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BERKELEY CITY AUDITOR

CONSENT CALENDAR
DECEMBER 1, 2026

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

Subject: Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies-Recommendation 3

RECOMMENDATION

We recommend that City Council endorse Recommendation 3 of the City Auditor's Evaluation of Workplace Relationship Policies special report and provide direction on next steps for considering adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.

POLICY COMMITTEE RECOMMENDATION

On October 13, 2026, the Agenda and Rules Committee adopted the following action: M/S/C (Ishii/Humbert) to send the item to Council with a positive recommendation on "Recommendation 3" regarding regulations on cronyism and nepotism. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

There is no direct fiscal impact associated with Council consideration of Recommendation 3. Further evaluation and potential development of Municipal Code provisions may require staff time for legal review, policy development, consultation with affected City offices, and implementation planning. Any additional fiscal impacts would depend on the approach selected.

CURRENT SITUATION AND ITS EFFECTS

On September 15, 2026, City Council received the City Auditor's Evaluation of Workplace Relationship Policies special report and referred Recommendation 3 to the Agenda and Rules Committee for consideration of whether to pursue nepotism and cronyism provisions in the Berkeley Municipal Code.

On October 13, 2026, the Agenda and Rules Committee vote unanimously to forward Recommendation 3 to City Council with a positive recommendation.

Council consideration is now needed to determine how to pursue the proposed provisions.

BACKGROUND

The City Auditor's Office conducted a policy review following a whistleblower report raising concerns about workplace relationships and potential favoritism. Although the conduct was not prohibited under current City policy, the review identified gaps in how the City addresses personal relationships that could create actual or perceived conflicts of interest in employment decisions.

The report made three recommendations. Recommendations 1 and 2 focus on strengthening administrative policies, including Administrative Regulation 2.12, Employment of Near Relatives. Management agreed to evaluate these updates through the City's policy development and labor relations processes.

Recommendation 3 addresses the broader applicability of nepotism and cronyism safeguards across City government. It recommends that the City consider adopting Municipal Code provisions applicable to City employees, elected officials, Charter Offices, appointed officials, boards, and commissions.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability or climate impacts associated with the recommended action.

RATIONALE FOR RECOMMENDATION

Berkeley's decentralized government structure presents challenges in establishing consistent relationship conflict safeguards. The City Manager's administrative regulations generally apply to departments and employees under the City Manager's authority but do not necessarily extend to independently elected officials, Charter Offices, or other governing bodies.

The intent of Recommendation 3 is not to prohibit personal relationships, but to establish safeguards when those relationships could create actual or perceived conflicts of interest in City decisions. Such safeguards could include disclosure requirements, recusal from certain decisions, or other measures to manage potential conflicts while allowing personal relationships to exist.

Considering nepotism and cronyism provisions in the Berkeley Municipal Code would provide an opportunity to establish consistent citywide standards while accounting for the differing authorities and responsibilities of City offices and governing bodies. Any proposed provisions

affecting employees would also need to be developed in accordance with applicable labor relations requirements, including meet-and-confer obligations where required.

The recommendation does not prescribe specific ordinance language or an implementation approach. Council consideration would allow the City to determine how to pursue appropriate safeguards while accounting for these legal and operational considerations.

CONTACT PERSON
Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:
1: Berkeley City Auditor Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies (September 2026)

2: October 13, 2026, Agenda and Rules Committee Meeting Minutes (Item 7)

BERKELEY CITY AUDITOR

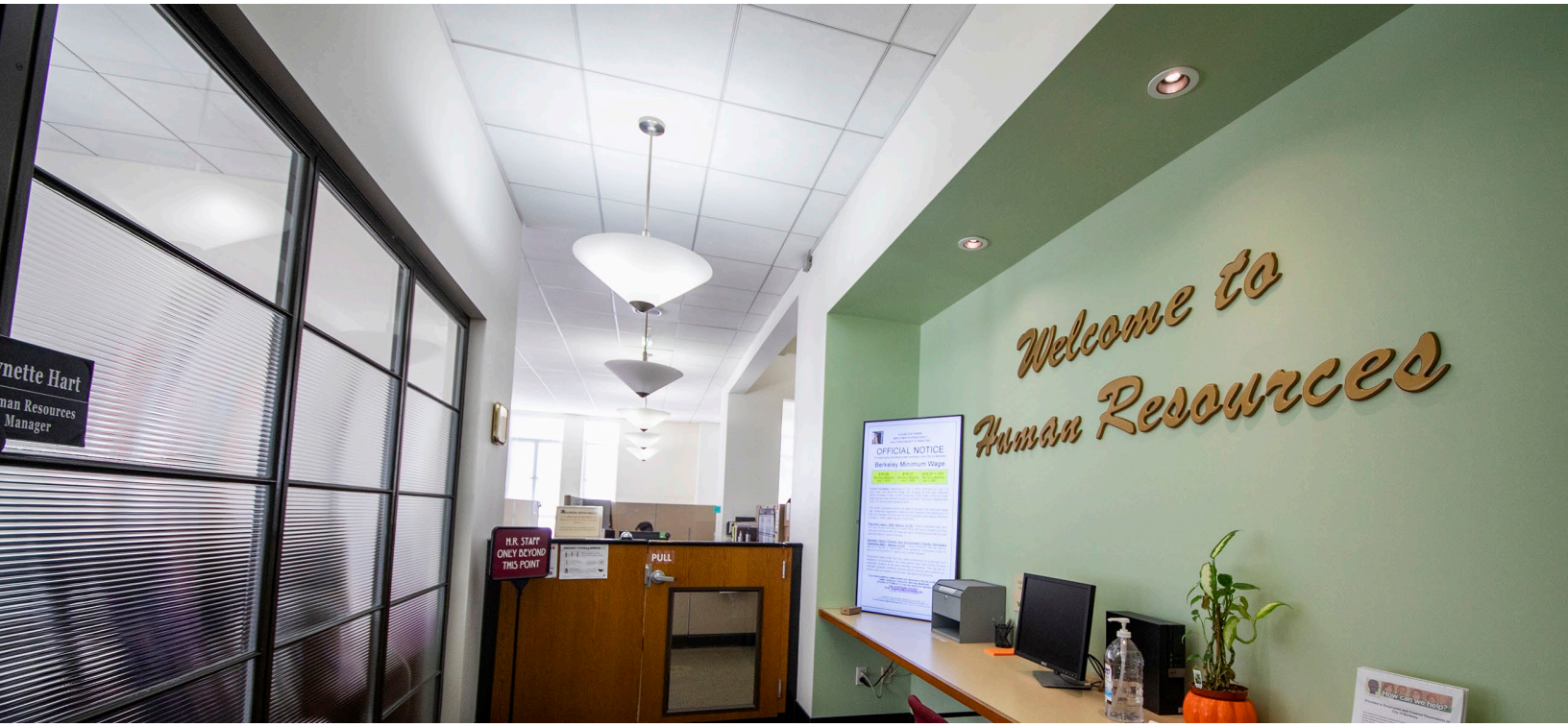
Special Report

Whistleblower Program: Evaluation of Workplace Relationship Policies

August 2026

Jenny Wong, City Auditor

Erin Mullin, Whistleblower Program Manager



Berkeley's current policies do not address romantic, cohabitating, or extended family relationships, creating potential conflicts of interest and undermining fairness in employment decisions. Expanding and updating these policies would align Berkeley with peer jurisdictions and improve transparency.

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Purpose

A whistleblower report raised concerns about a workplace relationship that intersected with City employment and the potential for perceived favoritism. We reviewed the complaint and found that City policy did not address the conduct described and therefore could not substantiate the allegation. However, the report prompted a review of the City's policies regarding workplace relationships.

Berkeley's primary policy governing workplace relationships is Administrative Regulation 2.12 (Employment of Near Relatives), which is intended to prevent nepotism by requiring disclosure and restricting supervision among certain family members. This report examines whether that framework, together with other related policies adequately address romantic, cohabiting, and related family relationships that may affect, or appear to affect, employment decisions, such as decisions regarding hiring, promotion, transfer, discipline, or termination.

Allegation History

The Berkeley City Auditor's Whistleblower Program received a report concerning a romantic relationship involving a manager and an employee within the same work unit, and the potential for perceived favoritism connected to supervisory influence. The allegation highlighted a category of workplace relationships that is not currently addressed by City policy. The information was used solely to inform a policy review. The Whistleblower Program has also received other reports raising similar concerns involving close personal relationships in the workplace that fall outside current policy coverage, indicating the issue is not isolated and reinforcing the need for policy review.

Conclusions

We found that Berkeley's current policies do not address romantic, dating, or cohabiting relationships in the workplace, leaving the City without a way to identify or manage situations where such personal relationships overlap with hiring, supervision, or other employment decisions. As a result, employees are not required to disclose these relationships, managers may participate in personnel decisions involving a romantic or cohabitating partner, and no formal recusal or conflict-management process applies when supervisory or decision authority is involved. These conditions create a risk of actual or perceived favoritism and can undermine employee confidence in the fairness and objectivity of employment decisions.

We also found that Berkeley's Employment of Near Relatives policy defines family relationships more narrowly than comparable policies in peer jurisdictions. While Berkeley covers core family members, it does not include certain extended family relationships that San Francisco and Oakland address, even though these relationships can present similar conflict-of-interest concerns. This narrower definition creates additional gaps in the City's ability to manage potential or perceived conflicts arising from workplace relationships.

Taken together, these findings indicate that Berkeley's current policies do not fully address the range of personal relationships that may affect, or appear to affect, employment decisions. Updating the City's policy framework to address romantic and cohabitating relationships and to reassess the scope of covered family relationships would strengthen conflict-of-interest controls, align Berkeley with peer jurisdictions, and support transparency and fairness in the City's employment practices.

Findings

Current City policy does not address disclosure of romantic or cohabiting relationships in the workplace.

Berkeley's current policies do not address romantic, dating, or cohabiting relationships when those relationships intersect with hiring, supervision, or other employment decisions. As a result, the City lacks a framework to identify or manage conflicts of interest that may arise from these relationships. While the City has policies governing harassment, discrimination, retaliation, financial conflicts of interest, and the employment of near relatives, none require disclosure of romantic or cohabiting relationships, restrict supervisors from participating in employment decisions involving a partner, or provide a mechanism for managing related conflicts of interest.

The table below summarizes how Berkeley's policies compare with peer jurisdictions and state-level guidance with respect to coverage, disclosure requirements, and conflict-management tools related to romantic and cohabiting workplace relationships.

Table 1: Comparison of Policies Addressing Romantic and Cohabiting Workplace Relationships

Key Feature	Oakland	San Francisco	California State Guidance	Berkeley
Who is covered	Broad (officers, officials, and employees)	Broad (officials, employees, interns, volunteers)	Agencies determine	Employees only
Romantic relationships covered	Yes	Yes	Only if cohabitating	No
Cohabiting relationships covered	Yes (romantic and non-romantic)	Romantic only	Romantic only	No
Disclosure required	Yes	Yes	Yes (department policy required)	Yes (near relatives only; not romantic or cohabiting relationships)
Restrictions on hiring or supervision of covered relationships	Yes (direct and indirect)	Yes (direct and indirect)	Yes (agency-defined)	Yes (applies only to near relatives; not romantic or cohabiting relationships)

Note: California state guidance provides recommended practices for state agencies and does not impose requirements on local governments.
Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; California CalHR Nepotism Guidance; and City of Berkeley AR 2.12

Peer jurisdictions, including Oakland and San Francisco, have adopted more comprehensive approaches. These cities require disclosure and active management of romantic and cohabitating relationships when such relationships intersect with employment decisions. State-level guidance for California public agencies similarly recommends managing conflicts of interest arising from romantic, cohabitating relationships through disclosure, recusal, and mitigation to address both actual and perceived conflicts.

Berkeley's existing policy framework focuses on compliance-based risks, such as harassment, discrimination, financial conflicts of interest, and nepotism. Romantic and cohabitating relationships fall outside the scope of these policies and have not been explicitly addressed through an administrative regulation or standalone policy.

Without a policy framework, employees are not required to disclose such relationships, and managers may participate in employment decisions involving a partner without a recusal or conflict-management process. These gaps create a risk of actual or perceived favoritism and can undermine employee trust and confidence in the fairness and objectivity of personnel decisions, even when no misconduct occurs. In the absence of clear disclosure and recusal requirements, the City also lacks a consistent basis for responding to complaints or concerns involving personal relationships that intersect with employment decisions.

Berkeley's definition of family relationships is narrower than peer jurisdictions and creates additional coverage gaps.

In addition to the absence of policies covering romantic or cohabitating relationships, Berkeley's Employment of Near Relatives policy reflects a more limited definition of family relationships than those used by peer jurisdictions like San Francisco and Oakland. While all three cities include core family relationships such as spouses, parents, and siblings, Berkeley does not include certain extended family categories that peer jurisdictions address.

The table below compares how Berkeley and peer jurisdictions define family relationships in employment policies, with emphasis on extended and non-traditional relationships that may present similar conflict-of-interest concerns but are not included in Berkeley's current definition.

Table 2. Comparison of Family Relationships Definitions

Relationship Category	Included in Berkeley	Included in San Francisco	Included in Oakland
Cousin	✗	✓ (First)	✓ (First and Second)
In-laws, Step Relations	✓ (Specific)	✓ (Broad)	✓ (Broad)
Foster Relations	✗	✓	✓
Great-grandparent / great-grandchild	✗	✗	✓
Cohabitants (Non-Domestic Partner)	✗	✗	✓
Spouses, domestic partner of any relative or cohabitant	✗	✗	✓

Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; and City of Berkeley AR 2.12

Berkeley does not include certain extended family categories like cousins or foster relationships that San Francisco and Oakland include. These relationships can raise similar conflict-of-interest concerns in hiring and supervisory contexts. While Berkeley includes some in-law and step relationships, it does so through a fixed list rather than a broader categorical definition. As a result, certain relationships, such as a step-grandparent, step-aunt or uncle, or aunt- or uncle-in-law, are not explicitly covered, even though they may present similar risks. By contrast, Oakland defines covered family relationships more expansively by category, extending beyond immediate family to include multiple degrees of relatives, foster relationships, cohabitants, and the spouses or domestic partners of covered individuals. A broader approach allows jurisdictions to identify and manage conflicts of interest across a wider range of familial and household relationships. Berkeley's narrower definition, by comparison, creates gaps in coverage and limits the City's ability to proactively identify and manage potential or perceived conflicts of interest arising from personal relationships.

Peer jurisdictions have adopted broader policy frameworks to manage conflicts arising from personal relationships.

Berkeley's Employment of Near Relatives policy establishes a framework for managing conflicts of interest arising from specified familial relationships. However, the structure and authority of Berkeley's policy limit its reach. The policy applies only to employees and does not apply to elected officials, appointed officers, or other non-employee City officials. It is established through an administrative regulation issued by the City Manager and is confined to the specific relationships listed in the definition of "near relative." As a result, the City has limited authority to address conflicts of interest arising from other personal relationships or to apply consistent standards across elected officials, officers, and other individuals working for the City.

Berkeley's current policy relies primarily on transfer or reassignment authority when a prohibited near-relative supervisory relationship exists. While the City Manager may grant written exceptions to supervisory-relationship prohibitions, the policy does not establish a structured conflict-management plan process for how supervisory conflicts or approved exceptions must be mitigated. In some operational settings, such as small divisions, specialized technical teams, or public safety departments with limited supervisory layers, reassignment alone may not fully remove indirect supervisory relationships. By contrast, San Francisco requires a formal written conflict-management plan when supervisory conflicts cannot be fully removed, and Oakland mandates documented alternate arrangements and mitigation controls through its Personnel Director and City Attorney process.

San Francisco's policy, adopted by its Civil Service Commission, and Oakland's policy, codified in its municipal code, apply to a wider range of individuals, including elected officials and City officers. Oakland also requires annual disclosure of specified personal relationships by City officials and supervisors, reinforcing ongoing accountability rather than one-time reporting.

In addition to disclosure requirements, Oakland's policy explicitly defines and prohibits cronyism, meaning participation in employment decisions involving close personal, professional, political, or commercial relationships that could result in preferential treatment or compromise the appearance of fairness. While this prohibition does not expand disclosure requirements, it establishes broader expectations for individuals covered by the policy to avoid conflicts of interest arising from relationships beyond those specifically identified for disclosure. This approach recognizes that conflicts of interest and the potential for favoritism are not limited to predefined familial relationships.

As a result, the policy provides a clear basis for reviewing and addressing employment decisions influenced by personal relationships that fall outside narrowly defined categories. Oakland's policy also requires the Director of Personnel to provide an annual report to the City Council describing the nature and number of prohibited relationships disclosed and the alternate arrangements implemented. Together, these features provide broader authority, clearer oversight, and more flexible mitigation tools than those currently available under Berkeley's policy framework.

Recommendations

1. To ensure comprehensive conflict-of-interest controls within employment and supervisory contexts, we recommend that the Human Resources Department update AR 2.12 to:
    - require disclosure of romantic, dating, and cohabiting relationships, in addition to near-relative relationships.
    - extend supervisory and decision-making restrictions to romantic and cohabiting relationships that create actual or perceived conflicts of interest.
    - update the definition of "near relative" to better align with peer jurisdictions.
    - incorporate a clear definition and prohibition of cronyism in supervision and employment decisions.
    - establish a documented conflict-management process that clearly defines responsibilities for reviewing relationship disclosures, implementing mitigation measures, maintaining records of all actions taken, and alternate decision authority where needed.

2. To support effective implementation, we recommend the Human Resources Department provide training to supervisors and managers on the updated relationship conflict-of-interest policy.
3. To extend relationship conflict safeguards beyond employees, we recommend the City consider adopting both nepotism and cronyism provisions in the Berkeley Municipal Code. These provisions should apply to all City employees, elected officials, charter offices, appointed officials, boards and commissions, ensuring consistent citywide standard.

Implementation Considerations

Implementation of the recommended policy updates will require coordination among Human Resources, the City Attorney's Office, and City leadership. Relationship disclosures should be limited to information necessary for conflict management and treated as confidential. Clear guidance and documentation standards will be important to ensure consistent application of recusal, conflict-management measures, and exceptions. The City may also wish to consider how updates to AR 2.12 align with existing ethics and conflict-of-interest policies to support clarity and effective administration. Currently, Human Resources maintains relationship disclosures within individual paper-based personnel files, which may present challenges for consistently tracking and managing disclosures as policy coverage expands.

Management Response

Management agrees that the City should review and update its framework for identifying and managing actual or perceived conflicts of interest arising from workplace relationships. Human Resources will work with City leadership to evaluate potential revisions to AR 2.12, including appropriate disclosure requirements, supervisory and decision-making restrictions, definitions of covered relationships, confidentiality safeguards, and conflict-management procedures.

The specific policy provisions recommended in this report should not, however, be understood as predetermined outcomes. Changes of this nature would affect represented employees and may implicate matters within the scope of representation. Accordingly, any proposed policy changes will require extensive notice, consultation, and meet-and-confer with the City's labor organizations. The final scope, definitions, disclosure obligations, mitigation procedures, and implementation requirements will be developed and refined through that process. The City must also carefully consider employee privacy, consistent application across departments, operational feasibility, records management, and compliance with applicable law.

Following completion of the policy-development and labor-relations process, Human Resources will provide appropriate guidance and training to managers and supervisors regarding the final requirements and their responsibilities.

Management also agrees that the City should evaluate whether broader nepotism or cronyism standards are appropriate for elected officials, charter officers, appointed officials, boards, and commissions. Because those individuals may fall outside the scope of an administrative regulation issued by the City Manager, any such expansion would require separate legal and governance review, coordination with affected offices, and possible action by the City Council.

Scope and Methodology

We conducted a policy-focused review to assess whether the City's current policies address romantic and cohabiting relationships that intersect with hiring, supervision, or other employment decisions, and whether the City's definition of family relationships provides sufficient coverage to manage related conflicts of interest.

Specifically, we analyzed Berkeley's relevant policies, including:

- AR 2.12 – Employment of Near Relatives
- AR 1.2 – Conflicts of Interest
- Harassment Prevention Policy
- Equal Employment Opportunity Policy

Reviewed workplace-relationship and conflict of interest policies from peer jurisdictions, including Oakland and San Francisco, as well as state-level guidance applicable to California public agencies.

This review was limited to evaluating policy design and coverage in employment and supervisory context. We did not conduct an investigation related to the reported relationship, did not interview individuals, and did not review personnel files, as the conduct described in the Whistleblower Report is not prohibited under current City policy. Additionally, we only examined one specific aspect of conflict-of-interest risks, those arising in employment and supervisory decisions. Other types of conflicts, such as financial interests in contracting, procurement, or policy decisions, as well as other potential conflicts in governance or personal financial dealings, are governed by separate policies and legal frameworks and were outside the scope of this review.

Office of the City Auditor

City of Berkeley

Mission Statement

Promoting transparency and accountability in Berkeley government.

Report Preparation

Erin Mullin, Whistleblower Program Manager

City Auditor

Jenny Wong

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BERKELEY CITY AUDITOR

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

TUESDAY, OCTOBER 13, 2026
2:30 P.M.

2180 Milvia Street, Berkeley, CA 94704
Teleconference Location - 2928 Linden Avenue, Berkeley CA 94705

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person and virtual attendance. Attend this meeting remotely using Zoom. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 165 679 9780**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email policycommittee@berkeleyca.gov. All Committee meetings are recorded.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person.

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.

California Government Code Section 84308 (Levine Act) Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over $500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

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

Public Comment – 23 speakers

Review of Agendas

1. **Approval of Minutes: September 28, 2026**
   Action: M/S/C (Taplin/Humbert) to approve the minutes of 9/28/2026.
   Vote: All Ayes.

2. **Review and Approve Draft Agenda:**
   a. 10/27/2026 – Regular City Council Meeting
   Action: M/S/C (Humbert/Ishii) to approve the agenda of 10/27/2026 with the changes noted below.
   - *Item Added: BOLT Appointment (O'Keefe) – added to Consent Calendar*
   - *Item Added: BOLT Appointment (O'Keefe) – added to Consent Calendar*
   - *Item 1 Deputy City Attorney Positions (City Attorney) – referred to Budget & Finance Committee*
   - *Item 21 Procurement for Services (Kesarwani) – Councilmember Bartlett added as a co-sponsor; revised item submitted*
   - *Item 25a\b Public Right-of-Way – moved to Consent Calendar; revised recommendation for Item 25b*
   - *Item 26 Public Access to Materials (Commission) – referred to Agenda & Rules Committee*
   - *Item 27a\b Special Events – moved to Consent Calendar*
   - *Item 28a\b Berkeley Green Code – moved to Consent Calendar*
   - *Item 29a\b Space Allocation – moved to Consent Calendar*
   - *Item 30 Encampment Policy (Kesarwani) – scheduled for a special meeting on November 17; revised item submitted*

   Vote: All Ayes.

3. **Adjournments In Memory** – None

Scheduling

4. **Council Worksessions Schedule** – received and filed

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

6. **Land Use Calendar** – received and filed

Action Items

7. **Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies**
   From: Auditor
   Referred: September 15, 2026
   Due: February 23, 2027
   Recommendation: We recommend that City Council receive this report and direct the City Manager to implement Recommendations 1 and 2 consistent with Management's Response. We further recommend that City Council refer Recommendation 3 to the Agenda and Rules Committee for consideration of whether to pursue adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.
   Recommendation 3: To extend relationship conflict safeguards beyond employees, we recommend the City consider adopting both nepotism and cronyism provisions in the Berkeley Municipal Code. These provisions should apply to all City employees, elected officials, charter offices, appointed officials, boards and commissions, ensuring consistent citywide standard.
   Financial Implications: See report
   Contact: Jenny Wong, Auditor, (510) 981-6750

   Action: M/S/C (Ishii/Humbert) to send the item to Council with a positive recommendation on "Recommendation 3" regarding regulations on cronyism and nepotism.
   Vote: All Ayes.

Unscheduled Items

8. **Review Policy Committees Structure**

9. **Review Boards and Commissions Structure**

Items for Future Agendas

- **None**

Adjournment

Action: M/S/C (Taplin/Humbert) to approve the minutes of 9/28/2026.
Vote: All Ayes.

Adjourned at 3:44 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on October 13, 2026.

_____
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.