



Environment and Climate Commission

[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council
From: Environment and Climate Commission (ECC)
Submitted by: Ben Gould, Chairperson, ECC
Subject: Revisiting Old EC/CEAC Items

RECOMMENDATION

Refer to the City Manager to prepare updates on the following items previously referred by the City Council:

- Gas Station CO₂ labeling
- Ban resale of used gas cars by 2040
- Lead paint initiatives

Request the City Manager to provide status reports on the above items within six months, if feasible.

SUMMARY

Two previously approved referrals, and an approved companion report, for items from the Community Environmental Advisory Commission (CEAC) and Energy Commission (EC) (both ECC predecessor commissions) remain uncompleted. No update has been provided in the past two (or more) years, for any of these items, whether to Council, any Commissions, or the public.

FISCAL IMPACTS OF RECOMMENDATION

Some staff time to complete existing referrals.

BACKGROUND

Fuel Station Warning Labels

In June 2014, CEAC and EC referred to City council recommendations to require fueling stations (ie gas stations) to display warning labels on gas pumps, informing the public that burning gasoline emits CO₂, a major contributor to climate change. In October 2014, Council referred the recommendation to staff for development and finalization.

While the referral was being finalized, the City became a defendant in the Supreme Court case *CTIA – The Wireless Association v. City of Berkeley, California*, centered on the City's recently adopted law requiring radiation warning labels at cell phone retailers. Because the gas station warning labels recommendation fell under a similar free speech

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issue, City staff – with the approval of City Council – held off on preparing gas station warning labels until the outcome of *CTIA v. City of Berkeley*.

CTIA v. City of Berkeley was resolved in December 2019, [in Berkeley's favor](#). The Supreme Court upheld existing case law allowing compelled speech “where the disclosure [is] reasonably related to a substantial government interest and [is] purely factual and uncontroversial.”

With *CTIA* resolved, the City Attorney's office should have returned a completed draft ordinance on gas station warning labels to the City Council for adoption. However, shortly following *CTIA*'s resolution, the coronavirus pandemic began, and staff time was necessarily reallocated.

As the city returns to normalcy, and as driving behavior has returned, the need for reducing gasoline consumption has returned as a pressing issue. No update has been provided to Council since at least 2019, if not longer.

Ban Resale of Used Gas Cars by 2040

In November 2019, CEAC passed a recommendation to the City Council proposing that the resale of used gas cars be prohibited within City limits beginning in 2040, to help encourage earlier adoption of zero-emission vehicles and discourage the purchase of new gas cars.

Shortly thereafter, the coronavirus pandemic began, and City Council and staff time was necessarily reallocated. In November 2020, the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) committee made a positive recommendation to refer to the City Manager, and the item was adopted by City Council in December 2020.

The California Air Resources Board recently finalized the new Advanced Clean Cars II ruling, which will phase out the sale of *new* gas automobiles by 2035. However, *used* gas automobiles will remain on the road and in used for many years, if not decades, afterwards. Berkeley intends to meet the state's 2045 carbon neutrality goal early, but cannot do so with used gas cars driving around on city streets.

With the state clearly failing to take action to quickly remove gas cars from streets, the need for local action remains pressing. No update has been provided to City Council since this item's approval in 2020.

Lead Paint Referral

In April 2019, the City Council considered a CEAC recommendation on addressing lead paint, as well as a City Manager's companion report. Council ultimately adopted the City Manager's recommendations, referring to the City Manager to (among other things) coordinate with Alameda County Healthy Homes (ACHH) to explore options for sharing resources to support local extended enforcement, identify staff resources necessary to expand enforcement of lead paint violations, train City inspectors in lead paint safety,

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and enforce as needed. Under this referral, the City Manager anticipated providing updates to City Council in one year.

Just under one year later, the coronavirus pandemic began and staff time was necessarily reallocated. Since then, lead paint violations have remained a pervasive issue in Berkeley, with multiple residents calling in and posting publicly on social media about egregious and flagrant disregard by contractors for legal requirements around safe lead paint management practices. No update has been provided to City Council on this item since its 2019 adoption.

ENVIRONMENTAL SUSTAINABILITY

These projects will improve environmental sustainability and public health by discouraging the use of fossil fuels and fossil fuel-powered automobiles, and reducing environmental contamination of, and exposure to, lead paint.

CONTACT PERSON

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