



Office of the City Manager

ACTION CALENDAR

June 1, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, HHCS

Subject: Companion Report: Recommendation that the City Council Pass a Resolution Regarding Procurement, Sales, and Serving Sugar-Sweetened Beverages

RECOMMENDATION

Recommend that the City Council adopt an amended resolution that recognizes the important principles in the Commission recommendation, clarifies the intent of the measure and provides some flexibility for City programs and staff while still emphasizing availability of healthy options. This amended resolution would require that the majority of all beverages provided or sold at any City event or on any City property (including vending machines) be non-sugar sweetened beverages (as defined in chapter 7.72 of the Berkeley Municipal Code) and education materials be provided to all COB staff to actively discourage the consumption of sugar-sweetened beverages and encourage the consumption of water.

POLICY COMMITTEE RECOMMENDATION

On February 24, 2020, the Health, Life Enrichment, Equity & Community Committee moved an item to Council recommending approval of the Sugar Sweetened Beverage Product Panel of Experts Resolution regarding procurement, sales and serving of sugar-sweetened beverages with the following changes in the resolved clause:

Therefore be it resolved that the City of Berkeley shall not:

1. Procure sugar-sweetened beverages with City funds; and
2. Serve or sell sugar-sweetened beverages on City property, including in vending machines.

And be it further resolved that the City discourages sugar-sweetened beverages at events on City property that receive City of Berkeley funding, and mandate that these events be required to provide options other than sugar-sweetened beverages.

And be it further resolved that in areas or facilities where employees regularly work beyond the core business hours of 8 a.m. – 6 p.m., the City of Berkeley shall provide refrigerators in good working order and of adequate size for the number of employees in that area, to bring and store their own beverages.

In addition, ask the City Council to make a referral to the Sugar-Sweetened Beverage Product Panel of Experts to consider how to regulate sugar sweetened beverages at events held on City of Berkeley Property hosted by non-City entities who receive City of Berkeley funds.

M/S/C (Hahn/Bartlett). All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Potential impacts on programs could include increased staffing capacity across Departments to monitor or enforce the recommended resolution and/or impacts on participation in certain events and programs.

CURRENT SITUATION AND ITS EFFECTS

The Sugar Sweetened Beverage Product Panel of Experts has recommended that the Berkeley City Council adopt a resolution to prohibit City of Berkeley departments and City food services contractors, from:

- 1) Procuring sugar-sweetened beverages with City funds;
- 2) Selling sugar-sweetened beverages on City property, including in vending machines; and,
- 3) Serving sugar-sweetened beverages at City meetings and events on City property.

The City of Berkeley has steadily reduced the purchase of sugar sweetened beverages throughout its Departments and has promoted healthy options at functions and program activities. The City Manager supports the goals of this effort and agrees to continue working to reduce the consumption of SSBs on City properties and at City sponsored events. An initial survey of City Departments indicates that adoption of the resolution as presented would have potential negative impacts on some programs and staff, most particularly those that work in jobs where they are unable to leave the worksite during their shifts, such as police dispatchers. Additionally,

- 1) The prohibition of procuring sugar sweetened beverages cannot be tracked through the City's procurement process, as many of these purchases are not listed item by item in the electronic system for requisitions. This would require staff to review all food and beverage purchases both on the program level as well as the fiscal level. As many food purchases are made via a blanket purchase order process, there is no internal mechanism in place to monitor the purchasing process for any specific item.
- 2) The prohibition of selling of sugar-sweetened beverages on City property, including vending machines may impact staff in some Departments, such as the Police Department, who provide 24-hour, 7-day of week operations. Although offering a majority of healthy options would promote and encourage the choice of

healthy beverage options, eliminating sugar-sweetened beverages entirely, may not offer a choice to staff who cannot leave their worksites and did not bring the desired beverage with them to work.

- 3) The prohibition of “serving sugar-sweetened beverages at City meetings and events on City property” is not well defined and does not have clear guidelines regarding who is providing the beverages or the manner in which it is provided (i.e. a staff member at a City hosted holiday potluck). This language, as it is written, cannot be reasonably monitored and would be unenforceable.
- 4) Additionally, some City programs, such as family camps, serve lemonade and other such drinks which are a part of the fabric of the experience. Banning such drinks could limit people choosing these programs and presumes that people cannot make informed choices.

Finally, the City of Berkeley Public Health Division is piloting a program of locating Refillable Hydration Stations in some of our public facilities to encourage the consumption of water and use of refillable bottles. These environmental changes will make it easier for people to choose water over other beverages.

BACKGROUND

In November of 2014, Berkeley voters passed Measure D, requiring both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of a Panel of Experts (the Sugar Sweetened Beverage Products Panel of Experts--SSBPPE) to recommend general fund investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

Since FY 2019, the City Council has passed resolutions allocating over \$9 million in budget code 010-9703-410.35-10 between FY2015 through FY2021 for minigrants, branding and education campaigns, and funding of community agencies as per SSBPPE Commission’s recommendations. The resolutions included allocation of overhead funding to pay for staff support and evaluation and education campaigns from the public health division.

A previous recommendation submitted on March 27, 2018 that included language for City departments and City food service contractors “to refrain” from these activities was referred to the Health, Housing and Community Services Department via the Re-Weighted Rank Voting list and is in the queue to be addressed by priority. The Commission’s proposed resolution strengthens this further by prohibiting such actions.

ENVIRONMENTAL SUSTAINABILITY

This recommendation has no direct environmental sustainability effects.

RATIONALE FOR RECOMMENDATION

The prohibitive language of “shall not” places a burden on internal systems to monitor and enforce activities that may not be possible. It also impacts choice options for staff as well as community members who engage in services provided by City run programs.

ALTERNATIVE ACTIONS CONSIDERED

The City could replace the “shall not” to language to “promote healthy beverage options and refrain from.” The City could also remove the “serving sugar-sweetened beverages at City meetings and events on City property” language from the proposed resolution.

The City could adopt the resolution language as recommended by the Commission, with the understanding that it is cost prohibitive to monitor, track, or enforce any violations of this resolution based on the constraints stated above.

CONTACT PERSON

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

RESOLUTION ESTABLISHING CITY POLICY / AMENDING THE ADMINISTRATIVE CODE TO DIRECT CITY OF BERKELEY DEPARTMENTS AND CONTRACTORS TO REFRAIN FROM PROCURING, SERVING OR SELLING SUGARY DRINKS

WHEREAS, the City of Berkeley is known for its commitment to reducing inequities in diet and disease and in promoting access to healthy food and beverages.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of becoming diabetic.

WHEREAS, drinking just **one** serving of sugar-sweetened beverage per day poses a **30 percent or higher risk** of early death from cardiovascular disease.

WHEREAS, city employees deserve a healthy work environment, with an increased variety of healthier low-sugar alternative beverages such as flavored waters, plain or carbonated water, 100% juice, milk drinks, diet drinks, unsweetened or artificially sweetened iced teas and coffee drinks.

WHEREAS, it is recognized that city staff are free to bring and consume their own sugary beverages at work.

WHEREAS, other public institutions that have made efforts to decrease or eliminated the sales of sugar sweetened beverages on their premises and have demonstrated that as a result, positive changes have been documented in the staff's metabolic disease indicators associated with lower risk of diabetes and heart disease

WHEREAS, giving City employees access to healthier beverages in the workplace will increase healthy beverage consumption and reduce the impact of diet-related disease, thus reducing the City's health care expenses.

WHEREAS, the City of Berkeley strongly encourages *all* organizations receiving funding from Healthy Berkeley not serve or sell sugar sweetened beverages on their premises.

WHEREAS, the Berkeley Unified School District does not serve or sell soda to students of all ages and students on their premises and this contributes to positive adult role modeling regarding healthy beverage consumption.

WHEREAS, Chapter 7.72 of the City of Berkeley Municipal Codeⁱ has already defined sugar-sweetened beverages as all beverages with added caloric sweeteners with a minimum of 2 calories per fluid ounce, including juices with added sweetener, sodas, energy drinks, sweetened teas and coffee drinks, and sport drinks which offer little or no nutritional value, but include massive quantities of added sugar and in addition, Berkeley Municipal Code Chapter 7.72 also defines exemptions and thus excludes waters, 100% juice, milk drinks, diet drinks, as well as medical drinks and baby formula.

THEREFORE BE IT RESOLVED that the City of Berkeley and City food services contractors promote healthy beverage options by:

- 1) Promoting that the majority of beverages offered are always non-sugar sweetened beverages
- 2) Providing educational materials to City of Berkeley staff to encourage consumption of water and reduction of consumption of sugar sweetened beverages, and;
- 3) Provide as much as possible an environment that makes consumption of water an easier choice, such as through the placement of Refillable Hydration Stations.

ⁱ B.M.C. 7388-NS § 7.72, 2014, City of Berkeley