARENCY TO THE PUBLIC SO THE PUBLIC NEEDS TO SEE WHAT STAFF IS DOING.

OR RATHER WHAT COUNCIL IS DOING, BUT ALSO WHAT STAFF IS DOING IN TERMS OF IMPLEMENTATION OF THE ITEMS THAT PASSED BEFORE YOU.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I'M GOING TO RAISE THAT THE AGENDA, HOMELESS COMMISSION BROUGHT AN ITEM BEFORE THE AGENDA COMMITTEE THAT WAS PASSED IN EARLY 2020.

AND IT SOMEHOW STAYED AT THE AGENDA COMMITTEE LEVEL.

AND THAT WAS THAT ALL THE COMMISSION RECOMMENDATIONS FROM

VARIOUS COMMISSIONS BECOME COMPILED ONLINE AND IN A BINDER SO THEY COULD BE TRACKED HOW THEY GO TO COUNCIL.

AND ALSO, IN TERMS OF IMPLEMENTATION.

AND THIS IS IMPORTANT, NOT ONLY FOR INFORMATION SHARING BETWEEN COMMISSIONS BUT ALSO FOR COUNCIL TO KNOW WHAT COMMISSIONS IS DOING, FOR STAFF TO FOLLOW IT, AND ALSO FOR TRANSPARENCY TO THE PUBLIC.

AND I HOPE THAT THIS IS ACTED ON.

EDIS GOING TO GIVE ME HIS TWO MINUTES, RIGHT?

THANK YOU. SO LET ME GIVE YOU AN EXAMPLE HOW DIFFICULT IT IS TO RESEARCH AN ITEM.

AND I THINK THE SAME THING HAPPENS WITH COUNCIL ITEMS THAT, AGAIN, THERE HAS TO BE THIS TRANSPARENCY TO THE PUBLIC.

ON THE COMMISSION OF STATUS OF WOMEN, I WANTED TO RESEARCH WHAT IS HAPPENING WITH PREVIOUS ITEMS THAT I WOULD NOT HAVE EVEN KNOWN THESE ITEMS EXISTED EXCEPT I'VE BEEN ATTENDING COUNCIL MEETINGS GENERALLY FOR THE LAST 17 YEARS.

SO I RECALLED SOMETHING ABOUT SMALL BUSINESSES AND WOMEN.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I RECALLED IT PASSED BEFORE COUNCIL SEVERAL YEARS AGO.

I RECALLED OVER 10 YEARS AGO, THIS WAS SOMETHING ON SEX

TRAFFICKING THAT CAME FROM THE STATUS OF WOMEN.

I WOULDN'T HAVE KNOWN HAD I NOT ATTENDED THOSE ITEMS.

I WENT TO THE CITY CLERK'S OFFICE, WHO IS EXCELLENT AT DOING THE RESEARCH.

BUT I AM VERY RESPONSIVE.

HAD TO KEEP GOING BACK AND SAY WHAT HAPPENED TO THAT AFTER THAT.

WHERE IS SETTING, DID IT JUST DIE?

AND IT'S REALLY IMPORTANT WE HAVE THIS INFORMATION, AGAIN, FOR COMMISSIONS, FOR COUNCIL, FOR STAFF, AND FOR THE PUBLIC.

WE HAVE TO BE TRANSPARENT ABOUT WHAT HAPPENS.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU VERY MUCH.

ARE THERE ANY OTHER MEMBERS OF THE PUBLIC HERE IN THE BOARDROOM AT 1231 ADDISON THAT WOULD LIKE TO SPEAK TO ITEM ONE, THE COUNCIL'S REDESIGN.

I'LL ASK ARE THERE SPEAKERS ON ZOOM, PLEASE RAISE YOUR HAND.

MONI LAW.

>> GOOD EVENING, MAYOR AND COUNCIL AND COMMUNITY.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I AM JUST VERY THANKFUL FOR EVERYONE'S HARD WORK AND MY COUNCILMEMBER, KATE HARRISON AND OTHERS WHO MAY HAVE PROPOSED AMENDMENTS.

I UNDERSTAND THIS IS GOING BACK TO AGENDA COMMITTEE FOR REVIEW.

I WANTED TO MAKE A QUICK REFLECTION AND IMPORTANCE OF THE OPENNESS OF CONTINUED DEMOCRACY.

AND I APPRECIATE COUNCILMEMBER BARTLETT'S COMMENT ABOUT NOT DISTANCING THE PEOPLE FROM THE PROCESS.

AND TO ENSURE THIS OPEN SPACE FOR OUR ASPIRATIONS TO GROW.

WITH THAT IN MIND, I'M THINKING OF THE MAYOR'S FAIR AND IMPARTIAL POLICING WORK GROUP THAT I'M THANKFUL FOR THE MAYOR HAVE APPOINTED ME TO THAT.

AND ALL THE WORK THAT PEOPLE ON THE REIMAGINING TASK FORCE FOR CONSTRUCTIVE IDEAS, POLICIES AND PROGRAMS TO PREVENT VIOLENCE AND KEEP US SAFE IN ALL WAYS FROM EDUCATION, ECONOMIC SECURITY, AND POLICE ACCOUNTABILITY.

THOSE PROPOSALS ARE IMPORTANT AND TIME SENSITIVE AND SHOULDN'T BE CONSTRAINED OR PUSHED OUT TO A YEAR LATER.

OR YEAR AND A HALF LATER.

SO TIME LOST IS -- JUSTICE AND GOOD POLICY AND BASIC GOVERNANCE AS DELAYED.

AND SO WE REALLY HAVE A BEAUTIFUL COMMUNITY IN BERKELEY.

I DON'T WANT IT PUT TO THE SIDE AND TOO MANY BITS AND PIECES.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

WE SHOULD HAVE A HOLISTIC CONSTRUCTIVE PROCESS THAT IS OPEN AND OTHERS SAID, TRANSPARENT AND AVAILABLE.

FINALLY, I WANT TO KIND OF SAY THAT WITH REGARD TO BUDGETS AND ALL THE OTHER THINGS THAT WAS SAID, SHE WOULD POINT OUT TO THE BUDGET AND FINANCING ISSUES THAT COME UP.

AND FINALLY, THERE ARE SO MANY THINGS WE HAD AN EXHIBIT "D" WAS CALLED, PART OF THE CITY MANAGER'S ATTACHMENT, AS I RECALL OF THE THINGS THAT HAD NOT BEEN COMPLETED.

I THINK WE COULD HAVE CONTINUED TO CHISEL ON THAT.

I BELIEVE IT'S WORKED ON I HOPE BECAUSE THERE ARE A NUMBER OF IMPORTANT PARTS OF GOVERNANCE AND COMMUNITY ACTIVITIES THAT NEED TO BE COMPLETED IN THAT EXHIBIT "D" AS I BELIEVE IT WAS REFERENCED FOR ALL OF THE BACK UP WORK THAT NEEDED TO BE DONE STILL.

I HOPE AS A CITY WORKER MYSELF, WE DO WORK HARD BUT WE ALSO WANTED TO MAKE THE BEST CITY WE CAN.

THANK YOU SO MUCH.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

ARE THERE ANY OTHER MEMBERS OF THE PUBLIC ON ZOOM WHO WOULD LIKE TO SPEAK TO ITEM ONE, THE CITY COUNCIL LEGISLATIVE SYSTEMS REDESIGN?

ANY OTHER MEMBERS OF THE PUBLIC?

THIS IS THE LAST CALL.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

OKAY.

THANK YOU.

WE'LL CLOSE PUBLIC COMMENT.

AND COLLEAGUES, I'LL ASK ARE THERE ADDITIONAL QUESTIONS OR COMMENTS?

COUNCILMEMBER KESARWANI.

>> R. KESARWANI: THANK YOU VERY MUCH, MR. MAYOR.

AND THANK YOU, COUNCILMEMBER HAHN, FOR YOUR PROPOSAL.

AND COUNCILMEMBERS HARRISON, ROBINSON, AND TAPLIN, FOR YOUR PROPOSAL AS WELL.

I DID WANT TO JUST TURN TO THE CITY MANAGER.

BECAUSE I WAS LOOKING BACK AT THE AUDITOR'S RECORD REPORT ON THE STAFFING.

SHE DID NOTE WORKLOAD ISSUES.

DRIVEN IN PART BY COUNCIL ITEMS BUT ALSO BY UNDERSTAFFING AND VACANCIES AS WELL.

AND SO I WANTED TO ASK THE CITY MANAGER FROM WHERE YOU SIT TODAY, COULD YOU HELP US JUST HONE IN ON WHAT YOU SEE AS THE MAJOR PROBLEMS IN TERMS OF MANAGING WORKLOAD IN TERMS OF WHAT IS RECEIVED BY COUNCIL.

>> THANK YOU, COUNCILMEMBER KESARWANI.

THERE ARE A NUMBER OF THE THINGS THAT INFLUENCE HOW QUICKLY WE CAN IMPLEMENT TURN AROUND LEGISLATION AND PRODUCT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THERE ARE LOTS OF THINGS.

BUT I THINK HALL MARK TO WHAT WE DO HERE AT THE CITY IS THE MATH WE WANT TO BE THOUGHTFUL ABOUT THE WORK WE'RE DOING FOR YOU ALL AND FOR THE COMMUNITY.

SO THERE IS A BIG COMMUNITY PIECE THAT IS THERE FOR US AS WELL.

I THINK THAT DRIVES US LOTS OF WHAT WE DO AS IN TERMS OF STAFF AND HOW WE PROCESS INFORMATION AND GATHER INFORMATION.

STAFFING, WE ARE IN A STAFFING CRISIS.

WE'VE KNOWN THAT FOR QUITE SOME TIME.

WE'RE CHIPPING AWAY AT IT AND DOING WELL AT CHIPPING AWAY AT GETTING NEW HIRES ONBOARD.

ADDRESSING ISSUES WHERE WE HAVE DIFFICULT TO FILL POSITIONS.

WE'RE DOING A GREAT JOB IN THAT REGARD.

WHEN IT COMES TO THE NUMBER, THIS IS ABOUT VOLUME FOR US TRULY.

WE MAKE OUR OWN WORK TOO.

SO LET'S TALK ABOUT THAT A LITTLE BIT.

BECAUSE WE DEVELOP A STRATEGIC PLAN.

WHERE DEPARTMENTS PUT IN 30 OR 40 TYPES OF PROGRAMS THEY WANTED TO DO TO IMPROVE COMMUNITY SERVICE, AND TO WORK HARDER, WHETHER THAT IS ABOUT HOW WE DEVELOP ADMINISTRATIVE REGULATIONS, TO HIRE THE BEST EMPLOYEES, TO TRAINING, TO WHATEVER IT IS, WE HAD OUR OWN SET OF INITIATIVES COMING THROUGH THE STRATEGIC PLAN AS WELL.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

ON TOP OF THAT WE HAD REFERRALS.

SO WE AT ONE POINT WE HAD OVER 300 REFERRALS.

AND I WOULD PROBABLY REDUCE THAT TO ABOUT 250.

NOW WE'RE DOWN TO 80 TO 90 REFERRALS.

I THINK THE OTHER THING THAT KIND OF CHALLENGED US IS THAT THESE THINGS WOULD COME IN AT VARIOUS TIMES THROUGH THE YEAR AND IT WILL BE A START STOP FOR US.

WE WOULD START THE WORK ON A PROJECT.

AND THEN WE WOULD GET TWO OR THREE NEW PROJECTS THAT WOULD REQUIRE US TO STOP AND RESTART.

SO THAT CREATED BACK LOG FOR THOSE PRIOR AS WE START LIFTING UP NEW.

WE WERE UNABLE TO SHIFT AND BE AS FLEXIBILITY AS WE WOULD LIKE TO BE IN TERMS OF ADDRESSING AND IMPLEMENTING THAT POLICY.

WHOLE STAFFING HAS BEEN AN ISSUE FOR US, I THINK PRIORITIES KNOWING WHAT THEY ARE FOR THE CITY HAS BEEN SOMETHING I'VE BEEN CHALLENGED WITH IN TRYING TO ADDRESS WHAT ARE OUR TRUE PRIORITIES ACROSS-THE-BOARD AND HOW DO I GET TO WHAT IS MOST IMPORTANT TO THIS COUNCIL FIRST, SECOND AND THIRD SO I HAVE THAT IN MY QUEUE.

SO WE'VE USED R.R.V. TO TRY AND GATHER THAT AS A PRIORITY BASE FOR US TO LAUNCH AND COMPLETE INITIATIVES AND WORK.

I THINK WE'VE DONE WELL WITH THAT.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

WE'VE NOT ALWAYS BEEN ABLE TO ADDRESS THE NUMBER-ONE PRIORITY BECAUSE BEEN, REMEMBER THE YEAR PRIOR WE WORKED ON NEW INITIATIVE SAID.

THOSE ARE EITHER UNDERWAY OR NOT STARTED. ESPECIALLY IF YOU ARE A DEPARTMENT WITH FIVE OR 10 REFERRALS THAT COME TO YOU.

SO IT'S NOT ONLY THE AMOUNT AND NUMBERS.

WE ALSO GET LOTS OF PROJECTS FROM STATE AGENCIES, OUR LOCAL PARTNERS, OUR COMMISSIONS, AND OF COURSER, WITH POLICY COMMITTEES WE'RE DOING WORK WITH THEM AS WELL.

OUR PLATES ARE EXTREMELY FULL GENERALLY.

BUT WHAT I THINK IS HELPFUL FOR US IS NOT GOING TO BE THE A CONVOLUTED OR COMPLEX PROCESS.

I AGREE.

I THINK WE DON'T WANT TO PUT IN SOME COMPLICATED OR YOU KNOW, PROCESS THAT IS GOING TO RENDER US PARALLELIZED IN TERMS OF INITIATIVES I'M NOT SAYING THESE ARE DOING THAT.

MY POINT IS WE DON'T WANT TO PUT TOO MUCH IN THERE.

WHAT IS HELPFUL FOR ME AS THE CITY MANAGER WHICH I SHARED BEFORE IS HAVING CORE PRIORITIES.

EVERYTHING CAN'T BE AN EMERGENCY OR AT THE SAME LEVEL OF PRIORITY AS -- THEY ALL CAN'T HAVE EQUAL PRIORITY FOR US.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

BECAUSE AND WE DON'T WANT TO SHIFT EVERY TIME THERE IS A NEW THING.

BUT WE'RE SHIFTING AND WE PUT SOMETHING ON THE BACK BURNER, WE START ANEW.

WHAT IS HELP IF ME, IF WE TRULY HAVE A PROCESS, WE CAN LEAN IN AND SAY, YOU GOT THESE 30 MAJOR INITIATIVES OR THINGS YOU ARE WORKING ON, THESE 20 WE WANT YOU TO PUT ON HOLD SO YOU CAN GET THEM DONE AND COME BACK TO THESE.

WE KNOW WHAT WE'RE PUTTING ON HOLD, WE KNOW WHAT IS STOPPED OR YIELDED.

RIGHT NOW WE TRY TO PECK AT ALL OF THEM AND NEVER GET ALL YOU HAVE THEM DONE.

IT WOULD BE GOOD TO KNOW IF WE HAVE A PROCESS TO ALLOW US TO COME TO YOU AND SAY, WE'VE GOT THIS SIX YOU HAVE GIVEN US TO WORK ON, WE NEED TO MOVE THESE FIVE TO THE BACK BURNER.

THAT IS HELPFUL SO EXPECTATIONS FOR THE COMMUNITY AND COUNCIL AND STAFF ARE CLEAR.

SO WHENEVER WE HAVE NEW THINGS THAT ARE GOING TO IMPACT OLD THINGS, WE NEED TO PUT SOMETHING ON HOLD.

AND I THINK A CLEAR PROCESS TO DO SO WOULD BE HELPFUL.

I THINK THE COMPLEXITY OF THE WORK THAT WE DO IS SOMETIMES NOT SEEN.



*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

THE WORK THAT COMES FROM NOT ONLY THE COUNCIL BUT OUR DEPARTMENTS AS WELL, OUR COMMISSIONS AND PARTNERS OUT THERE, STATE AGENCIES, THAT WORK IS COMPLICATED, DETAILED AND IT'S HARD.

SO AS WE'RE TRYING TO CHALLENGE OUR WAY THROUGH ALL OF THAT IT TAKES TIME.

TO ME THOSE ARE THE THINGS THAT KIND OF IMPACT THIS WORK. AND THE WORKLOAD FOR ME AS CITY MANAGER.

THANK YOU FOR GIVING ME A MOMENT TO SAY ALL OF THAT.

I APPRECIATE IT.

>> R. KESARWANI: THANK YOU, MADAM CITY MANAGER.

I APPRECIATE HEARING THAT.

I THINK IT'S NOT ALWAYS CLEAR TO ME AND PERHAPS NOT TO MY COLLEAGUES WHAT EXACTLY IS ON YOUR PLATE.

AND I DO KNOW SOME OF THE MY COLLEAGUES TALKED ABOUT EXAMPLES, THINKING ABOUT THE ACCESSORY DWELLING ORDINANCE THE OTHER NIGHT. WE DID ADD TWO REFERRAL SAID AND PART OF WHAT I UNDERSTOOD FROM THE PLANNING DIRECTOR WAS DOING THAT SURVEY YOU KNOW THAT'S ADDITIONAL STAFF TIME POTENTIALLY, MAYBE NOT SO MUCH IF WE USE PUBLICLY AVAILABLE DATA.

I WAS THINKING ABOUT STATE MANDATES AS IT RELATES TO THE HOUSING ELEMENT AND DEADLINES WE HAVE TO ATTEMPT TO LIVE UP TO.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

AND SO I THINK THAT'S AN EXAMPLE WHERE WE HAVE GIVEN MORE REFERRALS NOW TO THAT DEPARTMENT BUT THAT DOESN'T TAKE AWAY THE STATE MANDATES AND THINGS THAT ARE CURRENTLY IN PROCESS THAT HAVE TO BE COMPLETED.

SO I KNOW OUR AGENDAS IS GOING TO TAKE THIS BACK.

AND SOLVE IT ALL IN THE NEXT MEETING PROBABLY IN SHORT ORDER.

SO IN ANY CASE, I WANT TO THANK THOSE WHO THOUGHT ABOUT THIS AND YEAH, I DO, I JUST WANT TO SAY GENERALLY AM A LITTLE BIT CONCERNED ABOUT A LENGTHY BUREAUCRATIC PROCESS.

BUT I DO THINK WE HAVE TO GIVE OUR CITY STAFF CLEAR PRIORITIES THAT ARE ACHIEVABLE SO THAT MEANS THERE DOES HAVE TO BE SOME KIND OF LIMIT TO IT THAT WE DO HAVE THINK ABOUT.

AND I THINK THE BIGGEST CONCERN THAT I HAVE AS A MEMBER OF THIS BODY IS WHEN WE GET A LARGE NEW PROGRAM THAT THE CITY HAS NEVER DONE BEFORE THAT WOULD REQUIRE YOU KNOW NEW STAFF, NEW SIGNIFICANT BUDGET ON AN ONGOING BASIS.

THOSE ARE THE THINGS THAT YOU KNOW, I JUST WANT US TO BE AWARE OF THOSE COMMITMENTS WHEN WE MAKE THEM.

BECAUSE THOSE ARE THINGS WE HAVE TO PLAN FOR ON AN ONGOING BASIS.

SO THERE IS SOME WAY, YOU KNOW, IF WE'RE GOING TO TAKE THOSE THINGS ON, WE HAVE TO THINK ABOUT WHAT ARE WE NOT GOING TO DO. IN SOME CASES I THINK ABOUT DEPARTMENTS LIKE H.H.C.S.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

HOUSING HEALTH AND COMMUNITY SERVICES, A LOT OF WHAT THEY DO IS MANDATED.

THESE ARE REQUIRED PROGRAMS THAT WE'RE ADMINISTERING, WE RUN A PUBLIC HEALTH DEPARTMENT, WE HAVE A MENTAL HEALTH DIVISION, WE HAVE TO RUN THESE PROGRAMS.

AND SO, YOU KNOW, WE HAVE TO FIGURE OUT WHAT DOES IT MEAN WHEN WE GIVE THAT DEPARTMENT A WHOLE NEW PROGRAM TO LIFT UP AND HOW IS THAT GOING TO HAPPEN WITH A STAFFING SITUATION WE'RE IN.

AND YOU KNOW, I THINK IT MAY BE A NEW NORMAL BECAUSE I'M HEARING A LOT ABOUT GOVERNMENT AGENCIES THAT HAVE HIGH VACANCY AND YOU KNOW, IT'S A CHALLENGE BECAUSE ALL OF THESE ENTITIES ARE RECRUITING AND IT'S A CHALLENGING LABOR SITUATION RIGHT NOW.

SO IN ANY CASE, I WILL LEAVE IT AT THAT AND THANK EVERYONE FOR THE THEIR CONTRIBUTIONS TO THIS ITEM.

THANK YOU.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON, THEN WRAP IT UP.

>> K HARRISON: MADAM CITY MANAGER, THAT WAS HELPFUL.

I THINK WE INSTITUTE THE R. R.V. TO DO WHAT YOU ARE TALKING ABOUT.

I WOULD LOVE FOR YOU TO DISCUSS WITH THE AGENDA COMMITTEE WHY THAT DOESN'T FUNCTION THAT WAY.

I THOUGHT THAT'S WHY WE HAD IT.

THERE IS SOMETHING MISSING WE NEED TO DEAL WITH.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

I WANTED TO MAKE SURE ALL OF US RECOGNIZE THERE IS SOMETHING NOT  
QUITE RIGHT ABOUT THE R.R.V. AND IT'S NOT GETTING THE CITY  
MANAGER WHAT SHE NEEDS.

HOWEVER WE CAN GET THAT RESOLVED WOULD BE GREAT.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU VERY MUCH.

I THINK THIS WAS A GOOD DISCUSSION.

I APPRECIATE WE HAD THIS FORUM TO HEAR EVERYONE'S INPUT.

SO WE'LL TAKE ALL THIS FEEDBACK BACK TO THE COMMITTEE.

AND TRY TO IDENTIFY THE AREAS WHERE THERE IS CONSENSUS.

FIRST AND FOREMOST, I HEARD CONSENSUS THAT STAFF INPUT INTO THE  
PROCESS OF DRAFTING LEGISLATION IS IMPORTANT EARLIER IN THE  
PROCESS.

I THINK EVERYONE IS IN AGREEMENT ON THAT.

THAT WE NEED TO DEVELOP SOME CLEAR CRITERION FOR DETERMINING  
WHAT IS A MAJOR ITEM.

I THINK- AND THE CITY MANAGER ACTUALLY PROVIDED SOME SUGGESTED  
LANGUAGE FOR DEFINITION CANNOT BE OPERATIONALIZED OVER TIME, NOT  
IMPLEMENTABLE WITH EXISTING RESOURCES.

ADDITIONAL AND NEW FTE NEEDED.

ADDITIONAL COSTS.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SOME METRIC BY WHICH THIS CAN'T BE ABSORBED BY EXISTING RESOURCES WE NEED TO DEDICATE NEW RESOURCES AND THAT IS NOT A PROBLEM.

AND I HAVE TO SAY THAT, YOU KNOW, WE'RE BERKELEY. YOU KNOW, WE'RE ALWAYS AT THE CUTTING EDGE.

YES WE HAVE TO PROVIDE BASELINE SERVICES BUT WE ALSO ARE REALLY AT THE FOREFRONT OF INNOVATIVE PUBLIC POLICY.

AND RESPONDING TO A LARGE MACRO ISSUES.

THAT ARE FACING THIS COUNTRY AND THIS REGION.

AND THAT WE'RE RESPONDING TO AND PROGRESS WE'RE MAKING IN BERKELEY TO ADDRESS THE HOUSING CRISIS, HOMELESSNESS, PUBLIC SAFETY.

AND MODELING BEST PRACTICES THAT OTHER CITIES CAN FOLLOW IN THE STATE.

AND THAT DOES MEAN WE HAVE TO THINK OUTSIDE THE BOX AND DO NEW THINGS.

AND TAKE ON NEW LEVELS OF RESPONSIBILITY AND ADAPT AND EVOLVE IN THE WAY WE SERVE THE COMMUNITY.

THERE IS ONLY SO MUCH STAFF AND BUDGET.

HAVING A CLEAR PROCESS AND WAY TO PRIORITIZE, AND MAKING SURE WE HAVE FLEXIBILITY TO BE RESPONSIVE TO WHAT IS HAPPENING IN THE COMMUNITY AND WHAT THE COMMUNITY WANTS.

THAT'S WHAT THE PEOPLE OF BERKELEY WANT FROM US.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

GOING BACK TO A FEW OTHER THINGS.

WE NEED TO DEAL WITH THE BACKLOG.

I THINK AS WE GO BACK TO THE AGENDA COMMITTEE, DEFINITELY LOVE TO HEAR MORE FROM THE CITY MANAGER, CITY CLERK AND OTHER STAFF ABOUT YOUR THOUGHTS TOXIC THIS INPUT INTO CONSIDERATION.

WE'LL TRYING TO SUMMARIZE THE FEEDBACK AND NOTES TO THE COMMITTEE THAT WILL BE IN THE PACKET.

SO I THINK THERE IS AREAS OF AGREEMENT.

LOOKING AT USING A TEMPLATE WITH MORE REQUIRING MORE SPECIFIC INFORMATION ABOUT WHAT SHOULD BE IN AN ITEM TO MAKE SURE WE HAVE THE RELEVANT INFORMATION AND MAKE A DECISION THAT WE SHOULD TRY TO ALIGN IT WITH THE BUDGET PROCESS.

WE NEED TO FIGURE OUT THE TIMING OF THAT.

IS IT ONE TIME LINE, IS IT A ROLLING TIMELINE, WHAT IS THE TIMELINE FOR WHERE THE INPUTS ARE COMING IN AND OUTPUTS ARE COMING OUT.

AND REALLY SORT OF HELPING STRENGTHEN THE ROLE OF THE POLICY COMMITTEE TO REVIEW ITEMS IS ONE THING I HEARD AS WELL AND MAKING SURE WE HAVE CITY ATTORNEY REVIEW AND WE'RE ABLE TO HAVE THINGS OUT OF THE PROCESS IN ORDER FOR US TO BUDGET FOR THEM AND IMPLEMENT THEM.

*This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.*

SO I THINK WE HAVE SOME COMMONALITY FROM THE FEEDBACK WE'VE  
GOTTEN AND WE'LL TRY TO CONSOLIDATE THIS INPUT AND COME BACK  
WITH A FRAMEWORK FOR THE COUNCIL TO CONSIDER.

WE DO NEED TO MOVE ON.

WE'RE PAST DUE FOR OUR 6:00 MEETING.

UNLESS IT IS CRITICAL, I WOULD LIKE TO WRAP UP THE DISCUSSION.

THANK YOU FOR YOUR COMMENTS.

I MAKE A MOTION TO ADJOURN THE 4:00 P.M. MEETING.

>> SECOND.

>> MAYOR J. ARREGUIN: IF WE CAN PLEASE CALL THE ROLL.

[ROLL CALL]

>> R. KESARWANI: YES.

>> T. TAPLIN: YES.

>> B. BARTLETT: YES.

>> K HARRISON: YES.

>> S. HAHN: YES.

>> S. WENGRAF: YES.


>> R. ROBINSON: YES.

>> M. HUMBERT: YES.

>> MAYOR J. ARREGUIN: YES.








No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda Index Webpage:**  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>






No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda Index Webpage:**  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>





No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda Index Webpage:**  
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

