



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

MONDAY, FEBRUARY 22, 2021

2:30 P.M.

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

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

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

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/86534890913>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **865 3489 0913**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the 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. City offices are currently closed and cannot accept written communications in person.

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: February 8, 2021**
2. **Review and Approve Draft Agenda:**
 - a. 3/9/21 – 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 Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**
9. **Scheduling of Closed Session Meetings**
10. **Systems Realignment Proposal**
From: City Manager
Recommendation: Review and discuss the City Manager's proposal to create improvements to enhance the effectiveness of the City Council legislative and budget processes. Provide feedback for staff to develop a recommendation for full Council consideration.
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

Referred Items for Review

- 11. Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)**
From: Fair Campaign Practices Commission
Referred: January 11, 2021
Due: June 1, 2021
Recommendation: Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.
Financial Implications: None
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
- 12. Commission Reorganization for Post-COVID19 Budget Recovery**
From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)
Referred: June 15, 2020
Due: March 1, 2021
Recommendation: 1. Reorganize existing commissions with the goal of achieving 20 total commissions; 2. Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions; 3. Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions; 4. Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.
Financial Implications: See report
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment – Next Meeting Monday, March 8, 2021

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## **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 this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



### **COMMUNICATION ACCESS INFORMATION:**

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.

\* \* \*

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 February 18, 2021.



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@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*

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

**MONDAY, FEBRUARY 8, 2021**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

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

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To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **899 8907 3676**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the 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. City offices are currently closed and cannot accept written communications in person.

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

**Public Comment** – 4 speakers

## **Review of Agendas**

**1. Approval of Minutes: January 25, 2021 and February 1, 2021**

**Action:** M/S/C (Hahn/Arreguin) to approve the minutes of 1/25/21 and 2/1/21.

**Vote:** All Ayes.

**2. Review and Approve Draft Agenda:**

a. 2/23/21 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Arreguin/Hahn) to refer Item 28 and Item 32 to the Land Use Housing and Economic Development Committee.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to approve the agenda of 2/23/21 with the changes noted below.

- *Item Added: Union Pacific (City Manager)*
- *Item Added: Budget Process (City Manager)*
- *Item 19 Holocaust Remembrance (Wengraf) – Mayor Arreguin and Councilmembers Hahn and Harrison added as co-sponsors*
- *Item 21 Service Animals (Commission) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 22 Officeholder Accounts (Commission) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 23 Relinquishments (Commission) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 24 Unhoused (Davila) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 25 Property Tax (Bartlett) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 26 Step Up Housing (Bartlett) – Moved to Consent Calendar to adopt policy committee recommendation*
- *Item 27 Fair Impartial Policing (Arreguin) – Revised item submitted; Item scheduled for a special meeting on February 23 at 4:00 p.m.*
- *Item 28 Housing as Human Right (Taplin) – Councilmember Hahn and Mayor Arreguin added as co-sponsors; revised item submitted; referred to Land Use, Housing & Economic Development Committee*
- *Item 29 CalCHA (Hahn) – Item withdrawn by the author*
- *Item 30 Climate Solutions (Robinson) – Item withdrawn by the author*
- *Item 31 Exclusionary Zoning (Droste) – Scheduled for February 23 Action Calendar*
- *Item 32 Quadplex Zoning (Droste) – Mayor Arreguin added as a co-sponsor; referred to Land Use, Housing & Economic Development Committee*

Order of Items on Action Calendar

Item 20a/b/c ZAB Appeal (City Manager)

Item 31 Exclusionary Zoning (Droste)

**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**
  - Systems Realignment moved to the Unscheduled list
6. **Council Referrals to Agenda Committee for Scheduling – received and filed**
7. **Land Use Calendar – received and filed**

## **Referred Items for Review**

8. **Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**

**Action:** 1 speaker. No action taken.

9. **Systems Realignment Proposal**  
**From: City Manager**

**Recommendation:** Review and discuss the City Manager's proposal to create improvements to enhance the effectiveness of the City Council legislative and budget processes. Provide feedback for staff to develop a recommendation for full Council consideration.

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

**Action:** 1 speaker. Presentation made by the City Manager. Discussion held. No action taken. Item scheduled to February 22 meeting.

## Referred Items for Review

10. **Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)**

**From: Fair Campaign Practices Commission**

**Referred: January 11, 2021**

**Due: June 1, 2021**

**Recommendation:** Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

**Action:** M/S/C (Hahn/Arreguin) to make a positive recommendation to the City Council on part two of the Commission recommendation to prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

**Vote:** All Ayes.



## Unscheduled Items

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

- 11. Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**  
**Referred: June 15, 2020**  
**Due: March 1, 2021**

**Recommendation:** 1. Reorganize existing commissions with the goal of achieving 20 total commissions; 2. Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions; 3. Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions; 4. Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

**Action:** Scheduled for February 22 Action Calendar.

## Items for Future Agendas

- None

## Adjournment

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

**Vote:** Ayes – Wengraf, Arreguin; Noes – None; Abstain – None; Absent - Hahn.

Adjourned at 4:54 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on February 8, 2021.

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Mark Numainville  
City Clerk

## **Communications**

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DRAFT AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, March 9, 2021
6:00 PM

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 – LORI DROSTE

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Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <<INSERT URL HERE>>. 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 1-669-900-9128 or 1-877-853-5257 (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.

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. 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:

**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. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## 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 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.*

**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. **Stahlschmidt v. City of Berkeley, Case No. RG 20069713**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the settlement of the action entitled Stahlschmidt v. City of Berkeley, Case No. RG 20069713.

**Financial Implications:** \$75,533

Contact: Farimah Brown, City Attorney, (510) 981-6950

## Consent Calendar

**2. Referral Response: Commission Low-Income Stipend Reform**

**From: City Manager**

**Recommendation:** Adopt a Resolution adjusting the qualifying annual household income to the Alameda County 50% Area Median Income (AMI) for a three-person household for stipend and reimbursement in lieu of expenses for members of certain Boards, Commissions, and Committees, increasing the stipend to \$100 per meeting with an annual Consumer Price Index (CPI) inflator, and rescind Resolution No. 64,831-N.S.

**Financial Implications:** See report

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

**3. Revenue Contract: East Bay Community Energy FY2021- Kitchen Electrification for Aging Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract any resultant revenue agreements and amendments with East Bay Community Energy to provide funding for upgraded, energy-efficient kitchen appliances at both the North Berkeley and South Berkeley senior centers, in the amount of \$48,994, through the East Bay Community Energy's Kitchen Electrification Grant.

**Financial Implications:** See report

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

**4. Contract No. 32000063 Amendment: United Site Service, Inc. for Additional Rental and Servicing of Portable Toilets and Sinks**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000063 with United Site Services of California, Inc. for rental and service of portable toilet and handwashing units, increasing the current contract amount of \$360,000 by \$270,000, for a total not to exceed amount of \$630,000 for a period of two years, with an option to extend for three 12-month periods, for a total amount not to exceed \$1,200,000.

**Financial Implications:** \$1,200,000

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

## Consent Calendar

**5. Contracts: On-Call Waterfront Project Management and Construction Management Services for Capital Improvement Projects at the Berkeley Waterfront**

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call waterfront project management services for capital improvement projects at the Berkeley Waterfront, for contract periods of April 1, 2021 through June 30, 2024:

1. AnchorCM, for an amount not to exceed \$1,000,000.
2. Park Engineering, Inc., for an amount not to exceed \$1,000,000.

**Financial Implications:** See report

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

**6. Loan Application: Dock Replacement at the Berkeley Marina**

**From:**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to sign a loan agreement with the California Department of Boating and Waterways and to accept the funds for a loan not to exceed \$5,500,000 for replacement of D & E docks at the Berkeley Marina.

**Financial Implications:** See report

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

**7. Grant Application: Environmental Enhancement and Mitigation Project (EEMP) Proposal**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to submit an Environmental Enhancement and Mitigation (EEM) grant application to plant urban forest trees in the amount up to \$500,000; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

**Financial Implications:** Revenue - \$500,000

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

## Consent Calendar

8. **Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)** *(Reviewed by the Agenda & Rules Committee) (Item Contains Supplemental Material)*  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.  
*(On February 8, 2021, the Agenda & Rules Committee made a positive recommendation to the City Council on part two of the Commission recommendation to prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.)*  
**Financial Implications:** None  
Contact: Sam Harvey, Commission Secretary, (510) 981-6950

## Council Consent Items

9. **HelpBerkeley: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to HelpBerkeley with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** Mayor's Discretionary Funds - \$250  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
10. **Budget Referral: Funding Rectangular Rapid Flashing Beacons (RRFB) at Sixth Street and Addison Street**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at the south end of the intersection of Sixth Street and Addison Street.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Council Consent Items

- 11. Budget Referral: George Florence Park Traffic Calming (Tenth Street between University Avenue and Allston Way)**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the budget process the funding of traffic calming measures on Tenth Street between University Avenue and Allston Way including but not limited to: 1. The addition of “SLOW CHILDREN AT PLAY” signs approaching George Florence Park and the West Berkeley YMCA; 2. Two speed tables on Tenth Street between Addison and Allston approaching George Florence Park and another speed table in front of the West Berkeley YMCA; 3. Repainting of crosswalks along this section of Tenth Street; 4. Bulb outs at each corner of Tenth Street and Addison Street; 5. A traffic circle at Tenth Street and Allston Way.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 12. Resolution Supporting HR 25, Calling for Federal Investigation on Sedition at U.S. Capitol and Expulsion of Complicit Members of Congress**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Adopt a resolution condemning the violent attack on the U.S. Capitol on January 6, 2021 by a seditious mob intent on preventing the certification of the 2020 Presidential Election, in support of House Resolution 25, calling for a federal investigation on the attack and the expulsion of Members of Congress found complicit in incitement of insurrection.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 13. Support for SB 260**  
**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Send a letter of endorsement for SB 260, the Climate Corporate Accountability Act, to Senator Scott Wiener and the Senate Standing Committee on Environmental Quality, and urge the CA Senate to lead the nation in pursuing real emissions reductions and holding corporations accountable.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120



## Council Consent Items

14. **Resolution in Support of Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt a resolution in support of establishing (1) statewide binding legislative targets for 100% zero emission vehicle sales no later than 2025, and (2) comprehensive statewide legislative program to achieve an equitable and just transition towards 100% zero-emissions transportation and mobility by 2030. Send copies of the resolution to Governor Newsom, State Senator Nancy Skinner, Assemblywoman Buffy Wicks, copying President Biden, Vice President Harris, Senators Feinstein and Padilla, and Congresswoman Lee.  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
15. **Kala Art Institute 2021 Relinquishment of Council Office Budget**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2021, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. 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.*

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function 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. 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 – New Business

**16. Confirming “At-Large” Appointments to the Reimagining Public Safety Task Force**

**From: City Manager**

**Recommendation:** Adopt a Resolution confirming “At-Large” appointments to the Reimagining Public Safety Task Force.

**Financial Implications:** There are no fiscal impacts attributed to confirming appointments to the Reimagining Public Safety Task Force (Task Force).

Contact: Dave White, City Manager's Office, (510) 981-7000

**17a. Amending Source of Income Discrimination Ordinance to Establish Administrative Enforcement Procedure** *(Reviewed by the Land Use, Housing, & Economic Development Committee)*

**From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that BMC 13.31 be amended to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income. Such procedure should involve establishing a complaints procedure under an existing City of Berkeley department such as the Department of Planning or Rent Stabilization Board, where a complaint could be filed by a prospective tenant, or tenant, alleging that they have been discriminated against by a landlord, property owner or authorized agent or employee when seeking rental housing or in any other context currently covered under BMC 13.31. Stage 1 of enforcement in the complaints procedure shall involve the taking of the complaint which shall be investigated by the designated department expeditiously, within a reasonable period of time no longer than ten days. Upon completion of the investigation, a finding shall be made of substantial evidence of discrimination or no evidence of discrimination. In the process of the investigation, the investigator shall concurrently, while identifying the facts, attempt to resolve the complaint by seeking to bring the parties to agreement that the complaining party be permitted to rent the premises in question or alternatively, if the premises has otherwise been rented prior to the investigation, be provided the first option for the next available vacancy at the premises.

Where the complaint has not otherwise been resolved through this procedure, and there is a finding of substantial evidence, the complaining party shall be offered the opportunity to have its complaint heard by an administrative hearing officer mirroring a procedure or similar to a procedure afforded by BMC 1.28. If the complainant files for such an administrative hearing, and the rental property remains available, the filing for an administrative hearing, shall constitute a stay of the property being otherwise rented to another applicant. If at the administrative hearing, the administrative law judge, or hearing officer, finds in favor of the complainant, the administrative hearing officer can order that housing be provided to the complainant and/or direct a fine of no more than five thousand dollars (\$5,000) to be paid to the complainant with an additional penalty to the City of Berkeley for the costs of the administrative appeal. This procedure will be a final administrative decision subject to litigation to be brought in a court of law by a complainant through any legal entity, private or public as the complainant can identify. The Homeless Commission further recommends that any person seeking housing, with a voucher or any subsidy to pay

## Action Calendar – New Business

their rent, be considered for the rental in the order which their rental application is received and be entitled to the rental as the first applicant of right. Insufficient credit or poor credit shall not be a fact considered for rental as to the totality of the rent to be paid if the rent is to be otherwise paid through the voucher or subsidy source. *(On February 4, 2021, the Land Using, Housing, & Economic Development Policy Committee made a qualified positive recommendation to refer to the City Manager to: 1) Draft amendments to the Source of Income Discrimination Ordinance to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income, parallel to the Fair Chance Ordinance; 2) Submit to Council in 2022 a report reviewing the effectiveness of the source of income discrimination ordinance in its first five years; and 3) Update and improve information on the City website and elsewhere about legal services for low income residents; and 4) Refer to the 4x4 Committee discussion of feasibility of enforcement of source of income discrimination alongside the fair chance ordinance, and discussion of Homeless Commission's first-in-time standard recommendations.)*

**Financial Implications:** See report

Contact: Brittany Carnegie, Commission Secretary, (510) 981-5400

**17b. Companion Report: Amending Source of Income Discrimination Ordinance to Establish Administrative Enforcement Procedure** *(Reviewed by the Land Use, Housing, & Economic Development Committee)*

**From: City Manager**

**Recommendation:** The City Manager thanks the Homeless Commission for their concern regarding potential discrimination against residents trying to utilize rental assistance vouchers in Berkeley. She recommends, however, taking no action on the Homeless Commission recommendation since the City already funds legal assistance for low-income residents that may be used to obtain relief under BMC 13.31.

*(On February 4, 2021, the Land Using, Housing, & Economic Development Policy Committee made a qualified positive recommendation to refer to the City Manager to: 1) Draft amendments to the Source of Income Discrimination Ordinance to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income, parallel to the Fair Chance Ordinance; 2) Submit to Council in 2022 a report reviewing the effectiveness of the source of income discrimination ordinance in its first five years; and 3) Update and improve information on the City website and elsewhere about legal services for low income residents; and 4) Refer to the 4x4 Committee discussion of feasibility of enforcement of source of income discrimination alongside the fair chance ordinance, and discussion of Homeless Commission's first-in-time standard recommendations.)*

**Financial Implications:** None

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

## Council Action Items

18. **Support Vision 2025 for Sustainable for Sustainable Food Policies** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

**From: Councilmember Davila (Author)**

**Recommendation:**

1. Adopt a Resolution Supporting Vision 2025 for Sustainable Food Policies
  2. Join San Francisco, Chicago and Austin in signing the Milan Urban Food Policy Pact (MUFPP) which includes forming an advisory body on sustainable food policies.
  3. Support adoption of a Climate-Friendly Food Purchasing Policy as described by Friends of the Earth to replace 50% of the City's annual animal-based food procurement with plant-based food.
  4. Short Term Referral to the City Manager to: a. Track the amount of animal-based food replaced with plant-based food; b. Use Friends of the Earth's Municipal Guide to Climate-Friendly Food Purchasing for the procurement of plant-based food.
- (On February 8, 2021, the Health, Life Enrichment, Equity and Community Committee moved the item to Council with a qualified positive recommendation to take the following action: 1. Express support for the Milan Urban Food Policy Pact (MUFPP) 2. Refer aspects of the original item to the Community Health Commission (or future commission addressing public health) to take the following actions: a) Consult with appropriate City staff to evaluate the feasibility of altering food sources within the City's existing food service contracts - with a specific focus on the feasibility of replacing meat and dairy-based offerings with plant-based options - given contractor procurement practices and any federal or state nutrition requirements for seniors and other affected populations; and (b) Solicit input from potentially affected communities, particularly seniors, for their feedback on shifting to more plant-based foods through a short survey or other means; and 3. Adopt the resolution as amended.)*

**Financial Implications:** See Report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Action Calendar – Policy Committee Track Items

19. **Declaring the 2021 Cesar Chavez-Dolores Huerta Commemorative Period**  
**From: Mayor Arreguin (Author), Councilmember Robinson (Author)**

**Recommendation:** Adopt a Resolution declaring the period of March 21, 2021 to April 10, 2021 as the Cesar Chavez/Dolores Huerta Commemorative Period in the City of Berkeley.

**Financial Implications:** None

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

## Action Calendar – Policy Committee Track Items

### 20. Affordable Housing Overlay

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

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

1. Exceeding standards set forth in California Government Code Section 65915 with additional height and density incentives for qualifying 100% affordable projects deed-restricted for low- and moderate-income households, including: a. An additional 33' local density bonus for qualifying projects with low- and moderate-income units deed-restricted for households earning up to 100% of Area Median Income, aiming to maximize total unit count restricted for Very Low and Extremely Low Income households; b. Expanding waiver of density limits, including units per acre and floor area ratio, for transit-adjacent projects to include all parcels within one half mile of a commuter rail station, and within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019; c. Reduced density limits for projects outside of transit proximity threshold with additional Transportation Demand Management (TDM) policies, including bike parking, paratransit and shared micro-mobility systems; d. Ministerial approval of all qualifying projects meeting objective design criteria and union labor requirements; e. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law.

2. Ministerial approval for 76' of 100% affordable residential dwelling units in all commercial zones, and provisions for ground-floor retail and/or live-work space;

3. In R-1, R-1A and R-2 zones, provide ministerial approval for a 10' local density bonus for 100% affordable housing, with waived density requirements for dwelling units per acre and lot coverage. On parcels within high-risk wildfire zones as determined by the California Department of Forestry and Fire Protection (CalFire), ministerial approval for 100% affordable projects should be contingent on fire-blocking design and defensible space standards certified by the Planning Department.

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

**Financial Implications:** To be determined

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

## Action Calendar – Policy Committee Track Items

- 21. Budget Referral: Allocate Transportation Network Companies User’s Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program**  
**From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Robinson (Author), Councilmember Taplin (Author)**  
**Recommendation:**  
1. Refer to the June 2021 budget process: a. The first \$500,000 in expected Transportation Network Companies (TNC) User’s Tax General Fund revenue toward the construction and maintenance of 18.4 miles of priority protected bicycle boulevards; and b. \$410,000 in expected TNC Tax revenue as revenues become available and an additional \$90,000 from other General Fund revenue to supplement demonstration projects under the Street Repair Program that either directly or indirectly reduce greenhouse gas emissions.  
2. Refer to the Transportation Commission to make recommendations to the Council as to allocation of TNC User’s Tax in subsequent budget cycles.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 22. Resolution Clarifying Eligibility for Historic Landmark Designation for Residences of Notable Residents that Contributed to the Cultural and Historic Values of Berkeley**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt a resolution clarifying eligibility for historic landmark designation for residences of notable residents that contributed to the cultural and historic values of Berkeley, if they otherwise qualify, including to allow the childhood home of Vice President Kamala Harris.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 23. Refer to the City Manager to Prioritize Establishment of Impact/Mitigation Fees to Address Disproportionate Private and Public Utility Impact to the Public Right of Way**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** In order to ensure equitable support of the public right of way by private and public entities that use City facilities, refer to the City Manager and City Attorney to prioritize the following in consultation with the Facilities, Infrastructure, Transportation, Environment, & Sustainability Committee:  
1. establish impact and/or mitigation fees to address disproportionate private impacts to the public right of way, such as our roads and utility poles; and  
2. establish transfers between sewer, waste, or other utilities as appropriate to address impacts to the public right of way.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar – Policy Committee Track Items

24. **Affirming the City of Berkeley’s Support for the People of Tibet**  
**From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a resolution affirming the City of Berkeley’s support for the people of Tibet.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Information Reports

25. **Berkeley Economic Dashboards Update**  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
26. **FY 2021-2022 Peace and Justice Commission Work Plan**  
**From: Peace and Justice Commission**  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
27. **Youth Commission Work Plan 2021**  
**From: Youth Commission**  
Contact: Ginsi Bryant, Commission Secretary, (510) 981-6700

## 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.*

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Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. 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 posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at  
<http://www.cityofberkeley.info/citycouncil>

**COMMUNICATION ACCESS INFORMATION:**

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.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission and Open Government Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

This memorandum to the Fair Campaign Practices Commission (FCPC) and the Open Government Commission (OGC) substitutes for the one previously posted, mailed to members of the FCPC, and appearing as Item 7 on the agenda of the FCPC. The key difference is that this memorandum addresses not only officeholder accounts, but also proposed changes to City Council Expenditure and Reimbursement Policies (so-called D-13 Accounts). These two proposals are closely linked and should be considered together. Because the proposal relating to officeholder accounts falls under the jurisdiction of the FCPC and that relating to D-13 accounts falls under the jurisdiction of the OGC, the FCPC and OGC should act jointly in considering the proposed changes to BERA and the Reimbursement Policies.

The memorandum also makes the following recommendation:

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

The preceding recommendations are consistent with previous discussions and the annual workplans of the FCPC and the OGC.

To implement the recommendations in this memorandum, a revised report to the Council is attached.

ITEM 12

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. It agreed that the Council Committee would work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, I propose that the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

PUBLIC HEARING
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember’s discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action:

Vote:

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

BACKGROUND

Officeholder Accounts

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.”

In the course of its review of the issue of officeholder accounts, the FPPC considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D-13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

Proposed Changes to City Council Expenditure and Reimbursement Policies

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D-13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember's discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization "from the discretionary council budget" of the Councilmember. This line item ("Services and Materials") from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment 1 – Council Office Budget Summaries). While not technically a "campaign contribution," those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember's contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council's Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember's D-13 accounts.

Proposed Action:

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder

accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

- (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and
- (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions,
(510) 981-6998
Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open
Government Commissions, (510) 981-6998



Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act to regulate officeholder accounts

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts. At its July 16, 2020 meeting, the Commission voted to direct Commissioner O'Donnell to return at the Commission's September 17, 2020 meeting with a version of the proposal drafted as an amendment to BERA that can be voted on and presented to Council.

Background

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or

(3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Alternative Proposal for Legislation on Officeholder Accounts

Given the Council's opposition to accepting an outright prohibition of officeholder accounts, the FCPC should at least explore some alternatives, including the option of amending the BERA to allow for officeholder accounts that would be subject to limitations, as the City of Oakland has done. The subcommittee which examined officeholder accounts briefly discussed this option but, given that there was unanimous support for prohibiting officeholder accounts entirely, it never developed a detailed proposal for this kind of alternative. However, now that the FCPC/OGC will be in conversation with the council about the options going forward, it seems to make good sense to examine in more detail what the alternative might look like.

For discussion purposes, a draft proposal to amend the BERA is attached (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are

used *strictly* for officeholder purposes and may not be used for political campaigns or other non-officeholder purposes. The proposal would also include limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures. And they would specify how officeholder accounts are to be terminated.

Although not as fully effective as the complete prohibition of officeholder accounts previously recommended by the FCPC, this approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

In the end, it may well be that the alternative presented here—or any other—may be unable to carry the day. Because of the double-green light requirements of BERA, no proposal may be able to garner the 2/3 votes of both the Council and Commission required to change the law. But for the purposes of collaborating with the Council on ways of improving the officeholder account process, the Commission should review the attached proposal which offers at least one possible scenario for addressing the problems and pitfalls involved with officeholder accounts.

Prior to approving this item, the Commission will need to make a determination regarding the dollar amounts for limits on donations to officeholder accounts. These amounts are highlighted in the attached Proposal in Section 2.12.600.E & F.

Attachments:

1. New draft proposed amendments to BERA to allow for officeholder accounts, to limit such accounts to being used strictly for officeholder purposes, and to subject these accounts to various other limitations and disclosure requirements (“Proposal”)
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)



Fair Campaign Practices Commission

PUBLIC HEARING
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council
From: Brad Smith, Chair, Open Government Commission
Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission
Subject: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Adopt an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to regulate officeholder accounts.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Lobbyist Registration Act were approved by the Open Government Commission at its regular meeting of XXXXX XX, XXXX.

Action:

Vote:

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts.

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated

by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Alternative Proposal for Legislation on Officeholder Accounts

At its September 17, 2020 meeting, the FCPC passed the attached proposal to amend the BERA (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are used *strictly* for officeholder purposes and may not be used for political

campaigns or other non-officeholder purposes. The proposal also includes limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures, and specify how officeholder accounts are to be terminated.

This approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposal is offered as an alternative to the proposed ban on officeholder accounts previously submitted to Council by the FCPC. This proposal would regulate – rather than prohibit – officeholder accounts.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998

Attachments:

1. Proposed ordinance amending BERA to allow and regulate officeholder accounts
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT TO REGULATE
OFFICEHOLDER ACCOUNTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code section 2.12.157 is added to read as follows:**Section 2.12.157 Officeholder account.**“Officeholder account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.Section 2. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as followsArticle 9. Officeholder Accounts**Section. 2.12.600 Regulation of officeholder accounts.**A. The mayor and council members (the “officeholder” or “office holders”) shall each be permitted to establish one officeholder account, as defined in section 2.12.157.B. All donations deposited into an officeholder account shall be deemed to be held in trust solely for expenses associated with holding the office currently held by the elected city officer. For the purpose of this section, “donation” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, in support of the office currently held by an elected official.C. Only a natural person who is a resident of the City may make a donation to an officeholder account.D. Donations to an officeholder account must be made by a separate check or other separate written instrument. Single donations may not be divided between the officeholder account and any candidate committee or other entity.E. No donor shall make, and no elected officer shall receive from a donor, a donation or donations under this section totaling more than fifty [or two-hundred and fifty] dollars (\$50.00 [or \$250.00]) per person for the calendar year. “Donor” means a natural person who is a resident of the City who makes a donation as defined in paragraph B.F. For the office of mayor, total donations to an officeholder account from all donors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year. For each member of the city council, total donations to an officeholder account from all donors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

G. All donations received for, and expenditures made from, an officeholder account during a calendar year shall be reported at least annually on the date or dates prescribed by the commission and the report shall be made available to the public promptly thereafter. The commission shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's officeholder account. The forms shall be filed electronically. The information on the form or forms shall be verified by the officeholder. The information that shall be included in the officeholder account report shall include the following:

1. The name of the officeholder and the office held;
2. The reporting period covered by the report;
3. A description of all receipts and expenditures.
4. The full name of each donor from whom a donation or donations has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed; the amount which he or she donated; the date on which the each donation was received during the period covered by the report; and the cumulative amount that the donor donated. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated with regard to each lender, together with the date and amount of the loan, and if the loan has been repaid, the date of the payment and by whom paid;
5. The full name and street address of each person to whom an expenditure or expenditures have been made, together with the amount of each separate expenditure to each person during the period covered by the report; a description of the purpose for which the expenditure was made; and the full name and street address of the person receiving the expenditure.
6. Under the heading "receipts," the total amount of donations received, and under the heading "expenditures," the total amount of expenditures made during the reporting period and cumulative amount of such totals;
7. The balance of cash and cash equivalents, including the amounts in the officeholder bank account, at the beginning and end of each period covered by the report.

H. Expenditures from an officeholder account may be made only for lawful officeholder purposes, and may not be used for any of the purposes prohibited in subsections J. and K. of this section.

I. Allowable expenditures from an officeholder account include the following:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder account;
2. Expenditures for office equipment, furnishings and office supplies;

3. Expenditures for office rent;

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) or such other person designated by the officeholder who is authorized to perform such government duties;

8. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

9. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

10. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council or Mayor;

11. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

12. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions; and

13. Expenditures for accounting, professional and administrative services provided to the officeholder account.

J. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office or in connection with a ballot measure;

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3. Membership in any athletic, social, fraternal, veteran or religious organization;

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519, and any provisions of the BERA.

K. Prohibitions:

1. No funds may be contributed or transferred from an officeholder account to any candidate or committee, as defined in sections 2.12.085 and 2.12.095 of this chapter, including to any committee in which the officeholder is a candidate. An officeholder may not redesignate his or her officeholder account as a committee for a future term of the same office or redesignate his or her officeholder funds to be used as campaign funds by his or her committee for a future term of the same office.

2. No funds may be used from an officeholder account to pay any campaign expenses.

3. An officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account.

L. Once an officeholder's term of office ends or she or he leaves that office, whichever is earlier, the former officeholder may use his or her officeholder funds only for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses.

2. Repaying contributions to contributors to the officeholder accounts.

3. Making a donation to a bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

M. The officeholder shall terminate the officeholder account within 90 days of the date that the officeholder's term of office ends or he or she leaves that office, whichever is earlier. The Commission may for good cause extend the termination date. The disposition of all funds from the closed officeholder account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, shall be described on a form prescribed by the Commission. The officeholder must verify and file the form electronically no later the date prescribed for the termination of the officeholder account or an approved extension thereof.

N. All funds from a closed officeholder account not properly disposed of within the 90 day period prescribed above, or an approved extension thereof, shall be deposited in the City's general fund.

O. Violations of this article involving the unlawful use of officeholder accounts are subject to the procedures of, and the penalties in, Article 7 of this chapter.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the regulation of officeholder accounts.

The hearing will be held on, [date of hearing] at [6:00 p.m.] in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of [date of agenda posting].

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

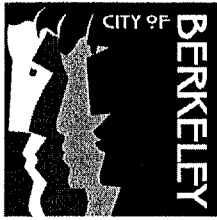
Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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 or in person to the City Clerk. 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 at 981-6900 or clerk@cityofberkeley.info for further information.

Published: [Publication Date in Newspaper]

Pursuant to Berkeley Municipal Code section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 [Enter Date].

\_\_\_\_\_  
Mark Numainville, City Clerk



Fair Campaign Practices Commission

PUBLIC HEARING  
February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act to prohibit  
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

**Definition of an Officeholder Account**

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

### **Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

### **Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

### Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

#### Part 8 - OFFICEHOLDER ACCOUNTS

##### 12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

#### 2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

#### 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

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<sup>1</sup>Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE  
CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

Section 3. 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





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**GOVERNMENT CODE - GOV**

**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )

**ARTICLE 3. Contribution Limitations [85300 - 85321]** ( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.



Barbara Gilbert  
Re: Application of Berkeley Election Reform Act To Officeholder Accounts  
December 28, 1999  
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

#### Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

## CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff CounselSUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSESBACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS  
December 9, 1991  
Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

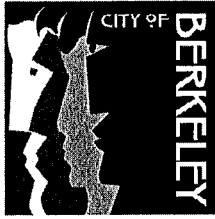
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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 or in person to the City Clerk. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

Mark Numainville, City Clerk



[First Last name]
Councilmember District [District No.]

SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: February 4, 2020

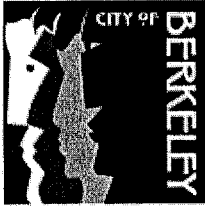
Item Number: 2

Item Description: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

Submitted by: Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

**SOPHIE HAHN**

Berkeley City Council, District 5
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 (510) 981-7150
 shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council
 From: Vice Mayor Sophie Hahn
 Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.¹ They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.² Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

¹ <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

² <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [] delivered, by any means [] to a person's residence, place of employment or business, or post office box."³ Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.⁴ Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

³ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

⁴ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.⁵ For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

⁵ Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.⁵

members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.

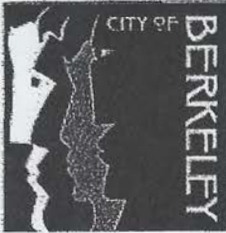
Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.⁶

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

⁶ <http://www2.oaklandnet.com/w/OAK052051>



Fair Campaign Practices Commission

Date: February 12, 2020
To: FAIR CAMPAIGN PRACTICES COMMISSION
From: Dean Metzger, Commission Chair
Subject: Council discussion and action with regards to the Officeholder Accounts FCPC proposal.

At the Special City Council meeting of Tuesday February 4, 2020, the City Council had a lengthy discussion about their D13 accounts, and the lack of discretionary funds Council Members have to spend. They then decided not to approve the FCPC recommendation to prohibit Officeholder Accounts.

To remedy this concern the FCPC should request from the City Manager the amount each Council Member receives in their D13 accounts and after some discussion make a recommendation to Council. If the D13 account is large enough to allow Council members to make the expenditures they feel will keep their constituents informed of their activities, travel to local meetings, provide transportation expenses and meals - there would be no need for Officeholders Accounts.

A search of the City's Budget documents did not reveal the amounts allocated to the Council D13 accounts. Once the information is available the FCPC can make its recommendations to City Council.

Attachments:

1. Mayor and City Council Financial Summary
2. Draft request to City Manager for budget details of the Mayor and each individual Council Member

MAYOR AND CITY COUNCIL FINA

	FY 2015 Actual	FY 2016 Actual	FY 2017 Adopted	FY 2018 Proposed	FY 2019 Proposed
EXPENDITURES					
By Type:					
Salaries and Benefits	1,660,661	1,760,619	1,723,617	1,833,734	1,880,031
Services and Materials	36,942	43,407	113,526	113,526	113,526
Capital Outlay	1,953	7,674			
Internal Services	89,100	81,181	81,181	81,181	81,181
Indirect Cost Transfer					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Division:					
Mayor's Office	515,095	558,137	584,877	554,389	566,917
Council Offices	1,273,561	1,334,744	1,333,447	1,474,052	1,507,821
Exiting Officials					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Fund:					
General Fund	1,788,656	1,892,881	1,918,324	2,028,441	2,074,738
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>

General Fund FTE	12.00	12.00	12.00	12.00	12.00
Total FTE	12.00	12.00	12.00	12.00	12.00

DRAFT

DRAFT

DRAFT

Date: February 20, 2020

To: Dee Williams-Riley
City Manager

From: Fair Campaign Practices Commission

Subject: Request for budget details of the Mayor and each individual Council Member.

At the Special Council meeting of Tuesday, February 4, 2020 the Council heard and took action on the FCPC recommendation to amend the Berkeley Municipal Code to prohibit Officeholder Accounts. The Council discussion went to great lengths about why they needed the Officeholder Account before declining to approve the FCPC recommendation.

The FCPC needs to understand why the Council took the action it did.

To help the Commission determine if any further action on its part would be helpful, the Commission requests that your office provide the FCPC with the detailed budgets of the Mayor and each Council Member. The Commission has the budget summaries of the Mayor and City Council but it is of little use for the discussion.

Please provide the requested information in time for the FCPC meeting on March 19, 2020.

Thank you,

Fair Campaign Practices Commission



Fair Campaign Practices Commission
Open Government Commission

CONSENT CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

POLICY COMMITTEE RECOMMENDATION

On February 8, 2021, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to make a positive recommendation to the City Council on part two of the Commission recommendation to prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action: Motion to submit report to City Council recommending creation of a subcommittee of members of the Council, FCPC and OGC to (1) prepare an ordinance prohibiting or regulating officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies

Vote: M/S/C: Blome/Metzger; Ayes: O'Donnell, Ching, Blome, Tsang, Smith; Noes: Metzger, Sheahan; Abstain: none; Absent: McLean.

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

BACKGROUND

Officeholder Accounts

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: "[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws."

In the course of its review of the issue of officeholder accounts, the FCPC considered three options:

- (1) leaving the law on officeholder accounts unchanged;
- (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or
- (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the

Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D- 13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

Proposed Changes to City Council Expenditure and Reimbursement Policies

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D- 13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember’s discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization “from the discretionary council budget” of the Councilmember. This line item (“Services and Materials”) from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment – Council Office Budget Summaries). While not technically a “campaign contribution,” those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember’s contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council’s Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember’s D-13 accounts.

Proposed Action:

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

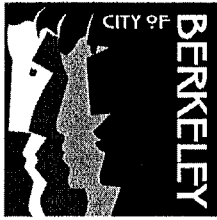
CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Attachments:

1. FCPC February 4, 2020 report to Council and attachments
2. Mayor and City Council Financial Summary



Fair Campaign Practices Commission

PUBLIC HEARING
February 4, 2020

To: Honorable Mayor and Members of the City Council
From: Fair Campaign Practices Commission
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission
Subject: Amendments to the Berkeley Election Reform Act to prohibit
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

Action: M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

Vote: Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Definition of an Officeholder Account

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

Contributions to Officeholder Accounts

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

Expenditures from Officeholder Accounts

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.¹ Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

Part 8 - OFFICEHOLDER ACCOUNTS

12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

¹Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE
CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

BMC 2.12.157 Officeholder account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

BMC 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

Section 3. 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


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GOVERNMENT CODE - GOV
TITLE 9. POLITICAL REFORM [81000 - 91014] (Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 5. Limitations on Contributions [85100 - 85802] (Chapter 5 added June 7, 1988, by initiative Proposition 73.)
ARTICLE 3. Contribution Limitations [85300 - 85321] (Article 3 added June 7, 1988, by initiative Proposition 73.)

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.62. Elected State Officeholder Bank Accounts.

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

HISTORY

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the
City Attorney

DATE: December 28, 1999

TO: BARBARA GILBERT,
Aide to Mayor Shirley Dean

FROM: MANUELA ALBUQUERQUE, City Attorney *MA*
By: CAMILLE COUREY, Deputy City Attorney

SUBJECT: APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.¹ For similar reasons, the BERA does not

¹ However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert
Re: Application of Berkeley Election Reform Act To Officeholder Accounts
December 28, 1999
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.² Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

PAUSERS\BBL2\ofthldr.mem.doc

² Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991 Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso, Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS
December 9, 1991
Page 2

in opposition to the nomination or election of one or more candidates (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.^{1/} (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

^{1/}I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

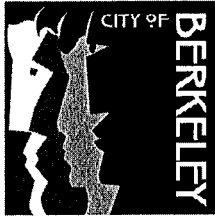
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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 or in person to the City Clerk. 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 at 981-6900 or clerk@cityofberkeley.info for further information.

Published: January 24, 2020 – The Berkeley Voice
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk



[First Last name]  
Councilmember District [District No.]

## **SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** February 4, 2020

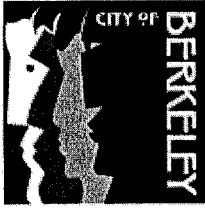
**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



**SOPHIE HAHN**

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

**ACTION CALENDAR**

February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Sophie Hahn  
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**RECOMMENDATION**

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [ ] delivered, by any means [ ] to a person's residence, place of employment or business, or post office box."<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

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<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>

**MAYOR AND CITY COUNCIL FINANCIAL SUMMARY**

|                         | <b>FY 2015<br/>Actual</b> | <b>FY 2016<br/>Actual</b> | <b>FY 2017<br/>Adopted</b> | <b>FY 2018<br/>Proposed</b> | <b>FY 2019<br/>Proposed</b> |
|-------------------------|---------------------------|---------------------------|----------------------------|-----------------------------|-----------------------------|
| <b>EXPENDITURES</b>     |                           |                           |                            |                             |                             |
| <b>By Type:</b>         |                           |                           |                            |                             |                             |
| Salaries and Benefits   | 1,660,661                 | 1,760,619                 | 1,723,617                  | 1,833,734                   | 1,880,031                   |
| Services and Materials  | 36,942                    | 43,407                    | 113,526                    | 113,526                     | 113,526                     |
| Capital Outlay          | 1,953                     | 7,674                     |                            |                             |                             |
| Internal Services       | 89,100                    | 81,181                    | 81,181                     | 81,181                      | 81,181                      |
| Indirect Cost Transfer  |                           |                           |                            |                             |                             |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>By Division:</b>     |                           |                           |                            |                             |                             |
| Mayor's Office          | 515,095                   | 558,137                   | 584,877                    | 554,389                     | 566,917                     |
| Council Offices         | 1,273,561                 | 1,334,744                 | 1,333,447                  | 1,474,052                   | 1,507,821                   |
| Exiting Officials       |                           |                           |                            |                             |                             |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>By Fund:</b>         |                           |                           |                            |                             |                             |
| General Fund            | 1,788,656                 | 1,892,881                 | 1,918,324                  | 2,028,441                   | 2,074,738                   |
|                         | <u>1,788,656</u>          | <u>1,892,881</u>          | <u>1,918,324</u>           | <u>2,028,441</u>            | <u>2,074,738</u>            |
| <b>General Fund FTE</b> | 12.00                     | 12.00                     | 12.00                      | 12.00                       | 12.00                       |
| <b>Total FTE</b>        | 12.00                     | 12.00                     | 12.00                      | 12.00                       | 12.00                       |





Office of the Mayor

CONSENT CALENDAR

March 9, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: HelpBerkeley: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguín, to HelpBerkeley with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguín and any other Councilmembers who would like to contribute.

BACKGROUND

The ongoing COVID-19 pandemic has placed a significant strain on the economy and people's ability to travel – even short distances within the City. According to the Office of Economic Development's dashboard presented in February 2021, thousands of jobs have been lost, including 25% of jobs within the food and beverage sector, and a tripling of unemployment in December 2020 compared to December 2019. Access to food became difficult for those who for health reasons needed to shelter in place and could not risk going to grocery stores. Food bank demand has skyrocketed due to people becoming economically impacted by COVID-19 and volunteer services having to reduce services to comply with necessary Health Orders.

HelpBerkeley was created not long after the first Health Order went into effect in March 2020. The program partners with local restaurants to provide dinner and lunch at a cost of \$10. Volunteers then deliver the food from the restaurant directly to the customer's home. What began as an idea to help neighbors has since expanded, providing over 20,000 meals in 2020 with the help of over 300 volunteers and 450 donors.

During the holiday season, HelpBerkeley provided over 1,000 free meals. Recognizing the needs created by food insecurity, in February 2021 HelpBerkeley launched a regular subsidized and free food program, with the aim of providing six meals per person per week. They are currently working on a fundraising campaign to raise \$600k to ensure the long-term viability of the program.

HelpBerkeley has received recognition for its services, including the Jefferson Award for Public Service and a Mayoral Proclamation from the City of Berkeley. Supporting them

as they expand their program will help in providing food assistance to vulnerable members of the Berkeley community.

FINANCIAL IMPLICATIONS

No General Fund impact; \$250 is available from Mayor Arreguin's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution for Council Expenditures

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Mayor Jesse Arreguin has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, HelpBerkeley seeks funds in the amount of \$250 to provide the following public services: providing food assistance to people impacted during the COVID-19 crisis while supporting local restaurants; and

WHEREAS, the provision of such services would fulfill the following municipal public Purpose: helping reduce the spread of COVID-19 among vulnerable populations by providing food deliveries to eligible Berkeley, Albany, and Kensington residents, including those over 60 and those who need to self-isolate; supporting the local economy by coordinating with restaurants for preparation of meals.

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 up to \$250 per office shall be granted to HelpBerkeley to fund the following services of providing meals to people who have been impacted by COVID-19 and supporting local businesses that have seen a reduction in patronage as a result of COVID-19.



CONSENT CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Budget Referral: Funding Rectangular Rapid Flashing Beacons (RRFB) at Sixth Street and Addison Street

RECOMMENDATION

That the City Council refers to the budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at the south end of the intersection of Sixth Street and Addison Street.

CURRENT SITUATION AND ITS EFFECTS

The intersection of Sixth and Addison, a block away from the heavily trafficked University Avenue and close to the University Ave exit of I-580 & I-80, is a reliably busy and often dangerous intersection in an otherwise residential area in West Berkeley. With a pedestrian crosswalk, a traffic light on one side at Sixth and University, and another traffic light on the other side at Sixth and Allston Way, Sixth and Addison is nevertheless characterized by the community around it as a hazardous intersection where drivers regularly violate the 25 m.p.h. speed limit, ignore the pedestrian right-of-way, and even crash their vehicles with or without injuries.

According to the City of Berkeley's Vision Zero Action Plan, a pedestrian was severely injured at the intersection of Sixth and Addison between 2008 and 2018. Unsurprising to the residents of the area, the Vision Zero Action Plan identifies Sixth Street, Addison Street, and the close by University Avenue as "High-Injury Streets", which are defined by having "the most injuries and fatalities" in Berkeley.<sup>1</sup> This intersection is a ticking time bomb for the residents of this area, many of whom are children and the elderly, and must be rectified before tragedy strikes. The dangers this intersection present did not form in a vacuum, but is rather a result of decades of infrastructural disinvestment. This is why the Pedestrian Plan, Vision Zero, and the Bicycle Plan consider this area a "Historically Underserved Area" and target it for prioritized improvements.<sup>2</sup> The addition of RRFB to this intersection would be an important step for Berkeley's Vision Zero and

<sup>1</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley\\_Vision\\_Zero\\_Action\\_Plan\\_Approved\\_03102020.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf)

<sup>2</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley%202020%20Pedestrian%20Plan\\_Draft\\_2020-10.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%202020%20Pedestrian%20Plan_Draft_2020-10.pdf)

Pedestrian Plan, take a step forward in the righting of historic wrongs, and very likely save lives.

FISCAL IMPACTS

Staff time and an estimated \$25,000-\$40,000<sup>3</sup> for the RFFB pair.

ACTIONS/ALTERNATIVES CONSIDERED

Rather than RRFB, the City Council could pursue two new STOP signs at the north and south ends of the intersection. The costs for this alternative would include staff time and an estimated \$1,200 for 2 STOP signs (\$600 per sign).<sup>4</sup>

ENVIRONMENTAL IMPACTS

No environmental sustainability impact. Slower traffic.

CONTACT

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

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<sup>3</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley%202020%20Pedestrian%20Plan\\_Draft\\_2020-10.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%202020%20Pedestrian%20Plan_Draft_2020-10.pdf)

<sup>4</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley%202020%20Pedestrian%20Plan\\_Draft\\_2020-10.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%202020%20Pedestrian%20Plan_Draft_2020-10.pdf)

CONSENT CALENDAR

March 9th, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Budget Referral: George Florence Park Traffic Calming (Tenth Street between University Avenue and Allston Way)

RECOMMENDATION

That the City Council refers to the budget process the funding of traffic calming measures on Tenth Street between University Avenue and Allston Way including but not limited to:

1. The addition of "SLOW CHILDREN AT PLAY" signs approaching George Florence Park and the West Berkeley YMCA
2. Two speed tables on Tenth Street between Addison and Allston approaching George Florence Park and another speed table in front of the West Berkeley YMCA
3. Repainting of crosswalks along this section of Tenth Street
4. Bulb outs at each corner of Tenth Street and Addison Street
5. A traffic circle at Tenth Street and Allston Way

BACKGROUND

The residential area encompassed by Tenth Street between University Avenue and Allston Way is home to dozens of residents, the West Berkeley YMCA, Rosa Parks Elementary School, and George Florence Park, making it a heavily trafficked and highly desired stretch of West Berkeley. Despite the 15 m.p.h speed limit, residents and pedestrians report constant violation of the speed limit and stop signs, disregard for pedestrians, and numerous close calls when families were almost struck by vehicles. This area has seen more than just close calls in the past. According to the City of Berkeley's Vision Zero Action Plan, a bicyclist was severely injured at the intersection of Tenth and Addison since 2008 and the report identifies Addison Street as a "High Injury Street"<sup>1</sup>. In addition, the slow traffic on Ninth Street under the Healthy Streets program as well as regular construction along University Avenue and San Pablo Avenue diverts a significant amount of traffic onto Tenth Street.

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<sup>1</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley\\_Vision\\_Zero\\_Action\\_Plan\\_Approved\\_03102020.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf)

The City of Berkeley's Traffic Calming Program provides for a method by which residents can request for physical traffic calming measures on residential streets<sup>2</sup>. Pursuant to this program, residents of the area around Tenth Street between University Avenue and Allston Way completed their request in writing using the City's Neighborhood Request for Traffic Calming Study form, collected and submitted petition signatures as requested by the Transportation Division of the Public Works Department, and awaited staff collection of speed and traffic volume data as the next step of the program.

During the COVID-19 pandemic, the City of Berkeley has placed the Traffic Calming Program on hold in order to deploy and maintain the Healthy Streets network and ensure that pedestrians and bicyclists can comply with social distancing guidelines while travelling. This hold on the Traffic Calming Program interrupted the process residents of the Tenth Street area were undertaking to request traffic calming measures on their street. The prioritization of pedestrian and cyclist infrastructure that ensures maximum safety from the COVID-19 virus is important, but has not decreased the need for traffic calming measures on Tenth Street. Even as use of the West Berkeley YMCA and Rosa Parks Elementary School has declined during the pandemic, the traffic threat to residents and users of George Florence Park, which has become more desirable during the pandemic, is still in need of prioritized remediation.

#### RATIONALE FOR RECOMMENDATION

On top of supporting the safety of residents along Tenth Street, traffic calming measures are necessary in order to ensure the safety of the children, families, and employees who use and work at the West Berkeley YMCA, Rosa Parks Elementary School, and George Florence Park. Upon the eventual end of the stay-at-home order as mass-vaccinations bring Berkeley out of the COVID-19 pandemic, Tenth Street should have traffic calming measures already present so that the sudden influx of traffic does not endanger the children, families, and workers that make up the pedestrians on this street.

Speed tables, improved signage, repainting of crosswalks, bulb outs, and a new traffic circle is the least that the City can do to ensure that pedestrians are safe now and in the future when the end of the pandemic brings a return to high traffic levels. Should the residents of this area wait for the hold on the Traffic Calming Program to end after the pandemic, there will likely be months of increased traffic endangering pedestrians without any remediation.

Taking prioritized and proactive action to make this area safe for the community that regularly walks and bikes it is not only in line with Berkeley's Vision Zero, Pedestrian Plan, and Bicycle Plan, it is specifically called on by them:

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<sup>2</sup> [https://www.cityofberkeley.info/Public\\_Works/Transportation/Traffic\\_Calming\\_in\\_Berkeley.aspx](https://www.cityofberkeley.info/Public_Works/Transportation/Traffic_Calming_in_Berkeley.aspx)



- As a High-Injury Street, Vision Zero calls for Addison Street to receive proactive capital-intensive building and “quick-build safety projects”<sup>3</sup>.
- As a “Historically Underserved Area”, the Pedestrian Plan, Vision Zero, and the Bicycle Plan all target this area for the rectification of historic underinvestment<sup>4</sup>.
- And as a “Tier 1 Priority Project” and part of the “Bicycle Boulevard Network”, the Bicycle Plan envisions Addison Street as a street “where bicycling is safe, comfortable, and convenient for people of all ages and abilities” and where “traffic calming treatments such as traffic circles, diverters, and chicanes, sometimes in place of existing stop signs, can help prioritize bicycle through-travel and discourage cut-through motor vehicle traffic”<sup>5</sup>.

### ENVIRONMENTAL IMPACTS

No environmental sustainability impact. Slower traffic.

### FISCAL IMPACTS

Staff time and costs associated with the traffic calming measures:

1. Staff time and sign purchase of “SLOW CHILDREN AT PLAY SIGNS”
2. Estimated \$45,000 for three speed tables<sup>6</sup>
3. Staff time for repainting crosswalks
4. Estimated \$160,000 for bulb outs at Tenth and Addison<sup>7</sup>
5. Estimated \$33,000 for a traffic circle at Tenth and Allston<sup>8</sup>

### CONTACT

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

### ATTACHMENTS

1. Community Traffic Calming Program petition
2. Letter from Rosa Parks Elementary School
3. Letter from Nia House Learning Center
4. Letter from West Berkeley YMCA

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<sup>3</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley\\_Vision\\_Zero\\_Action\\_Plan\\_Approved\\_03102020.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf)

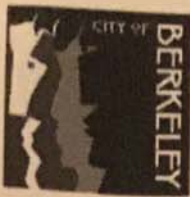
<sup>4</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley%202020%20Pedestrian%20Plan\\_Draft\\_2020-10.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%202020%20Pedestrian%20Plan_Draft_2020-10.pdf)

<sup>5</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf)

<sup>6</sup> [https://www.cityofberkeley.info/Public\\_Works/Transportation/Traffic\\_Calming\\_in\\_Berkeley.aspx](https://www.cityofberkeley.info/Public_Works/Transportation/Traffic_Calming_in_Berkeley.aspx)

<sup>7</sup> [https://www.cityofberkeley.info/Public\\_Works/Transportation/Traffic\\_Calming\\_in\\_Berkeley.aspx](https://www.cityofberkeley.info/Public_Works/Transportation/Traffic_Calming_in_Berkeley.aspx)

<sup>8</sup> [https://www.cityofberkeley.info/Public\\_Works/Transportation/Traffic\\_Calming\\_in\\_Berkeley.aspx](https://www.cityofberkeley.info/Public_Works/Transportation/Traffic_Calming_in_Berkeley.aspx)

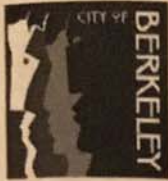


We, the residents of 10<sup>th</sup> Street and around George Fernald hereby request that our location be included in the City of Berkeley Traffic Calming Process in accordance with City Council Resolution No. 64,732-N.S. We have read a copy of the original Neighborhood Request for Traffic Calming Study circulated with this petition and agree with the contents.

| Name                 | Signature                | Address                             | Telephone      |
|----------------------|--------------------------|-------------------------------------|----------------|
| • Mario Moreno       | <i>Mario Moreno</i>      | 1029 Addison St. Berkeley Ca. 94710 | (510) 776-6298 |
| NA • Marcel Pasillas | <i>Marcel Pasillas</i>   | 1033 Addison St Berkeley CA         | (510) 693-7305 |
| • Tom Paulson        | <i>Tom Paulson</i>       | 2112 10 <sup>th</sup> St A          | (510) 705-1859 |
| • SANDY SIMS         | <i>Sandy Sims</i>        | 2114 10 <sup>th</sup> St            | (510) 843-2213 |
| • Marcy Rein         | <i>marcy rein</i>        | 2116 10 <sup>th</sup> St. B         | 510.847.4443   |
| • Pam Mitchell       | <i>Pam Mitchell</i>      | 2116 10 <sup>th</sup> St Apt A      | 510 393 3647   |
| • Rich Meyer         | <i>Rich Meyer</i>        | 2124 10 <sup>th</sup> St            | 510-847-5506   |
| • Eddie Mae Eddings  | <i>Eddie Mae Eddings</i> | 2122-10 <sup>th</sup> St            | 510.843 7266   |
| • Albert Brown       | <i>Albert Brown</i>      | 2120 10 <sup>th</sup> St            | 415-763-7766   |
| • Joshua Paul        | <i>Joshua Paul</i>       | 1019 ALLSTON WAY                    | 510-325-1014   |
| • Julia Goodman      | <i>Julia Goodman</i>     | 2021 10 <sup>th</sup> St            | 404 644 3890   |
| • Shelley McHugh     | <i>Shelley McHugh</i>    | 2012-10 <sup>th</sup> St            | 510 207 738    |
| • Procio Martinez    | <i>Procio Martinez</i>   | 2116 10 <sup>th</sup> St C          | 510 1860 9480  |
| • Murray Gerson      | <i>Murray Gerson</i>     | 1020 Addison St                     | 510 712 0741   |
| • Susan M. Blair     | <i>Susan M. Blair</i>    | 2016 10 <sup>th</sup> St            | 510 548 3346   |
| • Sarah Roggero      | <i>Sarah Roggero</i>     | 1023 Allston Way                    | 415-694-1278   |
| • Jing Ma            | <i>Jing Ma</i>           | 2021 tenth, Berkeley                | 510 874 4195   |
| • Tyra Herr          | <i>Tyra Herr</i>         | 1030 Addison                        | 510-499-8842   |

Please submit completed forms to:

Jesse Peoples  
 City of Berkeley  
 Public Works Transportation Division  
 1947 Center Street, 4<sup>th</sup> Floor  
 Berkeley, CA 94704



We, the residents of 10<sup>th</sup> Street and around George Flacner Park, hereby request that our location be included in the City of Berkeley Traffic Calming Process in accordance with City Council Resolution No. 64,732-N.S. We have read a copy of the original Neighborhood Request for Traffic Calming Study circulated with this petition and agree with the contents.

| Name               | Signature   | Address                           | Telephone       |
|--------------------|-------------|-----------------------------------|-----------------|
| Amy Twite          | [Signature] | 2020 10 <sup>th</sup> St          | 913-461-6204    |
| AMIT PRICE PATEL   | [Signature] | 1019 ADDISON ST.                  | 510-204-9260    |
| Ilah Jarvis        | [Signature] | 1015 Addison                      | (510) 499-8358  |
| Maureen Clearfield | [Signature] | 2125 10th St B                    | (510) 717-5579  |
| Aisha Gorson       | [Signature] | 1020 Addison St. BK               | (520) 712-0743  |
| Jordan Bentley     | [Signature] | 2113 Tenth St                     | (925) 231-5926  |
| Chris Horgan       | [Signature] | 1033 Allston Way                  | 415-744-3786    |
| Rosa Perez         | [Signature] | 1036A 11th St                     | 510-684-0104    |
| Rebecca Falyone    | [Signature] | 1027 Allston Way                  | 510-499-8194    |
| Deborah Marks      | [Signature] | 2014 10 <sup>th</sup> St Berkeley | 510 981-1188    |
| Jorge Calderon     | [Signature] | 2010 10th St Berkeley             | 510 725 2700    |
| Allyson Gaddard    | [Signature] | 2010 10th st Berkeley             | (800) 785-6312  |
| Julia Brady        | [Signature] | 1028 addison st                   | 510-292-8856    |
| Eunhe Kim          | [Signature] | 2204 10th St                      | 510-548-9324    |
| Margaret Fauchier  | [Signature] | 2000 10 <sup>th</sup> St.         | 510 388 8414    |
| Jim Swift          | [Signature] | 2113 10 <sup>th</sup> St.         | 509-933-7361    |
| Javier Molina      | [Signature] | 2113 10 <sup>th</sup> St Apt 3    | (909) 258-9553  |
| Rebekah Adeyemo    | [Signature] | 2113 10 <sup>th</sup> St Apt      | 7(909) 851-8332 |

NA  
NA  
EBECCA  
FAZAR

different units  
different units

Please submit completed forms to:

Jesse Peoples  
 City of Berkeley  
 Public Works Transportation Division  
 1947 Center Street, 4<sup>th</sup> Floor  
 Berkeley, CA 94704  
[jpeoples@cityofberkeley.info](mailto:jpeoples@cityofberkeley.info)

ROSA  
PARKS  
SCHOOL



March 8, 2020

To whom it may concern;

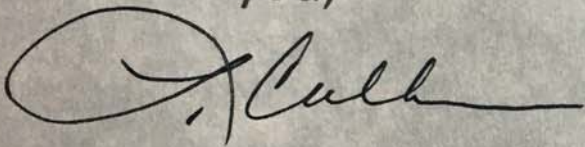
We are very concerned regarding traffic safety in the surrounding area of our school, Rosa Parks Elementary, 920 Allston Way, Berkeley and our neighborhood. There are many Students, Parents and Guardians who walk, ride a bike, scooter, skateboard etc. and drive to school before and after school. Our school population is 470 students, plus staff and parents. We have a small drop off which is always congested, along with through flowing traffic cutting through from University Ave.

We have witnessed too many close calls with cars speeding through the neighborhood and not abiding by the 15 mph speed limit. Not to mention how the cars totally disregard the stops signs; running through and not coming to a complete stop. We do have 2 crossings guards, one located in front of school (Allston & 8<sup>th</sup> St.) and just recently this year Berkeley Police Dept. Traffic had assigned us a second crossing guard who is located on (Allston & 9<sup>th</sup> St.)

We are asking for more signage, speed bumps and repainted cross walks.

We have had many families almost hit by cars trying to cross the street. We have trucks of all sizes not abiding by the traffic signs and it's just a matter of time until someone is hurt or a fatality.

Thank you,

A handwritten signature in black ink, appearing to read "Lisa Cullen". The signature is fluid and cursive, with a large initial "L" and "C".

Rosa Parks School

Lisa Cullen/ School Service Asst.

Rosa Parks Elementary

920 Allston Way, Berkeley, 94710

(510) 644-8812



**Nia House Learning Center**

2234 9th Street  
Berkeley, California 94710

March 1, 2020

Jesse Peoples, PE  
Assistant Traffic Engineer  
City of Berkeley, Public Works – Transportation Division  
1947 Center Street, 4th Floor  
Berkeley, CA 94704

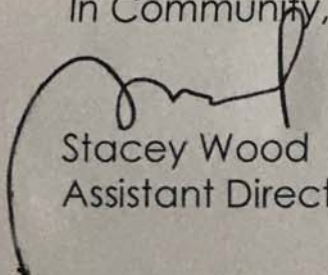
Dear Jesse Peoples,

The Nia House Learning Center community is very excited to see the new changes at George Florence Park! Nia House has a long standing history of taking summer time walks over to this park.

Nia House is a community comprised of children 18 months through six years old. We were so grateful when speed bumps were put along 9th Street, helping to ensure the safety of our children, families, and bikers in the community.

The improvements at George Florence Park will certainly attract more families and children to the area. I write this letter in hopes that the City of Berkeley will keep children safe when visiting the George Florence Park by ensuring a safe flow of traffic along 10th Street. Nia House is in support of the effort to place speed bumps along 10th Street. We are thankful for your consideration and commitment to children's (& all people's) safety.

In Community,



Stacey Wood  
Assistant Director, Nia House Learning Center



March 6, 2020

**To: Jesse Peoples-City of Berkeley**  
**From: Melanie Mueller-YMCA of the East Bay-Early Childhood Impact**  
**RE: Traffic on Tenth Street-George Florence Park**

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On behalf of the staff and families at the West Y center on Tenth Street and University Avenue, I am writing a letter of concern regarding the traffic in front of our building and on the next block where George Florence Park is located.

The West Y center serves children from age 12 months through 5 years. On a daily basis, staff and families experience dangers and hazards due to speeding vehicles, and lack of adherence to traffic and parking rules. The street is very narrow and is quite busy. In addition to parking being a challenge due to resident and school needs, there is also a steady flow of delivery trucks and service/emergency vehicles using the street on a daily basis. Even when the street is temporarily blocked by vehicles, it does not seem to deter speeding traffic coming around the corner from University avenue.

We would like to urge the city to consider additional measures to decrease speeding vehicles and increase safety such as speed bumps and more frequent monitoring by traffic enforcement. There is a great concern for the safety of our young children, as just getting in and out of the car and getting into the school can be a challenge with little ones.

When George Florence Park re-opens, there will be an increase in young children using the space. This will create additional safety concerns in the area. This is a good time to make changes while the park is not in use.

Thank you for your consideration. I can be reached at (510) 809-2261 or [mmueller@ymcaeastbay.org](mailto:mmueller@ymcaeastbay.org).

Sincerely,

Melanie Mueller  
Executive Director

YMCA of the East Bay-Early Childhood Impact  
2009 Tenth Street Berkeley CA 94710  
P (510) 848-9092







CONSENT CALENDAR

DATE: 3/9/2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Resolution Supporting HR 25, Calling for Federal Investigation on Seditious at U.S. Capitol and Expulsion of Complicit Members of Congress

### RECOMMENDATION

Adopt a resolution condemning the violent attack on the U.S. Capitol on January 6, 2021 by a seditious mob intent on preventing the certification of the 2020 Presidential Election, in support of House Resolution 25, calling for a federal investigation on the attack and the expulsion of Members of Congress found complicit in incitement of insurrection.

### BACKGROUND

On January 6, 2021, U.S. President Donald J. Trump rallied armed supporters and instructed them to storm the U.S. Capitol, where the House and Senate would be certifying the election of the next President, Joseph R. Biden. Encouraged by other Republicans in Congress, the violent mob rioted in the Capitol with weapons, intending to murder Congressmembers and stop the certification. By the end of the attack, five were dead, including one Capitol Police officer<sup>1</sup>.

The following week, the U.S. House of Representatives impeached President Trump for "incitement of insurrection." Additionally, Rep. Cori Bush (D-Mo.) has introduced House Resolution 25, "Directing the Committee on Ethics to investigate, and issue a report on, whether any and all actions taken by Members of the 117th Congress who sought to overturn the 2020 Presidential election violated their oath of office to uphold the Constitution or the Rules of the House of Representatives, and should face sanction, including removal from the House of Representatives."

### RATIONALE FOR RECOMMENDATION

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<sup>1</sup> Healy, Jack. "These Are the 5 People Who Died in the Capitol Riot." *New York Times*. Jan 11, 2021.

The City of Berkeley ultimately depends on a stable federal government in order to provide services for its residents, establish rule of law, and maintain civil order. Removing members of Congress who violated their oath to uphold the Constitution by participating in seditious acts is essential for preserving the legitimacy and functionality of all levels of government in the United States.

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

None.

CONTACT

Councilmember Terry Taplin, (510) 981-7120

ATTACHMENTS/SUPPORTING MATERIALS

1. Resolution
2. House Resolution 25

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

CONDEMNING VIOLENT ATTACK ON U.S. CAPITOL, ENDORSING HOUSE RESOLUTION 25 BY REP. CORI BUSH (D-MO) TO INVESTIGATE MEMBERS OF CONGRESS COMPLICIT IN INCITEMENT OF INSURRECTION

WHEREAS, President Donald J. Trump incited a violent mob to attack the U.S. Capitol on January 6, 2021, which left five people dead, including a Capitol Police officer; and,

WHEREAS, the U.S. House of Representatives passed articles of impeachment against President Trump on January 13, 2021; and,

WHEREAS, over 140 Republican members of Congress supported President Trump's baseless, evidence-free allegations of "voter fraud" by objecting to the certification of electors in key states won by President-elect Joseph R. Biden; and,

WHEREAS, the 14<sup>th</sup> Amendment to the Constitution of the United States reads in part, "No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."; and,

WHEREAS, the stability of the federal government, and its elected representatives' faithful observance of their oaths to uphold the Constitution, are essential to the well-being of Berkeley residents;

THEREFORE, BE IT RESOLVED, that the City of Berkeley categorically condemns the violent, seditious attack on the U.S. Capitol;

BE IT FURTHER RESOLVED, that the City of Berkeley calls upon duly elected Rep. Barbara Lee (D-CA) and the U.S. House of Representatives to pass House Resolution 25, directing the Committee on Ethics to investigate the involvement of over 140 members of Congress in incitement to insurrection.

117TH CONGRESS  
1ST SESSION

# H. RES. 25

Directing the Committee on Ethics to investigate, and issue a report on, whether any and all actions taken by Members of the 117th Congress who sought to overturn the 2020 Presidential election violated their oath of office to uphold the Constitution or the Rules of the House of Representatives, and should face sanction, including removal from the House of Representatives.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2021

Ms. BUSH (for herself, Ms. PRESSLEY, Ms. OCASIO-CORTEZ, Mr. BOWMAN, Ms. OMAR, Ms. TLAIB, Mr. JONES, Mr. PASCRELL, Ms. ADAMS, Ms. BARRAGÁN, Ms. CLARKE of New York, Ms. CHU, Mr. CICILLINE, Mr. COOPER, Mr. CONNOLLY, Mr. DANNY K. DAVIS of Illinois, Mrs. DEMINGS, Mr. DESAULNIER, Ms. ESCOBAR, Mr. ESPAILLAT, Mr. EVANS, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. HASTINGS, Mr. HORSFORD, Mr. HUFFMAN, Mr. JOHNSON of Georgia, Mrs. KIRKPATRICK, Ms. LEE of California, Mr. LIEU, Mr. MCNERNEY, Ms. MOORE of Wisconsin, Ms. NEWMAN, Mr. PAYNE, Ms. PINGREE, Mr. POCAN, Mr. RUSH, Ms. SCHA-KOWSKY, Ms. SPEIER, Mr. SIRES, Mr. TAKANO, Mr. TORRES of New York, Ms. VELÁZQUEZ, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, Mr. VARGAS, Ms. JACOBS of California, and Mr. KAHELE) submitted the following resolution; which was referred to the Committee on Rules, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## RESOLUTION

Directing the Committee on Ethics to investigate, and issue a report on, whether any and all actions taken by Members of the 117th Congress who sought to overturn the

2020 Presidential election violated their oath of office to uphold the Constitution or the Rules of the House of Representatives, and should face sanction, including removal from the House of Representatives.

Whereas nearly 160,000,000 people, or two-thirds of the United States voting population, voted in the November 2020, presidential election, electing President-elect Joseph R. Biden Jr. and Vice President-elect Kamala Harris, with the highest turnout in over 120 years;

Whereas despite losing the popular vote by more than 7,000,000 votes, Donald J. Trump, together with Republican Members of Congress, have commenced a near daily assault on the legitimacy of the 2020 election that includes filing frivolous lawsuits seeking to have election results invalidated and the outcome overturned, and making unsubstantiated claims of systematic election and voter fraud;

Whereas in a politically motivated and last-ditch effort to overthrow the election, over 140 Members of Congress, led by Representative Mo Brooks of Alabama, Senator Josh Hawley of Missouri, and Senator Ted Cruz of Texas, have taken unprecedented steps to defy the will of the American people who overwhelmingly voted for President-elect Joe Biden and Vice President-elect Kamala Harris by voting against the certification of the votes of the Electoral College;

Whereas the decision by Republican Members of Congress to join efforts to invalidate votes in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin suppresses the votes of millions of people, including Black, Brown, and Indigenous people who turned out in historic numbers to deliver

this victory to President-elect Joe Biden and Vice President-elect Kamala Harris;

Whereas turnout of Black, Brown, and Indigenous voters was astounding considering the extraordinary COVID–19 pandemic that has stunted organizing in communities across the country, along with exhaustive delays in poll centers, mass closure of polling precincts in predominantly Black, Brown, and Indigenous communities, and deliberate efforts to discount mail-in ballots and spread misinformation on vote by mail;

Whereas refusing to concede the outcome of the 2020 Presidential election and raising baseless allegations of fraud in States in which Black, Brown, and Indigenous people have been instrumental to the election outcome suggests racial animus and a continuation of efforts by Republican Members of Congress to disenfranchise Black, Brown, and Indigenous voters;

Whereas senseless attacks on the results of the 2020 Presidential election that seek to question the credibility of and will of Black, Brown, and Indigenous voters betrays the text and spirit of the Constitution of the United States, which each Member swears to support and defend, and violates the Rules of the House of Representatives, which explicitly forbid Members from committing unbecoming acts that reflect poorly on our chamber;

Whereas section 3 of the Fourteenth Amendment to the Constitution posits that no individual can serve in the House of Representatives who has engaged in disloyalty or sedition against the United States, stating, “No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state,

who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.”;

Whereas clause 1 of rule XXIII of the Rules of the House of Representatives states, “A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House.”;

Whereas each Member of the House of Representatives must be dedicated to the United States, the Constitution of the United States, the Rules of the House of Representatives, and upholding the oath of office;

Whereas efforts by Republican Members of Congress to denounce the votes of millions of Americans is a continuation of Jim-Crow era measures to suppress Black, Brown, and Indigenous voters;

Whereas House Republicans have refused to vote in support of voter protections aimed at supporting disenfranchised Black, Brown, and Indigenous voters, including H.R. 1, the For the People Act and H.R. 4, the John Lewis Voting Rights Advancement Act, in the 116th Congress, and the Republican Senate majority has been a legislative graveyard for these critical efforts to empower and expand voting rights for the American people;

Whereas the House must rebuke the relentless assault on foundational democratic principles at the heart of our representative democracy and implement measures to

protect the will of American voters by abolishing the electoral college, providing resources and funding for poll centers in predominantly Black, Brown, and Indigenous communities, restoring key pieces to protect voters that were gutted in the *Shelby v. Holder* Supreme Court decision, and overturning Federal felony disenfranchisement laws; and

Whereas efforts by Members of Congress, regardless of party, that seek to undermine our democracy, disenfranchise Black, Brown, and Indigenous voters, erode faith in the Federal Government, and attack the popular will of the American public without merit must be condemned, and those Members should be held accountable for their actions: Now, therefore, be it

1       *Resolved*, That—

2               (1) the Committee on Ethics shall investigate,  
3               and issue a report on, whether any and all actions  
4               taken by Members of the 117th Congress who  
5               sought to overturn the 2020 Presidential election  
6               violated their oath of office to uphold the Constitu-  
7               tion or the Rules of the House of Representatives,  
8               and should face sanction, including removal from the  
9               House of Representatives; and

10              (2) the House of Representatives condemns all  
11              targeted and malicious efforts to disenfranchise  
12              Black, Brown, and Indigenous voters.

○



CONSENT CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author) and Mayor Jesse Arreguin (Co-Sponsor)

Subject: Support for SB 260

RECOMMENDATION

Send a letter of endorsement for SB 260, the Climate Corporate Accountability Act, to Senator Scott Wiener and the Senate Standing Committee on Environmental Quality, and urge the CA Senate to lead the nation in pursuing real emissions reductions and holding corporations accountable.

BACKGROUND

As Californians, we are no strangers to climate disaster. In recent years, California has suffered from record-breaking drought, loss of snowpack, rising sea levels, and extreme temperature fluctuation. Just in the past year, we saw five of our largest wildfires on record, and we can only expect these patterns to worsen.

The science behind climate change is clear – excessive pollution of greenhouse gases (GHG) is burning our atmosphere and destroying our planet. It is clear to many of us that corporations are largely responsible for this pollution, but we do not have the hard numbers to prove this. Based on estimates, we know that 100 corporations have been responsible for roughly 71% of all GHG emissions since 1998, but without knowing which corporations, how much they pollute, and whether they are increasing or decreasing pollution, we are unable to properly regulate, reduce, and restrict the emissions that are killing our planet.

SB 260 aims to solve this problem. SB 260 will require corporations doing business in California to report all of their emissions – including emissions produced all the way down their supply chain. Corporations often promise to publicize and decrease their emissions, but rarely follow through. As the first bill of its kind nationally, SB 260 will establish a right for the public to know who is polluting our communal environment, and if they are working to decrease their emissions. As residents of a state that is often at

the epicenter of climate change catastrophe, we have a responsibility to take a bold stand in holding these perpetrators accountable.

CONTACT

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

ATTACHMENTS

1. Letter

The Honorable Scott Wiener  
Senator, District 11  
State Capitol, Room 5100  
Sacramento, CA 95814-4900

**Re: SB 260 (Wiener) - The Climate Corporate Accountability Act - SUPPORT**

Dear Senator Wiener,

The Berkeley City Council expresses its support for Senate Bill 260, the Climate Corporate Accountability Act, which will require all US-based businesses with over \$1 billion in gross annual revenue, who do business in California, to report their greenhouse gas emissions and set science-based emissions reduction targets in coordination with the Air Resources Board.

Climate catastrophes are already beginning to ravage landscapes across the globe and California is no different. In 2020 alone, California saw five of its twenty largest wildfires on record and this trend is only projected to get worse. Further, while wildfires have certainly been the face of California's climate struggles, the state is no stranger to drought and loss of snowpack, sea level rise, diminishing agricultural return in certain areas, and innumerable other impacts that often compound on one another. All of this is due to excessive pollution of greenhouse gases (GHG) into our atmosphere. What may be worse still – we know many of the common culprits of this pollution are corporations, but we simply don't have the data available to prove this or force change. Generally speaking, we know 100 corporations have been responsible for roughly 71% of all GHG emissions since 1998, but without knowing which corporations, how much they pollute, and whether they are increasing or decreasing pollution, we are unable to properly regulate, reduce, and restrict the emissions that are killing our planet.

SB 260 solves this issue by requiring reporting of not only direct emissions from these corporations, but any emissions produced from their supply chain as well. This level of transparency is not only a national first, but establishes a right for the public to know who is polluting our communal environment, how much, and if they are decreasing their emissions – something that is often promised by corporations but rarely verified.

The Council of the City of Berkeley strongly supports SB 260 and hopes that the Environmental Quality Committee and Legislature at large will take the opportunity to lead the nation in corporate emissions accountability. This bill is a crucial step to pursuing real emissions reductions and ensuring corporations cannot get away with greenwashing while they profit off of the destruction of our planet.

Sincerely,

The Council of the City of Berkeley

CC: Standing Committee on Environmental Quality

Senator Nancy Skinner

Assemblymember Buffy Wicks

Assemblymember David Chiu

Assemblymember Phil Ting

Assemblymember Rob Bonta



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kate Harrison  
Subject: Resolution in Support of Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030

RECOMMENDATION

Adopt a resolution in support of establishing (1) statewide binding legislative targets for 100% zero emission vehicle sales no later than 2025, and (2) comprehensive statewide legislative program to achieve an equitable and just transition towards 100% zero-emissions transportation and mobility by 2030.

Send copies of the resolution to Governor Newsom, State Senator Nancy Skinner, Assemblywoman Buffy Wicks, copying President Biden, Vice President Harris, Senators Feinstein and Padilla, and Congresswoman Lee.

BACKGROUND

According to the best available science, wealthy nations must achieve near net-zero emissions by 2030 or earlier in order to delay the onset of extremely catastrophic warming. Implicit in the U.N.'s global 2050 net-zero targets to keep emissions as close as possible to 1.5 degrees Celsius is the assumption that advanced industrialized nations will reach zero *decades before* less wealthy nations lacking basic human necessities.<sup>1</sup>

In January 2021 Climate researchers released an alarming study suggesting that the world has already locked-in at least a devastating 2 degrees Celsius of warming from

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<sup>1</sup> IPCC, 2018: Summary for Policymakers. In: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. *World Meteorological Organization, Geneva, Switzerland, 32 pp.*  
<https://www.ipcc.ch/sr15/chapter/spm/>.

existing emissions.<sup>2</sup> The study's authors advise that humans *have agency to determine whether we will reach this existential milestone within a few decades or over centuries*. By achieving net-zero at an emergency pace, humans may secure precious time to adapt and potentially postpone the onset of a drastically warmer climate.

California's targets for phasing out the sale of new fossil fuel vehicles by 2035 is radically out of step with this science and related geopolitical realities, and risks the welfare of all current and future generations of Californians. Eliminating total statewide emissions by 2030 will not only require phasing out the sale of new fossil fuel vehicles, but more significantly a phase out of all *existing fossil fuel vehicles* through an equitable and just transition towards zero-emissions public transportation and other forms of electric mobility.

Even under a best-case scenario, transitioning existing vehicles will take years, and it is hard to comprehend a scenario where California can continue to sell new fossil vehicles past mid-decade and still meet its 2030 obligations. In addition, assuming California permits the sale of new internal combustion vehicles after 2030, and therefore fails to transition existing vehicles, it may have to resort to relying on exceedingly challenging, uncertain, dangerous or unproven net emissions reductions strategies in order to meet global reduction targets obligations.

Even if California were to ban the sale of fossil fuel vehicles tomorrow, Americans are holding onto cars for longer than before: according to research by R.L. Polk the average age of all vehicles on the road is 11.4 years and on average American keeps their newly purchased vehicles for approximately 6 years.<sup>3</sup> In other words, market forces and turnover alone will not be sufficient to phase out California's fossil fuel vehicles, especially when considering the urgency of meeting California's climate obligations. Furthermore, even if California were to replace every existing fossil fuel vehicle on the road today with an electric version, it is likely that the sheer embodied emissions and related environmental destruction related to manufacturing such vehicles would not be consistent with global climate and ecological imperatives.

Therefore, California's targets and programs for phasing out new and existing vehicles must be rethought and expanded to include a comprehensive legislative program to achieve equitable and reliable public transit and other forms of zero-emissions mobility.

The City of Berkeley is committed to reduce emissions at an emergency speed regardless of state and federal commitments and resources, however there is little doubt that Berkeley's efforts could be significantly enhanced with additional state and federal leadership, coordination and resources. Nearly 60% of Greenhouse Gasses in

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<sup>2</sup> Seth Borenstein, "Study: Warming already baked in will blow past climate goals," Associated Press, January 4, 2021, <https://apnews.com/article/climate-climate-change-pollution-3f226aed9c58e36c69e7342b104d48bf>.

<sup>3</sup> Doug Demuro, "Buying a Car: How Long Can You Expect a Car to Last?," Autotrader, June 30, 2019, <https://www.autotrader.com/car-shopping/buying-car-how-long-can-you-expect-car-last-240725>.

Berkeley come from transportation emissions, according to the most recent climate action plan update.<sup>4</sup>

In recognition of these the escalating climate emergency, the City of Berkeley has already committed to a policy of decarbonization, including through Measure G (Resolution No. 63,518-N.S.) in 2006, the 2009 Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), the 2018 Berkeley Climate Emergency Declaration (Resolution No. 68,486-N.S.), and the Fossil Free Referral establishing a process to study and set targets to complete phase out of fossil fuel citywide by 2030.

More recently, for example, the City has prohibited the installation of natural gas infrastructure for buildings applying for land use entitlement as of January 1, 2020 (Ord. 7672-NS), referred measures to facilitate the retrofit of Berkeley's existing building stock, established a policy of entirely phasing out its municipal fossil fuel fleet by at least 2030, implemented a tax on transport network company trips, required minimum paving and street upgrade requirements to facilitate bicycle and mobility goals, and eliminated parking minimum requirements for new housing construction.

With regard to the sale of new vehicles, the Council recently referred to City staff to draft an ordinance prohibiting the sale of fossil fuel passenger vehicles as early as 2025-2027, but state and federal leadership will help determine how quickly Berkeley can act.

If ultimately adopted as proposed, Berkeley's ordinance would be implemented nearly a decade ahead of Governor Newsom's September 23, 2020 executive order, which phases out the sale of gasoline-powered cars and drayage trucks across California by 2035, and zero emission heavy-duty trucks by 2045 where feasible. The Governor has also set aside approximately \$1.5 billion to subsidize electric car purchases and leases and for charging infrastructure.<sup>5</sup>

While the City welcomes recent progress at the state level, as well as recent executive orders by the Biden administration, it recognizes that they are nonetheless insufficient in the face of stark scientific realities. By contrast, nations such as Norway have committed to phase out the sale of new fossil vehicles no later than 2025. While California is not a nation, the size of California's economy consistently ranks within the top ten in the world—a fact that raises the stakes for transitioning quickly and also provides it with resources to do so.

Meanwhile, automobile manufacturers are moving rapidly toward all-electric vehicle sales, and it is conceivable that they could completely transition their Californian manufacturing within four years. California increased the number of zero emission

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<sup>4</sup> "Climate Action Plan Update," Office of Energy and Sustainable Development, July 21, 2020, [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Presentations\\_Item\\_5\\_\(6pm\)\\_Pres\\_CMO\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx).

<sup>5</sup> Governor Newsom, "Executive Order N-79-20," September 23, 2020, <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-text.pdf>

vehicles in the state by more than 3,000% in 8 years, growing from 25,000 in 2012 to 763,816 in 2020. The manufacturers supporting major dealerships in Berkeley, including Honda, Toyota, Fiat and BMW, already produce a wide range of electric vehicles. BMW recently announced that it plans to have electric alternatives for each of its most popular gasoline models.<sup>6</sup> Even General Motors, a laggard in the electric market, [recently announced](#) to halt manufacturing fossil fuel vehicles by 2035.<sup>7</sup> With state leadership through binding targets consistent with science, mere pledges can be transformed into bold, but also reasonable (in light of catastrophic climate change) requirements.

Berkeley is therefore calling on its state leaders, with the assistance of federal government, to adopt binding legislation committing California to phase out the sale of all fossil fuel vehicles no later than 2025, and establishing and funding a comprehensive statewide legislative program to achieve an equitable and just transition towards public transit and other forms of electric or zero-emissions mobility by 2030.

While the City recognizes that such goal will be extremely challenging, nothing less is necessary to achieve California's global reduction obligations.

#### FISCAL IMPACTS OF RECOMMENDATION

Clerk time is necessary to send letter.

#### ENVIRONMENTAL SUSTAINABILITY

This item would help facilitate Berkeley's local transportation emission reductions targets and obligations.

#### CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

#### ATTACHMENTS

1. Resolution
2. Letter

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<sup>6</sup> Sean O'Kane, "BMW will make an all-electric 5 Series, 7 Series, and X1," The Verge, July 28, 2020, <https://www.theverge.com/2020/7/28/21345464/bmw-5-7-series-x1-electric-car-ev-plug-in>.

<sup>7</sup> Neal E. Boudette and Coral Davenport, "G.M. Will Sell Only Zero-Emission Vehicles by 2035," January 28, 2021, <https://www.nytimes.com/2021/01/28/business/gm-zero-emission-vehicles.html>.



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

RESOLUTION IN SUPPORT OF ESTABLISHING STATEWIDE TARGETS FOR 100% ZERO-EMISSION VEHICLE SALES NO LATER THAN 2025 AND COMPREHENSIVE LEGISLATIVE PROGRAM TO ACHIEVE AN EQUITABLE AND JUST STATEWIDE TRANSITION TOWARDS 100% ZERO-EMISSION TRANSPORTATION AND MOBILITY BY 2030

WHEREAS, the Intergovernmental Panel on Climate Change tells us we have until 2030 to transform our economy and the way we live to avoid the most catastrophic and irreversible effects of the climate crisis; and

WHEREAS, a recent climate study suggests that the world has already locked-in at least a devastating 2 degrees Celsius of warming from existing emissions, but that humans likely have agency to delay its onset with rapid emissions reductions; and

WHEREAS, the transportation sector is the largest contributor of Greenhouse Gas emissions in California, with light duty vehicles (LDVs) making up 70% of those emissions; and

WHEREAS, electrifying transportation needs to be at the forefront of any attempt to combat the climate crisis; and

WHEREAS, California increased the number of zero emission vehicles in the state by more than 3,000% in 8 years, growing from 25,000 in 2012 to 763,816 in 2020; and

WHEREAS, the City of Berkeley has committed to a policy of phasing out the entirety of its municipal fossil fuel fleet by at least 2030 and is exploring an ordinance prohibiting the sale of fossil fuel passenger vehicles as early as 2025-2027; and

WHEREAS, even under a best-case scenario transitioning existing vehicles will take years, and it is hard to comprehend a scenario where California can continue to sell new fossil vehicles past mid-decade and still meet its 2030 obligations; and

WHEREAS, all new vehicles sold in California by at least the year 2025 need to be zero emission vehicles to decarbonize California's most polluting sector; and

WHEREAS, zero emission vehicle technology continues to progress, making a transition to a 100% electric transportation system both feasible and achievable; and

WHEREAS, zero emission vehicles and services are an opportunity for quality jobs and tax revenue that puts part of the Green New Deal in practice in our state; and

WHEREAS, market forces and turnover of new vehicles alone will neither be sufficient nor necessarily sustainable towards phasing out all of California's fossil fuel vehicles consistent with California's urgent climate and ecological obligations, and will not provide for reliable and equitable public transit and mobility options for all; and

WHEREAS, a statewide legislative program is needed to achieve an equitable and just transition for workers towards equitable and reliable public transit and other forms of electric or zero-emissions mobility by 2030; and

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Berkeley calling on its state leaders, with the assistance of federal government, to adopt binding legislation committing California to phase out the sale of all fossil fuel vehicles no later than 2025, and establishing and funding a comprehensive statewide legislative program to achieve an equitable and just transition towards public transit and other forms of electric or zero-emissions mobility by 2030.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Newsom, State Senator Nancy Skinner, Assemblywoman Buffy Wicks, Congresswoman Barbara Lee, President Biden, Vice President Harris and Senators Dianne Feinstein and Alex Padilla.

The Honorable Gavin Newsom  
Governor, State of California  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

**Re: Support for Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**

Dear Governor Newsom:

The Berkeley City Council would like to convey its urgent support for adopting binding climate legislation committing California to phase out the sale of all fossil fuel vehicles no later than 2025, and establishing and funding a comprehensive statewide legislative program to achieve an equitable and just transition towards public transit and other forms of electric or zero-emissions mobility by 2030.

While the City welcomes recent progress at the state level committing California to phasing out the sale of gas vehicles by 2035, as well as recent executive orders by the Biden administration, it recognizes that these actions will not be enough in face of stark scientific realities. By contrast, nations such as Norway have committed to phase out the sale of new fossil vehicles no later than 2025.

The City of Berkeley has committed to a policy of phasing out the entirety of its municipal fossil fuel fleet by at least 2030 and is exploring an ordinance prohibiting the sale of fossil fuel passenger vehicles as early as 2025-2027. State and federal leadership and support will help determine how quickly Californian cities like Berkeley can act.

According to the best available science, wealthy nations, cities and states must achieve near net-zero emissions by 2030 or earlier in order to delay the onset of extremely catastrophic warming. Implicit in the U.N.'s global 2050 net-zero targets to keep emissions as close as possible to 1.5 degrees Celsius is the assumption that advanced industrialized nations will reach zero *decades before* less wealthy nations lacking basic human necessities.

Even under a best-case scenario, transitioning existing vehicles will take years, and it is hard to comprehend a scenario where California can continue to sell new fossil vehicles past mid-decade and still meet its 2030 obligations. However, market forces and turnover of new vehicles alone will neither be sufficient nor necessarily sustainable towards phasing out all of California's fossil fuel vehicles consistent with its urgent climate and ecological obligations, and will not provide for reliable and equitable public transit and mobility options for all. Therefore, in addition to phasing out the sale of fossil fuel vehicles, the state must also rapidly adopt a legislative program providing 100%

zero-emissions, reliable, and equitable public transit and mobility options for all Californians in order to meet out 2030 obligations.  
Thank you for your leadership and consideration.

Sincerely,

The Berkeley City Council

CC: President Joe Biden  
Vice President Kamala Harris  
Senator Diane Feinstein  
Senator Alex Padilla  
Congresswoman Barbara Lee

The Honorable Nancy Skinner  
California State Senator  
State Capitol, Room 5094  
Sacramento, CA 95814

**Re: Support for Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**

Dear Senator Skinner:

The Berkeley City Council would like to convey its urgent support for adopting binding climate legislation committing California to phase out the sale of all fossil fuel vehicles no later than 2025, and establishing and funding a comprehensive statewide legislative program to achieve an equitable and just transition towards public transit and other forms of electric or zero-emissions mobility by 2030.

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The City of Berkeley has committed to a policy of phasing out the entirety of its municipal fossil fuel fleet by at least 2030 and is exploring an ordinance prohibiting the sale of fossil fuel passenger vehicles as early as 2025-2027. State and federal leadership and support will help determine how quickly Californian cities like Berkeley can act.

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Californians in order to meet out 2030 obligations.

Thank you for your leadership and consideration.

Sincerely,

The Berkeley City Council

CC: President Joe Biden  
Vice President Kamala Harris  
Senator Diane Feinstein  
Senator Alex Padilla  
Congresswoman Barbara Lee

The Honorable Buffy Wicks  
California State Senator  
Capitol Office, Room 5160  
Sacramento, CA 94249-0015

**Re: Support for Establishing Statewide Targets for 100% Zero-Emission Vehicle Sales No Later Than 2025 and Comprehensive Legislative Program to Achieve an Equitable and Just Statewide Transition Towards 100% Zero-Emission Transportation and Mobility by 2030**

Dear Assemblywoman Wicks:

The Berkeley City Council would like to convey its urgent support for adopting binding climate legislation committing California to phase out the sale of all fossil fuel vehicles no later than 2025, and establishing and funding a comprehensive statewide legislative program to achieve an equitable and just transition towards public transit and other forms of electric or zero-emissions mobility by 2030.

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zero-emissions, reliable, and equitable public transit and mobility options for all Californians in order to meet out 2030 obligations.

Thank you for your leadership and consideration.

Sincerely,

The Berkeley City Council

CC: President Joe Biden  
Vice President Kamala Harris  
Senator Diane Feinstein  
Senator Alex Padilla  
Congresswoman Barbara Lee



**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

CONSENT CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Sophie Hahn (Author), Councilmember Terry Taplin  
 (Co-Sponsor), and Mayor Jesse Arreguin (Co-Sponsor)  
 Subject: Kala Art Institute 2021 Relinquishment of Council Office Budget  
 Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2021, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

BACKGROUND

Founded in 1974, by Archana Horsting and Yuzo Nakano, as an international residency program rooted in the local community and a forum for ideas, Kala Art Institute encourages artistic experimentation. Over four decades -- from a garage studio with one etching press and a single hot plate to a 15,200 sq. ft. facility in the historic West Berkeley Heinz building -- Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs.

In 2009, Kala dynamically expanded its facility providing new opportunities for artists and the community. With improved studios, project rooms, classrooms, and a 2,200 sq. ft. light-filled gallery with an accessible street level location, Kala is working to maximize its capacity to serve the community as a vital center for artistic experimentation.

Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops. In addition, Kala's Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland. Overall, their constituents range from 5 to 95 years

old and represent a diverse group of participants including local residents, visiting artists from all state, country, and abroad – representing an international spectrum of backgrounds and experience. Bay Area artists represent 85% of participants in Kala’s artist residencies.

Kala Art Institute’s mission is to help artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engage the community through exhibitions, public programs, and education.

The heart of Kala’s mission as a vital, California art-making hub is supporting artists and engaging the community. Kala offers professional facilities to those working in and across print and digital media, new media, and performance. Artists at Kala are encouraged to work across disciplines, produce innovative artwork of the highest quality, and are given total freedom to realize their artistic vision using media that span the Gutenberg to digital eras. Kala offers access to equipment, time, and space to cultivate creative projects. Kala’s studios provide tools for printmaking, photography, video, installation, and digital media. Kala fosters a fresh approach to experimentation, as artists investigate the interface of digital work, work made by hand, work made in the studio, performance-based work that engages the community and everything in between. A spirit of exchange and education is nurtured through all Kala’s community programs.

Kala’s creative community builds bridges between the intense art-making environment of the Kala studios, located in the historic Heinz ketchup factory in Berkeley and life outside the studio in Kala’s immediate neighborhood and far beyond. Additionally, Kala is committed to offering quality art education to the general public and public school children through its on-site and online program of classes and workshops, summer programs and its Artists-in-Schools program, established in 1991, providing multiple-week artist-led instruction to students in neighboring East Bay public schools.

Celebrating Kala’s 47th year, Art Kala 2021 brings together Kala’s creative community and features the inventive and meaningful art being made in the Bay Area. Art Kala 2021 will honor Demetri Broxton, Jordan Ann Craig, and Carissa Potter as the 2021 recipients of Kala’s Master Artist Award. The exhibition will include work by Kota Ezawa, Jim Melchert, Masako Miki, Kelly Ording, Steuart Pittman, Ron Moultrie Sanders, Seiko Tachibana, Tara Tucker, Ryan Whelan, Lena Wolff, Chelsea Wong, and more.

On Friday, March 12, Art Kala 2021 will be visible on Artsy and open to the public and remain open through Sunday, May 16 by appointment to maintain social distancing. All proceeds from this event support educational and cultural programs that directly serve

artists, children, and the community-at-large. More information can be found at:  
<http://www.kala.org/gallery/spring-gala-and-auction/>.

FISCAL IMPACTS

A total of up to \$4,500 from Councilmembers' discretionary budgets.

ENVIRONMENTAL SUSTAINABILITY

This item is consistent with the City's vision on sustainability.

CONTACT: Councilmember Sophie Hahn, District 5, 510-682-5905 cell

ATTACHMENT:

1: Resolution

RESOLUTION #####-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM  
THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS  
FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Kala Art Institute is a nonprofit organization dedicated to helping artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engaging the community through exhibitions, public programs, and education; and

WHEREAS, since 1974, Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs; and

WHEREAS, Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops, and through its Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland; and

WHEREAS, Kala's constituents range from 5 to 95 years old and represent a diverse group of participants including local residents, visiting artists from all state, country, and abroad – representing an international spectrum of backgrounds and experience – with Bay Area artists representing 85% of participants in Kala's artist residencies; and

WHEREAS, Art Kala 2021 brings together Kala's creative community and features the inventive and meaningful art being made in the Bay Area, honoring Demetri Broxton, Jordan Ann Craig, and Carissa Potter as the 2021 recipients of Kala's Master Artist Award; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by Councilmember Hahn of \$250 and any funds, up to \$500 per Council Office Budget, from the Mayor and other Councilmembers shall be granted to the Kala Art Institute to support Art Kala 2021 and to celebrate Kala's 47th year helping artists sustain their creative work in Berkeley and beyond.



Berkeley Homeless Commission

ACTION CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chairperson, Homeless Commission

Subject: Amending Source of Income Discrimination Ordinance to Establish  
Administrative Enforcement Procedure

RECOMMENDATION

The Homeless Commission recommends that BMC 13.31 be amended to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income. Such procedure should involve establishing a complaints procedure under an existing City of Berkeley department such as the Department of Planning or Rent Stabilization Board, where a complaint could be filed by a prospective tenant, or tenant, alleging that they have been discriminated against by a landlord, property owner or authorized agent or employee when seeking rental housing or in any other context currently covered under BMC 13.31.

Stage 1 of enforcement in the complaints procedure shall involve the taking of the complaint which shall be investigated by the designated department expeditiously, within a reasonable period of time no longer than ten days. Upon completion of the investigation, a finding shall be made of substantial evidence of discrimination or no evidence of discrimination.

In the process of the investigation, the investigator shall concurrently, while identifying the facts, attempt to resolve the complaint by seeking to bring the parties to agreement that the complaining party be permitted to rent the premises in question or alternatively, if the premises has otherwise been rented prior to the investigation, be provided the first option for the next available vacancy at the premises.

Where the complaint has not otherwise been resolved through this procedure, and there is a finding of substantial evidence, the complaining party shall be offered the opportunity to have its complaint heard by an administrative hearing officer mirroring a procedure or similar to a procedure afforded by BMC 1.28. If the complainant files for such an administrative hearing, and the rental property remains available, the filing for an administrative hearing, shall constitute a stay of the property being otherwise rented to another applicant.

If at the administrative hearing, the administrative law judge, or hearing officer, finds in favor of the complainant, the administrative hearing officer can order that housing be provided to the complainant and/or direct a fine of no more than five thousand dollars (\$5,000) to be paid to the complainant with an additional penalty to the City of Berkeley for the costs of the administrative appeal. This procedure will be a final administrative decision subject to litigation to be brought in a court of law by a complainant through any legal entity, private or public as the complainant can identify.

The Homeless Commission further recommends that any person seeking housing, with a voucher or any subsidy to pay their rent, be considered for the rental in the order which their rental application is received and be entitled to the rental as the first applicant of right. Insufficient credit or poor credit shall not be a fact considered for rental as to the totality of the rent to be paid if the rent is to be otherwise paid through the voucher or subsidy source.

POLICY COMMITTEE RECOMMENDATION

On February 4, 2021, the Land Using, Housing, & Economic Development Policy Committee adopted the following action: M/S/C (Hahn/Droste) to send to Council a qualified positive recommendation to refer to the City Manager to: 1) Draft amendments to the Source of Income Discrimination Ordinance to provide for an administrative procedure to enforce the anti-discrimination property rental ordinance as to source of income, parallel to the Fair Chance Ordinance; 2) Submit to Council in 2022 a report reviewing the effectiveness of the source of income discrimination ordinance in its first five years; and 3) Update and improve information on the City website and elsewhere about legal services for low income residents; and 4) Refer to the 4x4 Committee discussion of feasibility of enforcement of source of income discrimination alongside the fair chance ordinance, and discussion of Homeless Commission's first-in-time standard recommendations.

Vote: All Ayes.

SUMMARY

The current source of income anti-discrimination ordinance has not been enforced because the enforcement provisions are impractical. Amendments to the ordinance will provide for a means of enforcement, through administrative procedures, that will open up housing in Berkeley to persons with Section 8 vouchers, Shelter Plus certificates, VASH vouchers and other subsidies.

Establishing an investigative procedure, prior to an administrative hearing, encourages early resolution of the complaint avoiding additional expense to the landlord/property owner and provides for a timely rental for the complainant.

FISCAL IMPACTS OF RECOMMENDATION

The costs to implement such a program will be substantial and are best calculated by staff. However, implementing an administrative procedure is the only means of

enforcing a law critical to protecting access to rental housing by persons with vouchers and other subsidies.

#### CURRENT SITUATION AND ITS EFFECTS

On July 25, 2017, Council unanimously passed an ordinance to prohibit discrimination in property rental based on source of income. Since that time, discrimination based on source of income remains pervasive throughout the Berkeley community. The current enforcement provisions in the ordinance are impractical.

The complaining party currently must seek legal redress in court, through a protracted process, when they are only seeking to rent an apartment in a timely manner. An administrative procedure, commencing with an investigation of their complaint, is far more likely to result in an expeditious resolution, concluding in rental.

Even if the complainant wanted to proceed through an untimely litigation route, they would be hard-pressed to identify an attorney to represent them. County counsel or the district attorney, as stated in the current ordinance, would not prioritize such cases. The reference to any other person or entity, in the current ordinance, could include the City Attorney but that undertaking would be excessively burdensome to the City of Berkeley City Attorney, already overstretched with competing demands. This ordinance has not substantially caught fire so as to interest the private bar in bringing these claims.

#### BACKGROUND

On November 13, 2019, the Homeless Commission voted to pass the recommendation as earlier stated in the recommendation section of this report and herein incorporated by reference.

**Action:** M/S/C Marasovic/Hill to submit the report on enforcement of source income discrimination to Council as written.

**Vote:** Ayes: Hill, Marasovic, Kealoha-Blake, Hirpara.

Noes: Mulligan, Behm-Steinberg, Hollyman. *Abstain:* None. *Absent:* None.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects.

#### RATIONALE FOR RECOMMENDATION

As source of income discrimination continues in Berkeley two years following the adoption of an ordinance prohibiting such, it is clear that the current ordinance is insufficient as to enforcement. An administrative procedure is best in terms of an expeditious resolution.

An increase in a fine, through the administrative procedure, is an incentive for property manager/landlord resolution. The order of an application received is critical because

otherwise, denial is easily justified through a pool of applicants which favors those without vouchers or subsidies. Lack of credit or bad credit can be a basis for denial to a Section 8 voucher/subsidy holder. However, that credit is irrelevant when the voucher or subsidy holder's rent will be largely paid by the funding source.

ALTERNATIVE ACTIONS CONSIDERED

The Commission considered not taking action which would mean that the ordinance is meaningless without lack of enforcement.

CITY MANAGER

See companion report.

CONTACT PERSON

Brittany Carnegie, Commission Secretary, HHCS, 510-981-5415





Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila (Author)

Subject: Support Vision 2025 for Sustainable for Sustainable Food Policies

#### RECOMMENDATION

1. Adopt a Resolution Supporting Vision 2025 for Sustainable Food Policies
2. Join [San Francisco](#), [Chicago](#) and [Austin](#) in signing the [Milan Urban Food Policy Pact \(MUFPP\)](#) which includes forming an advisory body on sustainable food policies.
3. Support adoption of a Climate-Friendly Food Purchasing Policy as described by [Friends of the Earth](#) to replace 50% of the City's annual animal-based food procurement with plant-based food.
4. Short Term Referral to the City Manager to:
  - a. Track the amount of animal-based food replaced with plant-based food
  - b. Use Friends of the Earth's Municipal Guide to Climate-Friendly Food Purchasing for the procurement of plant-based food.

#### POLICY COMMITTEE RECOMMENDATION

On February 8, 2021, the Health, Life Enrichment, Equity and Community Committee moved the item to Council with a qualified positive recommendation to take the following action:

1. Express support for the Milan Urban Food Policy Pact (MUFPP)
2. Refer aspects of the original item to the Community Health Commission (or future commission addressing public health) to take the following actions: a) Consult with appropriate City staff to evaluate the feasibility of altering food sources within the City's existing food service contracts - with a specific focus on the feasibility of replacing meat and dairy-based offerings with plant-based options - given contractor procurement practices and any federal or state nutrition requirements for seniors and other affected populations; and (b) Solicit input from potentially affected communities, particularly seniors, for their feedback on shifting to more plant-based foods through a short survey or other means; and
3. Adopt the resolution as amended. Vote: All Ayes.

#### RATIONALE FOR RECOMMENDATION

In June, 2018 the City of Berkeley unanimously passed a Climate Emergency Declaration, then in September, 2018 passed the Resolution Establishing Green Monday. Berkeley should understand the impact of our food sector on the environment, sustainability of natural resources, health, and social equity. By adopting Vision 2025 for Sustainable Food Policies, Berkeley will

sign MUFPP and join C40 Cities in developing sustainable food systems through forming an advisory body with local activists, organizations, and business owners. Berkeley would join the C40 North America cities, Austin, Boston, Chicago, Houston, Los Angeles, Miami, Montreal, New Orleans, New York, Philadelphia, Phoenix, Portland, San Francisco, Toronto, Vancouver, and Washington DC and more cities may follow suit. Adopting the Vision 2025, the City of Berkeley would be committed to making food purchasing decisions that protect animal welfare, environmental sustainability, and provide healthy food options. By adopting the proposed Vision, Berkeley would also pass Climate-Friendly Food Purchasing Policy and commit to replacing 50% of annual animal-based food purchasing with plant-based food.

#### OUTCOMES AND EVALUATIONS:

Berkeley City Council would receive policy recommendations from the established advisory body for increasing climate-friendly, healthy and sustainable plant-based food options. The City Council should evaluate and update contracts with food vendors.

#### BACKGROUND

According to MUFPP, our food choices are directly linked to our environmental, health and social wellbeing. What we put on our plates every day either contributes to, or harms our physical wellbeing, our local economy, and our global resources. Approximately, 80% of the U.S. population lives in urban areas.<sup>1</sup> This means that urban cities are responsible for a significant portion of the national food consumption, and with it, the environmental and social impacts of those food choices. As a result, the C40 cities like San Francisco, Chicago and Austin have signed MUFPP agreements in order to develop environment-friendly, healthy and socially equitable food policies.<sup>2</sup> The City of Berkeley has wisely adopted Green Monday and the Good Food Purchasing Program (GFPP). But there is certainly a need to develop broader policies for significant improvement. Vision 2025 is designed to achieve this significant change over the next five years without causing a financial burden to the City of Berkeley. In fact, could result in overall cost savings.

By adopting Vision 2025, the City would be agreeing to sign MUFPP developed with the support of international organizations including the United Nations Farm and Agriculture Organization (UN FAO). The MUFPP suggests forming an advisory committee that would include local activists, organizations, business owners and other stakeholders to propose sustainable food policies. The second action item under the resolution is to pass a Climate-Friendly Food Purchasing policy that requires the City to replace 50% of animal-based food procurement with plant-based food.

Globally, several agencies are reporting the devastating impacts of a meat- and dairy-based diet for our physical and environmental health. The UN FAO reports that animal agriculture is responsible for emitting 18% of our planet's total greenhouse gas (GHG).<sup>3</sup> These numbers are larger than the total GHG emissions from fossil fuels burned by the global transportation sector. The agriculture sector is expected to contribute 70% of total allowable GHG emissions by 2050, risking the Paris Agreement.<sup>6</sup> Livestock and poultry account for more than 60% of the global

agricultural GHG emissions and, therefore, addressing the emissions from animal agriculture is crucial in order to meet the Paris Agreement.<sup>3,6</sup> According to the consumption-based GHG inventory described in Berkeley's Climate Action Plan, the food sector contributes more than 7 metric tons of CO<sub>2</sub> Eq. per household.<sup>5</sup> Most of these emissions are from animal products like meat and dairy.<sup>5</sup> The GHG emissions from meat consumption alone is more than the combined natural gas emissions in the City of Berkeley.

The negative impact of producing meat and dairy goes beyond global warming. In a drought-affected state, the average Californian consumes 1,500 gallons of water, and 50% of it is associated with meat and dairy consumption.<sup>7</sup> According to UN FAO, we have enough cropland to feed 9 billion people by 2050 if 40% of all crops produced today for livestock is directly used for human consumption.<sup>8</sup> Globally, animal agriculture is the leading cause of tropical deforestation and it has massive impacts on climate change and biodiversity.<sup>9,10</sup>

The destruction of forests and biodiversity forces wildlife to live closer to human populations, risking the spread of infectious diseases like Ebola and COVID-19.<sup>11</sup> Additionally, the production of meat and dairy puts us in close contact with domesticated animals resulting in the spillover of zoonotic pathogens like the influenza virus. The consumption of meat and dairy is associated with an increased risk of chronic illnesses like diabetes, heart disease, and cancer.<sup>12,13</sup> This type of diet significantly increases our healthcare costs, disproportionately jeopardizing the well-being of low-income families. The growing livestock biomass within confined spaces demands the increased use of antibiotics. According to the Center for Disease Control and Prevention (CDC), the excessive use of antibiotics serves as a breeding ground for antibiotic-resistant bacteria like Salmonella<sup>14</sup>. As a result, we are facing an uphill battle of antibiotic resistance. Recently, the World Health Organization (WHO) declared Antibiotic Awareness Week in November.

According to multiple reports, the single solution to achieve environmental sustainability within the food sector is by reducing the overall number of livestock and increasing our plant-based food options. The University of Oxford's most comprehensive meta-analysis reports that 83% of world farmland is used for livestock production to provide only 18% and 37% of our calories and protein, respectively.<sup>4</sup> The replacement of animal products with plant based food can free-up farmland that could remove additional 8.1 billion metric tons of CO<sub>2</sub> Eq. every year for next 100 years.<sup>4</sup> As a result, the 50% replacement of animal products with plant-based food can reduce 20% of total anthropogenic GHG emissions across all sectors.<sup>4</sup> According to World Resource Institute, the almost 50% reduction of animal products in the average U.S. diet can reduce more than 40% of the country's agriculture GHG emission and land use.<sup>6</sup>

The City of Berkeley purchases almost \$5 million worth of food for places like senior centers, the Police Department's jail facility, public meetings, and events. As a result, Berkeley's purchasing power has a huge role to play in increasing plant-based food options. The municipal guide from Friends of the Earth (FOE) on Climate-Friendly Food Purchasing is an effective tool for increasing plant-based food options. It provides a stepwise process for municipalities to meet their target of increasing plant-based food options. Berkeley's potential to provide sustainable

food is beyond the city's purchasing power. It includes, but is not limited to City parks, public schools, restaurants, and other food businesses.

Berkeley would join a good company by adopting Vision 2025. Recently, U.S. legislators have identified the importance of increasing plant-based food and milk options across various cities, states, as well as in Congress. Senator Cory Booker has introduced the Farm System Reform Act to completely phase out of Concentrated Animal Feeding Operations (CAFO). Senator Elizabeth Warren and Bernie Sanders are co-sponsoring the bill, and Representative Ro Khanna has introduced a companion bill in the House. California Assembly Bill 479 encourages public schools to provide healthy, climate-friendly (plant-based) food and milk options. This active bill has been well-received by both the State Assembly and Senate. Los Angeles and other C40 Cities have committed to establish a planetary diet of consuming only 300 grams of meat per person in a week. New York City Council recently declared a plan to phase out processed meat and to cut down its beef purchasing by 50% in city facilities. The decision was part of the City's Green New Deal for addressing global warming. More locally, Oakland Unified School District decreased carbon footprint by 14%, water consumption by 6% and saved \$42,000 through increasing fruits, vegetables and legumes purchase and reducing meat and dairy consumption by 30%.<sup>15</sup> This low-carbon commitment by one of California's largest school districts has shown the potential for protecting the environment and natural resources through healthy and cost-effective plant-based food options.

#### REVIEW EXISTING PROGRAMS, POLICIES, AND LAWS

Vision 2025 is aligned well with Berkeley's Green Monday initiative and GFPP. Green Monday recommends serving plant-based food once a week along with raising awareness about the positive impacts of plant-based food choices on the environment. Various reports suggest that animal products alone can jeopardize the Paris Agreement to keep the global surface temperature below 2C and could threaten scarce natural resources by 2050. Significant changes in our food choices need to happen for the wellbeing of our environment and global sustainability. It demands us to extend our efforts in increasing plant-based options through specific policies in the next 5 years.

GFPP is a certification-based program that also promotes antibiotic-free and grass-fed beef. The increasing demand for animal products requires that livestock are kept in confined spaces making them vulnerable to diseases. Therefore, it is not feasible to harvest animal products at a global scale without using antibiotics in livestock. The excessive use of antibiotics has already resulted in many antibiotic-resistant bacteria, pushing countries like India and China to use last-resort antibiotic drugs, like colistin.<sup>16</sup> It will also be socially inequitable if we were to use excessive resources, like pastureland, to harvest grass-fed and antibiotic-free animal products only for wealthy families and developed nations. Additionally, the grass-fed cows contribute more methane than the grain-fed cows in CAFO.<sup>17</sup> As a result, these existing initiatives and programs require Berkeley to extend plant-based options through other programs and policies.

#### FINANCIAL IMPLICATIONS

There is no imposed cost but could result in savings associated with adopting this recommendation.

#### ENVIRONMENTAL SUSTAINABILITY

This item is in alignment with Berkeley's commitment to environmental sustainability and programs like Green Monday and GFPP. The adoption of Vision 2025 for Sustainable Food Policies will significantly reduce Berkeley's food sector associated GHG emissions, deforestation, fresh water and antibiotic consumption. It will also help Berkeley to transition towards healthy and globally sustainable food practices.

#### CONTACT PERSONS

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#### ATTACHMENTS:

1. Resolution

#### REFERENCES

1. United States Census Bureau <https://www.census.gov/newsroom/press-releases/2016/cb16-210.html>
2. Milan Urban Food Policy Pact Signatories <http://www.milanurbanfoodpolicypact.org/signatory-cities/>
3. Food and Agriculture Organization of the United Nations (FAO) <http://www.fao.org/news/story/en/item/197623/icode/>
4. Oxford Meta-Analysis on Food's Environmental Impacts <https://science.sciencemag.org/content/360/6392/987>
5. Berkeley Climate Action Plan Updates 2020 [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Presentations\\_Item\\_5\\_\(6pm\)\\_Pres\\_CMO\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx)
6. World Resource Institute Report, 2019 <https://research.wri.org/wrr-food>
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8. UN FAO report, Livestock and Landscape <http://www.fao.org/3/ar591e/ar591e.pdf>
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10. UN FAO report, Cattle Ranching and Deforestation <http://www.fao.org/3/a-a0262e.pdf>
11. World Economic Forum <https://www.weforum.org/agenda/2020/03/biodiversity-loss-is-hurting-our-ability-to-prepare-for-pandemics/>
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13. Physicians Committee for Responsible Medicines <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-about-dairy>
14. Center for Infectious Disease Research and Policy, University of Minnesota <https://www.cidrap.umn.edu/news-perspective/2016/12/fda-antibiotic-use-food-animals-continues-rise>

15. Good Food Purchasing Program <https://goodfoodcities.org/less-meat-better-food-happier-kids-oakland-unified-reinvents-its-school-lunch/>
16. The Statesman <https://www.thestatesman.com/supplements/8thday/heading-for-a-disaster-1502677575.html>
17. A Well-Fed World <https://awellfedworld.org/issues/climate-issues/grass-fed-beef/>

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,  
ADOPTING VISION 2025 FOR SUSTAINABLE FOOD POLICIES

WHEREAS, roughly 80% of the U.S. population live in urban areas, suggesting the important role of U.S. Cities for establishing a culture of sustainability; and

WHEREAS, the City of Berkeley has declared a Climate Emergency for protecting our environment, human population and biodiversity; and

WHEREAS, the City of Berkeley is putting best efforts to reducing greenhouse gas (GHG) emissions in order to reverse global warming as quickly as possible; and

WHEREAS, Berkeley's consumption-based GHG inventory shows significant emissions associated with the City's food system; and

WHEREAS, the World Resource Institute (WRI) reports that the agriculture sector will be responsible for 70% of the total allowable emissions by 2050, risking Paris Agreement; and

WHEREAS, the United Nations Food and Agriculture Organization (UNFAO) reports that more than 60% of agriculture emissions come from the livestock sector, and it is estimated to be higher than fossil fuel emissions from the entire transportation sector; and

WHEREAS, the scientific analysis shows the urgency to reduce GHG emissions from animal agriculture in order to meet the Paris Agreement of keeping an average global surface temperature below 2C; and

WHEREAS, California is one of the most drought-affected states, and almost 50% of Californian's water footprint is associated with consumption of meat and dairy; and

WHEREAS, the cattle industry is the leading cause of deforestation in the Amazon rainforest that is home to 10% of the world's species and a major source of vital oxygen; and

WHEREAS, the U.S. food sector is globally interconnected because of the import-export trading and therefore, our food choice directly impacts the Amazon deforestation and biodiversity loss; and

WHEREAS, 83% of agriculture land is used for raising livestock and producing their feed, but meat and dairy only provide 18% of the world's calories; and

WHEREAS, the WRI estimates a 56% increase in crop calorie demand in order to feed 9 billion people by 2050, requiring an extra 593 million hectares of agriculture land, which is twice the size of India; and

WHEREAS, the world already produces enough food to feed 9 billion people if we use crop calories to directly feed the human population; and

WHEREAS, the U.S. pours significant agriculture resources to grows crops for feeding livestock and poultry while more than 800 million people are food insecure, and 45% of children die under 5 years of age due to malnutrition; and

WHEREAS, the WHO reports that 60% of all human disease originates in animals and the Center for Disease Control and Prevention (CDC) estimates 3 out of every 4 emerging infectious diseases come from animals; and

WHEREAS, the Concentrated Animal Feeding Operations (CAFO) risk spillover of zoonotic pathogens by confining animals and bringing human beings into proximity with them; and

WHEREAS, the CAFO negatively impacts the health of surrounding communities through air and water pollution, and the majority of these homes belong to African Americans; and

WHEREAS, the Physicians Committee for Responsible Medicines (PCRM) reports that meat and dairy consumption is associated with the increased risk of chronic illness like cancer, diabetes and heart disease in the U.S.; and

WHEREAS, the International Agency for Research on Cancer (IARC) has classified processed meat like ham, bacon, hotdogs, sausage, and some deli meat as carcinogenic and red meat as a probable carcinogen; and

WHEREAS, studies show that over 90% of the people dying from COVID-19 have had pre-existing conditions, mostly from chronic diseases such as heart disease and type 2 diabetes; and

WHEREAS, the COVID-19 pandemic has disproportionately impacted communities of color, with black Americans hospitalized at 4.5 times the rate of white Americans and Hispanic Americans hospitalized at 4 times the rate of white Americans; and

WHEREAS, communities of color experience higher rates of heart disease, type 2 diabetes, and other chronic diseases; and

WHEREAS, the socio-economic and cultural factors that cause poor health conditions in many communities of color can be found in all of our nation's struggling communities; and

WHEREAS, hundreds of thousands of the slaughterhouse workers are undocumented and forced to meet ever-growing line speed under the threat of deportation; and

WHEREAS, the U.S. workers in meat plants are three times more likely to suffer a serious injury with an average of two amputations per week; and

WHEREAS, the slaughterhouse workers are exposed to extremely stressful environments including physical, psychological and sexual abuse and many of them develop post-traumatic stress disorder (PTSD); and

WHEREAS, overfishing is destroying marine biodiversity, and aquaculture imposes a threat to our environment; and

WHEREAS, Project Drawdown reports shifting our diet towards plant-based food as one of the most significant solutions to climate change; and

WHEREAS, WRI recommends shifting our diet to plant-based in order to reduce GHG emissions, agriculture land-use and protect public health; and



WHEREAS, WRI reports that replacing almost 50% of animal-based food in the average U.S. diet with plant-based options could reduce more than 40% of agriculture land and GHG emissions; and

WHEREAS, Milan Urban Food Policy Pact (MUFPP) summit delivered a letter signed by 65 scientists calling world mayors to reduce the consumption of animal-based food; and

WHEREAS, Los Angeles and 13 other C40 Cities have signed a declaration to reduce procurement of meat products to 300 grams (two burger patties) per person per week by 2030; and

WHEREAS, the City of Berkeley has already started establishing sustainable food systems through passing Green Monday and Good Food Purchasing Program (GFPP) and recognizes the need of expanding these efforts; and

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Berkeley hereby adopts Vision 2025 for establishing sustainable food systems, wherein the City of Berkeley joins San Francisco, Chicago and Austin in signing the Milan Urban Food Policy Pact (MUFPP) along with referring to the Community Health Commission and Environmental Commission or relevant future commissions to explore the implementation of the City adopted sustainable food programs, identify gaps and propose new policies.

BE IT FURTHER RESOLVED, that the City Council of the City of Berkeley supports adoption of a Climate-Friendly Food Purchasing Policy as described by Friends of the Earth for working towards replacing 50% of the City's annual animal-based food procurement with plant-based food.





Office of the Mayor

CONSENT CALENDAR

March 9, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Rigel Robinson

Subject: Declaring the 2021 Cesar Chavez-Dolores Huerta Commemorative Period

RECOMMENDATION

Adopt a Resolution declaring the period of March 21, 2021 to April 10, 2021 as the Cesar Chavez/Dolores Huerta Commemorative Period in the City of Berkeley.

BACKGROUND

Cesar E. Chavez is one of the most influential civil rights and labor leaders in American history, who was an advocate for farm workers rights and social justice for all. As the co-founder of the United Farm Workers union with Dolores Huerta, the two formed an amazing organizing team that successfully organized a union for farm workers and won collective bargaining agreements providing increased wages, benefits and improved working conditions for some of the most oppressed workers in our society. They also became leaders and role models for Latinos throughout the United States. Chavez sadly passed away on April 23, 1993.

In honor of Chavez, in 1996 the park that was previously known as North Waterfront Park was renamed after César E. Chávez.

In 1999, the Berkeley City Council adopted a resolution supporting the designation of March 31 as a state and federal holiday in honor of Cesar Chavez.

In 2000, the State of California made César Chávez' birthday, March 31, a legal holiday for state workers and university students. He is the only labor leader and only Latino to have a state holiday. In 2003, the City of Berkeley created a commemorative period to honor César Chávez (March 20th to April 23).

Since 2003, the Cesar Chavez Commemorative Planning Committee, a group made up of community leaders and groups – including the Berkeley Unified School District, the Ecology Center, and the University of California– have organized events and community service opportunities in the Berkeley community in honor of César Chávez's legacy.

In 2004, the Berkeley City Council unanimously approved the Phase I Design for the Chávez Memorial proposed for César Chávez Park. It is in the form of an ancient solar calendar and honor four virtues of Chávez: Hope, determination, Courage and tolerance/non-violence.

In 2014, the Chavez Commemoration Committee voted to also honor Dolores Huerta in recognition of her vital partnership with Cesar Chavez, her dedicated commitment to farm workers and in the formation of the UFW, and her current work with the Dolores Huerta Foundation and in political activism and organizing on a variety of social causes. The Committee voted to rename the group the “Chavez/Huerta Commemoration Committee”.

This this year, the Chavez/Huerta Commemorative Committee plans on shortening the commemorative period, beginning on the Spring Equinox on March 21, and ending on April 10, to mark Huerta’s birthday – which the State of California officially made April 10 Dolores Huerta Day in 2018.

FINANCIAL IMPLICATIONS

No financial impact

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

DECLARING THE PERIOD OF MARCH 21, 2021 TO APRIL 10, 2021 AS THE CESAR CHAVEZ & DOLORES HUERTA COMMEMORATIVE PERIOD IN THE CITY OF BERKELEY

WHEREAS, César Chávez is one of the most influential civil rights and labor leaders in American history, and was an advocate for farm workers rights and social justice for all; and

WHEREAS, as the co-founder of the United Farm Workers union with Dolores Huerta, the two formed an amazing organizing team that successfully created a union for farm workers and won collective bargaining agreements providing increased wages, benefits and improved working conditions for some of the most oppressed workers in our society. They also became leaders and role models for Latinos throughout the United States; and

WHEREAS, César Chávez and Dolores Huerta formed an amazing organizing team who believed that service to others was a calling, a mission and a way of life, not merely an occupation or an occasional act of charity. They both believed that people have an obligation to contribute to their communities and to help those in need. Both were and are committed to the idea that service not only strengthened a community, but that service benefited those individuals who joined together to improve a community; and

WHEREAS, César Chávez sadly passed away on April 23, 1993; and

WHEREAS, in 1996 the City of Berkeley changed the name of Waterfront Park to César Chávez Park; and

WHEREAS, in 1999 the Berkeley City Council passed a resolution supporting State Senator Richard Polanco's efforts to establish a César Chávez state holiday, and also support for a federal César Chávez holiday; and

WHEREAS, in 2000 the State of California declared César Chávez's birthday an official state holiday for state workers (March 31); and

WHEREAS, in 2000 the Berkeley City Council voted on a resolution to support the development of the Chávez Memorial Solar Calendar at César Chávez Park; and

WHEREAS, in 2002 the Berkeley School Board adopted a resolution declaring that César Chávez Day is not currently a BUSD or COB holiday in Berkeley; rather it is an experimental service learning alternative to a school and city holiday; and

WHEREAS, the 2002 Berkeley School Board resolution included the intended commitment to follow an approved implementation plan that strongly priorities the following:

- Distribute information on curricula and resources developed by the State for teachers,
- Encourage teachers, through announcements and publications, to incorporate curricula and resources into their lesson plans,
- Encourage each school to have school-wide activities on or around March 31 to honor the legacy of César Chávez; and

WHEREAS, in 2003 the City of Berkeley along with the César Chávez Commemorative Planning Committee began to celebrate a citywide commemorative period – beginning on the Spring Equinox to mark the beginning of the planting season in agriculture, continuing through April 23<sup>rd</sup> to mark the anniversary of Chávez’s death; and

WHEREAS, in 2004 the Berkeley City Council unanimously approved the Phase I Design for the Chávez Memorial proposed for César Chávez Park. It is in the form of an ancient solar calendar and honor four virtues of Chávez: Hope, determination, Courage and tolerance/non-violence; and

WHEREAS, in 2014 the Chavez Commemorative Planning Committee voted to also honor Dolores Huerta in recognition of her vital partnership with César Chávez, her dedicated commitment to farm workers, an her activism and organizing on a variety of social causes. The Committee voted to rename the group the Chávez/Huerta Commemorative Committee.

WHEREAS, this year, the Chávez Huerta Commemorative Committee plans on shortening the commemorative period, beginning on the Spring Equinox on March 21, and ending on April 10, to mark Huerta’s birthday – which the State of California officially made April 10 Dolores Huerta Day in 2018.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby declares the period of March 21, 2021 to April 10, 2021 as the “César Chávez & Dolores Huerta Commemorative Period” in the City of Berkeley.

BE IT FURTHER RESOLVED that together the School Board of Directors and City Council members are encouraged to participate in the Chávez/Huerta Commemorative events in the Berkeley community.



ACTION CALENDAR  
DATE: March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin, Councilmember Bartlett (co-sponsor)

Subject: Affordable Housing Overlay

### RECOMMENDATION

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

1. Exceeding standards set forth in California Government Code Section 65915 with additional height and density incentives for qualifying 100% affordable projects deed-restricted for low- and moderate-income households, including:
  - a. An additional 33' local density bonus for qualifying projects with low- and moderate-income units deed-restricted for households earning up to 100% of Area Median Income, aiming to maximize total unit count restricted for Very Low and Extremely Low Income households;
  - b. Expanding waiver of density limits, including units per acre and floor area ratio, for transit-adjacent projects to include all parcels within one half mile of a commuter rail station, and within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019;
  - c. Reduced density limits for projects outside of transit proximity threshold with additional Transportation Demand Management (TDM) policies, including bike parking, paratransit and shared micro-mobility systems;
  - d. Ministerial approval of all qualifying projects meeting objective design criteria and union labor requirements;
  - e. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law.
2. Ministerial approval for 76' of 100% affordable residential dwelling units in all commercial zones, and provisions for ground-floor retail and/or live-work space;
3. In R-1, R-1A and R-2 zones, provide ministerial approval for a 10' local density bonus for 100% affordable housing, with waived density requirements for dwelling units per acre and lot coverage. On parcels within high-risk wildfire zones as determined by the California Department of Forestry and Fire Protection (CalFire), ministerial approval for 100% affordable projects should be contingent on fire-blocking design and defensible space standards certified by the Planning Department.

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

## BACKGROUND

Berkeley has made insufficient progress on meeting its state-mandated Regional Housing Need Allocation (RHNA) goals for low- and moderate-income housing in the 2014-2022 RHNA cycle. As recently as the city's 2020<sup>1</sup> Housing Pipeline Report, the city had only fulfilled 23% of its moderate-income RHNA goals, 21% of its RHNA goals for Very-Low Income households, and a mere 4% for Low-Income households. Berkeley's next RHNA cycle is estimated to mandate roughly 3 times as many units<sup>2</sup> as the previous cycle's total of 2,959 units across all income tiers. SB-330 by Sen. Nancy Skinner (D-Berkeley), passed in 2019, requires municipal general plans to zone adequately to meet residential capacity mandated by RHNA goals and state-certified Housing Elements.

Affordable housing will continue to be a high priority, but nonprofit affordable housing developers may face stiff competition for scarce land with market-rate developers, particularly during an anticipated period of economic recovery. In 2019, Governor Newsom signed AB-1763 by Assembly member David Chiu (D-SF), amending California Government Code 65915 to confer greater fiscal advantages for 100% affordable housing developments through state density bonus law. The bill prohibits minimum parking requirements (which Berkeley has recently removed) and grants a 3-story increase in allowable heights, with a waiver on density restrictions for projects located within a half-mile of major transit stops.

When the 42-unit affordable housing project at Harpers Crossing opened in Berkeley, at a total project cost of \$18 million, over 700 seniors applied. Without substantial funding and square footage for affordable housing, the City of Berkeley will be increasingly challenged to create enough subsidized housing to meet increasing demand. Increased allowable density and streamlined approvals for affordable housing will also be key to meeting Berkeley's RHNA goals for low- and moderate-income housing.

## RATIONALE FOR RECOMMENDATION

There is precedent in the state of California for meeting low-income RHNA goals with an Affordable Housing Overlay. In eastern Contra Costa County, the newly-incorporated

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-28\\_Item\\_45\\_Annual\\_Housing\\_Pipeline\\_Report.aspx&sa=U&ved=2ahUKewjc3tDIIntHuAhXWu54KHdyGAtAQFjABegQICRAC&usg=AOvVaw0eXQ4oP5AAL14h0lphPdr](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-28_Item_45_Annual_Housing_Pipeline_Report.aspx&sa=U&ved=2ahUKewjc3tDIIntHuAhXWu54KHdyGAtAQFjABegQICRAC&usg=AOvVaw0eXQ4oP5AAL14h0lphPdr)

<sup>2</sup> [https://abag.ca.gov/sites/default/files/draft\\_rhna\\_allocation\\_presentation\\_to\\_exec\\_bd\\_jan\\_21.pdf](https://abag.ca.gov/sites/default/files/draft_rhna_allocation_presentation_to_exec_bd_jan_21.pdf)



city of Oakley established an Affordable Housing Overlay in 2005, which has yielded 7 affordable housing developments totaling 509 housing units combined as of 2019.<sup>3</sup> Despite local opposition to low-income housing, the AHO enabled the city to obtain state certification for its first 2001-2007 Housing Element, procure funding from the county, and meet its low-income RHNA goals by rezoning 16.3 acres for multifamily housing.

According to the Association of Bay Area Governments (ABAG), 28 jurisdictions in the 9-county Bay Area have some form of Housing Overlay Zone policy.<sup>4</sup>

According to a 2010 fact sheet by Public Advocates and East Bay Housing Organizations (EBHO), “the more valuable the developer incentives included in a Housing Overlay Zone, the more effective the HOZ will be in encouraging production of homes that people can afford. Desirable incentives both motivate developers to take advantage of the HOZ, and reduce development costs to allow construction of more affordable homes.”<sup>5</sup>

The City Council of Cambridge, Massachusetts passed an Affordable Housing Overlay amendment to its zoning code in October of 2020.<sup>6</sup> The City Council of Somerville, MA passed a similar zoning ordinance in December of 2020. These zoning overlays permit greater height and density for ministerial approval 100% Below Market-Rate housing developments, following objective design criteria. The intent of these ordinances is to increase the availability of infill sites with an advantage for affordable housing development where nonprofit and public entities may otherwise be unable to compete win the private market, as well as promoting a more equitable distribution of affordable housing in cities where class and racial segregation still mirrors the historical legacy of redlining and Jim Crow-era racial covenants.

These ordinances preserve open space requirements and comport with restrictions on historic districts. The Somerville<sup>7</sup> and Cambridge<sup>8</sup> Overlays were overwhelmingly

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<sup>3</sup> UC Berkeley Terner Center for Housing Innovation. (2019). Affordable Housing Overlays: Oakley. Retrieved from [https://ternercenter.berkeley.edu/wp-content/uploads/2020/10/Affordable\\_Housing\\_Overlay\\_Zones\\_Oakley.pdf](https://ternercenter.berkeley.edu/wp-content/uploads/2020/10/Affordable_Housing_Overlay_Zones_Oakley.pdf)

<sup>4</sup> <http://housing.abag.ca.gov/policysearch>

<sup>5</sup> [http://www.friendsofrpe.org/files/HOZ\\_Fact\\_Sheet\\_FINAL\\_7-27-10%282%29.pdf](http://www.friendsofrpe.org/files/HOZ_Fact_Sheet_FINAL_7-27-10%282%29.pdf)

<sup>6</sup> Sennott, A. (2020). Mayor: ‘An important social justice moment.’ Councilors pass Affordable Housing Overlay after more than 20 community meetings. *WickedLocal.com*. Retrieved from <https://www.wickedlocal.com/story/cambridge-chronicle-tab/2020/10/06/an-important-social-justice-moment-cambridge-councilors-pass-affordable-housing-overlay/114657068/>

<sup>7</sup> Taliesin, J. (2020). Somerville moves to facilitate local affordable housing development. *WickedLocal.com*. Retrieved from <https://www.wickedlocal.com/story/somerville-journal/2020/11/23/residents-support-citys-move-ease-affordable-housing-development/6328944002/>

<sup>8</sup> Eisner, D. (2020). The Historic Affordable Housing Overlay Is about to Pass. How Did It Overcome so Many Obstacles? *A Better Cambridge*. Retrieved from [https://www.abettercambridge.org/the\\_historic\\_affordable\\_housing\\_overlay\\_is\\_about\\_to\\_pass\\_how\\_did\\_it\\_come\\_so\\_many\\_obstacles](https://www.abettercambridge.org/the_historic_affordable_housing_overlay_is_about_to_pass_how_did_it_come_so_many_obstacles)

supported by nonprofit affordable housing developers and activists. The city of Boston is now exploring similar policy initiatives.<sup>9</sup>

Prior to introduction of the city's Affordable Housing Overlay policy, Somerville City Councilor Ben Ewen-Campen, chair of the council's Land Use Committee, directed city staff to survey the region's affordable housing. "Overwhelmingly, we heard about two obstacles," Ewen-Campen wrote.<sup>10</sup>

*First, and most obviously, is the cost of land. Today, it is nearly impossible for any non-profit housing developer to purchase property in Somerville. This is no surprise: they are competing against "market rate" developers and investors who can afford to pay far more because they'll soon be making windfall profits in our red-hot real estate market. Second, the funding agencies that support affordable housing are looking for predictability and certainty in the projects they support. This means that the uncertainty, delays, and discretionary nature of the permitting process in Somerville can be a major issue when attempting to secure funding. Together, these two obstacles mean that new affordable units in Somerville are almost always created by market rate developers through Somerville's "20% inclusionary zoning" policy, which is absolutely necessary but nowhere near sufficient to meet Somerville's goals for affordability.*

Affordable housing nonprofits face similar fiscal and regulatory barriers to developing much-needed low- and moderate-income housing.

While Berkeley does not have an abundance of vacant and/or publicly-owned land close to transit to help meet these goals, an Affordable Housing Overlay permitting residential uses on commercial corridors for 100% affordable housing can tap into an abundant subset of commercial parcels with residential potential in the city. According to a study by the UC Berkeley Turner Center for Housing Innovation, mid-sized cities in the San Francisco Bay Area have an average of 32.4% of land zoned for commercial uses, and this land tends to be evenly distributed between high- and low-opportunity neighborhoods as defined by the state's Tax Credit Allocation Committee.<sup>11</sup>

As the Home for All SMC Housing Overlay Zone fact sheet explains: "In locations where the zoning doesn't allow residential development, HOZs can enable housing construction while avoiding the lengthy process of amending a general plan."<sup>12</sup>

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<sup>9</sup> Logan, T. (2020). Boston to consider looser zoning for affordable housing. *The Boston Herald*. Retrieved from <https://www.bostonglobe.com/2020/08/24/business/boston-mull-looser-zoning-affordable-housing/>

<sup>10</sup> Ewen-Campen, B. (2020). We need a city-wide 'Affordable Housing Overlay District' in Somerville. *The Somerville Times*. Retrieved from <https://www.thesomervilletimes.com/archives/103539>

<sup>11</sup> Romem, I. & Garcia, D. (2020). Residential Redevelopment of Commercially Zoned Land in California. *UC Berkeley Turner Center for Housing Innovation*. Retrieved from <https://turnercenter.berkeley.edu/wp-content/uploads/2020/12/Residential-Redevelopment-of-Commercially-Zoned-Land-in-California-December-2020.pdf>

<sup>12</sup> <https://homeforallsmc.org/toolkits/housing-overlay-zones/>

## ALTERNATIVES CONSIDERED

Due to aforementioned state laws, there is no alternative in which the City of Berkeley does not rezone certain areas to meet its upcoming RHNA goals and have a certified Housing Element. While the city could simply abide by the standards set forth in AB-1763 with no additional incentives or streamlining for 100% affordable housing, this would risk insufficiently prioritizing low- and moderate-income housing, and is inconsistent with goals already identified by the City Manager's office to reduce homelessness and housing insecurity.

The City Manager's 1000 Person Plan to End Homelessness<sup>13</sup> includes among its strategic recommendations:

*"Continue implementing changes to Berkeley's Land Use, Zoning, and Development Review Requirements for new housing with an eye towards alleviating homelessness. If present economic trends continue, the pace with which new housing is currently being built in Berkeley will likely not allow for a declining annual homeless population. Berkeley should continue to streamline development approval processes and reform local policies to help increase the overall supply of housing available."*

## ENVIRONMENTAL IMPACTS

A 2019 study of displacement and gentrification in Seattle<sup>14</sup> found qualitative evidence that the displacement of low-income households from central urban neighborhoods could increase emissions from the area with the influx of higher-income households with more carbon-intensive consumption, while those displaced may be more likely to move to where they contribute higher Vehicle Miles Traveled (VMT) in suburban communities. At the same time, research from UC Berkeley<sup>15</sup> confirms that high-income households moving to low-VMT urban neighborhoods enables major reductions in per-capita emissions. An Affordable Housing Overlay coupled with the city's Local Preference policy could promote environmental justice and reduce per-capita VMT pursuant to goals established in the city's Climate Action Plan.

## FISCAL IMPACTS

TBD.

The City Manager's 1000 Person Plan to End Homelessness notes that the fiscal impact of land use reform "could not be quantified" at the time the report was issued.

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<sup>13</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-26\\_Item\\_20\\_Referral\\_Response\\_1000\\_Person\\_Plan.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Item_20_Referral_Response_1000_Person_Plan.aspx)

<sup>14</sup> Rice, J. L., Cohen, D. A., Long, J., & Jurjevich, J. R. (2019). Contradictions of the Climate-Friendly City: New Perspectives on Eco-Gentrification and Housing Justice. *International Journal of Urban and Regional Research*. doi:10.1111/1468-2427.12740

<sup>15</sup> Jones, C. et al. (2017). Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning*, 3(2). doi:10.17645/up.v3i2.1218.

CONTACT

Councilmember Terry Taplin (District 2), 510-983-7120, [ttaplin@cityofberkeley.info](mailto:ttaplin@cityofberkeley.info)

ATTACHMENTS/SUPPORTING MATERIALS

1. Resolution
2. Cambridge, MA: Ordinance No. 2020-8
3. Assembly Bill 1763 (2019)

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

WHEREAS the San Francisco Bay Area is in the midst of a crisis-level housing shortage disproportionately affecting low- and moderate-income households; and,

WHEREAS the City of Berkeley has failed to meet its Regional Housing Needs Allocation production goals for low- and moderate-income households in the 2014-2022 RHNA cycle; and,

WHEREAS the 2022-2031 RHNA cycle will likely allocate over 9,000 housing units to the City of Berkeley, while the previous cycle's housing needs for low- and moderate-income households remain unmet; and,

WHEREAS Assembly Bill 1763, passed in 2019, enables greater density and height allowances for 100% affordable housing, with low- and moderate-income households defined by Section 50053 of the Health and Safety Code; and,

WHEREAS state law will mandate sufficient residential capacity in the City's general plan to align its zoning with its housing element and RHNA goals;

WHEREAS the City of Oakley authorized an Affordable Housing Overlay in 2005 to meet its low-income RHNA goals; and,

WHEREAS several cities in the State of Massachusetts have implemented Affordable Housing Overlay policies to increase density in high-opportunity neighborhoods near transit to reverse patterns of historic segregation, produce more affordable housing, and give affordable housing profits an advantage in parcel acquisition;

THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley refers to the City Manager and Planning Commission revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including but not limited to:

1. Exceeding standards set forth in California Government Code Section 65915 with additional height and density incentives for qualifying 100% affordable projects deed-restricted for low- and moderate-income households:
  - a. An additional 33' local density bonus for qualifying projects with low- and moderate-income units deed-restricted for households earning up to 100% of Area Median Income, aiming to maximize total unit count restricted for Very Low and Extremely Low Income households;
  - b. Expanding waiver of density limits, including units per acre and floor area ratio, for transit-adjacent projects to include all parcels within one half mile of a commuter rail station, and within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019;
  - c. Reduced density limits for projects outside of transit proximity threshold with additional Transportation Demand Management (TDM) policies, including bike parking, paratransit and shared micro-mobility systems;

- d. Ministerial approval of all qualifying projects meeting objective design criteria and union labor requirements;
  - a. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law;
2. Ministerial approval for 76' of 100% affordable residential dwelling units in all commercial zones, with provisions for ground-floor retail and/or live-work space;
3. In R-1, R-1A and R-2 zones, provide ministerial approval for two-story local density bonus for 100% affordable housing, with waived density requirements for dwelling units per acre and lot coverage. On parcels within high-risk wildfire zones as determined by the California Department of Forestry and Fire Protection (CalFire), ministerial approval for 100% affordable projects should be contingent on fire-blocking design and defensible space standards certified by the Planning Department;

BE IT FURTHER RESOLVED, that the City Council of the City of Berkeley directs the Planning Commission and staff to codify an Affordable Housing Overlay for 100% affordable housing as specified above in 2021-2022 work plans in anticipation of 2023-2031 RHNA targets.

ORDINANCE NO. 2020-8 – First Publication

CITY OF CAMBRIDGE

In the Year Two Thousand and Twenty

AN ORDINANCE

ORDERED: That the attached proposed zoning ordinance establishing an Affordable Housing Overlay be submitted by the City Council, and that it be referred to the Committee on Ordinances and the Planning Board for public hearings, as provided in Chapter 40A, Section 5 of the Massachusetts General Laws, to wit:

ORDERED: That the Cambridge City Council amend Section 2.000, DEFINITIONS, of the Zoning Ordinance of the City of Cambridge amended to insert the following definitions alphabetically:

**Affordable Housing Overlay (AHO).** A set of modified development standards set forth in Section 11.207.3 of this Zoning Ordinance intended to allow incremental increases in density, limited increases in height, and relaxation of certain other zoning limitations for residential developments in which all units are made permanently affordable to households earning up to 100% of area median income.

**Affordable Housing Overlay (AHO) Dwelling Unit.** A dwelling unit within an AHO Project for which occupancy is restricted to an AHO Eligible Household and whose rent or initial sale price is established by the provisions of Section 11.207.3 of this Zoning Ordinance.

**Affordable Housing Overlay (AHO) Eligible Household.** A household whose gross household income does not exceed the amounts set forth in Section 11.207.3 of this Zoning Ordinance.

**Affordable Housing Overlay (AHO) Project.** The construction of a new building or buildings and/or the modification of an existing building or buildings resulting in single-family, two-family, townhouse, or multifamily dwellings within which each dwelling unit is an AHO Dwelling Unit subject to the standards and restrictions set forth in Section 11.207 of this Zoning Ordinance.

**Grade.** The mean finished ground elevation of a lot measured either around the entire perimeter of the building or along any existing wall facing a public street, which ground elevation is maintained naturally without any structural support.

**Ground Story or Ground Floor.** The lowest Story Above Grade within a building. Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

**Story Above Grade.** A Story whose highest point is more than 4 feet above the Grade.

**Story Below Grade.** Any Story that is lower than the Ground Story of a building.

ORDERED: That the Cambridge City Council amend of the Zoning Ordinance of the City of Cambridge, by inserting a new section 11.207, **AFFORDABLE HOUSING OVERLAY**, to read as follows:

11.207.1 Purpose and Intent

The purpose of this Section is to promote the public good by supporting the development of housing that is affordable to households earning up to 100% of area median income. The intent of this Section is to allow incremental increases in density, limited increases in height, and relaxation of certain other zoning limitations for residential developments in which all units are made permanently affordable to households earning up to 100% of area median income (referred to as “AHO Projects,” as defined in Article 2.000 of this Zoning Ordinance); to incentivize the reuse of existing buildings in order to create AHO Projects that are more compatible with established neighborhood character; to promote the city’s urban design objectives in Section 19.30 of this Zoning Ordinance while enabling AHO Projects to be permitted as-of-right, subject to non-binding advisory design consultation procedures that follow all design objectives set forth within this Zoning Ordinance and the results of the design review process shall be provided to the Cambridge Affordable Housing Trust; and to apply such standards throughout the City, to promote city planning goals of achieving greater socioeconomic diversity and a more equitable distribution of affordable housing citywide.

11.207.2 Applicability

- (a) The provisions set forth in this Section shall apply to AHO Projects, as defined in Article 2.000 of this Zoning Ordinance, in all zoning districts except Open Space Districts.
- (b) An AHO Project shall be permitted as-of-right if it meets all of the standards set forth in this Affordable Housing Overlay in place of the requirements otherwise applicable in the zoning district. Any development not meeting all of



the standards set forth in this Affordable Housing Overlay shall be subject to the requirements otherwise applicable in the zoning district, including any requirements for special permits.

11.207.3 Standards for Eligibility, Rent, and Initial Sale Price for AHO Dwelling Units

- (a) All dwelling units in an AHO Project shall comply with the standards for AHO Dwelling Units as set forth in this Section.
- (b) For all AHO Dwelling Units:
  - (i) AHO Dwelling Units shall be rented or sold only to AHO Eligible Households, with preference given to Cambridge residents, and former Cambridge residents who experienced a no-fault eviction in Cambridge in the last twelve (12) months, in accordance with standards and procedures related to selection, asset limits, and marketing established by the Community Development Department (CDD) and applicable state funding requirements.
  - (ii) AHO Dwelling Units shall be created and conveyed subject to recorded covenants approved by CDD guaranteeing the permanent availability of the AHO Dwelling Units for AHO Eligible Households.
- (c) For rental AHO Dwelling Units:
  - (i) The gross household income of an AHO Eligible Household upon initial occupancy shall be no more than one-hundred percent (100%) of AMI.
  - (ii) At least eighty percent (80%) of AHO Dwelling Units within the project shall be occupied by AHO Eligible Households whose gross household income upon initial occupancy is no more than eighty percent (80%) of AMI.
  - (iii) Rent, including utilities and any other fees routinely charged to tenants and approved by CDD, shall not exceed thirty percent (30%) of the gross household income of the AHO Eligible Household occupying the AHO Dwelling Unit or other similar standard pursuant to an applicable housing subsidy program which has been approved by CDD.

- (iv) After initial occupancy, the gross household income of an AHO Eligible Household shall be verified annually, or on such other basis required by an applicable housing subsidy program which has been approved by CDD, to determine continued eligibility and rent, in accordance with policies, standards, and procedures established by CDD.
  - (v) An AHO Eligible Household may continue to rent an AHO Dwelling Unit after initial occupancy even if the AHO Eligible Household's gross household income exceeds the eligibility limits set forth above, but may not exceed one hundred twenty percent (120%) of AMI for more than one year after that Eligible Household's gross household income has been verified to exceed such percentage, unless otherwise restricted pursuant to an applicable housing subsidy program which has been approved by CDD.
  - (vi) Notwithstanding the requirements set forth in (i) through (v) above, an owner may voluntarily choose to charge a lower rent than as provided herein for AHO Dwelling Units.
- (d) For owner-occupied AHO Dwelling Units:
- (i) The gross household income of an AHO Eligible Household upon initial occupancy shall be no more than one-hundred percent (100%) of AMI.
  - (ii) At least fifty percent (50%) of AHO Dwelling Units shall be sold to AHO Eligible Households whose gross household income upon initial occupancy is no more than eighty percent (80%) of AMI.
  - (iii) The initial sale price of an AHO Dwelling Unit shall be approved by CDD and shall be determined to ensure that the monthly housing payment (which shall include debt service at prevailing mortgage loan interest rates, utilities, condominium or related fees, insurance, real estate taxes, and parking fees, if any) shall not exceed thirty percent (30%) of the monthly income of:
    - 1) A household earning ninety percent (90%) of AMI, in the case of an AHO Dwelling Unit to be sold to an AHO Eligible Household whose income upon initial

occupancy is no more than one-hundred percent (100%) of AMI; or

- 2) A household earning seventy percent (70%) of AMI, in the case of an AHO Dwelling Unit to be sold to an AHO Eligible Household whose income upon initial occupancy is no more than eighty percent (80%) of AMI
- (e) An AHO Project meeting the standards set forth herein as approved by CDD shall not be required to comply with the Inclusionary Housing Requirements set forth in 11.203 of this Zoning Ordinance.

#### 11.207.4 Use

- (a) In all zoning districts, an AHO Project may contain single-family, two-family, townhouse, or multifamily dwellings as-of-right. Townhouse and Multifamily Special Permit procedures shall not apply.
- (b) An AHO Project may contain active non-residential uses on the ground floor as they may be permitted as-of-right in the base zoning district or the overlay district(s) that are applicable to a lot, which for the purpose of this Section shall be limited to Institutional Uses listed in Section 4.33, Office Uses listed in Section 4.34 Paragraphs a. through e., and Retail and Consumer Service uses listed in Section 4.35 that provide services to the general public.

#### 11.207.5 Development Standards

##### 11.207.5.1 General Provisions

- (a) For the purposes of this Section, the phrase “District Development Standards” shall refer to the development standards of the base zoning district as they may be modified by the development standards of all overlay districts (with the exception of this Affordable Housing Overlay) that are applicable to a lot.
- (b) District Dimensional Standards shall include the most permissive standards allowable on a lot, whether such standards are permitted as-of-right or allowable by special permit. A District Dimensional Standard that is allowable by special permit shall include any nondiscretionary requirements or limitations that would otherwise apply.

- (c) An AHO Project that conforms to the following development standards shall not be subject to other limitations that may be set forth in Article 5.000 or other Sections of this Zoning Ordinance, except as otherwise stated in this Section.

11.207.5.2 Dimensional Standards for AHO Projects

11.207.5.2.1 Building Height and Stories Above Grade. For an AHO Project, the standards set forth below shall apply in place of any building height limitations set forth in the District Development Standards.

- (a) Where the District Dimensional Standards set forth a maximum residential building height of forty (40) feet or less, an AHO Project shall contain no more than four (4) Stories Above Grade and shall have a maximum height of forty-five (45) feet, as measured from existing Grade. For AHO Projects containing active non-residential uses on the ground floor, the maximum height may be increased to fifty (50) feet but the number of Stories Above Grade shall not exceed four (4) stories.
- (b) Where the District Dimensional Standards set forth a maximum residential building height of more than forty (40) feet but not more than fifty (50) feet, an AHO Project shall contain no more than six (6) Stories Above Grade and shall have a maximum height of sixty-five (65) feet, as measured from existing Grade, except as further limited below. For AHO Projects containing active non-residential uses on the ground floor, the maximum height may be increased to seventy (70) feet but the number of Stories Above Grade shall not exceed six (6) stories.
  - (i) Except where the AHO Project abuts a non-residential use, portions of an AHO Project that are within thirty-five (35) feet of a district whose District Dimensional Standards allow a maximum residential building height of forty (40) feet or less shall be limited by the provisions of Paragraph (a) above, except that if the AHO project parcel extends into that District, then the height limitation shall only extend thirty five (35) feet from the property line.
- (c) Where the District Dimensional Standards set forth a maximum residential building height of more than fifty (50) feet, an AHO Project shall contain no more than seven (7) Stories Above Grade and shall have a maximum height

of eighty (80) feet, as measured from existing Grade, except as further limited below.

- (i) Except where the AHO Project abuts a non-residential use, portions of an AHO Project that are within thirty-five (35) feet of a district whose District Dimensional Standards allow a maximum residential building height of forty (40) feet or less shall be reduced to a minimum of five (5) Stories Above Grade or a maximum height of sixty (60) feet, as measured from existing Grade, except that if the AHO project parcel extends into that District, then the height limitation shall only extend thirty five (35) feet from the property line.
- (d) The Height Exceptions set forth in Section 5.23 of this Zoning Ordinance shall apply when determining the building height of an AHO Project.

#### 11.207.5.2.2 Residential Density

- (a) Where the District Dimensional Standards establish a maximum floor area ratio (FAR) of less than 1.00, an AHO Project shall not exceed an FAR of 2.00. Otherwise, there shall be no maximum FAR for an AHO Project.
- (b) There shall be no minimum lot area per dwelling unit for an AHO Project.

#### 11.207.5.2.3 Yard Setbacks

- (a) For the purpose of this Section, the applicable District Dimensional Standards shall not include yard setback requirements based on a formula calculation as provided in Section 5.24.4 of the Zoning Ordinance, but shall include non-derived minimum yard setback requirements set forth in Article 5.000 or other Sections of this Zoning Ordinance.
- (b) Front Yards. An AHO Project shall have a minimum front yard setback of 15 feet, except where the District Dimensional Standards establish a less restrictive requirement, or may be reduced to the average of the front yard setbacks of the four (4) nearest pre-existing principal buildings that contain at least two Stories Above Grade and directly front the same side of the street as the AHO Project, or may be reduced to a minimum of ten (10) feet in the case of an AHO Project on a corner lot. Where the District Dimensional Standards set forth different requirements for residential and non-residential uses, the

non-residential front yard setback requirement shall apply to the entire AHO Project if the Ground Story contains a non-residential use as set forth in Section 11.207.4 Paragraph (b) above; otherwise, the residential front yard setback shall apply.

- (c) Side Yards. An AHO Project shall have a minimum side yard setback of seven and one-half (7.5) feet, or may be reduced to the minimum side yard setback set forth in the District Dimensional Standards for residential uses that is not derived by formula if it is less restrictive.
- (d) Rear Yards. An AHO Project shall have a minimum rear yard setback of twenty (20) feet, or may be reduced to the minimum rear yard setback set forth in the District Dimensional Standards for residential uses that is not derived by formula if it is less restrictive.
- (e) Projecting eaves, chimneys, bay windows, balconies, open fire escapes and like projections which do not project more than three and one-half (3.5) feet from the principal exterior wall plane, and unenclosed steps, unroofed porches and the like which do not project more than ten (10) feet beyond the line of the foundation wall and which are not over four (4) feet above Grade, may extend beyond the minimum yard setback.
- (f) Bicycle parking spaces, whether short-term or long-term, and appurtenant structures such as coverings, sheds, or storage lockers may be located within a required yard setback but no closer than seven and one-half (7.5) feet to an existing principal residential structure on an abutting lot.

#### 11.207.5.2.4 Open Space

- (a) Except where the District Dimensional Standards establish a less restrictive requirement or as otherwise provided below, the minimum percentage of open space to lot area for an AHO Project shall be thirty percent (30%). However, the minimum percentage of open space to lot area may be reduced to no less than fifteen percent (15%) if the AHO Project includes the preservation and protection of an existing building included on the State Register of Historic Places.
- (b) The required open space shall be considered Private Open Space but shall be subject to the limitations set forth below and shall not be subject to the dimensional and other limitations set forth in Section 5.22 of this Zoning

Ordinance. Private Open Space shall exclude parking and driveways for automobiles.

- (c) All of the required open space that is located at grade shall meet the definition of Permeable Open Space as set forth in this Zoning Ordinance.
- (d) The required open space shall be located at Grade or on porches and decks that are no higher than the floor elevation of the lowest Story Above Grade, except that up to twenty five percent (25%) of the required open space may be located at higher levels, such as balconies and decks, only if it is accessible to all occupants of the building.
- (e) For the purpose of this Affordable Housing Overlay, area used for covered or uncovered bicycle parking spaces that are not contained within a building shall be considered Private Open Space.

#### 11.207.5.3 Standards for Existing Buildings

A building that is in existence as of the effective date of this Ordinance and does not conform to the standards set forth in Section 11.207.5.2 above may be altered, reconstructed, extended, relocated, and/or enlarged for use as an AHO Project as-of-right in accordance with the standards set forth below. Except as otherwise stated, the required dimensional characteristics of the building and site shall be those existing at the time of the conversion to an AHO Project if they do not conform to the standards of Section 11.207.5.2. The following modifications shall be permitted as-of-right, notwithstanding the limitations set forth in Article 8.000 of this Zoning Ordinance:

- (a) Construction occurring entirely within an existing structure, including the addition of Gross Floor Area within the interior of the existing building envelope that may violate or further violate FAR limitations set forth in Section 11.207.5.2, and including any increase to the number of dwelling units within the existing building, provided that the resulting number of Stories Above Grade is not more than the greater of the existing number of Stories Above Grade or the existing height of the building divided by 10 feet.
- (b) The relocation, enlargement, or addition of windows, doors, skylights, or similar openings to the exterior of a building.

- (c) The addition of insulation to the exterior of an existing exterior wall to improve energy efficiency, provided that the resulting exterior plane of the wall shall either conform to the yard setback standards set forth in Section 11.207.5.2 above or shall not intrude more than eight (8) inches further into the existing yard setback and provided that the lot shall either conform to the open space standards set forth in Section 11.207.5.2 or shall not decrease the existing open space by more than 5% or 100 square feet, whichever is greater.
- (d) The installation of exterior features necessary for the existing structure to be adapted to meet accessibility standards for persons with disabilities, including but not limited to walkways, ramps, lifts, or elevators, which may violate or further violate of the dimensional requirements set forth in Section 11.207.5.2.
- (e) The repair, reconstruction, or replacement of any preexisting nonconforming portions of a building including but not limited to porches, decks, balconies, bay windows and building additions, provided that the repair, reconstruction or replacement does not exceed the original in footprint, volume, or area.
- (f) Any other alterations, additions, extensions, or enlargements to the existing building that are not further in violation of the dimensional requirements set forth in Section 11.207.5.2 above.

#### 11.207.6 Parking and Bicycle Parking

The limitations set forth in Article 6.000 of this Zoning Ordinance shall be modified as set forth below for an AHO Project.

##### 11.207.6.1 Required Off-Street Accessory Parking

- (a) There shall be no required minimum number of off-street parking spaces for an AHO Project except to the extent necessary to conform to other applicable laws, codes, or regulations.
- (b) An AHO Project of greater than 20 units, for which no off-street parking is provided shall provide or have access to either on-street or off-street facilities that can accommodate passenger pick-up and drop-off by motor vehicles and short-term loading by moving vans or small delivery trucks. The Cambridge Traffic, Parking, and Transportation Department shall certify to the Superintendent of Buildings



that the AHO Project is designed to reasonably accommodate such activity without causing significant hazard or congestion. The Cambridge Director of Traffic, Parking, and Transportation shall have the authority to promulgate regulations for the implementation of the provisions of this Paragraph.

11.207.6.2 Accessory Parking Provided Off-Site

- (a) Off-street parking facilities may be shared by multiple AHO Projects, provided that the requirements of this Section are met by all AHO Dwelling Units served by the facility and the facility is within 1,000 feet of all AHO Projects that it serves.
- (b) Off-street parking facilities for an AHO Project may be located within existing parking facilities located within 1,000 feet of the AHO Project and in a district where parking is permitted as a principal use or where the facility is a pre-existing nonconforming principal use parking facility, provided that the owner of the AHO Project shall provide evidence of fee ownership, a long-term lease agreement or renewable short-term lease agreement, recorded covenant, or comparable legal instrument to guarantee, to the reasonable satisfaction of the Superintendent of Buildings, that such facilities will be available to residents of the AHO Project.

11.207.6.3 Modifications to Design and Layout Standards for Off-Street Parking

- (a) Notwithstanding Section 6.43.2, parking spaces may be arranged in tandem without requiring a special permit, provided that no more than two cars may be parked within any tandem parking space.
- (b) Notwithstanding Section 6.43.6, owners of adjacent properties may establish common driveways under mutual easements without requiring a special permit.
- (c) Notwithstanding Paragraph 6.44.1(a), on-grade open parking spaces may be located within ten (10) feet but not less than five (5) feet from the Ground Story of a building on the same lot or seven and one-half (7.5) feet from the Ground Story of a building on an adjacent lot without requiring a special permit, provided that such parking spaces are screened from buildings on abutting lots by a fence or other dense year-round visual screen.

- (d) Notwithstanding Paragraph 6.44.1(b), on-grade open parking spaces and driveways may be located within five (5) feet of a side or rear property line without requiring a special permit, provided that screening is provided in the form of a fence or other dense year-round visual screen at the property line, unless such screening is waived by mutual written agreement of the owner of the lot and the owner of the abutting lot.

#### 11.207.6.4 Modifications to Bicycle Parking Standards

- (a) Notwithstanding Section 6.104, long-term or short-term bicycle parking spaces may be located anywhere on the lot for an AHO Project or on an adjacent lot in common ownership or under common control.
- (b) Notwithstanding Section 6.107.5, up to 20 long-term bicycle parking spaces may be designed to meet the requirements for Short-Term Bicycle Parking Spaces, so long as they are covered from above to be protected from precipitation.
- (c) The requirement for short-term bicycle parking shall be waived where only four or fewer short-term bicycle parking spaces would otherwise be required.
- (d) The number of required bicycle parking spaces shall be reduced by half, up to a maximum reduction of 28 spaces, where a standard-size (19-dock) Public Bicycle Sharing Station is provided on the lot or by the developer of the AHO Project on a site within 500 feet of the lot, with the written approval of the City if located on a public street or other City property, or otherwise by legally enforceable mutual agreement with the owner of the land on which the station is located as approved by the Community Development Department. If additional Public Bicycle Sharing Station docks are provided, the number of required bicycle parking spaces may be further reduced at a rate of 0.5 bicycle parking space per additional Public Bicycle Sharing Station dock, up to a maximum reduction of half of the required number of spaces.
- (e) For AHO Dwelling Units created within an existing building, bicycle parking spaces meeting the standards of this Zoning Ordinance shall not be required but are encouraged to be provided to the extent practical given the limitations of the existing structure. Bicycle parking spaces shall be provided, as required by this Zoning Ordinance, for

dwelling units in an AHO Project that are constructed fully outside the envelope of the existing structure.

11.207.6.5 Transportation Demand Management

An AHO Project not providing off-street parking at a ratio of 0.4 space per dwelling unit or more shall provide, in writing, to the Community Development Department a Transportation Demand Management program containing the following measures, at a minimum:

- (a) Offering either a free annual membership in a Public Bicycle Sharing Service, at the highest available tier where applicable, or a 50% discounted MBTA combined subway and bus pass for six months or pass of equivalent value, to up to two individuals in each household upon initial occupancy of a unit.
- (b) Providing transit information in the form of transit maps and schedules to each household upon initial occupancy of a unit, or providing information and a real-time transit service screen in a convenient common area of the building such as an entryway or lobby.

11.207.7 Building and Site Design Standards for New Development

11.207.7.1 General Provisions

- (a) Except where otherwise stated, the Project Review requirements set forth in Article 19.000 of this Zoning Ordinance and any design standards set forth in Section 19.50 or elsewhere in the Zoning Ordinance shall be superseded by the following standards for an AHO Project.
- (b) The following design standards shall apply to new construction and to additions to existing structures. Except as otherwise provided, an existing building that is altered or moved to accommodate an AHO Project shall not be subject to the following standards, provided that such alterations do not create a condition that is in greater nonconformance with such standards than the existing condition.

11.207.7.2 Site Design and Arrangement

- (a) The area directly between the front lot line and the principal wall plane of the building nearest to the front lot line shall consist of any combination of landscaped area, hardscaped area accessible to pedestrians and bicyclists,

and usable spaces such as uncovered porches, patios, or balconies. Parking shall not be located within such area, except for driveway access which shall be limited to a total of thirty (30) feet of width for any individual driveway for each one hundred (100) feet of lot frontage.

- (b) Pedestrian entrances to buildings shall be visible from the street, except where the building itself is not visible from the street due to its location. All pedestrian entrances shall be accessible by way of access routes that are separated from motor vehicle access drives.
- (c) A building footprint exceeding two hundred and fifty (250) feet in length, measured parallel to the street, shall contain a massing recess extending back at least fifteen (15) feet in depth measured from and perpendicular to the front lot line and at least fifteen (15) feet in width measured parallel to the front lot line so that the maximum length of unbroken façade is one hundred fifty (150) feet.

#### 11.207.7.3 Building Façades

- (a) At least twenty percent (20%) of the area of building façades facing a public street or public open space shall consist of clear glass windows. For buildings located in a Business A (BA), Business A-2 (BA-2), Business B (BB) or Business C (BC) zoning district, this figure shall be increased to thirty percent (30%) for non-residential portions of the building, if any.
- (b) Building façades shall incorporate architectural elements that project or recess by at least two feet from the adjacent section of the façade. Such projecting or recessed elements shall occur on an average interval of 40 linear horizontal feet or less for portions of the façade directly facing a public street, and on an average interval of 80 linear horizontal feet or less for other portions of the façade. Such projecting or recessed elements shall not be required on the lowest Story Above Grade or on the highest Story Above Grade, and shall not be required on the highest two Stories Above Grade of a building containing at least six Stories Above Grade. The intent is to incorporate elements such as bays, balconies, cornices, shading devices, or similar architectural elements that promote visual interest and residential character, and to allow variation at the ground floor and on upper floors where a different architectural treatment may be preferable.

#### 11.207.7.4 Ground Stories and Stories Below Grade

- (a) The elevation at floor level of the Ground Story shall be at the mean Grade of the abutting public sidewalk, or above such mean Grade by not more than four feet. Active non-residential uses at the Ground Story shall be accessible directly from the sidewalk without requiring use of stairs or a lift. The requirements of this paragraph shall not apply if it is determined by the City Engineer that a higher Ground Story elevation is necessary for the purpose of flood protection.
- (b) Where structured parking is provided within the Ground Story of a building, the portion of the building immediately behind the front wall plane shall consist of residential units, common areas, or other populated portions of the building in order to screen the provided parking over at least seventy-five percent (75%) of the length of the façade measured parallel to the street and excluding portions of the façade used for driveway access. On a corner lot, the requirements of this Paragraph shall only apply along one street.
- (c) The façade of a Ground Story facing a public street shall consist of expanses no longer than twenty-five (25) feet in length, measured parallel to the street, which contain no transparent windows or pedestrian entryways.
- (d) If the Ground Story is designed to accommodate active non-residential uses, the following additional standards shall apply:
  - (i) the height of the Ground Story for that portion of the building containing active non-residential uses shall be at least fifteen (15) feet;
  - (ii) the depth of the space designed for active non-residential uses shall be at least thirty-five (35) feet on average measured from the portion of the façade that is nearest to the front lot line in a direction perpendicular to the street, and measured to at least one street in instances where the space abuts two or more streets; and
  - (iii) that portion of the Ground Story façade containing active non-residential uses shall consist of at least thirty percent (30%) transparent glass windows or, if the use is a retail or consumer service establishment, at least thirty percent (30%) transparent glass windows, across the combined façade on both streets in the case of a corner lot.

- (e) Ground Stories shall be designed to accommodate at least one space, with a total frontage equaling at least fifty percent (50%) of the existing retail frontage, for an active non-residential use, which may include retail or consumer establishments as well as social service facilities supporting the mission of the owner of the AHO Project, on sites that are located in a Business base zoning district, and where the project site contains or has contained a retail and or consumer service use at any point within the past two years prior to application for a building permit for an AHO Project.
- (f) Private living spaces within dwelling units, including bedrooms, kitchens, and bathrooms, may only be contained within Stories Above Grade. Stories Below Grade may only contain portions of dwelling units providing entries, exits, or mechanical equipment, or common facilities for residents of the building, such as lobbies, recreation rooms, laundry, storage, parking, bicycle parking, or mechanical equipment

11.207.7.5 Mechanical Equipment, Refuse Storage, and Loading Areas

- (a) All mechanical equipment, refuse storage, or loading areas serving the building or its occupants that are (1) carried above the roof, (2) located at the exterior building wall or (3) located outside the building, shall meet the requirements listed below. Mechanical equipment includes, but is not limited to, ventilation equipment including exhaust fans and ducts, air conditioning equipment, elevator bulkheads, heat exchangers, transformers and any other equipment that, when in operation, potentially creates a noise detectable off the lot. The equipment and other facilities: (a) Shall not be located within any required setback. This Paragraph (a) shall not apply to electrical equipment whose location is mandated by a recognized public utility, provided that project plans submitted for review by the City identify a preferred location for such equipment.
- (b) When on the ground, shall be permanently screened from view from adjacent public streets that are within 100 feet of the building, or from the view from abutting property in separate ownership at the property line. The screening shall consist of a dense year-round screen equal or greater in height at the time of installation than the equipment or facilities to be screened, or a fence of equal or greater

height that is comparable in quality to the materials used on the principal facades of the building, with no more than twenty-five (25) percent of the face of the fence open with adjacent planting.

- (c) When carried above the roof, shall be set back from the principal wall plane by a dimension equal to at least the height of the equipment and permanently screened from view, from the ground, from adjacent public streets and any abutting residentially used lot or lots in a residential zoning district. The screening shall be at least seventy-five percent (75%) opaque and uniformly distributed across the screening surface, or opaque to the maximum extent permissible if other applicable laws, codes, or regulations mandate greater openness.
- (d) Shall meet all city, state and federal noise regulations, as applicable, as certified by a professional acoustical engineer if the Department of Inspectional Services deems such certification necessary.
- (e) That handle trash and other waste, shall be contained within the building or screened as required in this Section until properly disposed of.

#### 11.207.7.6 Environmental Design Standards

- (a) This Section shall not waive the Green Building Requirements set forth in Section 22.20 of this Zoning Ordinance that may otherwise apply to an AHO Project.
- (b) Where the provisions of the Flood Plain Overlay District apply to an AHO Project, the performance standards set forth in Section 20.70 of this Zoning Ordinance shall apply; however, a special permit shall not be required.
- (c) An AHO Project shall be subject to other applicable laws, regulations, codes, and ordinances pertaining to environmental standards.
- (d) New outdoor light fixtures installed in an AHO Project shall be fully shielded and directed to prevent light trespass onto adjacent residential lots.

#### 11.207.8 Advisory Design Consultation Procedure

Prior to application for a building permit, the developer of an AHO Project shall comply with the following procedure, which is intended to provide an opportunity for non-binding community and staff input into the design of the project.

- (a) The intent of this non-binding review process is to advance the City's desired outcomes for the form and character of AHO Projects. To promote the City's goal of creating more affordable housing units, AHO Projects are permitted to have a greater height, scale, and density than other developments permitted by the zoning for a given district. This procedure is intended to promote design outcomes that are compatible with the existing neighborhood context or with the City's future planning objectives for the area.
- (b) The City's "Design Guidelines for Affordable Housing Overlay," along with other design objectives and guidelines established for the part of the city in which the AHO Project is located, are intended to inform the design of AHO Projects and to guide the Planning Board's consultation and report as set forth below. It is intended that designers of AHO Projects, City staff, the Planning Board, and the general public will be open to creative variations from any detailed provisions set forth in such objectives and guidelines as long as the core values expressed are being served.
- (c) At least two community meetings shall be scheduled at a time and location that is convenient to residents in proximity to the project site. The Community Development Department (CDD) shall be notified of the time and location of such meetings, and shall give notification to abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the lot on which the AHO Project is proposed and to any individual or organization who each year files with CDD a written request for such notification, or to any other individual or organization CDD may wish to notify.
  - (i) The purpose of the first community meeting shall be for the developer to share the site and street context analysis with neighborhood residents and other interested parties prior to building design, and receive feedback from community members.
  - (ii) The purpose of the subsequent community meeting(s) shall be to present preliminary project designs, answer questions from neighboring residents and other interested members of the public, and receive feedback on the design. The date(s), time(s), location(s), attendance, materials presented, and comments received at such



meeting(s) shall be documented and provided to CDD.

- (d) Following one or more such community meeting(s), the developer shall prepare the following materials for review by the Planning Board. CDD shall review to certify that the submitted written and graphic materials provide the required information in sufficient detail. All drawings shall be drawn to scale, shall include a graphic scale and north arrow for orientation, and shall provide labeled distances and dimensions for significant building and site features.
  - (i) A context map indicating the location of the project and surrounding land uses, including transportation facilities.
  - (ii) A context analysis, discussed with CDD staff, including existing front yard setbacks, architectural character, and unique features that inform and influence the design of the AHO Project.
  - (iii) An existing conditions site plan depicting the boundaries of the lot, the locations of buildings, open space features, parking areas, trees, and other major site features on the lot and abutting lots, and the conditions of abutting streets.
  - (iv) A proposed conditions site plan depicting the same information above as modified to depict the proposed conditions, including new buildings (identifying building entrances and uses on the ground floor and possible building roof deck) and major anticipated changes in site features.
  - (v) A design statement on how the proposed project attempts to reinforce existing street/context qualities and mitigates the planned project's greater massing, height, density, &c.
  - (vi) Floor plans of all proposed new buildings and existing buildings to remain on the lot.
  - (vii) Elevations and cross-section drawings of all proposed new buildings and existing buildings to remain on the lot, depicting the distances to lot lines and the heights of surrounding buildings, and labeling the proposed materials on each façade elevation.

- (viii) A landscape plan depicting and labeling all hardscape, permeable, and vegetated areas proposed for the site along with other structures or appurtenances on the site.
  - (ix) Plans of parking and bicycle parking facilities, as required by Section 6.50 of this Zoning Ordinance.
  - (x) Materials palettes cataloguing and depicting with photographs the proposed façade and landscape materials.
  - (xi) Existing conditions photographs from various vantage points on the public sidewalk, including photos of the site and of the surrounding urban context.
  - (xii) Proposed conditions perspective renderings from a variety of vantage points on the public sidewalk, including locations adjacent to the site as well as longer views if proposed buildings will be visible from a distance.
  - (xiii) A dimensional form, in a format provided by CDD, along with any supplemental materials, summarizing the general characteristics of the project and demonstrating compliance with applicable zoning requirements.
  - (xiv) A brief project narrative describing the project and the design approach, and indicating how the project has been designed in relation to the citywide urban design objectives set forth in Section 19.30 of the Zoning Ordinance, any design guidelines that have been established for the area, and the “Design Guidelines for Affordable Housing Overlay.”
  - (xv) Viewshed analysis and shadow studies that show the impact on neighboring properties with existing Solar Energy Systems.
  - (xvi) An initial development budget that shows anticipated funding sources and uses including developer fee and overhead.
- (e) Within 65 days of receipt of a complete set of materials by CDD, the Planning Board shall schedule a design consultation as a general business matter at a public meeting and shall give notification to abutters, owners of land directly opposite on any public or private street or

way, and abutters to the abutters within three hundred feet of the property line of the lot on which the AHO Project is proposed and to any individual or organization who each year files with CDD a written request for such notification, or to any other individual or organization CDD may wish to notify. The materials shall be made available to the public in advance, and the Planning Board may receive written comments prior to the meeting from City staff, abutters, and members of the public.

- (f) At the scheduled design consultation, the Planning Board shall hear a presentation of the proposal from the developer and oral comments from the public. The Board may ask questions or seek additional information from the developer or from City staff.
- (g) The Planning Board shall evaluate the proposal for general compliance with the requirements of this Section, for consistency with City development guidelines prepared for the proposal area and the “Design Guidelines for Affordable Housing Overlay,” for appropriateness in terms of other planned or programmed public or private development activities in the vicinity, and for consistency with the Citywide Urban Design Objectives set forth in Section 19.30. The Board may also suggest specific project adjustments and alterations to further the purposes of this Ordinance. The Board shall communicate its findings in a written report provided to the developer and to CDD within 20 days of the design consultation.
- (h) The developer may then make revisions to the design, in consultation with CDD staff, and shall submit a revised set of documents along with a narrative summary of the Planning Board’s comments and changes made in response to those comments.
- (i) The Planning Board shall review and discuss the revised documents at a second design consultation meeting, which shall proceed in accordance with Paragraphs (c) and (d) above. Following the second design consultation, the Planning Board may submit a revised report and either the revised report or if there are no revisions the initial report shall become the final report (the “Final Report”). Any additional design consultations to review further revisions may occur only at the discretion and on the request of the developer or the Cambridge Affordable Housing Trust.

- (j) The Final Report from the Planning Board shall be provided to the Superintendent of Buildings to certify compliance with the procedures set forth herein.

11.207.9 Implementation of Affordable Housing Overlay

- (a) The City Manager shall have the authority to promulgate regulations for the implementation of the provisions of this Section 11.207. There shall be a sixty-day review period, including a public meeting, to receive public comments on draft regulations before final promulgation.
- (b) The Community Development Department may develop standards, design guidelines, and procedures appropriate to and consistent with the provisions of this Sections 11.207 and the above regulations.

11.207.10 Enforcement of Affordable Housing Overlay

The Community Development Department shall certify in writing to the Superintendent of Buildings that all applicable provisions of this Section have been met before issuance of any building permit for any AHO Project, and shall further certify in writing to the Superintendent of Buildings that all documents have been filed and all actions taken necessary to fulfill the requirements of this Section before the issuance of any certificate of occupancy for any such project.

11.207.11 Review of Affordable Housing Overlay

- (a) Annual Report. CDD shall provide an annual status report to the City Council, beginning eighteen (18) months after ordination and continuing every year thereafter. The report shall contain the following information:
  - (i) List of sites considered for affordable housing development under the Affordable Housing Overlay, to the extent known by CDD, including site location, actions taken to initiate an AHO Project, and site status;
  - (ii) Description of each AHO Project underway or completed, including site location, number of units, unit types (number of bedrooms), tenure, and project status; and
  - (iii) Number of residents served by AHO Projects.
- (b) Five-Year Progress Review. Five (5) years after ordination, CDD shall provide to the City Council, Planning Board and

the Affordable Housing Trust, for its review, a report that assesses the effectiveness of the Affordable Housing Overlay in increasing the number of affordable housing units in the city, distributing affordable housing across City neighborhoods, and serving the housing needs of residents. The report shall also assess the effectiveness of the Advisory Design Consultation Procedure in gathering meaningful input from community members and the Planning Board and shaping AHO Projects to be consistent with the stated Design Objectives. The report shall evaluate the success of the Affordable Housing Overlay in balancing the goal of increasing affordable housing with other City planning considerations such as urban form, neighborhood character, environment, and mobility. The report shall discuss citywide outcomes as well as site-specific outcomes.

Passed to a second reading as amended at the City Council meeting held on September 14, 2020 and on or after October 5, 2020 the question comes on passage to be ordained.

Attest:- Anthony I. Wilson  
City Clerk

**Assembly Bill No. 1763**

CHAPTER 666

An act to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1763, Chiu. Planning and zoning: density bonuses: affordable housing.

Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Existing law provides for the calculation of the amount of density bonus for each type of housing development that qualifies under these provisions.

This bill would additionally require a density bonus to be provided to a developer who agrees to construct a housing development in which 100% of the total units, exclusive of managers' units, are for lower income households, as defined. However, the bill would provide that a housing development that qualifies for a density bonus under its provisions may include up to 20% of the total units for moderate-income households, as defined. The bill would also require that a housing development that meets these criteria receive 4 incentives or concessions under the Density Bonus Law and, if the development is located within ½ of a major transit stop, a height increase of up to 3 additional stories or 33 feet. The bill would generally require that the housing development receive a density bonus of 80%, but would exempt the housing development from any maximum controls on density if it is located within ½ mile of a major transit stop. The bill would prohibit a housing development that receives a waiver from any maximum controls on density under these provisions from receiving a waiver or reduction of development standards pursuant to existing law, other than as expressly provided in the bill. The bill would also make various nonsubstantive changes to the Density Bonus Law.

Existing law requires that an applicant for a density bonus agree to, and that the city and county ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for a density bonus for at least 55 years, as provided. Existing law requires that the rent for

lower income density bonus units be set at an affordable rent, as defined in specified law.

This bill, for units, including both base density and density bonus units, in a housing development that qualifies for a density bonus under its provisions as described above, would instead require that the rent for at least 20% of the units in that development be set at an affordable rent, defined as described above, and that the rent for the remaining units be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

Existing law, upon the request of the developer, prohibits a city, county, or city and county from requiring a vehicular parking ratio for a development meeting the eligibility requirements under the Density Bonus Law that exceeds specified ratios. For a development that consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in specified law, and that is a special needs housing development, as defined, existing law limits that vehicular parking ratio to 0.3 spaces per unit.

This bill would instead, upon the request of the developer, prohibit a city, county, or city and county from imposing any minimum vehicular parking requirement for a development that consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families and is either a special needs housing development or a supportive housing development, as those terms are defined.

By adding to the duties of local planning officials with respect to the award of density bonuses, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65915 of the Government Code, as amended by Chapter 937 of the Statutes of 2018, is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an

additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.



(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, “lower income students” means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at

affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied

by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical

environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Low-Income Units | Percentage Density Bonus |
|-----------------------------|--------------------------|
| 10                          | 20                       |
| 11                          | 21.5                     |
| 12                          | 23                       |
| 13                          | 24.5                     |
| 14                          | 26                       |
| 15                          | 27.5                     |
| 17                          | 30.5                     |
| 18                          | 32                       |
| 19                          | 33.5                     |
| 20                          | 35                       |

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Very Low Income Units | Percentage Density Bonus |
|----------------------------------|--------------------------|
| 5                                | 20                       |
| 6                                | 22.5                     |
| 7                                | 25                       |
| 8                                | 27.5                     |
| 9                                | 30                       |
| 10                               | 32.5                     |
| 11                               | 35                       |

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Moderate-Income Units | Percentage Density Bonus |
|----------------------------------|--------------------------|
| 10                               | 5                        |
| 11                               | 6                        |
| 12                               | 7                        |
| 13                               | 8                        |
| 14                               | 9                        |
| 15                               | 10                       |
| 16                               | 11                       |
| 17                               | 12                       |
| 18                               | 13                       |
| 19                               | 14                       |
| 20                               | 15                       |
| 21                               | 16                       |
| 22                               | 17                       |
| 23                               | 18                       |
| 24                               | 19                       |



|    |    |
|----|----|
| 25 | 20 |
| 26 | 21 |
| 27 | 22 |
| 28 | 23 |
| 29 | 24 |
| 30 | 25 |
| 31 | 26 |
| 32 | 27 |
| 33 | 28 |
| 34 | 29 |
| 35 | 30 |
| 36 | 31 |
| 37 | 32 |
| 38 | 33 |
| 39 | 34 |
| 40 | 35 |

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

| Percentage Very Low Income | Percentage Density Bonus |
|----------------------------|--------------------------|
| 10                         | 15                       |
| 11                         | 16                       |
| 12                         | 17                       |
| 13                         | 18                       |
| 14                         | 19                       |
| 15                         | 20                       |
| 16                         | 21                       |
| 17                         | 22                       |
| 18                         | 23                       |
| 19                         | 24                       |
| 20                         | 25                       |
| 21                         | 26                       |
| 22                         | 27                       |
| 23                         | 28                       |
| 24                         | 29                       |
| 25                         | 30                       |
| 26                         | 31                       |
| 27                         | 32                       |

|    |    |
|----|----|
| 28 | 33 |
| 29 | 34 |
| 30 | 35 |

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) “Childcare facility,” as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) “Housing development,” as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, “housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, “study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county

shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison, Mayor Arreguín, Councilmembers Robinson and Taplin

Subject: Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program

RECOMMENDATION

1. Refer to the June 2021 budget process:
  - a. The first \$500,000 in expected Transportation Network Companies (TNC) User's Tax General Fund revenue toward the construction and maintenance of 18.4 miles of priority protected bicycle boulevards; and
  - b. \$410,000 in expected TNC Tax revenue as revenues become available and an additional \$90,000 from other General Fund revenue to supplement demonstration projects under the Street Repair Program that either directly or indirectly reduce greenhouse gas emissions.
2. Refer to the Transportation Commission to make recommendations to the Council as to allocation of TNC User's Tax in subsequent budget cycles.

BACKGROUND

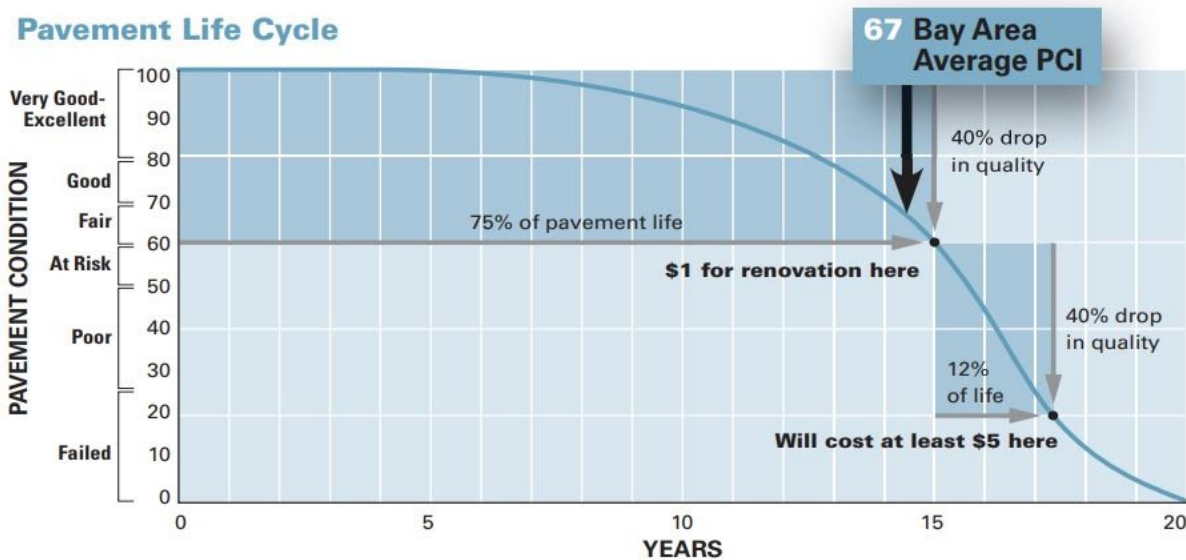
A Metropolitan Transportation Commission report warns that Berkeley's overall paving condition is "At Risk," meaning on the cusp of falling into "Failing" category.<sup>1</sup> The current five-year paving plan is the result of historic deferred maintenance and an underfunded, imperfect and complex balance between arterial, collector and residential streets distributed across Council districts.

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<sup>1</sup> "The Pothole Report: Bay Area Roads At Risk," Bay Area Metropolitan Transportation Commission, September 2018, [https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III\\_September%202018.pdf](https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III_September%202018.pdf)

Residential streets across the entire city are largely categorized as failing and bicycle, pedestrian and Vision Zero projects are severely underfunded. Meanwhile, neighboring cities in the Bay Area, such as Richmond, El Cerrito, San Francisco have “Excellent/Very Good” to “Fair/Good” streets conditions.

The Public Works Department has advised that ongoing funding under the rolling 5-Year Street Plan will not be enough to stabilize Berkeley’s streets. In fact, if street investment is not increased, Public Works warns that the City could face \$1 billion in future repair costs as the cost of deferred paving maintenance increases exponentially each year.

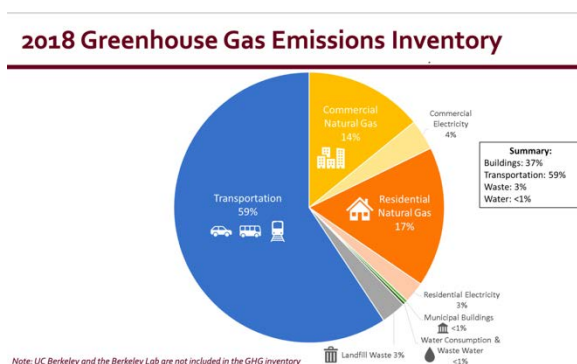


Since January 2020, the Facilities, Infrastructure, Transportation, Environment, & Sustainability Committee has been working with the Public Works Department and Public Works Commission to explore funding opportunities to enhance the Paving Condition Index (PCI) of Berkeley’s streets. In addition, it has been reviewing the City’s Paving Policy, which was last updated in 2009, and has been working to develop a Paving Master Plan.

To stabilize street conditions, the City will likely need to pursue a combination of investment strategies ranging from increasing General Fund allocations, initiating transfers from waste and sewer accounts, initiating impact fees in response to heavy vehicle use and potentially issuing bonds. However, before going to the voters for new bonds, it is critical that the Council exhaust all equitable alternatives, including leveraging the proceeds of existing taxes and fees on private corporations who

contribute disproportionately to the deterioration of Berkeley’s streets and greenhouse gas emissions.

A recent University of Oxford study concluded that even partial substitution of vehicle travel with walking, cycling or e-biking are critical strategies for addressing climate change and lower mobility-related lifecycle CO<sub>2</sub>, and that cyclers have 84% lower CO<sub>2</sub> emissions impact as compared to non-cyclers.<sup>2</sup> According to the study, urban residents substituting one vehicle trip per day with cycling reduced their carbon footprint by 0.5 tons per year, and “[i]f just 10% of the population were to change travel behaviour, the emissions savings would be around 4% of lifecycle CO<sub>2</sub> emissions from all car travel.”



Berkeley voters overwhelmingly passed the TNC User’s Tax (Measure GG) in 2020 with a 50-cent fee per rideshare trip specifically in order to generate “at least \$900,000 annually to support general municipal services like paving streets and improving pedestrian and bicycle infrastructure.”<sup>3</sup> City staff estimated the tax will bring in approximately \$910,000 per year.<sup>4</sup>

This budget referral proposes to allocate \$500,000 from TNC Tax proceeds directly to projects aimed at building out priority protected bicycle boulevards, which will enhance

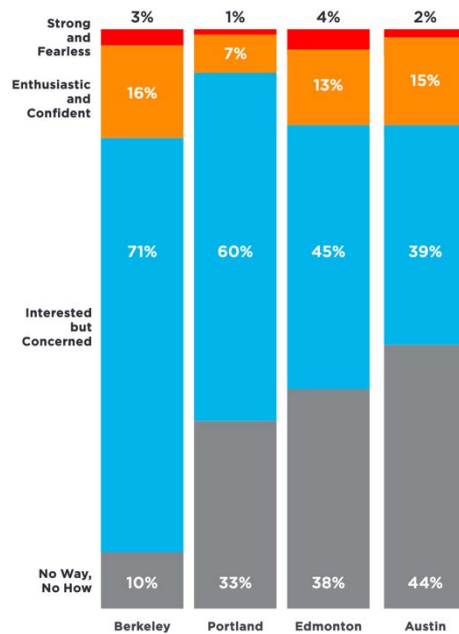
<sup>2</sup> “Study Shows Walking, Cycling, & e-Biking Make Significant Impact On Carbon Emissions,” CleanTechnica, February 3, 2021, <https://cleantechnica.com/2021/02/03/study-shows-walking-cycling-e-biking-make-significant-impact-on-carbon-emissions/>.

<sup>3</sup> “Argument in Favor of Measure GG,” Berkeley City Clerk, August 2020, <https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/GG%20-%20Primary%20in%20Favor%20-%20FINAL.pdf>

<sup>4</sup> “Placing a Tax Measure on the November 3, 2020 Ballot to Adopt a Tax on Transportation Network Companies,” Berkeley City Clerk, July 21, 2020, [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_\(4pm\)\\_Special\\_Item\\_04\\_Placing\\_a\\_Tax\\_Measure\\_on\\_the\\_November\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_(4pm)_Special_Item_04_Placing_a_Tax_Measure_on_the_November_pdf.aspx)

bicycle and micro mobility safety, offset vehicle miles travelled and paving impact, and lower greenhouse gas emissions.

Surveys conducted as part of the 2017 Berkeley Bicycle Plan provided key data about the eagerness of Berkeley residents to bicycle or use other forms of mobility, assuming the City provides safe infrastructure and routes. An astonishing 70% of Berkeley residents expressed interest in bicycling but were concerned about safety. The 2017 Plan concluded: “90 percent of Berkeley residents already bicycle or would consider bicycling if the right bikeway facility or roadway conditions were available. That is a larger percentage than any other city that has conducted a similar study, including Portland, as shown at right.”<sup>5</sup>



Roger Geller’s “Four Types of Transportation Cyclists” distribution for Berkeley, Portland, OR, Edmonton, AB, and Austin, TX.

Berkeley has struggled to address its transportation GHG emissions, but the data suggest that biking and mobility options could dramatically offset vehicle miles travelled. It is in the public interest to invest general fund revenue, namely TNC Tax revenue, in street enhancements that can encourage mode shifts from vehicles to carbon-free transportation.

<sup>5</sup> “City of Berkeley Bicycle Plan,” May 2, 2017, [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf)

If Council were to allocate the TNC Tax accordingly over next ten years, the period scientists consider critical to meet global emissions reductions targets, the City could fund 50% of the total “Class 4: Cycletrack” costs provided in the Bike Plan, and thus maximize the number of Berkeleyans who deem the streets safe enough to ride. Certainly, the expenditures proposed herein will not be enough to adequately fund Berkeley’s entire bike network, but they represent an important down payment.

Table ES-3: Summary of Project Recommendations and Cost Estimates

| TYPE                                          | MILEAGE           | COST ESTIMATE       |
|-----------------------------------------------|-------------------|---------------------|
| Class 1A: Paved Path                          | 1.5 miles         | \$5,285,700         |
| Class 2A: Standard Bike Lane                  | 0.1 miles         | \$10,700            |
| Class 2B: Upgraded Bike Lane                  | 3.0 miles         | \$541,500           |
| Class 3C: Sharrows                            | 13.9 miles        | \$71,600            |
| Class 3E: Bicycle Boulevard                   | 12.4 miles        | \$621,900           |
| Class 4: Cycletrack                           | 18.4 miles        | \$9,903,300         |
| Complete Street Corridor Interim Treatments   | 17.0 miles        | \$1,181,400         |
| Intersection and Traffic Calming Improvements | -                 | \$16,855,000        |
| <b>Total</b>                                  | <b>66.3 miles</b> | <b>\$34,471,100</b> |

In addition, it is in the public interest to allocate remaining \$410,000 TNC Tax revenues as they become available and approximately an additional \$90,000 in General Fund revenues per year to the Street Repair Program which is aimed at generally improving the paving condition of all streets and may include alternative mobility, public transit and Vision Zero, and complete streets upgrades.

In subsequent budget cycles, this item refers to the Transportation Commission to weigh in with regard to the allocation of TNC User’s Tax. The Transportation Commission is not currently authorized to meet remotely due to COVID-19 restrictions.

FINANCIAL IMPLICATIONS

The item would have a net \$90,000 impact on the General Fund after considering the estimated \$910,000 revenue credited from the TNC Tax.

ENVIRONMENTAL SUSTAINABILITY

Reducing carbon emissions at an emergency and equitable pace is a necessary step to meet the goals of the Climate Action Plan and Climate Emergency Declaration.

CONTACT PERSON

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





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kate Harrison  
Subject: Resolution Clarifying Eligibility for Historic Landmark Designation for Residences of Notable Residents that Contributed to the Cultural and Historic Values of Berkeley

RECOMMENDATION

Adopt a resolution clarifying eligibility for historic landmark designation for residences of notable residents that contributed to the cultural and historic values of Berkeley, if they otherwise qualify, including to allow the childhood home of Vice President Kamala Harris.

BACKGROUND

At the Jan 21, 2021 Special Council Meeting regarding the Appeal of Landmarks Preservation Commission Decision: Denial of City Landmark or Structure of Merit Designation for 1915 Berryman Street (LMIN2020-0003), staff restated the opinion that in order to satisfy the historic value criterion of the Landmarks Preservation Ordinance, the applicant must establish a direct connection between the subject property and the inhabitant's historical contributions (i.e., that the notable contributions occurred in the subject property). On page 7 of the August 6, 2020 1915 Berryman staff report, staff indicated that: "The Landmark application, however, has not demonstrated how the extant residential building at 1915 Berryman Street currently embodies or represents Payson's contributions [as]... his activities within religious and political organizations (if found significant) would be more correctly associated with the institutions and locations in which they occurred. Because the subject site served as his personal residence, productive activities would not be attributed to it."

This opinion is not supported by the Landmarks Preservation Ordinance itself, nor the National Register guidelines, and would preclude the landmarking of Vice President Kamala Harris's childhood home. Vice President Harris was raised in Berkeley and made history as the first woman, African-American, and South Asian American to be elected to the second highest office in the executive branch. These achievements did not take place while she was a resident of Berkeley.

This resolution would clarify Council's intent with respect to the Landmarks Preservation Ordinance that residences of Berkeley residents who contributed to the cultural and historic values of Berkeley, as these terms are identified in subsections A., A.4, and B.1

of Section 3.24.110 of the Landmark Preservation Ordinance, are eligible, if the property otherwise qualifies, for historic landmark designation or structure of merit designation.

FISCAL IMPACTS OF RECOMMENDATION

No fiscal impacts.

ENVIRONMENTAL SUSTAINABILITY

No known environmental impacts.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

1. Resolution



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

RESOLUTION CLARIFYING ELIGIBILITY FOR HISTORIC LANDMARK  
DESIGNATION FOR RESIDENCES OF NOTABLE RESIDENTS THAT  
CONTRIBUTED TO THE CULTURAL AND HISTORIC VALUES OF BERKELEY

WHEREAS, Kamala Harris has just been elected Vice-President of the United States, one of the nation's highest positions; and

WHEREAS, Kamala Harris has made history as the first woman, first African-American, and first South Asian American to be elected Vice-President; and

WHEREAS, prior to becoming Vice-President of the United States Kamala Harris served with distinction as a United States Senator for California, only the third female Senator from California, and only the 58th female Senator in the history of the United States; and

WHEREAS, the City of Berkeley and its residents are proud to claim Kamala Harris as a former resident of Berkeley; and

WHEREAS, there is strong support for making Kamala Harris' home while in Berkeley a historic landmark to recognize her ground-breaking achievements; and

WHEREAS; Under the current guidelines used by the City of Berkeley's Planning Department, a historic structure can be landmarked or designated a structure of merit only if the person actually performed his or her historic or cultural acts within the structure itself; and

WHEREAS; This interpretation is not supported by the City of Berkeley's Landmarks Preservation Ordinance or National Register guidelines; and

WHEREAS; This interpretation would preclude the City of Berkeley from even considering the landmarking of Kamala Harris's residence;

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Berkeley confirms and clarifies that the residences of Berkeley residents who contributed to the cultural and historic values of Berkeley as these terms are identified in subsections A., A.4, and B.1 of Section 3.24.110 of the Landmark Preservation Ordinance, are eligible for historic landmark designation or structure of merit designation, or as otherwise deemed to qualify.





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Harrison  
 Subject: Refer to the City Manager to Prioritize Establishment of Impact/Mitigation Fees to Address Disproportionate Private and Public Utility Impact to the Public Right of Way

RECOMMENDATION

In order to ensure equitable support of the public right of way by private and public entities that use City facilities, refer to the City Manager and City Attorney to prioritize the following in consultation with the Facilities, Infrastructure, Transportation, Environment, & Sustainability Committee:

1. establish impact and/or mitigation fees to address disproportionate private impacts to the public right of way, such as our roads and utility poles; and
2. establish transfers between sewer, waste, or other utilities as appropriate to address impacts to the public right of way.

BACKGROUND

A Metropolitan Transportation Commission report warns that Berkeley's overall paving condition is "At Risk," meaning on the cusp of falling into "Failing" category.<sup>1</sup> The current five-year paving plan is the result of historic deferred maintenance and an underfunded, imperfect and complex balance between arterial, collector and residential streets distributed across Council districts. The City's bicycle, pedestrian and Vision Zero projects are severely underfunded. Meanwhile, neighboring cities in the Bay Area, such as Richmond, El Cerrito, San Francisco have "Excellent/Very Good" to "Fair/Good" streets conditions.

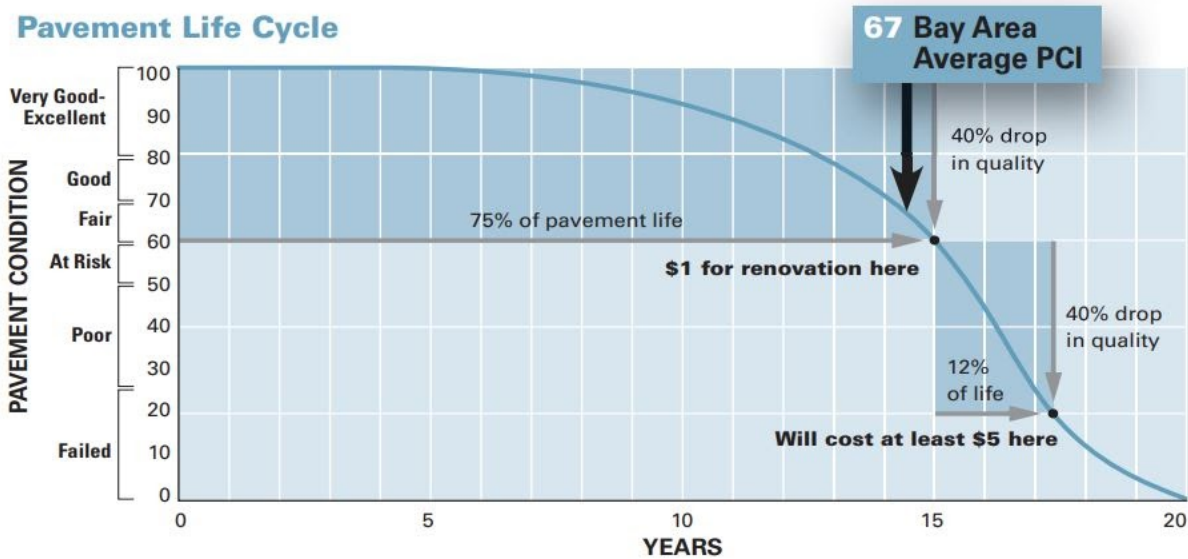
Critically, maintenance of the public right of way has been underfunded due to (1) historic lack of impact/mitigation fees levied against private corporations who

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<sup>1</sup> "The Pothole Report: Bay Area Roads At Risk," Bay Area Metropolitan Transportation Commission, September 2018, [https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III\\_September%202018.pdf](https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III_September%202018.pdf)

disproportionally cause negative impacts to Berkeley’s streets and (2) an absence of transfers from public utility ratepayers to the Berkeley Public Works Department to mitigate utility-related damage to the right of way. The public right of way is key part of the City’s “commons,” a public resource that is available to all community members and to be managed for the collective benefit. As learned during recent FITES hearings, it appears that certain private actor and public utilities have not been paying their fair share to address their disproportionate impact on the condition of Berkeley’s right of way.

The Public Works Department has advised that ongoing funding under the rolling 5-Year Street Plan will not be enough to stabilize Berkeley’s streets. In fact, if street investment is not increased, Public Works warns that the City could face \$1 billion in future repair costs as the cost of deferred paving maintenance increases exponentially each year.



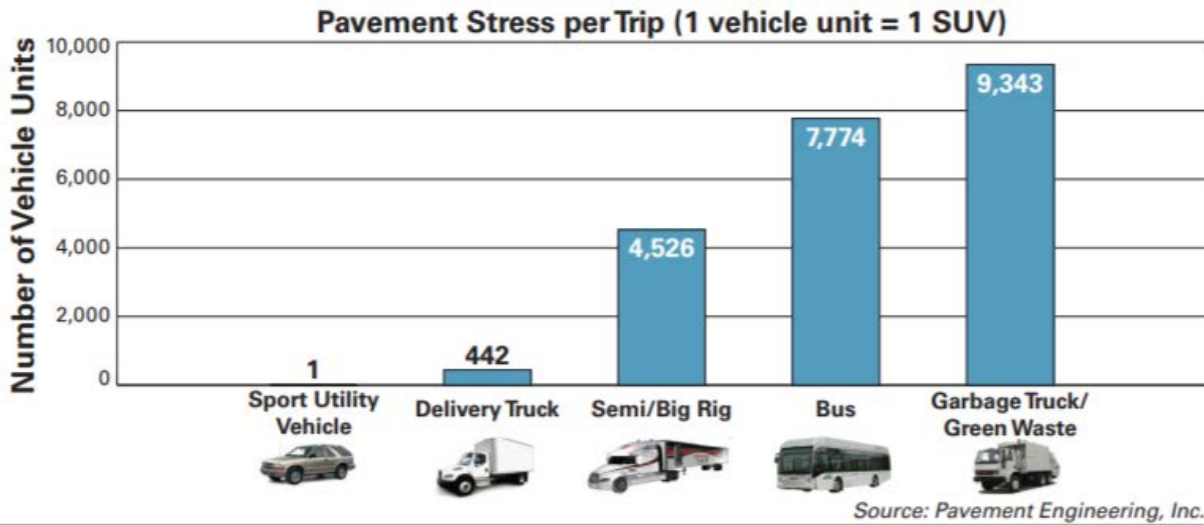
Since January 2020, the Facilities, Infrastructure, Transportation, Environment, & Sustainability (FITES) Committee has been working with the Public Works Department and Public Works Commission to explore funding opportunities to enhance the Paving Condition Index (PCI) of Berkeley’s streets. In addition, it has been reviewing the City’s Paving Policy, which was last updated in 2009, and has been working to develop a Paving Master Plan.

To stabilize street conditions, the City will likely need to pursue a combination of investment strategies ranging from increasing General Fund allocations, initiating

transfers from waste, sewer and other utility accounts, initiating impact/mitigation fees in response to heavy private vehicle use and potentially issuing bonds. However, before going to the voters for new bonds, who already pay significant sales, property and other taxes, which contribute to paving maintenance, it is critical that the Council exhaust all equitable alternatives, including leveraging the proceeds of new fees and transfers from private corporations and public utilities who contribute disproportionately to the deterioration of Berkeley’s streets and greenhouse gas emissions.

The current 2009 Paving Plan, which is being revised by the Public Works Commission, Public Works Department and the FITES Committee, explicitly specifies that “fees [may be] assessed to mitigate for excessive deterioration on and wear and tear of streets resulting from construction activities, public or private, shall be used for street rehabilitation.”<sup>2</sup> However, the FITES Committee has not been able to identify historical evidence of such fee being levied upon private users for such excessive deterioration.

During hearings on the paving policy, the FITES Committee has learned that large private vehicles such as delivery trucks, big rigs, private buses and construction vehicles contributed heavily to excessive deterioration. The same is true for vehicles acting on behalf of public utilities, such as AC Transit, the City’s Sanitary Sewer Program, Recology waste services, and gas, electric and telecommunications utilities.



<sup>2</sup> “City of Berkeley Street Rehabilitation and Repair Policy,” Public Works Department, March 2009, [https://www.cityofberkeley.info/Public\\_Works/Sidewalks-Streets-Utility/Street\\_Rehabilitation\\_and\\_Repair\\_Policy\\_updated\\_March\\_2009.aspx](https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx)

Refer to the City Manager to Prioritize Establishment of Impact/Mitigation Fees to Address Disproportionate Private and Public Utility Impact to the Public Right of Way

CONSENT CALENDAR  
March 9, 2021

Public Works staff indicate that transfers could bring in approximately \$1 million per year in additional paving funding, but more research will need to be done to calculate potential revenue from impact fees.

It is in the public interest to ensure an equitable and rapid as possible assessment of such private and public actors for the purpose of providing supplemental funding to Berkeley's Street Repair Program.

FINANCIAL IMPLICATIONS

The item would require staff time to develop potential fees and transfers, however it could potentially offset and supplemental millions of dollars in existing City paving funding.

ENVIRONMENTAL SUSTAINABILITY

Supporting low-carbon asphalt alternatives and building bicycle and alternative mobility infrastructure will compliment and accelerate Berkeley's ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan and Climate Emergency Declaration.

CONTACT PERSON

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



ACTION CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson, Mayor Jesse Arreguin  
 Subject: Affirming the City of Berkeley's Support for the People of Tibet

RECOMMENDATION

Adopt a resolution affirming the City of Berkeley's support for the people of Tibet.

BACKGROUND

The City of Berkeley has a diverse population including many Tibetan Americans. Tibetan Americans, including those residing in the City of Berkeley, have expressed concern at the Chinese Government's (1) travel restrictions against Tibetans and United States citizens; (2) restrictive regulations on religious affairs in Tibet; (3) censorship of Buddhist literature and information in Tibet; (4) demolition of Tibetan Buddhist sites; (5) imprisonment of Tibetan prisoners of conscience; and (6) declarations that "Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China."

On March 10, 2021, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will commemorate the 62nd anniversary of the Tibetan National Uprising against the Chinese invasion and occupation of Tibet.

The United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107-228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity.

The City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014.

This resolution would establish March 10th, 2021 as "Tibet Day" in Berkeley, acknowledging the struggles and hardships for Tibetan residents of the City of Berkeley. It would also recognize and support current and historic Congressional initiatives on Tibet.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Rigel Robinson, Council District 7, (510) 981-7170

Attachments:

1: Resolution



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

AFFIRMING THE CITY OF BERKELEY'S SUPPORT FOR THE PEOPLE OF TIBET

WHEREAS, On March 10, 2021, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will commemorate the 62nd anniversary of the Tibetan National Uprising against the Chinese invasion and occupation of Tibet; and

WHEREAS, the City of Berkeley has a diverse population, including many Tibetan Americans, who are concerned about human rights and freedom in the United States and throughout the world; and

WHEREAS, the United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107-228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity; and

WHEREAS, on October 17, 2007, His Holiness the 14th Dalai Lama was awarded the Congressional Gold Medal in recognition of his many enduring and outstanding contributions to peace, nonviolence, human rights, and religious understanding; and

WHEREAS, the City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014; and

WHEREAS, The State Department's 2017 Country Reports on Human Rights Practices said of the situation in Tibet: "The most significant human rights issues included: disappearances; torture by government authorities; arbitrary detentions, including political prisoners; and government curtailment of the freedoms of speech, religion, association, assembly, and movement"; and

WHEREAS, Tibetan Americans, including those residing in Berkeley City, have expressed concern at the Chinese Government's: (1) travel restrictions against Tibetans and United States citizens; (2) restrictive regulations on religious affairs in Tibet; (3) censorship of Buddhist literature and information in Tibet; (4) demolition of Tibetan Buddhist sites; (5) imprisonment of Tibetan prisoners of conscience; and (6) declarations that "Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China"; and

WHEREAS, Tibetan Americans residing in California have faced discrimination at the hands of Chinese consulates while applying for visas to visit Tibet; and

WHEREAS, the Reciprocal Access to Tibet Act signed into law on December 19, 2018 highlights China's attempts to isolate Tibet and seeks to promote access for United

States diplomats and officials, journalists, and other citizens, including Tibetan Americans, to Tibet; and

WHEREAS, since 2009, 166 Tibetans have self-immolated to protest China's rule in Tibet and most Tibetans publicly call for the return of the Dalai Lama to Tibet; and

WHEREAS, the city of Berkeley has a long history of support for Tibet and the Tibetan people; and

WHEREAS, The Berkeley City Council affirms the determination of the Tibetan people in Tibet and outside, including the Tibetan Americans, to retain their heritage and protect it from destruction against overwhelming odds through non-violent and peaceful means.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that March 10, 2021, the 62nd anniversary of the Tibetan national uprising, shall be officially recognized as "Tibet Day" and the Tibetan flag shall be raised at the City Hall.

BE IT FURTHER RESOLVED, that the City of Berkeley stands in solidarity with His Holiness the Dalai Lama, the Tibetan people and their just, peaceful and non-violent movement to remind the world of the occupation and ongoing oppression of human rights and freedom in Tibet and the continuous degradation of culture, religion, land and identity of the Tibetan people by China.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland.



Peace and Justice Commission

INFORMATION CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council  
 From: Peace and Justice Commission  
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission  
 Subject: FY 2021-2022 Peace and Justice Commission Work Plan

INTRODUCTION

At its January 25, 2021 meeting, the Peace and Justice Commission adopted its Fiscal Year (FY) 2021-2022 Work Plan (Attachment 1).

CURRENT SITUATION AND ITS EFFECTS

On January 25, 2021, the Peace and Justice Commission adopted the attached work plan through the action detailed below.

**Work Plan**

Motion to adopt and submit to City Council the Peace and Justice Commission Work Plan, with amendments to: (1) authorize the Chair to revise the Plan for clarity (e.g., updating dates), and (2) add language indicating that, "The Commission's ability to do the work identified in the Plan is contingent upon the Commission's ability to meet regularly" and that, "The Commission commits itself to carrying out, in this current year, the work identified in the Plan."

**M/S/C:** Meola, Pierce

**Ayes:** Askary, Bohn, Gussmann, Jacquelin, Lippmann, Maran, Meola, Morizawa, Perry, Tregub

**Noes:** None

**Abstain:** None

**Absent:** Rodriguez

**Excused:** None

BACKGROUND

In 2016, the City Council adopted direction to commissioners to submit a work plan annually.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability impact associated with the adoption of this work plan.

POSSIBLE FUTURE ACTION

The commission is working on several priorities in alignment with this work plan, and may bring them to the Council for action in the future.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts will depend on the actions recommended and the Council's decision.

CONTACT PERSON

Melissa McDonough, Interim Secretary, City Manager's Office, (510) 981-7402

Attachment 1: FY 2021-2022 Work Plan

## **Appendix 1: Peace and Justice Committee Fiscal Years 2021-2022 Work Plan**

### Participation in Community Engagement Process to Develop a New Paradigm of Public Safety and Racial Justice

The Commission shall focus its work in Fiscal Years 2021-2022 on contributing to two priority Council initiatives: “Community Engagement Process to Develop a New Paradigm of Public Safety in Berkeley” and “Declare Racism as a Public Health Crisis, a Threat and Safety Issue in the City of Berkeley.”

The Commission brings to bear on this initiative a history of engagement with subjects at the heart of re-imagining public safety, as well as a practice of community engagement. Over the last decade, it has sponsored community roundtables on such issues as “breaking the prison cycle,” sex-trafficking, immigration, and the international human rights framework. Our practice has been to bring together stakeholders concerned with a common issue but with diverse perspectives. Using a social justice lens, Peace and Justice views community concerns that are typically stovepiped in a holistic manner. The search for positive and non-punitive solutions to social problems such as conflict and anti-social behavior, providing healthcare, education, housing, and counseling at the front end rather than policing at the back end, has been fundamental to the Commission dating back to our founding mandate in 1986.

Some elements of the Commission’s participation in the re-imagining process may include:

1. Participating in the Reimagining Public Safety Task Force if invited, or else in a structured relationship with the Task Force.
2. The Commission’s participation recognizes that the Task Force’s charter integrates public safety with the public’s health. This concept is critical not only because safety and health are integrally connected, and because of the emerging awareness that armed police intervention should be minimized in mental and behavioral health incidents. Most importantly, the Commission will help ensure that a consciousness of public health shall include the social and racial determinants of health. This understanding of the interrelatedness of key human needs has long been an integral part of the Commission’s practice.
3. The Commission will pursue an anti-racist approach, recognizing and committing in our proposals to dismantle the institutional and social structures of white supremacy, and committing in our process to, as the Council has stated, “centering the voices of those who are most impacted by our current system of public safety.”
4. The Council recommended on December 15, 2020 that “Berkeley leverage our commissions and community organizations to provide additional input and research to inform the Task Force’s work.” The Peace and Justice Commission is uniquely situated to assist in coordinating work of other civic boards and commissions due to its holistic social justice

approach, its long history of work with multiple commissions, and its practice of public education on social issues.

5. Recognizing the City's priority of work on the Covid-19 pandemic, city management has asked that all commissions' work have a focus on efforts to fight the pandemic. Under the Council's "holistic, anti-racist approach to community safety," the public's health is key to community safety. Racial disparities in pandemic infection rates are gravely concerning from a human rights perspective. According to City statistics, infection rates per 100,000 of City population are over five times as high for the Latinx population as for White people, and for African Americans, twice as high as for White people. The holistic approach demands of us who seek a new paradigm of public safety that we envision an end to racial discrimination in the pandemic.
6. The "Declare Racism as a Public Health Crisis, a Threat and Safety Issue in the City of Berkeley" proposal, passed by Council on January 19, 2021, provides an additional framework and greater depth for Peace and Justice participation in the Council initiative for a new paradigm in public safety.<sup>1</sup>

### Ongoing Projects

#### Nuclear-Free Berkeley

The Nuclear Free Berkeley Act came into force in 1986 (Chapter 12.90.070 Section 030D). The Peace & Justice Commission established the Subcommittee on The Nuclear Free Berkeley Act (NFBA) to oversee and reinforce compliance with the terms of the Act. The Subcommittee's activities have included:

- recommendation against a waiver for continuation of the Berkeley Public Library's contracts with 3M (2009-2010);
- consideration of a waiver for the City of Berkeley Public Health Division's proposal on medical supplies (2012);
- recommendation of a waiver for the SkyDeck Business Incubator-Accelerator Contract

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<sup>1</sup> The "Declare Racism as a Public Health Crisis, a Threat and Safety Issue in the City of Berkeley" proposal reflects on both the disparate impact of Covid-19 on Black, Latinx, Native American, and Asian American communities, and the heightened understanding of structural and institutionalized racism nationally. The proposal commits the City to eliminate all socioeconomic barriers to health equity. Specifically, it calls for a series of town hall meetings throughout the sessions to address the concerns of people of color and marginalized community members and to strengthen the anti-racist capacity building; establishment of a working group to promote racial equity; the City Manager to explore greater health disparities that have emerged as a result of the COVID-19 crisis; to propose a Health in All Policies Ordinance; mandatory anti-racist training for City employees; a Strategic Plan for Health Equity; an anti-racism dashboard; work with BUSD to study whether "race-based differential access means that some students have less access to educational opportunities."

(2012);

- recommendation (February 7, 2013) to the Regents of the University of California that it phase out responsibility for operating the Nuclear Weapons Laboratories in Livermore and Los Alamos;
- a letter from the City of Berkeley to President Obama in 2014 urging support of a ban on nuclear weapons.

More recently, in light of the Award of the Nobel Peace Prize in 2017 to the International Campaign to Abolish Nuclear Weapons (ICAN), whose goal is international adherence to and full implementation of the Treaty on the Prohibition of Nuclear Weapons (the Treaty), the Peace and Justice Commission will seek to collaborate further with ICAN on activities of mutual concern. We would note that the California State Senate and the California State Assembly voted affirmatively on a bill in September 2018 to urge U.S. Senate adoption of the Treaty. Strong support comes also from the International Red Cross Red Crescent Movement; Nuclear Ban US; The City of Los Angeles, California; the City of Takoma Park, Maryland; Physicians for Social Responsibility; and the U.S. Conference of Mayors, among others.

#### Indigenous Peoples

Between December 2015 and January 2016, the Berkeley City Council, upon the recommendation of the Peace and Justice Commission, adopted five important resolutions supporting the treaty rights of indigenous people in Berkeley. The resolutions included: recognition of the Ohlone people as the original inhabitants of Berkeley and the Bay Area, pledging to work in good faith with Ohlone representatives; implementing the UN Declaration on the Rights of Indigenous Peoples as municipal policy; endorsing the upgrading of the Declaration to a Convention; honoring the Berkeley Shellmound indigenous site; and urging the East Bay Regional Parks District to protect the Ohlone place of origin sacred site.

The resolution on the Berkeley Shellmound mandated that “free, prior, and informed consent of the Ohlone and other indigenous peoples of the region should be integral to any alteration planning for the Berkeley Shellmound site, in accordance with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.”

#### Socially Responsible investment and Procurement Policy (SRIPP) and Sustainable Sweatshop-Free Berkeley

The SRIPP Subcommittee of the Peace and Justice Commission was chartered by resolution of the Berkeley City Council on July 16, 2019. Its immediate charge is to develop a proposed policy to “govern the Commission’s advisory role in socially responsible investing and socially responsible procurement.” Prior to March 2020, the subcommittee held several meetings

including one discussion with City Finance Department staff and used those conversations to craft a draft SRIPP ordinance that is responsive to the City Council's request.

The Sweatshop-Free Berkeley Policy now has a zero-dollar threshold per supplier per year for textile products purchased by the City. This threshold is an improvement over the previous minimum of \$1,000 purchase per supplier for the Policy to apply. However, the policy is complaint-driven, so the burden is on community members to research the supply chain for each supplier. The SRIPP Subcommittee proposes to establish a mechanism for suppliers to show that they are using Sweatshop Free products for City purchases.

The Policy governs textile purchases only. The goal is to identify sweat-free alternatives for technology purchases so tech can be covered as well.

The BUSD, through the School Board Policy Committee, is in the process of establishing a Sweatshop-Free Schools Policy for athletic supplies. The SRIPP Subcommittee and the Commission are supporting the BUSD to ensure the development of an effective policy.

Subcommittee on the Convention on the Rights of Persons with Disabilities

The mandate of the Peace & Justice Commission's "Subcommittee on the Convention on the Rights of Persons with Disabilities" (CRPD) expired in 2019. During its five years of operations, the Subcommittee educated broadly about the CRPD via public newsletters, public conferences, and initiatives with educators, non-governmental organizations, and legislators of the City of Berkeley, the State of California, and the U.S. Congress.





Youth Commission

INFORMATION CALENDAR

March 9, 2021

To: Honorable Mayor and Members of the City Council  
 From: Youth Commission  
 Submitted by: Samuel Kaplan-Pettus, Chairperson  
 Subject: Youth Commission Work Plan 2021

CURRENT SITUATION AND ITS EFFECTS

At a regular meeting on December 20, 2020, the Youth Commission approved the Commission's 2021 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Schlosberg/Cline/U).

Ayes: Draves; Zhou; Kaplan-Pettus; Birenbaum; Jay; Schlosberg; Abrahamson; Cline.

Noes: None

Abstain: None

Absent: Orlando; Vazquez

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public input, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Ginsi Bryant, Secretary, Children, Youth, and Recreation Commission, 981-6700

Samuel Kaplan-Pettus, Chairperson

Attachment: Youth Commission 2021 Work Plan

City of Berkeley Youth Commission Work Plan

**Mission:**

Identifies the needs of youth, reviews, and recommends youth services and programs.

| Activity                          | Resources                                                                                                                                                                                                | Outputs (What Has Happened So Far?)                                       | Next Step                                                                                       | Goal                                                                                                      | People |
|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|--------|
| Berkeley Environmental Initiative | BHS Green Team<br><br>BUSD Green Teams<br><br>BHS Zero Waste club<br><br>Sunrise<br><br>CM Taplin                                                                                                        | Letter sent to Berkeley Unified<br><br>School District Board of Directors | Gather information and draft proposals                                                          | Help the City of Berkeley and Berkeley Unified School<br><br>District reduce its impact on climate change |        |
| Sexual Harm                       | Berkeley High Stop Harassing<br><br>Title IX Officer<br><br>Berkeley High Women's Student Union<br><br>Commission on the Status of Women<br><br>Juan Raygoza<br><br>Sexual Harassment Advisory Committee | Letter sent to Berkeley Unified School District Board of Directors        | Finalize subcommittee<br><br>Hold Hearing<br><br>Look into Sexual assault support group funding | Address widespread sexual harm at Berkeley Unified Schools                                                |        |

|                                                    |                                                                    |    |                                                                                                                                                                                                                                                                                     |                                                                                              |  |
|----------------------------------------------------|--------------------------------------------------------------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|--|
| Distance learning                                  | Miles Miller                                                       | NA | Communication                                                                                                                                                                                                                                                                       | Promote successfully equitable distance learning                                             |  |
| Expanding Youth Commission Influence               | Laura Babbit<br>Ana Vasudeo<br><br>Other City Commission           | NA | Investigating other youth commissions and youth city engagement policies                                                                                                                                                                                                            | Increase the role and influence of the youth in the School District and City decision making |  |
| Racial Justice at Berkeley Unified School District | Berkeley High Black Student Union<br><br>Ethnic studies Department | NA | Discussing and Exploring: <ul style="list-style-type: none"> <li>● Professional Development (micro-aggressions)</li> <li>● Student Survey</li> <li>● Anti-racist education</li> <li>● Instagram allegations</li> <li>● The culture of Berkeley International High School</li> </ul> | Address widespread Racism at Berkeley Unified Schools                                        |  |

|                                                                      |                                                                    |    |                                                                                                               |                                                                                                                                                                                                 |  |
|----------------------------------------------------------------------|--------------------------------------------------------------------|----|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Filling Youth Commission                                             | Mr. Dopman<br>Berkeley High Administration                         | NA | Disseminate information on Youth Commission<br><br>Communicate with City Clerk to ensure a speedy appointment | Work to fill all vacancies on the Youth Commission                                                                                                                                              |  |
| Gender Neutral bathrooms                                             |                                                                    | NA | Form a Sub-Committee<br><br>Reinstate the Gender Neutral Bathroom                                             | Work to ensure that all students have a safe and appropriate bathroom                                                                                                                           |  |
| Sexual health education<br>Diversity--bodies we see- LGBTQ--         | Sexual Health Information From Teens (SHIFT) club at Berkeley High | NA | Form a Sub-committee<br><br>Explore Policy Changes<br><br>Recommend Policy Changes to School Board            | Work to improve Sexual Health Curriculum to better represent diversity in sexuality and body types, teach more about consent, include the emotional and pleasure aspects and be more inclusive. |  |
| Trigger Warning,<br>Graphic violence, and<br>derogatory slurs policy |                                                                    | NA | Form a sub-committee<br><br>Investigate current policies<br><br>Explore other policies                        | Explore a District-wide policy to address the impact of inappropriate, graphic, and derogatory content upon students learning and safety.                                                       |  |

|                           |                                           |    |                                 |                                                                                      |
|---------------------------|-------------------------------------------|----|---------------------------------|--------------------------------------------------------------------------------------|
|                           |                                           |    | Recommend Policy                |                                                                                      |
|                           |                                           |    | Changes to School               |                                                                                      |
|                           |                                           |    | Board                           |                                                                                      |
| Vision 0 and free transit | Bike east bay<br>CM Taplin Transportation | NA | Explore Youth<br>Implementation | Ensure that all students have a<br>safe way to get to school and<br>around the city. |
| Public Common             | CM Robbinson                              | NA | Explore current and             | Promote the equitable and                                                            |
| Spaces                    | Director Vasudeo                          |    | proposed city                   | social use of common                                                                 |
|                           |                                           |    | planning projects to            | spaces for young people                                                              |
|                           |                                           |    | promote the interest            |                                                                                      |
|                           |                                           |    | and accessibility of            |                                                                                      |
|                           |                                           |    | youth                           |                                                                                      |



| Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                               |                                                                                                                                                                                                                                                                   |
| March 16                                                                      | <ol style="list-style-type: none"> <li>1. Capital Improvement Plan (Parks &amp; Public Works)</li> <li>2. Digital Strategic Plan/FUND\$ Replacement/Website Update</li> <li>3. FY 2021 Mid-Year Report and the Unfunded Liabilities Report (tentative)</li> </ol> |
| May 18                                                                        | <ol style="list-style-type: none"> <li>1. Bayer Development Agreement (tentative)</li> <li>2. Affordable Housing Policy Reform (tentative)</li> </ol>                                                                                                             |
| July 20                                                                       | <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> </ol>                                                                                                                                                                                                  |

| Unscheduled Workshops                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. Berkeley Police Department Hiring Practices (referred by the Public Safety Committee)</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Update: Zero Waste Priorities</li> <li>2. Civic Arts Grantmaking Process &amp; Capital Grant Program</li> <li>3. Systems Realignment</li> </ol> |

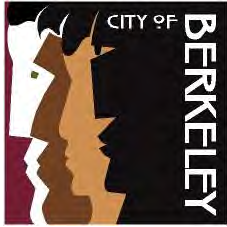
|    | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>47. Amending Chapter 19.32 of the Berkeley Municipal Code to Require Kitchen Exhaust Hood Ventilation in Residential and Condominium Units Prior to Execution of a Contract for Sale or Close of Escrow</b> <i>(Reviewed by Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee) (Referred from the January 21, 2020 agenda)</i></p> <p><b>From: Councilmember Harrison</b></p> <p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.32 to require kitchen exhaust ventilation in residential and condominium units prior to execution of a contract for sale or close of escrow.</li> <li>2. Refer to the City Manager to develop a process for informing owners and tenants of the proper use of exhaust hoods.</li> </ol> <p><b>Financial Implications:</b> See report<br/> Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140<br/> <i>Note: Referred to Agenda &amp; Rules for future scheduling.</i></p> |
| 2. | <p><b>25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers</b> <i>(Continued from February 25, 2020. Item contains revised and supplemental materials) (Referred from the May 12, 2020 agenda.)</i></p> <p><b>From: City Manager</b></p> <p><b>Recommendation:</b> Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.</p> <p><b>Financial Implications:</b> None<br/> Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000<br/> <i>Note: Referred to Agenda &amp; Rules for future scheduling.</i></p>                                                                                                                                                                                                                             |



| CITY CLERK DEPARTMENT                                                       |                      |                       |                                         |                   |
|-----------------------------------------------------------------------------|----------------------|-----------------------|-----------------------------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                       |                                         |                   |
| Address                                                                     | Board/<br>Commission | Appeal Period<br>Ends | Determination<br>on Appeal<br>Submitted | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                            |                      |                       |                                         |                   |
| 2421 Fifth St (construct two residential buildings)                         | ZAB                  | 2/24/2021             |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Public Hearings Scheduled</b>                                            |                      |                       |                                         |                   |
| 1850 Arch St (add bedrooms to multi-family residential building)            | ZAB                  |                       |                                         | 2/23/2021         |
| 1862 Arch St (add bedrooms to multi-family residential building)            | ZAB                  |                       |                                         | 2/23/2021         |
| 1200-1214 San Pablo Ave (construct mixed-use building)                      | ZAB                  |                       |                                         | 3/23/2021         |
|                                                                             |                      |                       |                                         |                   |
| <b>Remanded to ZAB or LPC</b>                                               |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
| <b>Notes</b>                                                                |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |
|                                                                             |                      |                       |                                         |                   |

2/18/2021





Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** November 10, 2020

**Item Number:** 20

**Item Description:** Annual Commission Attendance and Meeting Frequency Report

**Submitted by:** Mark Numainville, City Clerk

The attached memo responds to issues and questions raised at the October 26 Agenda & Rules Committee Meeting and the October 27 City Council Meeting regarding the ability of city boards and commissions to resume regular meeting schedules.



Office of the City Manager

November 9, 2020, 2020

To: Mayor and Council  
From: Dee Williams-Ridley, City Manager  
Subject: Commission Meetings Under COVID-19 Emergency (Item 20)

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This memo provides supplemental information for the discussion on Item 20 on the November 10, 2020 Council agenda. Below is a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration and the data collected by the City Manager on the ability of commissions to resume meetings in 2021.

On March 10, 2020 the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020 the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020 Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to

complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

In response to questions from the Agenda & Rules Committee and the Council, the City Manager polled all departments that support commissions to obtain information on their capacity to support the resumption of regular commission meetings. The information in Attachment 1 shows the information received from the departments and notes each commission's ability to resume a regular, or semi-regular, meeting schedule in 2021.

In summary, there are 24 commissions that have staff resources available to support a regular meeting schedule in 2021. Seven of these 24 commissions have been meeting regularly during the pandemic. There are five commissions that have staff resources available to support a limited meeting schedule in 2021. There are seven commissions that currently do not have staff resources available to start meeting regularly at the beginning of 2021. Some of these seven commissions will have staff resources available later in 2021 to support regular meetings. Please see Attachment 1 for the full list of commissions and their status.

With regards to commission subcommittees, there has been significant discussion regarding the ability of staff to support these meetings in a virtual environment. Under normal circumstances, the secretary's responsibilities regarding subcommittees is limited to posting the agenda and reserving the meeting space (if in a city building). With the necessity to hold the meetings in a virtual environment and be open to the public, it is likely that subcommittee meetings will require significantly more staff resources to schedule, train, manage, and support the work of subcommittees on Zoom or a similar platform. This additional demand on staff resources to support commission subcommittees is not feasible for any commission at this time.

One possible option for subcommittees is to temporarily suspend the requirement for ad hoc subcommittees of city commissions to notice their meetings and require public participation. Ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. If it is the will of the Council, staff could introduce an item to temporarily suspend these

requirements which will allow subcommittees of all commissions to meet as needed to develop recommendations that will be presented to the full commission.

The limitations on the meetings of certain commissions are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Some of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new duties specifically related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council.

Attachments:

1. List of Commissions with Meeting Status
2. Resolution 69,331-N.S.

**November 10, 2020 - Item 20  
Supplemental Information**

| <b><u>Boards and Commissions</u></b>              | <b><u>Meetings Held Under COVID March - Oct</u></b> | <b><u>Regular Mtg. Date</u></b> | <b><u>Secretary</u></b> | <b><u>Dept.</u></b> | <b><u>Resume Regular Schedule in January 2021?</u></b> | <b><u>Note</u></b>                                |
|---------------------------------------------------|-----------------------------------------------------|---------------------------------|-------------------------|---------------------|--------------------------------------------------------|---------------------------------------------------|
| Fair Campaign Practices Commission                | 9                                                   | 3rd Thur.                       | Sam Harvey              | CA                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Open Government Commission                        | 6                                                   | 3rd Thur.                       | Sam Harvey              | CA                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Animal Care Commission                            | 0                                                   | 3rd Wed.                        | Amelia Funghi           | CM                  | YES                                                    |                                                   |
| Police Review Commission                          | 10                                                  | 2nd & 4th Wed.                  | Katherine Lee           | CM                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Disaster and Fire Safety Commission               | 4                                                   | 4th Wed.                        | Keith May               | FES                 | YES                                                    |                                                   |
| Community Health Commission                       | 0                                                   | 4th Thur.                       | Roberto Terrones        | HHCS                | YES                                                    |                                                   |
| Homeless Commission                               | 0                                                   | 2nd Wed.                        | Josh Jacobs             | HHCS                | YES                                                    |                                                   |
| Homeless Services Panel of Experts                | 5                                                   | 1st Wed                         | Josh Jacobs             | HHCS                | YES                                                    |                                                   |
| Human Welfare & Community Action Commission       | 0                                                   | 3rd Wed.                        | Mary-Claire Katz        | HHCS                | YES                                                    |                                                   |
| Mental Health Commission                          | 1                                                   | 4th Thur.                       | Jamie Works-Wright      | HHCS                | YES                                                    |                                                   |
| Sugar-Sweetened Beverage Product Panel of Experts | 0                                                   | 3rd Thur.                       | Dechen Tsering          | HHCS                | YES                                                    |                                                   |
| Civic Arts Commission                             | 2                                                   | 4th Wed.                        | Jennifer Lovvorn        | OED                 | YES                                                    |                                                   |
| Elmwood BID Advisory Board                        | 1                                                   | Contact Secretary               | Kieron Slaughter        | OED                 | YES                                                    |                                                   |
| Loan Administration Board                         | 0                                                   | Contact Secretary               | Kieron Slaughter        | OED                 | YES                                                    |                                                   |
| Solano Avenue BID Advisory Board                  | 2                                                   | Contact Secretary               | Eleanor Hollander       | OED                 | YES                                                    |                                                   |
| Design Review Committee                           | 6                                                   | 3rd Thur.                       | Anne Burns              | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Energy Commission                                 | 0                                                   | 4th Wed.                        | Billi Romain            | PLD                 | YES                                                    |                                                   |
| Landmarks Preservation Commission                 | 6                                                   | 1st Thur.                       | Fatema Crane            | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Planning Commission                               | 3                                                   | 1st Wed.                        | Alene Pearson           | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Zoning Adjustments Board                          | 11                                                  | 2nd & 4th Thur.                 | Shannon Allen           | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Parks and Waterfront Commission                   | 4                                                   | 2nd Wed.                        | Roger Miller            | PRW                 | YES                                                    |                                                   |
| Commission on Disability                          | 0                                                   | 1st Wed.                        | Dominika Bednarska      | PW                  | YES                                                    |                                                   |
| Public Works Commission                           | 4                                                   | 1st Thur.                       | Joe Enke                | PW                  | YES                                                    |                                                   |
| Zero Waste Commission                             | 0                                                   | 4th Mon.                        | Heidi Obermeit          | PW                  | YES                                                    |                                                   |
| Commission on the Status of Women                 | 0                                                   | 4th Wed.                        | Shallon Allen           | CM                  | YES - LIMITED                                          | Secretary has intermittent COVID assignments      |

November 10, 2020 - Item 20  
Supplemental Information

| <u>Boards and Commissions</u>               | <u>Meetings Held Under COVID March - Oct</u> | <u>Regular Mtg. Date</u> | <u>Secretary</u>   | <u>Dept.</u> | <u>Resume Regular Schedule in January 2021?</u> | <u>Note</u>                                            |
|---------------------------------------------|----------------------------------------------|--------------------------|--------------------|--------------|-------------------------------------------------|--------------------------------------------------------|
| Commission on Aging                         | 0                                            | 3rd Wed.                 | Richard Castrillon | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Housing Advisory Commission                 | 0                                            | 1st Thur.                | Mike Uberti        | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Measure O Bond Oversight Committee          | 0                                            | 3rd Monday               | Amy Davidson       | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Transportation Commission                   | 2                                            | 3rd Thur.                | Farid Javandel     | PW           | REDUCED FREQUENCY                               | Staff assigned to COVID response                       |
| Children, Youth, and Recreation Commission  | 0                                            | 4th Monday               | Stephanie Chu      | PRW          | NO - SEPT 2021                                  | Staff assigned to COVID response                       |
| Youth Commission                            | 0                                            | 2nd Mon.                 | Ginsi Bryant       | PRW          | NO - SEPT 2021                                  | Staff assigned to COVID response                       |
| Community Environmental Advisory Commission | 0                                            | 2nd Thur.                | Viviana Garcia     | PLD          | NO - JUNE 2021                                  | Staff assigned to COVID response                       |
| Cannabis Commission                         | 0                                            | 1st Thur.                | VACANT             | PLD          | NO - JAN. 2022                                  | Staff vacancy                                          |
| Peace and Justice Commission                | 0                                            | 1st Mon.                 | VACANT             | CM           | NO                                              | Staff vacancy                                          |
| Commission on Labor                         | 0                                            | 3rd Wed., alternate mon  | Kristen Lee        | HHCS         | NO                                              | Staff assigned to COVID response                       |
| Personnel Board                             | 1                                            | 1st Mon.                 | La Tanya Bellow    | HR           | NO                                              | Staff assigned to COVID response                       |



## RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

## Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

### Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council


For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk





Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

From: *DWR* Dee Williams-Ridley, City Manager

Subject: Commission Meetings During COVID-19 Emergency

This memo serves to provide a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration.

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020, Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

To assist commissions with the development of their work plan and to provide the City Council with a consistent framework to review the work plans, the City Manager has developed the following items to consider in developing the work plan that is submitted to the City Council agenda.

Prompts for Commissions to use in work plan:

- What commission items for 2021 have a direct nexus with the COVID-19 response or are the result of a City Council referral pertaining to COVID-19?
- What commission items for 2021 are required for statutory reasons?
- What commission items for 2021 are required for budgetary or fund allocation reasons?
- What commission items for 2021 support council-adopted or voter-adopted mission critical projects or programs?
- What are the anticipated staff demands (above and beyond baseline) for analysis, data, etc., to support commission work in 2021 (baseline duties = posting agendas, creating packets, attend meetings, minutes, etc.)?

The limitations on commission meetings are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Many of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new specific duties related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager in consultation with Department Heads and the City Council. More frequent meetings by commissions will be permitted as the conditions under COVID-19 dictate.

Thank you for your service on our boards and commissions. The City values the work of our commissions and we appreciate your partnership and understanding as we address this pandemic as a resilient and vibrant community.

Attachments:

1. Resolution 69,331-N.S.
2. List of Commissions with Meeting Data

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

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Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts



Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

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The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk





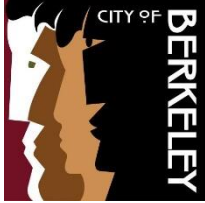
There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda Index Webpage:**

[https://www.cityofberkeley.info/Clerk/City\\_Council/City\\_Council\\_Agenda\\_Index.aspx](https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx)





Office of the City Manager

February 8, 2021

To: Agenda and Rules Committee  
 From: Dee Williams-Ridley, City Manager  
 Re: **Systems Alignment Proposal**

The purpose of this memorandum is to propose 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. 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.

### **EXECUTIVE SUMMARY**

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. 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,
- 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.

## **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 as meeting one or more of the below conditions:

- Item cannot be operationalized over time with existing resources.
- Item displaces an existing prioritized item.
- Item is not implementable with existing resources.
- Item is unable to sustain enforcement activities.
- Item is subject to legal challenge and/or pre-emption.
- Item requires additional or new full time equivalent (FTE) staff on either a temporary or permanent basis.
- Item requires additional or new infrastructure or technology costs.

The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item. 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.

Special exemptions from this process, due to exigent circumstances, will allow a Major Item to be considered on its own schedule and not subject to the required steps and deadlines in this proposed process. Consideration of exempted Major Items must include trade off considerations to address impacts and/or delays to work already approved and/or underway. Exemptions may be granted for the following:

- grant deadline requirements
- public safety issues
- declared local emergencies

A Major Item must be submitted in time to appear on an agenda of the 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. Major Items can move through the process on their own schedule provided that they meet the “no later than” deadlines.

### **Step 2: Policy Committee Review**

A Major Item, once introduced, will be referred to one of City Council’s Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.) by the Agenda and Rules Committee, for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [Council Rules of Procedure and Order](#), Section III, Subsection 4, the Policy Committee will review for completeness and alignment with

Strategic Plan goals to ensure the Major Item report adequately includes budget implications, administrative feasibility, basic legal concerns, and staff resource demands. 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 July 31 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 where appropriate, the City Attorney or designee. The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager and staff to better define the Major Item and identify more detailed fiscal and operational impacts, such as:

- Are there staff in-house with the appropriate skill set?
- Can this be absorbed by existing staff, staff time, and workload? If not, what is the estimated additional staffing need (e.g., percent FTE, average fully loaded cost for requisite classification, etc.)?
- Are the costs (staff and any other) one-time or ongoing?
- What is the tradeoff? Would the project/item(s) being "traded off" be delayed? If so, how long?
- Operationally, what services would be impacted? How?
- What are the short term impacts on services and/or staff?
- What are the longer term or domino effect impacts on services and/or staff?
- What are the benefits to the organization (e.g., products, services, and/or staff efficiencies)?
- What legal issues or risks are raised by the Major Item and Options to Mitigate?
- What risk management issues are raised by the Major Item and Options to Mitigate?

The information discussed during the Implementation Conference will be summarized in the Council Report as part of a new fiscal impacts section, revised to be more robust as a fiscal and operational impacts section.

After the Major Item's author revises the original Council Report, including fiscal and operational impacts, based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process.

Implementation Conferences must be completed no later than August 31 of each year.

#### **Step 4: Initial Prioritization**

By July 31 of each year, the City Council Policy Committees will make a recommendation to Council on prioritization of the Major Items they have reviewed. 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 at a Council meeting in October for approval and prioritization. The full City Council will make four determinations: (1) whether to approve each Major Item, (2) overall prioritization of the item, (3) assignment of fiscal year for each Major Item, and (4) identification of projects or items to remove from existing workload to accommodate new Major Items.

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 review, approval, and prioritization process no later than November 30 of each year.

#### ***Step 6: Budget & Strategic Plan Process***

During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Item priorities, 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 bi-annual. 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 below.



**Figure 1**

|                                                 |                                                          |     |                                   |
|-------------------------------------------------|----------------------------------------------------------|-----|-----------------------------------|
| <b>Agenda &amp; Rules Committee</b>             | Is this a Major Item?                                    | Yes | No. Place on full Council Agenda. |
| <b>Policy Committee</b>                         | Positive recommendation?                                 | Yes |                                   |
| <b>Implementation Conf. Vetting and Costing</b> | Completed Fiscal & Operational impacts?                  | Yes | No. Continue vetting or withdraw. |
| <b>Policy Committee Initial Prioritization</b>  | Received initial prioritization recommendation?          | Yes | No. Becomes inactive for year.    |
| <b>Full Council</b>                             | Majority approve and prioritize?                         | Yes |                                   |
| <b>Budget &amp; Strategic Plan Process</b>      | Major Items incorporated into Budget and Strategic Plan. |     |                                   |

**Next Steps**

Staff is in the process of reviewing existing referrals and projects for incorporation as Strategic Plan projects in the proposed budget based on staffing and resources (see Attachment 1). City Council may wish to review this backlog of work and consider whether any items should be deferred or cancelled, given the events of 2020, budgetary constraints, and the need to fit the work of the organization to its capacity and current Council priorities. The immediate next steps depend on the timing of systems alignment adoption. The key decision points will be

- What happens with adopted, open referrals?
- What do we do with those items Council has under consideration?

This could result in submitting open items and items under consideration to implementation conference or perhaps directly to prioritization, depending on timing and the existing budget and legislative cycles.

**Benefits**

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. The time when staff and City Council are asked to attend City Council Policy Committees and Implementation Conferences is limited to the first half of the calendar year, allowing both staff and City Council to efficiently calendar and plan accordingly. 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.

Attachment 1: Disposition of Referrals, Projects and Audits



Office of the City Manager

January 28, 2021

To: Budget and Finance Policy Committee  
From: Dee Williams-Ridley, City Manager  
Submitted by: Melissa McDonough, Senior Management Analyst  
Subject: Disposition of Referrals, Projects, and Audits – No Action Required

Staff is in the process of reviewing existing referrals and projects for incorporation as Strategic Plan projects in the proposed FY 22 budget based on staffing and resources (see Attachment). During this time of pandemic and economic constraint, the existing backlog of approximately 509 items: 249 referrals, 75 open audit recommendations, and 185 Strategic Plan projects will need to be carefully considered, alongside other important current work such as:

- Administering the COVID-19 vaccine,
- Implementing recently approved ballot measures,
- Reimagining public safety,
- Measure T1 implementation,
- Vision 2050,
- Addressing homelessness,
- Upcoming labor negotiations, and
- Continuing to address COVID-19 impacts on public health, people's housing stability and livelihood, as well as the local economy.

The attached list summarizes the disposition of open referrals, projects, and audit recommendations, including wherever possible, indication of available budget and staffing resources. The Policy Committee may wish to review this backlog of work and consider whether any items should be deferred, or cancelled, given the events of 2020, budgetary constraints, the need to fit the work of the organization to its capacity and current Council priorities, and the age of some items (e.g., the oldest referral dates to a 2011 City Council meeting).

Please see the attached document and contact me with any questions, including requests for more information regarding any particular referral(s), project(s), or audit recommendation(s).

Attachment:

Disposition of Referrals, Projects, and Audits

Disposition of Referrals, Projects and Audits

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                                                                                                                                                                                                                                      | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Percent Complete | State | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely?                                     | Required by legislative mandate? | Achievable in ~2 years?       | Have adequate staff resources for? |
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| 1   | Council and Budget Referrals - Demand | Adopt a resolution in support of the Good Food Purchasing Program's core values and join San Francisco, Oakland, Los Angeles and Chicago as one of the first five cities nationwide to become a Good Food Purchasing partner, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices. | Adopt a resolution in support of the Good Food Purchasing Program's core values and join 28 public institutions across 14 U.S. cities, including San Francisco, Oakland, Los Angeles, Chicago, and Washington, D.C. to endorse Good Food Purchasing values, and refer to the City Manager to incorporate over time the vision and standards of the Good Food Purchasing Program (GFPP) into City of Berkeley food purchasing practices.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | N/A              | Draft | City Manager's Office | N           | N         | N       | N                                                         | N                                | N                             | N                                  |
| 2   | Council and Budget Referrals - Demand | Budget Referral: Youth Listening Campaign & Citywide Master Plan                                                                                                                                                                                                                                                                                                                                          | Amended to include Youth Commission. In support of the 2020 Vision process and as part of the larger commitment of the City of Berkeley to its young people, we are proposing a planning process that centers the voices and needs of young people, their families and the people who support them day-in and day-out. The process would include: 1) A Listening Campaign that would include focus groups, surveys and one-on-one interviews to identify the experiences of, perspectives of, needs of and barriers for young people, ages 13-24, in securing and maintaining safety and well-being, achieving their goals and dreams, and having positive and supportive relationships with adults in their lives, including the schools and programs they participate in; 2) Use the results of the Listening Campaign to organize assemblies of young people, their families and the programs and providers they are connected to in order to collectively reflect on the results and identify potential services, programs, resources and policies that could respond to their needs, reduce barriers and harms and broaden what is available to support young people; and 3) Use the outcomes from the assembly process and Listening Campaign to partner with city staff in creating a Youth Master Plan. | N/A              | Draft | City Manager's Office | Y           | N         | N       | Pursuing grant funding for a similar initiative (Prop 64) | N                                | Y (if grant funding acquired) | Y (if grant funding acquired)      |

Note: All referrals are entered into the database as a "Demand" draft. If it is a short term referral, it is immediately converted into a "Project". For long term referrals, typically, once work has begun, they are converted from Demands to Projects.

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Percent Complete | State | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years?     | Have adequate staff resources for? |
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| 3   | Council and Budget Referrals - Demand | Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews - Item A | 1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following concepts with respect to the declaration of a Local Emergency:<br>a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;<br>b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), the City Manager should inform councilmembers immediately and Council ratification of such action should occur at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and<br>c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency is in the best interests of the City. | N/A              | Draft | City Manager's Office | N           | N         | Y       | N                     | N                                | Y (part of post-COVID work) | N                                  |
| 4   | Council and Budget Referrals - Demand | Construct Additional Taxi Stands and Relocate One Stand Within the City                                                                                | That the Council refer to the City Manager the construction of seven taxi stands in total and the relocation of one stand in the City to improve accessibility for pedestrians, create visibility, and increase profits for taxi drivers. These taxi stands should be constructed at the following sites: Two stands at Hotel Shattuck; Two stands at the Doubletree Hotel; Two stands at Telegraph & Bancroft or Durant & Telegraph; and One stand at Bancroft Hotel. In addition, the Ashby BART taxi stand shall be relocated closer to the station entrance on MLK Jr. Way.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | N/A              | Draft | City Manager's Office | N           | N         | N       | N                     | N                                | N                           | N                                  |
| 5   | Council and Budget Referrals - Demand | Create and Implement Additional Sensitivity Training Options for Taxi Drivers                                                                          | That the Council refer to the City Manager the creation and implementation of one of the following two additional options for sensitivity trainings to allow for more accessibility for new and continuous taxi drivers. Firstly, an online sensitivity training course should be created and implemented in the City's current taxi checklist. Secondly, there should be a designated sensitivity training site readily accessible within the City.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | N/A              | Draft | City Manager's Office | N           | N         | N       | N                     | N                                | N                           | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Percent Complete | State | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 6   | Council and Budget Referrals - Demand | Freedom from Domestic Violence as a Human Right Resolution                                                                                                                          | Adopt the Freedom from Domestic Violence as a Human Right Resolution. City Manager shall prepare a report within the next six (6) months on the policy and practice of City departments on domestic violence, including but not limited to, the Berkeley Police, the Berkeley Fire Department, and Health, Housing & Community Services, with respect to the status of domestic violence and the City's work to overcome domestic violence and support survivors. BE IT FURTHER RESOLVED that City departments shall work to incorporate this Resolution into their work.                                                                                                                                                                                                                                                                                                               | N/A              | Draft | City Manager's Office | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 7   | Council and Budget Referrals - Demand | Personal Delivery Service Franchise Agreements                                                                                                                                      | Referral to the City Manager's Office to develop a program that would enable the City to consider franchise applications for personal delivery service companies involving personal delivery devices.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | N/A              | Draft | City Manager's Office | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 8   | Council and Budget Referrals - Demand | Referral to City Manager to address the conversion of Not Available To Rent rental units to unregistered short term rentals and unregistered medium term rentals from 15 to 30 days | Referral to City Manager to address the apparent conversion of Not Available To Rent rental units to unregistered Short Term Rentals and unregistered medium term rentals from 15 to 30 days. Refer to Planning Permit Service Center, Code Enforcement, Finance Department, Rent Stabilization Board, and Host Compliance, to comprehensively review whether units that are not available for rent (NAR) are compliant with Rent Board Regulations, and short-term rental (STR) regulations.                                                                                                                                                                                                                                                                                                                                                                                           | N/A              | Draft | City Manager's Office | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 9   | Council and Budget Referrals - Demand | Referral to the Community Environmental Advisory Commission: Cigarette Butt Pollution Prevention Program in South Berkeley                                                          | Refer to the Community Environmental Commission (CEAC) AND THE CITY MANAGER to consider developing a Cigarette Butt Pollution Prevention Program for South Berkeley. Explore the following items: a) Location. Work with the local business associations, business owners, as well as other neighborhood and community organizations to identify key locations for cigarette butt receptacles. b) Operation. Work with local businesses to develop a system for cleanup and disposal of the contents of the receptacles. c) Cost. Identify any one-time costs associated with the program, including purchasing and installation of the receptacles. Identify any costs that should be set aside for maintenance. There should not be regular ongoing costs. CEAC should work with the businesses and neighborhoods to develop a community-based system to facilitate daily operations. | N/A              | Draft | City Manager's Office | Y           | N         | N       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Percent Complete | State | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely?  | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 10  | Council and Budget Referrals - Demand | Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz                                           | That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project. AAHRC Steering Committee to be consulted during implementation.                                                                                                                                                                                                                                                                         | N/A              | Draft | City Manager's Office | N           | Y         | Partial | Pursuing grant funding | N                                | N                       | N                                  |
| 11  | Council and Budget Referrals - Demand | Urgent Item: Create an Interjurisdictional Group Violence Intervention Program "GVI," or "Operation Ceasefire," to Reduce Gun Violence | Refer to the Community Engagement Process for Reimagining Public Safety creation of a Group Violence Intervention Program (GVI), or "Operation Ceasefire," that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | N/A              | Draft | City Manager's Office | N           | Y         | Y       | N                      | N                                | Y                       | Y                                  |
| 12  | Council and Budget Referrals - Demand | City Manager Referral to Update City's Municipal Code To Increase Competitiveness of Taxi Industry                                     | That the Council refer to the City Manager to update the City's municipal code sections 9.52.020, 9.52.070, 9.04.020, and 9.04.035 to reflect the following items, in order to increase the competitiveness of our local taxi industry: 3. Allow the annual vehicle inspection to be conducted by either a city employee or an ASI-certified mechanic.; 4. Construct a general policy that would allow taxi stands to operate near newly constructed and existing hotels in the city of Berkeley.; 5. Move the Ashby BART Taxi Stand outside of the BART station to neighboring M.L.K. Jr. Way, in order to increase visibility for taxis.; 6. Extend the exemption of the Low Emission Requirements for vans to taxis due to the unavailability of similarly sized hybrid vehicles.; 7. Extend the validity period of taxi driver ID permits to three years, replacing the current policy of yearly renewals. In addition, all existing permits to January 1, 2018 should perform a net renewal on January 1, 2021.; 8. Waive insurance payments for taxi drivers who must take a leave of absence in case of emergency.; 9. Evaluate the Taxi Driver Association's proposal that the city of Berkeley should change the entire renewal process, including renewal of both physical and mechanical inspections, business licenses, and taxi driver IDs, from one year to three years. | N/A              | Draft | City Manager's Office | N           | N         | N       | N                      | N                                | N                       | N                                  |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Percent Complete | State    | Lead City Department                                                                | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 13  | Council and Budget Referrals - Demand | Use of Gender Neutral Language in City Documents                                                        | Refer to the City Manager to: 1. Develop and return to Council with a procedural and financial plan to modify all appropriate City forms to include an optional field for personal gender pronouns (she/her, he/him, they/them, and space to specify other). 2. Develop and return to Council with a procedural and financial plan to revise the Berkeley Municipal Code to replace all instances of gendered pronouns with the singular "they," and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.                                                                                                                            | N/A              | Draft    | City Manager's Office                                                               | N           | N            | N            | N                     | N                                | N                       | N                                  |
| 14  | Council and Budget Referrals - Demand | Companion Report: Ban on Receipts Made with Bisphenol A (BPA) and Other Phenols                         | Take no action on the Community Health Commission recommendation to adopt an ordinance to ban the use of thermal paper by 2020 and instead implement a community education effort about methods for reducing exposure to BPA-treated thermal paper. Approved the recommendation with the amendment requesting that staff conduct a survey to determine how many businesses are using receipts with BPA.                                                                                                                                                                                                                                                                                                                                                                                                                       | N/A              | Draft    | City Manager's Office/Health, Housing & Community Services                          | N           | N            | N            | N                     | N                                | Data Pending            | Data Pending                       |
| 15  | Council and Budget Referrals - Demand | Revitalization of the Civic Center Park Fountain                                                        | Refer to the City Manager to work with the Turtle Island Fountain Project in developing a plan to revitalize the fountain at Martin Luther King Jr. Civic Center Park and consider this referral as part of the Civic Center Park visioning RFP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | N/A              | Draft    | City Manager's Office/Office of Economic Development/Parks, Recreation & Waterfront | N           | Y            | Partial      | N                     | N                                | Y                       | Y                                  |
| 16  | Council and Budget Referrals - Demand | Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106                    | 1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance and;<br>2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process. | N/A              | Draft    | City Manager's Office/Rent Board/Health, Housing & Community Services               | N           | Y            | N            | N                     | N                                | Y                       | N                                  |
| 17  | Council and Budget Referrals - Demand | 6. City Manager Referral: Standardize Finance Categories of Software and Exclusively Internet Companies | Refer to the City Manager creating one simple clear standard for categorizing software companies and exclusively internet companies that do business in Berkeley                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | N/A              | Approved | Finance                                                                             | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 18  | Council and Budget Referrals - Demand | Ban-the-Box for Employers Doing Business with the City of Berkeley                                      | Request that the City Manager draft language requiring businesses doing business with the City of Berkeley to eliminate disclosure of conviction history prior to receiving a conditional offer of employment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | N/A              | Approved | Finance                                                                             | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

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Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Percent Complete | State     | Lead City Department      | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 19  | Council and Budget Referrals - Demand | City Manager Referral: Improvements to Berkeley's Very Low Income Tax Relief Refund Program | Refer to the City Manager to make improvements to Berkeley's Very Low Income Refund Program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | N/A              | Approved  | Finance                   | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 20  | Council and Budget Referrals - Demand | Comprehensive Investment Policy based on ESG Principles                                     | Refer to the City Manager to consider the integration of ESG (environmental, social and governance) principles into the current City of Berkeley Investment Policy framework and return to Council with a recommendation.                                                                                                                                                                                                                                                                                                                                                                              | N/A              | Approved  | Finance                   | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 21  | Council and Budget Referrals - Demand | Referral Response: Gender Pay Equity                                                        | 1. Direct staff to draft an ordinance related to an equal pay vendor preference for city contractors who demonstrate equal pay for male and female employees (gender based on self-identification)<br>3. Develop an equal pay certification program for city contractors.                                                                                                                                                                                                                                                                                                                              | N/A              | Draft     | Finance                   | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 22  | Council and Budget Referrals - Demand | Socially Responsible Banking Services for the City of Berkeley                              | Request that the City Manager initiate a process for proposals from providers of banking services that uses criteria articulated in the 2013 process, but adds and emphasizes criteria related to ethical business practices. Ask for an extension of the existing contract with Wells Fargo should additional time be needed. Also, include consideration of provisions of a socially responsible banking policy such as elements of social and environmental justice, requirement for a code of fair treatment, low pay inequity between executives and rank and file, and support for human rights. | N/A              | Approved  | Finance                   | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 23  | Council and Budget Referrals - Demand | City Manager Referral to Improve Fire Safety Standards for Rebuilt Fire-Damaged Structures  | Refer to the City Manager to require repair and replacement of fire damaged buildings to be brought up to current fire safety standards.                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Submitted | Fire & Emergency Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Percent Complete | State | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 24  | Council and Budget Referrals - Demand | Companion Report: Smoke-Free Multi-Unit Housing Ordinance Policy and Enforcement Modifications                                      | On September 29, 2020, the Health, Life Enrichment, Equity & Community Committee made a qualified positive recommendation to send the item to Council including the following referrals: 1. Refer to staff to explore expanding the Ordinance to buildings with one unit; 2. Refer to staff to explore and consider improvements in the interface between the residential and commercial non-smoking Ordinances in mixed-use buildings; 3. Refer to staff to create a web-based complaint filing mechanism/service; 4. Refer to staff to create special protocols for chronic situations and to consider including requirements for better air filtration and purification as well as other measures to effectively manage chronic cases; 5. Refer to staff to study the infraction and enforcement mechanisms and determine if they have any benefits and to consider other potential enforcement end points; 6. Refer to staff to look for opportunities for bias in enforcement and mechanisms to better guard against bias while still allowing for maximum action to resolve legitimate complaints; 7. Refer to staff to propose funding sources for enforcement; 8. Refer to staff to collect demographic data around complaints and targets of complaints (as much as possible); and 9. To return to Council with Ordinance amendments to accomplish the following: (a) amend or remove the 10-day language element (b) modify or remove the 2-complainant rule if warranted (c) adjust for the medical cannabis state law changes, (d) propose any and all other improvements beneficial to the Ordinance. | N/A              | Draft | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 25  | Council and Budget Referrals - Demand | Companion Report: The SSBPPE Commission's Proposed Policy to Refrain from Procuring, Selling, and Serving Sugar-Sweetened Beverages | Refer both Item 26a and 26b to the City Manager and request that the City Manager draft an ordinance for consideration by the City Council. Original Comm Recommendation: "...adopt an Ordinance amending the Administrative Code to direct the City of Berkeley departments and City food services contractors to refrain 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."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | N/A              | Draft | Health, Housing & Community Services | N           | Y            | N            | N                     | N                                | Y                       | N                                  |
| 26  | Council and Budget Referrals - Demand | Developing a Mechanism to Facilitate an Improved Homeless Point-In-Time Count                                                       | The Homeless Commission recommends to Council that Council refer to staff to assign an intern or seek a volunteer affiliation, through an educational institution, to conduct outreach to, and engage with, community stakeholders including homeless advocates and persons who are experiencing or have experienced homelessness, to identify how homeless persons can be more thoroughly counted during the upcoming 2021 Berkeley Homeless Point-In-Time count.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Draft | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                                                                                                                              | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Percent Complete | State | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 27  | Council and Budget Referrals - Demand | Development of the West Berkeley Service Center, 1900 6th Street, for Senior Housing with Supportive Services [Part c]                                                                                                                                                                            | <p>State the intent of the City Council that the West Berkeley Service Center property, 1900 6th Street, will be used for senior housing with on-site services consistent with Age Friendly Berkeley Plan recommendations, maximizing the number of affordable units.</p> <p>The Berkeley Way Project, 2012 Berkeley Way, is the City's top affordable housing priority. The West Berkeley Service Center, as a City-owned property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to initiate the process of developing senior housing at the West Berkeley Service Center:</p> <p>c. Based on recommendations from the Health, Housing and Community Services Department, the Housing Advisory Commission, Measure O Bond Oversight Committee, Commission on Aging, and taking into consideration requirements and restrictions associated with potential funding sources, create recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in a senior housing and social services development, including senior living housing types. These recommendations will be presented to the City Council to inform the issuance of an RFP.</p> | N/A              | Draft | Health, Housing & Community Services | N           | N            | N            | N                     | N                                | N                       | N                                  |
| 28  | Council and Budget Referrals - Demand | Home Share Pilot Program Recommendation                                                                                                                                                                                                                                                           | Item 26a moved to the Consent Calendar to refer to the City Manager the possibility of working within existing similar programs such as Safe Home and Ashby Village.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | N/A              | Draft | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 29  | Council and Budget Referrals - Demand | Referral to the City Manager and the Housing Commission to Consider Creating a Dedicated Revenue Stream from Campus Area Projects to Fund Housing for Homeless and Extremely Low Income Students, and Drafting a Letter Encouraging Exploration of University Funding streams for student housing | Refer to the City Manager and Housing Commission to consider in partnership with the proposed density bonus in the campus area and other policies directed at increasing student housing, creating a dedicated revenue stream to fund housing for homeless and extremely low income students using methods of identifying eligible students based on one or more of the following criteria: EOP, FAFSA, Pell Grant, Work Study qualified, family income or other verifiable status as well as similar categories applicable to graduate students.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Draft | Health, Housing & Community Services | Y           | N            | N            | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                               | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 30  | Council and Budget Referrals - Demand | Budget Referral: Transportation to Support Mobility-Impaired Individuals Experiencing Homelessness who are Engaged in Rehousing and other Services | "Refer to the budget process to allocate funds to provide transportation for mobility-impaired individuals experiencing homelessness who are engaged with rehousing and other services through the STAIR Center, The Hub, or other City of Berkeley-funded homeless services. Refer to staff to determine needs and establish the best method for providing transit services to mobility-impaired individuals, and to also consider potential transit needs of other individuals engaged with rehousing and homeless services. For the mobility-impaired, options include, but are not limited to, helping one or more service providers to purchase or lease wheelchair-accessible vehicle(s), or to repair or retrofit currently owned vehicle(s), providing additional vouchers for existing Paratransit services, providing additional taxi scripts (as recommended by the Homeless Commission), or contracting with a suitable transportation service. Also consider making mobility services and transportation available during enforcement activities, both for people and belongings. Consistent with the Americans with Disabilities Act (ADA), vehicles purchased, leased, or otherwise procured for the mobility-impaired should include the option of/access to a boarding device (e.g. lift or ramp) so that a passenger who uses a wheelchair or mobility device can reach a securement location onboard." | N/A              | Draft | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 31  | Council and Budget Referrals - Demand | Paid Family Leave Policy in Berkeley to Supplement California Paid Family Leave Program                                                            | That the City Council adopt this policy and refer to the City Manager and City Attorney to amend the proposed ordinance based on the recommendations of the Paid Family Leave (PFL) Subcommittee and to conform to legal and code consistency requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Draft | Human Resources                      | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Percent Complete | State    | Lead City Department           | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 32  | Council and Budget Referrals - Demand | Whistleblower Ordinance - Revised materials (Supp 2)                                                                                                                   | The purpose of this proposal is to protect the whistleblowers from many forms of retaliation, including but not limited to discrimination, harassment, intimidation, alienation, and in some cases even termination. The following recommended actions can be considered to comply with the aforementioned purpose:<br>1. Adopt the attached ordinance that provides legal safeguards which protect whistleblowers from retaliation.<br>2.a. Assign the responsibilities to a current city department to accept and investigate such reports/complaints from whistleblowers within the existing resources.<br>Or<br>b. Create a separate unit within the department or establish a contract with an independent contractor to be managed by the city department to accept and investigate such reports/complaints from current employees and the public.<br>Or<br>c. Establish a contract with an independent contractor to provide a "hotline" that would then turn the complaint over to the city unit for further investigation. | N/A              | Approved | Human Resources                | N           | Y         | N       | N                     | Y                                | Y                       | N                                  |
| 33  | Council and Budget Referrals - Demand | Referral to the City Manager to consider the videotaping of Planning Commission meetings                                                                               | That the City Council refer to the City Manager to consider ways of videotaping the Planning Commission meetings in the same manner as Zoning Adjustment Board meetings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | N/A              | Draft    | Information Technology         | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 34  | Council and Budget Referrals - Demand | City Manager Referral: Consider Mitigations for Minimum Wage Increases to Support Small Businesses and Non-Profits by Addressing Parking, Permit and High Rents Issues | Refer to the City Manager to consider mitigations for minimum wage increases to support small businesses and non-profits by attempting to address parking and permits. Request that the Office of Economic Development report on other methods to mitigate the impacts of minimum wage increases on small businesses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Approved | Office of Economic Development | N           | N         | N       | N                     | N                                | Data Pending            | Data Pending                       |
| 35  | Council and Budget Referrals - Demand | Solano Avenue Economic Development Study                                                                                                                               | Refer to the City Manager to undertake a comprehensive study of the Solano Avenue Commercial District, to provide baseline information for future strategic planning and business development and initiatives that will result in increased tax revenues for the City of Berkeley, and to report to the Council on a priority basis, at an upcoming worksession.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft    | Office of Economic Development | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 36  | Council and Budget Referrals - Demand | Vitality of University Avenue                                                                                                                                          | Refer to the City Manager and Economic Development to analyze storefront vacancies on University Avenue and make recommendations on how to create a more vibrant streetscape on our main boulevard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Draft    | Office of Economic Development | N           | N         | N       | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

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| 37  | Council and Budget Referrals - Demand | Budget Referral: Increasing Safety at San Pablo Park                                                                        | 3. Re-initiate classes for daycare providers who use San Pablo Park out of the Frances Albrier Community Center: Historically, the City provided a variety of classes on safety and recreation for daycare providers who use San Pablo Park. This referral includes re-establishing a series of courses that daycare providers find useful based on gathering their input. One such course requested was sheltering in place in the situation of an active shooter.                                                                                                                                                                                                                                                     | N/A              | Draft    | Parks, Recreation & N Waterfront |             | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 38  | Council and Budget Referrals - Demand | Consider Fire Safety Options for Fire Pit at Codornices Park                                                                | Referral to the Parks & Waterfront Commission to consider safety options regarding the future of the fire pit at Codornices Park. Please consider 1) Complete removal of fire pit or 2) Manufacture of a cover that can be secured and locked.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | N/A              | Approved | Parks, Recreation & Y Waterfront |             | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 39  | Council and Budget Referrals - Demand | Evaluation of Possible Ban on New Planting of Certain Tree Species                                                          | Take action to either: a) Direct the City Manager to proceed with Option 1, and continue the City's current practice regarding tree plantings on City property, which currently do not include Eucalyptus, and Monterey Pine (except at the Marina).-OR- b) Adopt a Resolution as described in Option 2 that would ban the new planting of certain tree species on City property. -OR-c) Direct the City Manager to develop an ordinance for Council adoption that bans the new planting of certain tree species on both public and private property, and includes enforcement mechanisms.                                                                                                                              | N/A              | Approved | Parks, Recreation & N Waterfront |             | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 40  | Council and Budget Referrals - Demand | Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley             | 1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information.<br>2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments. | N/A              | Draft    | Parks, Recreation & Y Waterfront |             | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 41  | Council and Budget Referrals - Demand | Refer the City Manager to Improve the Current Tree Ordinance and Seek Funding Opportunities to Plant More Trees in the City | That the Council refer the City Manager to improve the current tree ordinance to protect more trees, develop policy on street tree/hardscape conflicts, encourage more community initiative and participation in the maintenance and care of our street trees and seek potential funding opportunities to plant more trees in Berkeley and funds to maintain new and existing trees on public property.                                                                                                                                                                                                                                                                                                                 | N/A              | Draft    | Parks, Recreation & N Waterfront |             | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
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| 42  | Council and Budget Referrals - Demand | 2-Lane Option on Adeline St. between MLK Way and Ward St.                           | Refer to the City Manager to analyze the potential for a major redesign of the section of Adeline St. between MLK Way and Ward St., to improve the public space to increase safety for pedestrians, cyclists, and people living with disabilities, while also meeting the needs of public transit and emergency vehicles and to also consider potential use of portions of the redesign area for use as a shared community plaza. The analysis should prioritize a 2-lane option that reduces the width of the street and creates many benefits for our community and include exploration of demonstration projects for study. Specific project designs should be reviewed by the Transportation Commission. Refer \$250,000 to the budget process to fund this important project. | N/A              | Draft | Planning             | N                            | N         | Y       | Y                     | N                                | Y                       | Y                                  |
| 43  | Council and Budget Referrals - Demand | Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals                    | 1. Refer to the City Manager to come up with a program to clarify existing short term rental regulations in areas that have proven confusing to hosts, guests and tenants.<br>2. Refer ordinance considering Short Term Rental regulations including host platform responsibilities and possible remedies for violating the ordinance simultaneously to the Land Use, Housing and Economic Development Committee and the Planning Commission.                                                                                                                                                                                                                                                                                                                                      | N/A              | Draft | Planning             | Y                            | N         | N       | N                     | N                                | Y                       | N                                  |
| 44  | Council and Budget Referrals - Demand | Berkeley Electric Mobility Roadmap - Electric Mobility Implementation Working Group | Adopt a Resolution approving the Berkeley Electric Mobility Roadmap and refer to the City Manager to form an Electric Mobility Implementation Working Group, including community stakeholders, relevant commissions, to prioritize, support, and track implementation of the other actions of this plan, including identification of funding sources for implementation.                                                                                                                                                                                                                                                                                                                                                                                                           | 10.00            | Draft | Planning             | N                            | Y         | N       | N                     | N                                | Y                       | N                                  |
| 45  | Council and Budget Referrals - Demand | Berkeley Opportunity Zone Displacement Mitigation Zoning Overlay                    | Direct the City Manager and refer to the Planning Commission to create one or several zoning overlays, and/or recommend any mechanism, which protects Berkeley residents living in one or all of Berkeley's Federal Opportunity Zones from gentrification and displacement. Overlays and/or recommendations may also confer community benefits, including but not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities.                                                                                                                                                                                                                                | N/A              | Draft | Planning             | Involves Planning Commission | N         | N       | N                     | N                                | N                       | N                                  |
| 46  | Council and Budget Referrals - Demand | Bird Safe Berkeley Requirements                                                     | Refer to the Planning Commission and the City Manager to consider the attached ordinance amending Berkeley Municipal Code Title 23C, adding a new Chapter 23C.27 establishing bird safety requirements for new construction and significant renovations and a new Chapter 23C.28 establishing a dark skies ordinance, for review and approval.                                                                                                                                                                                                                                                                                                                                                                                                                                     | N/A              | Draft | Planning             | Involves Planning Commission | N         | N       | N                     | N                                | Y                       | Y                                  |



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| 47  | Council and Budget Referrals - Demand | City Manager and Planning Commission Referral: Facilitate Primarily Student Housing by a Twenty Feet Height Increase and Adjust Floor Area Ratio in the R-SMU, R-S and R-3 Areas Only From Dwight to Bancroft and From College to Fulton | Refer to the City Manager and Planning Commission to facilitate primarily Student Housing by amending the Zoning Ordinance to add a twenty feet height increase and adjust Floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft and from College to Fulton.                                                                                                                                                                                                 | 50.00            | Approved | Planning             | Y                            | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 48  | Council and Budget Referrals - Demand | City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance                            | Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft - COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL                                                                                                             | 50.00            | Approved | Planning             | Y                            | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 49  | Council and Budget Referrals - Demand | Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee                                                                                                                       | Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.                                                                                                                                                                                                                                                               | N/A              | Draft    | Planning             | Involves Planning Commission | Y            | Y            | N                     | N                                | Y                       | N                                  |
| 50  | Council and Budget Referrals - Demand | Creating Additional Administrative Powers of Zoning Officer to Grant or Recommend New Permits as Related to Code Enforcement                                                                                                             | Refer to the City Manager and Berkeley Planning Commission to explore the creation of a mechanism that would explicitly allow staff new discretionary powers to prevent applicants from being granted new residential permits until they have abated outstanding noncompliance issues or code violations in other buildings they own in Berkeley within a reasonable time frame or taken good faith measures to commence doing so.                                                   | N/A              | Draft    | Planning             | N                            | N            | N            | N                     | N                                | Y                       | N                                  |
| 51  | Council and Budget Referrals - Demand | Creating Additional Administrative Powers of Zoning Officer to Grant or Recommend New Permits as Related to Code Enforcement DMND0002545                                                                                                 | Refer to the City Manager and Berkeley Planning Commission to explore the creation of a mechanism that would explicitly allow staff new discretionary powers to prevent applicants from being granted new residential permits until they have abated outstanding noncompliance issues or code violations in other buildings they own in Berkeley within a reasonable time frame or taken good faith measures to commence doing so.                                                   | N/A              | Draft    | Planning             | Y                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 52  | Council and Budget Referrals - Demand | Customer Service Improvements to Land Use Permit Process                                                                                                                                                                                 | Direct staff to make structural improvements to the Zoning Ordinance, communication improvements to better explain complex technical and procedural elements to the public, and organizational improvements to the Land Use Planning Division; and authorize the issuance of a request for proposals (RFP) for the selection of consultants to make structural improvements to the Zoning Ordinance and develop graphic communication elements in an amount not to exceed \$300,000. | N/A              | Approved | Planning             | N                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

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Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Percent Complete | State    | Lead City Department | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 53  | Council and Budget Referrals - Demand | Development of the West Berkeley Service Center, 1900 6th Street, for Senior Housing with Supportive Services. [Parts a and b]                                                                                                                                  | State the intent of the City Council that the West Berkeley Service Center property, 1900 6th Street, will be used for senior housing with on-site services consistent with Age Friendly Berkeley Plan recommendations, maximizing the number of affordable units.<br>The Berkeley Way Project, 2012 Berkeley Way, is the City's top affordable housing priority. The West Berkeley Service Center, as a City-owned property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to initiate the process of developing senior housing at the West Berkeley Service Center:<br>a. Refer to the City Manager to conduct a basic analysis of the development potential for the West Berkeley Service Center site including build-out scenarios for a three-, four-, five-, six- and seven-story building at the site, using Mixed-Use Residential (MUR), West Berkeley Commercial (C-W), and Multiple-Family Residential (R-3) Development Standards. Each buildout scenario should reflect base project conditions, and conditions if a Density Bonus is granted including waivers and concessions, or if Use Permits are used to modify standards. The scenarios should also incorporate space on the ground floor for resident amenities, supportive social services, and community space. The results of the development scenarios will be presented to the City Council and Planning Commission. | N/A              | Draft    | Planning             | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 54  | Council and Budget Referrals - Demand | Direct the City Manager to Draft an Ordinance to Waive Certain Fees for Berkeley Housing Trust Fund Projects and Send a Letter to BUSD Board of Education Requesting Consideration of a Waiver of School Facility Fees for Berkeley Housing Trust Fund Projects | 1. Direct the City Manager to draft an ordinance establishing automatic waiver of certain administrative, permit, impact and other fees for projects receiving City of Berkeley Housing Trust Fund (HTF) monies and submit a draft within 90 days for Council approval. Fee waivers shall apply to all HTF projects that have not yet been issued a building permit, and should include, but not be limited to:<br>a. Waiver of internal, staff-time-related permit, inspection, and other fees; and c. Notwithstanding the above, fees to cover City "out of pocket" costs, fees passed-through to other agencies, and fees necessitated by CEQA should not be waived.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | N/A              | Approved | Planning             | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 55  | Council and Budget Referrals - Demand | Enable Internal Renovation of a Residence That Does Not Increase the Footprint As an AUP if the Building is an Historic Non-Conforming Use in the Percent of Lot Coverage                                                                                       | Refer to the Planning Commission to enable an AUP for the renovation of an existing residence, rather than a Use Permit, in the following circumstances: 1. The renovation does not increase the percentage of lot coverage; 2. The residence is an pre-existing non-conforming use in the percentage of lot coverage; 3. The renovation does not appear to create an intensification of use; 4. No change to the building envelope.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | N/A              | Draft    | Planning             | Y           | N         | N       | N                     | N                                | Y                       | N                                  |

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Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                                                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Percent Complete | State    | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 56  | Council and Budget Referrals - Demand | Encouraging Long-Term Tenant Stability                                                                                                                                                                                                | Facilitate the ability of long-term tenants to purchase their residence by referring to the City Manager to amend BMC 21.28.080 as it pertains to the Affordable Housing Mitigation fee as follows: If the property contains 4 units or fewer, the affordable housing mitigation fee for a unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date of conversion or sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | N/A              | Draft    | Planning             | N           | N            | N            | N                     | N                                | N                       | N                                  |
| 57  | Council and Budget Referrals - Demand | Fossil Fuel Free Berkeley                                                                                                                                                                                                             | Refer to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider: <ul style="list-style-type: none"> <li>Establishing a date by which we are committed to being a Fossil Fuel Free City.</li> <li>Opposing further transportation of oil, gas, and coal.</li> <li>Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations.</li> <li>Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles</li> <li>Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.</li> <li>Formally opposing the recent expansion of offshore drilling by the Trump Administration.</li> <li>Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.</li> </ul> | N/A              | Approved | Planning             | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 58  | Council and Budget Referrals - Demand | Item E - Short-Term Referral to the Planning Commission and Design Review Committee to Research and Draft an Urban Forestry Ordinance Requiring Tree Planting Upon Completion of New Residential Construction and Certain Alterations | Six-month referral to the Planning Commission to research and draft an Urban Forestry Ordinance requiring tree planting upon completion of new construction, excluding single-family homes and ADUs, as well as construction in High Hazard Fire Zones. The Planning Commission should consider the following: <ul style="list-style-type: none"> <li>Appropriate tree planting requirements for new construction, with the goal of increasing the tree canopy in Berkeley.</li> <li>Appropriate species requirements.</li> <li>Establishing a Tree Planting Fund to support increased tree planting throughout Berkeley.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | N/A              | Draft    | Planning             | N           | N            | N            | N                     | N                                | N                       | N                                  |

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| 59  | Council and Budget Referrals - Demand | Missing Middle Housing Report                                                                                                                                                                                   | Refer to the City Manager to prepare a report to the Council of examining methods, including potential revisions to the zoning code, that may foster a broader range housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services. Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, and community outreach and engagement. Council requests that staff initiate this work as soon as possible. | N/A              | Draft | Planning             | N                            | N         | Deferred | N                     | N                                | Y                       | N                                  |
| 60  | Council and Budget Referrals - Demand | Mitigating Impacts of Outdoor Air Quality on Indoor Air Quality in Berkeley                                                                                                                                     | Refer the item to the Planning Commission to consider the analyses presented here, and the draft provided in Appendix II, to create new Standard Conditions of Approval (SCA) for new building construction near major sources of air pollution, to achieve an acceptable level of indoor air quality (IAQ) for sensitive receptors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | N/A              | Draft | Planning             | N                            | N         | N        | N                     | N                                | N                       | N                                  |
| 61  | Council and Budget Referrals - Demand | Rectify Discrepancy Regarding Inclusionary Units in Live/Work Housing                                                                                                                                           | Refer amendments to the Berkeley Municipal code (Sections 23C.12 and 23E.20.080) to rectify discrepancies over how Live/Work Unit inclusionary requirements are governed, both for rental and owner occupied units, to the Planning Commission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 50.00            | Draft | Planning             | Involves Planning Commission | Y         | Y        | N                     | N                                | Y                       | N                                  |
| 62  | Council and Budget Referrals - Demand | Refer the Civic Arts Commission's recommended language to the Planning Commission on protecting Live Work spaces from conversion to cannabis uses.                                                              | Refer the Civic Arts Commission's recommended language to the Planning Commission on protecting Live Work spaces from conversion to cannabis uses. This action was adopted as part of the Cannabis Ordinance amendments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Draft | Planning             | Y                            | N         | N        | N                     | N                                | Y                       | N                                  |
| 63  | Council and Budget Referrals - Demand | Refer to the City Manager the design of a companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements to low-income residents                                      | Refer to the City Manager the design of a Companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements for low income residents                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 10.00            | Draft | Planning             | N                            | Y         | N        | Y                     | N                                | N                       | Y                                  |
| 64  | Council and Budget Referrals - Demand | Refer to the City Manager to add a condition to Zoning Board Approved permits to bring attention to the Pay Transparency policy to project applicants, and consider these Pay Transparency Ordinance amendments | That the Council refer to the City Manager to add a condition to Zoning Board Approved permits in order to bring attention to the Pay Transparency policy to project applicants, and consideration of amendments to the Pay Transparency Ordinance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft | Planning             | N                            | N         | N        | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                                                                                                                                                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Percent Complete | State    | Lead City Department | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 65  | Council and Budget Referrals - Demand | Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation | 1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3) Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4) The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted. | 50.00            | Approved | Planning             | Y           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 66  | Council and Budget Referrals - Demand | Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans                                                                                    | Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a "right to return" for Berkeley's People of Color including the African American communities who have been displaced by these economic and social developments, especially those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley citizens of color and African Americans. Hold public workshops on the subject.                                                                                                                                                                                                                                                                                                                                       | 10.00            | Draft    | Planning             | Y           | Y         | N       | N                     | N                                | N                       | N                                  |
| 67  | Council and Budget Referrals - Demand | Referral Response: Expanding community engagement within work to address Climate Impacts                                                                                                                                                                                               | Refer to the City Manager to continually advance engagement around community-driven, equitable climate solutions, and to seek external resources to enable increased community engagement of impacted communities around equitable climate solutions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 20.00            | Draft    | Planning             | N           | Y         | N       | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                  | Name                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Percent Complete | State    | Lead City Department | Commission?                  | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 68  | Council and Budget Referrals - Demand | Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses                            | Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | N/A              | Draft    | Planning             | Y                            | N         | N       | N                     | N                                | Y                       | Y                                  |
| 69  | Council and Budget Referrals - Demand | Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses (Beer/Wine in M Dist)      | Refer to staff and the Planning Commission to consider amendments related to beer and wine sales in the M District.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | N/A              | Draft    | Planning             | Involves Planning Commission | N         | N       | N                     | N                                | Y                       | N                                  |
| 70  | Council and Budget Referrals - Demand | Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units          | Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units using the guiding framework presented in the Background.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft    | Planning             | N                            | N         | N       | N                     | Y                                | N                       | N                                  |
| 71  | Council and Budget Referrals - Demand | Referral to Planning Commission: City-Wide Green Development Requirements                                       | Refer to the Planning Commission, Energy Commission, and the Community Environmental Advisory Commission to consider requiring the same Green Building and Transportation Demand Management (TDM) measures required in the Commercial Downtown Mixed Use District (C-DMU) for projects of 75 units or more throughout the City of Berkeley's commercial zoning districts. The commissions are to consider the standards as outlined in the report which would apply to larger projects city-wide and pertain to: bicycle parking spaces, vehicle sharing spaces, Residential Parking Permits, required parking spaces, LEED rating, Stopwaste Small Commercial Checklist standards, and transportation benefits. In addition, the commissions are to also consider the following 1. that transit passes would only be required for projects within a quarter of a mile of a bus stop; 2. a square-footage threshold, in addition to the unit threshold, for projects to which the requirements would apply, 3. the validity of the LEED certification; and 4. the impact on the financial feasibility of proposed requirements on the development of housing and affordable housing in particular. | N/A              | Approved | Planning             | Y                            | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 72  | Council and Budget Referrals - Demand | Referral to Planning Commission: Guiding Development on San Pablo Avenue                                        | Refer to the Planning Commission the development of a Plan to guide development on San Pablo Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Draft    | Planning             | Y                            | N         | N       | Y                     | Y                                | N                       | N                                  |
| 73  | Council and Budget Referrals - Demand | Referral to the City Manager and Planning Commission: Update BMC Chapter 22.16 Development Agreement Procedures | Refer to the City Manager and Planning Commission to review and update the Berkeley Municipal Code Chapter 22.16 Development Agreement Procedures to create a streamlined process that maximizes community benefits and conforms to State law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | N/A              | Draft    | Planning             | N                            | Y         | N       | N                     | N                                | Y                       | Y                                  |

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| No. | Type                                  | Name                                                                                                                         | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Percent Complete | State     | Lead City Department | Commission?                  | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 74  | Council and Budget Referrals - Demand | Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance                      | Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance. | N/A              | Approved  | Planning             | Y                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 75  | Council and Budget Referrals - Demand | Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification     | Refer to Berkeley's Energy Commission to hold two separate special public outreach and educational meetings regarding electrification in new buildings by July 31, 2019: 1. A meeting regarding multi-family, mid/high-rise buildings, including those with ground floor commercial; 2. A meeting regarding commercial buildings (without housing), including manufacturing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Approved  | Planning             | Y                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 76  | Council and Budget Referrals - Demand | Referral to the Planning Commission to Allow 4 Temporary Zoning Amendments to Increase Student Housing in the Southside Area | Refer to the City Manager and the Planning Commission to consider conversion of existing commercial space for residential use between College Avenue and Fulton Street and Bancroft Way to Dwight Way.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | N/A              | Approved  | Planning             | Y                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 77  | Council and Budget Referrals - Demand | Referral to the Planning Commission to Allow Non-commercial Use on Ground Floor                                              | Refer to the Planning Commission an amendment to the Zoning Ordinance to create a use permit process to allow non-commercial use on the ground floor in appropriate locations, where commercial might otherwise be required.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Approved  | Planning             | Y                            | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 78  | Council and Budget Referrals - Demand | Referral to the Planning Commission to Consider Amendments to the Zoning Ordinance and "Mini-Dorm" Ordinance                 | Referral to the Planning Commission to: 1. Amend the mini-dorm ordinance to enable the conversion of an accessory structure into an office (which is also considered a bedroom) without the required public hearing process under the mini-dorm regulations, as long as there are no other alterations to the subject property, and 2. Consider amendments to the Zoning Ordinance and "Mini-Dorm" Ordinance to provide more flexibility for accessory buildings on properties that are developed with single-family residences. ADD: Issues raised in supplemental memo.                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft     | Planning             | Involves Planning Commission | N            | N            | N                     | N                                | Y                       | N                                  |
| 79  | Council and Budget Referrals - Demand | Wildland Urban Interface Fire Safety and Fire Safety Education                                                               | Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP);                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Submitted | Planning             | N                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

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Referrals, Projects, and Audits**

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| 80  | Council and Budget Referrals - Demand | Zoning Ordinance Modification for Elmwood Commercial District                                               | Refer to the Planning Commission to amend Chapter 23E.44, C-E Elmwood Commercial District Provisions to allow for amusement device arcades with a Tier 2 Administrative Use Permit (for spaces >3,000 Sq. Ft.) and a Zoning Certificate (for spaces < 3,000 Sq. Ft.). Proposed ordinance language for changes to Table 23E.44.030 are attached to the report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 75.00            | Draft    | Planning                | Y           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 81  | Council and Budget Referrals - Demand | 100% Sustainable Trips by 2040                                                                              | Adopt the attached Resolution, setting a goal of achieving 50% increase in trips taken by sustainable modes by 2030 and 100% by 2040, and refer to the Community Environmental Advisory Commission, the Energy Commission, and the Transportation Commission to develop relevant proposals and recommendations for accomplishing that goal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Draft    | Planning & Public Works | Y           | Y         | N       | Y                     | N                                | N                       | N                                  |
| 82  | Council and Budget Referrals - Demand | Campus-City National Night Out. Revised to be a Referral with no specific date - Revised materials (Supp 1) | Adopting a Resolution to refer the campus-city National Night Out event to the City Manager to help reduce crime in the campus area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | N/A              | Draft    | Police                  | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 83  | Council and Budget Referrals - Demand | Extend the Berkeley Police Drone Moratorium for One Additional Year                                         | Extend the moratorium on the use of unmanned aircraft systems, or "drones," by the Berkeley Police for one additional year. REFERRAL: Approved recommendation amended to request that the City Manager return to Council with a policy on the use of drones by Berkeley Police.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | N/A              | Approved | Police                  | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 84  | Council and Budget Referrals - Demand | Improving Hate Crimes Reporting and Response                                                                | Refer to the City Manager to review the following proposals and implement new systems for reporting and response to hate incidents and crimes: -Develop a Hate Crimes Reporting Hotline (modeled after the San Francisco District Attorney's hotline) to be staffed by the Berkeley Mental Health Division or a non-profit community partner. The Hotline will provide support for victims and those reporting hate crimes/incidents, and direct victims to resources and how to report hate crimes or incidents. Consider existing internal and external resources including the City's 311 Customer Service line and the County's Hate Crimes Reporting Hotline. -Explore adding hate crimes to the BPD Online Crime Reporting System to allow individuals to report specific hate related criminal acts or incidents. - Launch a public information campaign including the production of informational videos, posters, and ads in different languages about what is a hate crime and how to report it to Berkeley Police. -Conduct proactive outreach and develop partnerships with religious leaders, community service providers and organizations that work with groups which have historically been the target of hate crimes/incidents. -Refer to the Police Review Commission to review existing BPD policy on hate crimes (BPD Policy 319), request a report from BPD on hate crimes statistics and its implementation of BPD Policy 319, and review: privacy policies/procedures for reporting; culturally appropriate personnel structures to respond to incidents that will encourage reporting, reduce fear and provide support. The creation of accessible and multilingual | N/A              | Draft    | Police                  | N           | N         | N       | N                     | N                                | N                       | N                                  |



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| 85  | Council and Budget Referrals - Demand | Referral: Measures to Address Traffic Enforcement and Bicycle Safety                                                                                                           | 2. Refer to the City Manager to establish the opportunity for bicyclists to participate in a ticket diversion program that would provide safety education as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants. Staff should consider either the creation of a City of Berkeley-operated ticket diversion program or cooperation with ticket diversion programs operated by neighboring jurisdictions. | N/A              | Draft     | Police               | N           | Y            | Y                                                                                                                                                                 | Y                     | N                                | Y                       | Y                                  |
| 86  | Council and Budget Referrals - Demand | 31. City Manager Referral: Refer CPTED Streetscape for Action and Exploration of Grant or Other Funding Opportunities to Find the Funds to Construct the Proposed Improvements | Refer the Crime Prevention Through Environmental Design (CPTED) streetscape to the City Manager for action and exploration of grant or other funding opportunities to find the funds to construct the proposed improvements.                                                                                                                                                                                                                                                                                                       | N/A              | Approved  | Public Works         | N           | N            | N (However, some components of the Telegraph CPTED proposal might be incorporated into the federally funded Southside Complete Streets project as funding allows) | N                     | N                                | N                       | N                                  |
| 87  | Council and Budget Referrals - Demand | 48. City Manager Referral: Preparations to Apply for Telegraph Pedestrian Safety Funds (Continued from December 3, 2013)                                                       | Refer to the City Manager to apply for Telegraph Ave pedestrian safety funds and to produce a preliminary plan for Telegraph pedestrian safety improvements as requested by the Telegraph Merchants Association.                                                                                                                                                                                                                                                                                                                   | N/A              | Approved  | Public Works         | N           | N            | N (However, pedestrian safety improvements between Bancroft and Dwight are included in the federally funded Southside Complete streets project)                   | Y                     | N                                | N                       | N                                  |
| 88  | Council and Budget Referrals - Demand | 9. Portable Sign Pilot Program                                                                                                                                                 | Refer to the City Manager, the Commission on Disability, and the Transportation Commission for consideration the expansion of the existing portable sign program that enables businesses to place portable signs on sidewalks and medians.                                                                                                                                                                                                                                                                                         | N/A              | Approved  | Public Works         | Y           | Data Pending | Data Pending                                                                                                                                                      | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 89  | Council and Budget Referrals - Demand | City Manager Referral: Updating Graffiti Ordinance and Policies Based on a Review of San Francisco's New Ordinance                                                             | Refer to the City Manager and the Public Works and Parks and Recreation Commissions to create an ordinance that revises Berkeley's policies regarding graffiti, focusing on prevention and enforcement of regulations.                                                                                                                                                                                                                                                                                                             | N/A              | Submitted | Public Works         | Y           | Data Pending | Data Pending                                                                                                                                                      | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

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| 90  | Council and Budget Referrals - Demand | City Manager Short-Term Referral: To Change Telegraph Avenue Parking Signs to Allow Parking All Times                                                           | That the Council refer to the City Manager to eliminate the no parking signs on Telegraph Avenue between Bancroft and Dwight.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | N/A              | Draft    | Public Works         | N           | Y            | N            | N                     | N                                | Y                       |                                    |
| 91  | Council and Budget Referrals - Demand | Conceptual Study for Undergrounding Utility Wires in Berkeley From: Public Works Commission, Disaster and Fire Safety Commission, and Transportation Commission | That Council approve the following items: 1. Conceptual Study for undergrounding utility wires in Berkeley (the "Undergrounding Plan"). 2. Proceed with Phase 3 of the Undergrounding Plan. We want to emphasize the importance for Berkeley to actively participate in the current California Public Utilities Commission review of the Rule 20 program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft    | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 92  | Council and Budget Referrals - Demand | Consideration of Universal Design Standards in City Projects                                                                                                    | Refer to the City Manager to make the consideration of Universal Design features an explicit and listed criteria for all projects undertaken by the city, including the many upcoming projects to be funded through Measure T1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | N/A              | Approved | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 93  | Council and Budget Referrals - Demand | Considering Multi-year Bidding Processes for Street Paving                                                                                                      | 1. Restate the recommendation approved at the December 11, 2018 Council meeting to create a two-year bidding process for street paving to realize savings by (a) reducing by 50% City staff time devoted to bidding and contracting processes over each two year period and (b) benefitting from reduced pricing which may be available for larger contracts that offer greater economies of scale and reduce contractors' bidding and contracting costs.<br>2. Short-term referral to the City Manager to explore the possibility, feasibility, costs, and benefits of bidding in increments of up to 5 years to encompass entire 5-year paving plans, or other ideas to more rationally and cost-effectively align the paving plan with budget cycles and reduce costs associated with frequent bid cycles for relatively small contracts. | N/A              | Approved | Public Works         | N           | N            | N            | N                     | N                                | Y                       | Y                                  |
| 94  | Council and Budget Referrals - Demand | Creation and Adoption of a Transit Streets Cooperative Agreement with the Alameda-Contra Costa (AC) Transit District                                            | Refer to the City Manager the Creation and Adoption of a Transit Streets Cooperative Agreement with the Alameda-Contra Costa (AC) Transit District.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | N/A              | Draft    | Public Works         | N           | N            | N            | N                     | N                                | Y                       | Y                                  |
| 95  | Council and Budget Referrals - Demand | Electric Vehicles for the City Fleet                                                                                                                            | Request that the City Manager return to the Council with a Fleet Climate Action Plan for transition to all-electric vehicles (EVs) or plug-hybrids for the City fleet. The plan could:<br>1. set annual targets for greenhouse gas (GHG) reductions from City fleet operations in support of the City's Climate Action Plan;<br>2. require replacing all non-emergency vehicles and all possible emergency vehicles with EVs or plug-in hybrids by April 1, 2025, with an interim goal of a certain percent by April 1, 2018;<br>3. require conversion wherever possible to hybrid vehicles in cases where EVs or plug-in hybrids are not yet feasible; and<br>4. consider the Additional Measures as described in the report.                                                                                                               | N/A              | Approved | Public Works         | N           | Y            | N            | Y                     | Y                                | N                       | Y                                  |

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| 96  | Council and Budget Referrals - Demand | Farmers' Markets Investments                                                                                    | Refer to the City Manager to initiate improvements and changes to support the Berkeley Farmers' Markets that would address growing public safety and access concerns while enhancing the shopping experience and benefit the markets.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | N/A              | Draft    | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 97  | Council and Budget Referrals - Demand | Installation of Solar Panels at the Donna Spring Animal Shelter Parking Area                                    | Request that the City Manager pursue grant funding for a solar installation at the Donna Spring Animal Shelter parking area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | N/A              | Approved | Public Works         | N           | N            | N            | N                     | N                                | Y                       | N                                  |
| 98  | Council and Budget Referrals - Demand | Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley | 1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information.<br>2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments. | N/A              | Draft    | Public Works         | N           | N            | N            | N                     | N                                | N                       | N                                  |
| 99  | Council and Budget Referrals - Demand | Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley | 1. Refer to the City Manager to incorporate relevant elements of the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley, submitted to the City Council by the Commission on Disability, into the Berkeley Pedestrian Master Plan currently being updated, and any other planning processes for which the report would provide relevant information.<br>2. Refer to the Public Works and Parks and Waterfront Commissions to return to Council reports on ways that elements of the Navigable Cities Framework can be incorporated into the work, projects, contracts, and policies of the Public Works and the Parks, Recreation & Waterfront Departments. | N/A              | Draft    | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 100 | Council and Budget Referrals - Demand | Prioritizing Pedestrians at Intersections                                                                       | Refer to the City Manager and the Transportation Commission the development of policies to improve the pedestrian crossing experience and reduce pedestrian wait times at intersections with "beg buttons," potentially by activating pedestrian crossing signaling with every cycle (as opposed to the current situation, which only activates crossing signals when a button is pushed). Consider the development of a pedestrian-driven intersection improvement process to address signaling and timing inadequacies.                                                                                                                                                                                               | N/A              | Draft    | Public Works         | N           | Y            | N            | N                     | N                                | N                       | Y                                  |

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| 101 | Council and Budget Referrals - Demand | Providing Wheelchair Charging Opportunities for Homeless Individuals       | Refer to the City Manager to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Refer to the City Manager to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Refer to the City Manager to assemble a policy to be reviewed and implemented.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 50.00            | Work in Progress | Public Works         | Y           | Y            | N            | N                     | N                                | N                       | N                                  |
| 102 | Council and Budget Referrals - Demand | Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy | 1) Refer to the City Manager to develop a comprehensive ordinance with input from the Public Works & Transportation Commissions governing a Bicycle Lane and Pedestrian Street Improvements Policy that would: <ul style="list-style-type: none"> <li>• Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: <ul style="list-style-type: none"> <li>• Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.</li> <li>• Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.</li> <li>• The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list.</li> <li>• Improvements are necessary to comply with the Americans with Disabilities Act.</li> <li>• Encourage the use of quick builds by expediting quick-build projects under \$1 million.</li> <li>• "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.</li> <li>• Require staff to report progress back to Council every two years.</li> </ul> </li> </ul> | N/A              | Draft            | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 103 | Council and Budget Referrals - Demand | Referral: Electric Moped Ride-Share Franchise Agreement                    | Refer to the City Manager to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for motorized bicycles that are affixed with license plates and require a driver's license for individuals to operate them (mopeds), in coordination with the City of Oakland.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A              | Draft            | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 104 | Council and Budget Referrals - Demand | Referral: Measures to Address Traffic Enforcement and Bicycle Safety       | 3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N/A              | Draft            | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Percent Complete | State            | Lead City Department | Commission? | Underway?    | Funded?                                                                                 | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 105 | Council and Budget Referrals - Demand  | Referral: Measures to Address Traffic Enforcement and Bicycle Safety DMND0003830                                                | 3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.                                                                                                                                                                                                                                                                                                        | N/A              | Draft            | Public Works         | N           | Data Pending | Data Pending                                                                            | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 106 | Council and Budget Referrals - Demand  | Referral: Report on Public Realm Pedestrianization Opportunities [Transportation Commission]                                    | Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A              | Draft            | Public Works         | Y           | Data Pending | Data Pending                                                                            | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 107 | Council and Budget Referrals - Demand  | Referral: Telegraph Shared Streets                                                                                              | Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project, in consultation with appropriate transportation agencies.                                                                                                                                                                                                                                                                                                                                           | N/A              | Draft            | Public Works         | N           | N            | N (May be able to partially fund some components as part of Southside Complete Streets) | N                     | N                                | N                       | N                                  |
| 108 | Council and Budget Referrals - Demand  | Zero Emission Vehicle Requirements for City Fleet                                                                               | Refer to the City Manager the finalization of a policy which would require all new purchases of light-duty passenger vehicles to be electric vehicles or plug-in hybrids, and require the City-owned light-duty passenger vehicle fleet to be 100% electric vehicles or plug-in hybrids by the mid-2020s. This policy would be based on the City & County of San Francisco's zero-emission light-duty passenger vehicle policy, and the report to Council should identify any additional costs associated with electric vehicles or plug-in hybrids, potentially accelerated fleet turnover, and necessary charging infrastructure on City lots. | N/A              | Submitted        | Public Works         | N           | Data Pending | Data Pending                                                                            | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 109 | Council and Budget Referrals - Project | Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F | 1) determine if the City can require businesses to post notices on their website                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 0.00             | Not Started      | City Attorney        | N           | N            | N                                                                                       | N                     | N                                | Y                       | N                                  |
| 110 | Council and Budget Referrals - Project | Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance                                  | That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.                                                                                                                                                                                                                                                                                                                        | 67.00            | Work in Progress | City Attorney        | N           | Y            | N                                                                                       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                 | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Percent Complete | State            | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 111 | Council and Budget Referrals - Project | Personal Liability Protection for Small Businesses                   | 1. Direct the City Manager and City Attorney to draft and submit to the City Council for consideration an emergency ordinance to prohibit the enforcement of personal liability provisions in commercial leases and commercial rental agreements in the City of Berkeley for lessees/renters who have experienced financial impacts related to the Covid-19 pandemic.<br>2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis. | 33.00            | Work in Progress | City Attorney        | N           | N            | N            | N                     | N                                | Y                       | Y                                  |
| 112 | Council and Budget Referrals - Project | Private Parking Lot Regulations                                      | Refer to the City Manager the development of an ordinance that would allow parking lot operators to manage their parking facilities so as to meet the needs of local businesses and their customers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Deferred         | City Attorney        | N           | N            | N            | N                     | N                                | Y                       | N                                  |
| 113 | Council and Budget Referrals - Project | Prohibition on the Resale of Used Combustion Vehicles in 2040        | On November 18, 2020 the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to refer to the City Manager for review of the attached ordinance prohibiting the resale of used, existing combustion-powered vehicles beginning in 2040, to the extent legally possible.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | City Attorney        | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 114 | Council and Budget Referrals - Project | Supplemental Paid Family Leave                                       | 2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50.00            | Work in Progress | City Attorney        | N           | Y            | N            | N                     | N                                | Y                       | Y                                  |
| 115 | Council and Budget Referrals - Project | Referral Response: Including Climate Impacts in City Council Reports | Request that the City Manager update the templates and associated training materials to add "Climate Impacts" in the "Environmental Sustainability" section of reports to the City Council, and codify the changes in Appendix B in the next update to the Berkeley City Council Rules of Procedure. This recommendation is a partial response to a January 21, 2020 referral, sponsored by Councilmembers Davila and Bartlett, to require that all City Council items and staff reports include "climate impacts" in addition to environmental sustainability.                                                                                                                                                                                                                                                                                       | 25.00            | Work in Progress | City Clerk           | N           | Y            | N            | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                           | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State            | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 116 | Council and Budget Referrals - Project | Referral: Commission Low-Income Stipend Reform | Refer to the City Manager to develop and return to Council with a plan to improve equity, accessibility, and representation in City of Berkeley commissions by modernizing the low-income stipend program, and in doing so consider:<br>1. Increasing the annual household income cap for stipend eligibility from \$20,000 to align with the 50% Area Median Income (AMI) guidelines for Alameda County and reflect household size, and updating it annually with the latest HUD data.<br>2. Increasing the low-income stipend from \$40 to \$78 per meeting, and updating it annually with the City of Berkeley minimum wage to correspond to compensation for 2.5 hours of work.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Not Started      | City Clerk            | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 117 | Council and Budget Referrals - Project | Administrative Changes Related to Taxicabs     | Request the City Manager consider the following administrative changes, in order to increase the competitiveness of the taxi industry: 1. Reduce the annual vehicle inspection fee from \$88 to \$45 and the re-inspection fee from \$45 to \$25.; 2. Increase the maximum amount of free taxi scrip that drivers are able to redeem each week from the current limit of \$400 to \$800 (if taxi scrip is redeemed twice per week, the maximum amount redeemed at once should be raised to \$400 from \$200).; 3. Consolidate all taxi-related undertakings, including customer service and taxi scrip redemption, to one office located at 1947 Center Street, Berkeley, CA 94704.; 4. Reduce the burden of the current mandatory sensitivity training course for taxi drivers, by exploring an option to complete the course online instead of in San Francisco, which costs \$50 and imposes onerous logistical costs. For example, available courses can be found at <a href="http://www.equo.co.uk/11-Taxi-Drivers">http://www.equo.co.uk/11-Taxi-Drivers</a> .; 5. Clarify in writing that taxi-drivers may purchase collective insurance instead of individual insurance. This will allow drivers to accumulate a more substantial fund to cover individual crashes, pay less per person, and reap similar benefits as rideshare drivers (who are insured by Transportation Network Companies) do. | 0.00             | Work in Progress | City Manager's Office | N           | N         | N       | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Percent Complete | State            | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 118 | Council and Budget Referrals - Project | City of Berkeley Neighborhood Services and Outreach Program (formerly "Amend April 26, 2018 Referral Regarding Sidewalks Policies ")                                                                        | In light of the 9th Circuit Court of Appeal's September 4, 2018 ruling in Martin v. City of Boise, refer to the City Manager further analysis of Council's April 26, 2018 proposed "Regulations for Sitting, Lying, Dogs and Objects on Sidewalks and in Parklets" and analysis of Berkeley's existing regulations and practices, including but not limited to ordinances, administrative regulations, training protocols and other policies and practices, related to use and limits to use of sidewalks, parklets, streets, parks and other City property. Refer to the City Manager to collaborate with the offices of the Mayor and Councilmember Hahn to amend existing and, as necessary, draft new policies and procedures compliant with the above analysis, and report back to Council with recommendations for compliant policies. | 50.00            | Work in Progress | City Manager's Office | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 119 | Council and Budget Referrals - Project | Denouncing Presidential Executive Order to Build a Border Wall and Urging the City of Berkeley to Divest from Companies Supporting or Participating in the Construction of a Border Wall; Revised materials | Adopt a Resolution denouncing the presidential executive order to build a wall along the U.S.-Mexico border and recommend that the City of Berkeley divest from any companies involved in the construction of a border wall.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 0.00             | Not Started      | City Manager's Office | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 120 | Council and Budget Referrals - Project | Enforce Bi-Weekly (Once Every Two Weeks) Residential Cleaning Measures to Address Encampments and Promote Clean Streets in Berkeley                                                                         | Refer to the City Manager to promote equitable street cleaning practices and require biweekly (once every two weeks), cleanings of populated encampment sites in Berkeley and adjacent residential neighborhoods. In order to determine where City Staff should prioritize residential cleaning services, the City Manager should establish a radius around the campsites. When encampments are on non-City owned property, such as Caltrans, the City should bill the appropriate agency for the cost of staff and materials.                                                                                                                                                                                                                                                                                                               | 50.00            | Work in Progress | City Manager's Office | Y           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 121 | Council and Budget Referrals - Project | Non-Criminal Options for Enforcement of Sidewalk Regulations                                                                                                                                                | Refer to the City Manager the development of non-criminal options for the enforcement of Berkeley laws and regulations related to use of public space that: Reduce, delay or, if possible, eliminate criminal penalties; Offer positive alternatives; and Ensure that the City has effective tools for enforcement of laws and regulations. While ensuring effective enforcement, options should delay or avoid pursuing infractions and misdemeanors and provide options to cure violations through positive actions such as mandated and verified community service, education, or participation in social service programs.                                                                                                                                                                                                               | 10.00            | Work in Progress | City Manager's Office | N           | N         | N       | N                     | N                                | N                       | N                                  |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                 | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State            | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 122 | Council and Budget Referrals - Project | Public Toilet Policy                                                 | Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 85.00            | Past Due         | City Manager's Office | N           | Y         | N       | N                     | N                                | Y                       | N                                  |
| 123 | Council and Budget Referrals - Project | Recommendations Related to Code Enforcement and Receivership Actions | On November 25, 2019, the Health, Life Enrichment, Equity & Community Committee took action to send an item to Council with a positive recommendation that for purposes of understanding the issues and identifying potential changes to the City's codes, policies, and procedures the committee recommends the following:<br>a. That the City Manager provide an information session to the City Council regarding the various ways in which code enforcement issues have been brought to the attention of the City over the last 5 years;<br>b. How various code enforcement issues at residential properties are currently handled;<br>c. Timeframe and mechanisms for achieving code compliance at residential properties;<br>d. Any existing assistance programs available to support property owners found to have code violations;<br>e. Specific learnings/changes in City practices resulting from the Leonard Powell receivership case;<br>f. Other information deemed relevant and appropriate to understand the City's current code enforcement practices for residential properties<br>Additionally, the Policy Committee requests that the Mayor call a special meeting of the City Council for purposes of a forum based on the recommendations provided by Councilmember Bartlett as the draft plan for a public meeting on receivership.<br>And third, the Committee requests from the City Manager a specific reply on creating a mechanism to provide legal and technical assistance to independent third parties for | 25.00            | Work in Progress | City Manager's Office | N           | Y         | N       | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Percent Complete | State            | Lead City Department  | Commission? | Underway?                             | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 124 | Council and Budget Referrals - Project | Referral Responses: Managing Recreational Vehicle (RV) Parking                                                                                                             | <p>The City of Berkeley seeks to implement all laws and ordinances in a fair and humane manner.</p> <p>To that end, we refer to the City Manager for consideration the following guidelines to help ensure enforcement of revised RV parking restrictions allowed under Ordinance No. 7,643-N.S. (BMC Section 14.40.120) is conducted with outreach, including information and resource guides and written notice.</p> <p>Further, we refer to the City Manager to quickly establish a three-month permit program (with possibility for renewal), to be offered on a one-time basis to existing priority populations and we refer to the Health, Life Enrichment, Equity &amp; Community Policy Committee to establish basic criteria for a standard two-week permitting process.</p> <p>The City Council reiterates its February 28, 2019 referral to identify and develop a temporary RV site to serve highly vulnerable populations, as well as a regional non-profit RV site, and to develop a program to allow private entities to host RVs on their property.</p> | 0.00             | Work in Progress | City Manager's Office | N           | Y                                     | N       | N                     | N                                | Data Pending            | N                                  |
| 125 | Council and Budget Referrals - Project | Referral to City Manager to establish Recreational Vehicle Waste Discharge Facility on City Property and Referral to FY 2020/21 Budget Process                             | 1. Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, and 2. Refer costs associated with the facility to the FY 2020/21 Budget Process. Include consideration of 1) method of pump out; 2) cost; 3) locations; and 4) capacity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | Pending          | City Manager's Office | N           | N                                     | Partial | N                     | N                                | Y                       | Y                                  |
| 126 | Council and Budget Referrals - Project | Supporting Worker Cooperatives and Referral to City Manager to Develop a Worker Cooperative Ordinance (Continued from January 12, 2016 – Item includes revised materials.) | <p>Adopt a Resolution to support worker cooperatives, and refer to the City Manager to develop a Worker Cooperative Ordinance, which includes:</p> <p>1. Revising the existing Buy Local contracting preference and adding a worker cooperative preference; 2. Revising the business permit application; 3. Incentivizing existing businesses to convert to cooperatives; 4. Creating business tax and land use incentives, and 5. Developing educational materials.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 75.00            | Work in Progress | City Manager's Office | N           | Y                                     | Y       | N                     | N                                | Y                       | Y                                  |
| 127 | Council and Budget Referrals - Project | Urgency Item: Safety for All: The George Floyd Community Safety Act - City Attorney and Manager Analysis of Contractual and Legal Barriers to Public Safety Reform         | Direct the City Manager and City Attorney to analyze contractual and legal barriers to public safety reform including police union contracts, vendor contracts, state and federal laws, to determine barriers to accountability and substantive reform. In addition, direct the City Manager and City Attorney to evaluate elements in the proposed police review commission charter amendment, that can be implemented by the City Council.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 10.00            | On Hold          | City Manager's Office | N           | N (On hold, pending Reimaging Police) | N       | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Percent Complete | State                   | Lead City Department                                                | Commission? | Underway? | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 128 | Council and Budget Referrals - Project | Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments                                           | Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices. Additions: Request that the City Manager return to Council as soon as possible with recommendations on staffing for robust enforcement and internal restructuring for inspections. Options for noticing and distributing disclosure information. Enforcement by the City or the County, if feasible. | 0.00             | Pending Not On Schedule | City Manager's Office/Health, Housing & Community Services/Planning | N           | N         | N            | N                     | N                                | N                       | N                                  |
| 129 | Council and Budget Referrals - Project | Funding Streetlight Near South East Corner of Otis Street                                                                             | Approved recommendation revised to change the item to a budget referral and refer an assessment of feasibility to fund construction of a streetlight on the corner of Otis near Ashby to the City Manager.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started             | City Manager's Office/Public Works                                  | N           | N         | Data Pending | N                     | N                                | Data Pending            | Data Pending                       |
| 130 | Council and Budget Referrals - Project | Community Microbond Initiative. Revised materials (Supp 2)                                                                            | Refer to the 2018 prioritization process to direct the City Manager to produce a report outlining steps required if the City were to implement a Pilot Project for the Community Microbond Initiative within 90 days. Consider including a community engagement component (such as a survey) to identify a project for the pilot, identify City staff who would be involved in the Pilot Project, analyze the cost structure to the City, clarify the process to identify, select and collaborate with relevant vendors, and outline any and all other necessary steps to achieve a Pilot Microbond offering. Consider including the following requirements for a proposed RFP: Vendor(s) selected should have municipal bond underwriting capabilities; Vendor(s) selected should have experience with blockchain technology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 90.00            | Work in Progress        | Finance                                                             | N           | Y         | Y            | N                     | N                                | Y                       | Y                                  |
| 131 | Council and Budget Referrals - Project | Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley | Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 25.00            | Pending Not On Schedule | Finance                                                             | N           | Y         | Y            | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Percent Complete | State            | Lead City Department      | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 132 | Council and Budget Referrals - Project | Accessory Dwelling Unit Ordinance Updates                                                                                                           | Action: M/S/Carried (Hahn/Wengraf) to adopt the item as written in Supplemental Reports Packet #1 and including the following changes.<br><ul style="list-style-type: none"> <li>• Remove the language regarding view protections.</li> <li>• Add new #9 on hillside heights measurements where no previous structure exists.</li> <li>• Add "and any other solutions" to #5 regarding parking.</li> <li>• Include the referral from Item 15 with this referral.</li> </ul> 01/14/21 (SM for DB)<br>Restricted allowances due to state law. Solution may be incorporated into Safe Passages.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 90.00            | Work in Progress | Fire & Emergency Services | N           | Y         | Y       | N                     | Y                                | Y                       | N                                  |
| 133 | Council and Budget Referrals - Project | Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan | Recommend that City of Berkeley explore evaluating locations to install and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County, and refer the item to the November budget discussion.<br>01/14/21 (SM for DB).<br>Funding identified in Measure FF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 10.00            | Work in Progress | Fire & Emergency Services | Y           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 134 | Council and Budget Referrals - Project | Immediate Measures to Address Fire Safety and Prevention [Non-RRV Prioritization Process]                                                           | Refer to the City Manager to study and evaluate, in consultation with relevant Commissions, the following fire safety and prevention measures on a priority basis. After study and evaluation, implement or, where additional resources may be required, recommend implementation and sources of funding. 1. Complete the Berkeley Fire Department's comprehensive Evacuation Plan and publicize evacuation routes and protocols on a priority basis. 2. Increase outreach efforts to sign up residents for the Alameda County Emergency Alert program. 3. Review and update the City's existing Fire Safety ordinances, including BMC 12.50 Fire Inspection Program. 4. Consider implementation of a siren warning system, similar to Oakland's Emergency Siren system. 5. Review and, as necessary, strengthen coordination and communication with Oakland, East Bay Regional Parks (EBRP), Alameda County, Contra Costa and other neighboring Fire Department and emergency response service providers. 6. Expand programs and practices to reduce fire hazards and fuel loads and ensure clearance for utility lines on both public and private property as outlined in the report.<br>01/14/21 - Programs to be funded by FF (SM for DB). | 10.00            | Not Started      | Fire & Emergency Services | Y           | Y         | Y       | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                          | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 135 | Council and Budget Referrals - Project | Referral to Develop Comprehensive Plan for Disaster Preparedness and Post-Disaster Rebuilding with Respect to Multi-Family Housing [Non-RRV Prioritization Process]                                           | Refer to applicable City departments and commissions the development of a comprehensive plan for both disaster preparedness and post-disaster rebuilding with respect to multi-family housing. As part of the plan, applicable departments and commissions should explore how applicable ordinances (e.g., Demolition Ordinance, Relocation Ordinance, Rent Stabilization Ordinance) may interface with rebuilding efforts in the event of a major disaster and make recommendations to amend or clarify them as appropriate. The referral can be added to existing referrals concerning disaster preparedness item and prioritized as appropriate. | 0.00             | Not Started      | Fire & Emergency Services            | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 136 | Council and Budget Referrals - Project | Referral to the Disaster and Fire Safety Commission and the City Manager: Five Year Plan for Expanded Disaster Preparedness Services [Non-RRV Prioritization Process]                                         | Refer to the Disaster and Fire Safety Commission and the City Manager's office to explore developing a five year plan for expanded disaster preparedness services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Work in Progress | Fire & Emergency Services            | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 137 | Council and Budget Referrals - Project | Adding Threat of Displacement of a Berkeley Resident to the Current Income Qualification Guidelines Which Would Place an Applicant in Priority Status for BMR (Below Market Rate) Units [Housing Action Plan] | Refer to the City Manager adding to income qualification the status of pending displacement of a Berkeley resident or family, for priority eligibility for BMR units.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 0.00             | Not Started      | Health, Housing & Community Services | N           | Y            | Y            | Y                     | N                                | Y                       | Y                                  |
| 138 | Council and Budget Referrals - Project | Cigarette and Tobacco Litter Ordinance; Referral to Community Health Commission                                                                                                                               | Referral to the Community Health Commission to establish an ordinance that would diminish pollution from cigarettes waste similarly to San Francisco's Cigarette Abatement Fee Ordinance.                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 139 | Council and Budget Referrals - Project | Community Impact of Future Changes to Services at Sutter Health Alta Bates Ashby Campus                                                                                                                       | Refer to the Community Health and Disaster and Fire Safety Commissions to evaluate potential community impacts of changes to services at the Sutter Health Alta Bates Ashby campus in the coming years.                                                                                                                                                                                                                                                                                                                                                                                                                                             | 0.00             | Work in Progress | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 140 | Council and Budget Referrals - Project | Companion Report and Referral Response: Creation of a Small Sites Program                                                                                                                                     | 4) Request that the Council and Housing Advisory Commission receive copies of small sites loan applications along with staff's corresponding analysis and decision. 6) Refer further consideration of a long-term small sites program to the City Manager and the Housing Advisory Commission. 7) Refer the small sites program to the November budget update and next biannual budget planning cycle in 2019.                                                                                                                                                                                                                                      | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | N            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                     | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 141 | Council and Budget Referrals - Project | Companion Report: Support for Oregon Park Senior Apartments - [Housing Action Plan]                                                      | Refer the Housing Advisory Commission's recommendation that staff work with Oregon Park Senior Apartments (OPSA) to the Council prioritization process so that the Council can evaluate this recommendation in the context of other recommendations for the use of Housing & Community Services staffing resources. Adopted with the following conditions: 1. Oregon Street Park Apartments will conduct a financial audit. 2. Oregon Street Park Apartments will conduct a full assessment of the structure of the building and the facility needs. 3. Oregon Street Park Apartments will hire a property manager to oversee the financials and the property. 4. The City will commit to holding the fines in abeyance until such time that conditions 1-3 are completed. | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 142 | Council and Budget Referrals - Project | Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street                                                     | Refer the item to the City Manager to explore City uses of the property for housing and homelessness services and needs, or other uses, and review the remediation needs of the property.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Pending          | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 143 | Council and Budget Referrals - Project | Health Equity & Innovation District                                                                                                      | Referral to the Planning Commission, the Community Health Commission, the Commission on Aging, and the City Manager to establish a Health Equity & Innovation District (HID). The goal of the HID is to reduce chronic racial health disparities and improve the overall public health strategy of Berkeley by fostering innovations in healthcare delivery, improving resiliency, and strengthening the integration of health services and systems. The HID is intended to draw investment and grant opportunities, as well as to explore the expansion of scope of practice for medical providers.                                                                                                                                                                       | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 144 | Council and Budget Referrals - Project | Healthy Checkout Ordinance                                                                                                               | 2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 25.00            | Work in Progress | Health, Housing & Community Services | N           | Y            | N            | N                     | Y                                | Y                       |                                    |
| 145 | Council and Budget Referrals - Project | Providing our Unhoused Community in the City of Berkeley with Menstrual Products                                                         | 3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months.                                                                                                                                                                                                                                                         | 10.00            | Work in Progress | Health, Housing & Community Services | N           | Y            | N            | N                     | N                                |                         | Y                                  |
| 146 | Council and Budget Referrals - Project | Refer to the City Manager's Office and Budget Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless | Refer to the City Manager's office and the HAC to develop a second dwelling unit/accessory dwelling unit Pilot Project as an additional strategy to provide housing for homeless persons and families.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started      | Health, Housing & Community Services | Y           | N            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

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| 147 | Council and Budget Referrals - Project | Referral to Commission on Labor: Amendments to Living Wage Ordinance (BMC 13.27)                                          | Refer to the Commission on Labor the following suggested amendments to the Living Wage Ordinance, Berkeley Municipal Code Chapter 13.27: 1. Amend Section 13.27.050.A to allow an employee the right to opt out of an employer provided medical benefit plan and still receive the higher compensation amount (currently \$15.99 per hour) as cash in lieu if they provide proof of alternative coverage under a medical benefit plan. 2. Amend the posting requirements, retaliation, complaint process, and enforcement sections to conform to the language in the recently adopted Minimum Wage Ordinance.                                                                                                                                                                                                                                                                                                                                    | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 148 | Council and Budget Referrals - Project | Referral to the City Manager: Adopt Section 8 Landlord Incentives [Housing Action Plan]                                   | Refer to the City Manager the adoption of the following measures to encourage landlords to accept Section 8 and Shelter + Care vouchers: 1. Create a list of qualified, efficient and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code; 2. Provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court; 3. Allow parcel and/or property tax reductions based on the percentage of property or units that are currently Section 8 and/or decided during annual Section 8 inspection; and 4. Identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords. We ask City staff to research and develop a proposal of options for implementing these within the next six months. | 0.00             | Not Started      | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 149 | Council and Budget Referrals - Project | Referral to the Labor Commission and the Commission on the Status of Women: Paid Family Leave Ordinance Revised materials | Refer the attached ordinance for consideration by to the Labor Commission and the Commission on the Status of Women to help in the development of a Paid Family Leave Ordinance for the City of Berkeley. The Labor Commission shall be responsible for conducting a public hearing to collect community input on the attached draft legislation. The Labor Commission shall conduct outreach and invite relevant stakeholders to attend, including representatives from small business associations, chambers of commerce, Berkeley employers, and Berkeley employees. The Commission on the Status of Women shall be responsible for research and overall project management. The Commissions shall jointly prepare a report for submission to Council summarizing both commissions' suggestions and the community's suggestions for changes that should be made to the attached legislation.                                                  | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 150 | Council and Budget Referrals - Project | Small Sites Acquisition Program and Tenant Opportunity to Purchase [Housing Action Plan]         | Refer to the City Manager the implementation of the following strategies to preserve existing affordable housing and prevent displacement: 1. Create a Small Sites Program to assist non-profits in acquiring existing properties that considers the following criteria: a. Targets 5-25 unit multi-family buildings, particularly properties with strong potential for conversion to resident ownership, those in which no-fault evictions have been filed, or those at high risk of speculative purchase. b. Allocates \$1-2 million from multiple funding sources. Such sources could include Measure A1 and U1 funds, Section 8 vouchers, and the MTC NOAH program. c. Includes administrative guidelines for a streamlined allocation process that will ensure an expedited commitment and funding process. Such commitments could include a letter of commitment from the City when non-profit organizations are placing an option on a property, or a small grant to make a down payment. 2. Review and develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider. | 50.00            | Work in Progress | Health, Housing & Community Services | N           | Y            | N            | N                     | N                                | N                       | N                                  |
| 151 | Council and Budget Referrals - Project | Workforce Housing Affordability Plan [Housing Action Plan]                                       | Refer to the City Manager the addition of a new workforce housing option to the inclusionary housing law that raises the percentage of inclusionary units by allowing the production of more subsidized units at a reduced subsidy per unit. Additionally, request that the City Manager return with "affordable by design" suggestions to help address the underproduction of middle-income units in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started      | Health, Housing & Community Services | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 152 | Council and Budget Referrals - Project | Workforce Housing for Berkeley Unified School District Personnel [Housing Action Plan]           | Request the City Manager to direct staff to investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. This investigation should include research into what other California cities (such as San Francisco, Oakland, Santa Clara and San Mateo County) are considering as part of their pursuit of school district workforce housing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 0.00             | Not Started      | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 153 | Council and Budget Referrals - Project | Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021 | Refer to the November 2019 AAO consideration of at least \$150,000 and up to remediate the Lawn Bowlers, North Green and Santa Fe Right-of-Way in advance of Request for Proposal (RFP) for these areas that potentially could provide much needed affordable alternative housing. Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                           | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 154 | Council and Budget Referrals - Project | Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F                                                 | 2) analyze the impacts of artificial flavorings/additives and advise if any further regulations are necessary                                                                                                                                                                                                                                                                                                                                         | 0.00             | Pending          | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 155 | Council and Budget Referrals - Project | Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F                                                 | 2) direct the Berkeley Public Health Department to review the issue of flavored cannabis products for combustion or inhalation, and cannabis products whose names imply that they are flavored, and review any additional ingredients that may be hazardous, whether natural or artificial, including vitamin E acetate in inhalation products, and make recommendations for action.                                                                  | 0.00             | Pending          | Health, Housing & Community Services | Y           | Y            | Y            | N                     | Y                                | Y                       | Y                                  |
| 156 | Council and Budget Referrals - Project | Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless | Send a letter to Alameda County requesting data on deaths of identified homeless individuals.<br><br>Contact Alameda County request that they explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.                                                                                                                                                | 50.00            | Work in Progress | Health, Housing & Community Services | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 157 | Council and Budget Referrals - Project | Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program                                                                                                  | That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley employees and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Analysis to include the new Self-Help Housing Program and the provisions of AB 101. | 0.00             | Not Started      | Health, Housing & Community Services | Y           | N            | N            | N                     | N                                | Y                       | Y                                  |
| 158 | Council and Budget Referrals - Project | Voluntary Time Off on Statewide Election Days for City Employees                                                                                                                | Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.                                                                                                                                                                                                                                                  | 80.00            | Work in Progress | Human Resources                      | N           | Y            | Y            | N                     | Y                                | Y                       | N                                  |
| 159 | Council and Budget Referrals - Project | Expanding the Downtown Arts District                                                                                                                                            | 1. Request the Planning Commission examine expanding the boundaries of the current Downtown Arts District Overlay as well as the allowable active ground-floor uses.<br>2. Request the City Manager consider the Downtown Arts District as part of the update to the Berkeley Arts and Culture Plan.                                                                                                                                                  | 95.00            | Work in Progress | Office of Economic Development       | N           | Y            | N            | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                          | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State            | Lead City Department           | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 160 | Council and Budget Referrals - Project | Path to Permanence for Outdoor Dining and Commerce Permits Granted Under COVID-19 Public Health Emergency Declaration                                                         | On November 2, 2020 the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to send the item to the City Council with the recommendation language as amended by the committee. The revised recommendation language includes: Refer to the City Manager to develop a program and, if necessary, ordinance language to facilitate the transition of temporary outdoor dining and commerce permits that were obtained under the City's declaration of emergency to permanent status. - Consider criteria for transitioning spaces for Public vs. Private outdoor use. - Consider the structural, materials, safety and other criteria for temporary vs. permanent outdoor spaces. - Consider costs and benefits of private outdoor spaces adjacent to specific businesses on customer access, parking availability, parking revenues, and all other factors. - Consider Merchant opt-out vs. opt-in: To encourage and support the use of outdoor commerce, upon the conclusion of the City declaration of emergency, outdoor commerce permit holders might automatically be transitioned to permanent permit status unless the permit holder chooses to remove the installation, or the City might reach out to temporary permit holders and offer an opt-in or quick transition program. - Consider Fees and potential Fee waivers for temporary spaces transitioning to permanent status: Fees associated with the minor encroachment permits or sidewalk seating typically necessary for outdoor dining and commerce permits could be waived for all temporary permits. Consider Postponing | 10.00            | Work in Progress | Office of Economic Development | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 161 | Council and Budget Referrals - Project | Referral to the Civic Arts Commission to Consider the Creation and Selection of a Flag for the City of Berkeley                                                               | Refer to the Civic Arts Commission to select a flag for the City of Berkeley from submissions from the public.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 0.00             | Work in Progress | Office of Economic Development | Y           | N            | Y            | N                     | N                                | Y                       | Y                                  |
| 162 | Council and Budget Referrals - Project | Referral to the Civic Arts Commission to create interactive family-friendly art attractions                                                                                   | Refer to the Civic Arts Commission to create interactive family-friendly art attractions in the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 0.00             | Work in Progress | Office of Economic Development | Y           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 163 | Council and Budget Referrals - Project | Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists | Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 11.00            | Work in Progress | Office of Economic Development | Y           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 164 | Council and Budget Referrals - Project | Evaluation of Possible Ban on New Planting of Certain Tree Species                                                                                                            | Take action to either: a) Direct the City Manager to proceed with Option 1, and continue the City's current practice regarding tree plantings on City property, which currently do not include Eucalyptus, and Monterey Pine (except at the Marina).-OR- b) Adopt a Resolution as described in Option 2 that would ban the new planting of certain tree species on City property. -OR-c) Direct the City Manager to develop an ordinance for Council adoption that bans the new planting of certain tree species on both public and private property, and includes enforcement mechanisms.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Work in Progress | Parks, Recreation & Waterfront | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                     | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Percent Complete | State            | Lead City Department             | Commission?                  | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 165 | Council and Budget Referrals - Project | Referral to the City Manager: Equitable Access to Greenspace                                                                                                             | Refer to the City Manager to explore developing a plan for increasing Equitable Access to Greenspace in Berkeley. Future parks and greenspace investments should be targeted at reducing disparities in access to greenspace. Criteria to consider should include: ☐ Geographical distance and square footage of available greenspace ☐ Income levels of area residents, which may impact their ability to afford non-public facilities and/or transportation to green spaces ☐ The proportion of youth, seniors and disabled people unable to travel to more distant facilities The City may utilize recommendations from the report "Berkeley Parks Planning for an Equitable Future" produced by the Parks and Waterfront Commission's Subcommittee on Planning. The City should also consider the work of San Francisco's Green Connections (see <a href="http://sf-planning.org/green-connections">http://sf-planning.org/green-connections</a> ) which promotes the presence and attractiveness of walking and bike paths to green spaces in order to encourage their use. The City should investigate strategies for expanding park capacity including assessing prime areas for developing new parks and greenspaces, such as in the Adeline Corridor and Santa Fe ROW. The Adeline Corridor Plan must consider and account for increasing greenspace in the Southeast Quadrant of Berkeley, and explore innovative ways for integrating greenspace into our urban environment. To implement these recommendations, the City should explore public private funding partnerships as well as community partnerships with Berkeley residents, community | 0.00             | Work in Progress | Parks, Recreation & N Waterfront |                              | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 166 | Council and Budget Referrals - Project | Authorize Installation of Security Cameras at the Marina and Request an Environmental Safety Assessment                                                                  | Adopt the following recommendations in order to address the recent dramatic uptick in reported crime incidents at the Berkeley marina: -Request that the City Manager install security cameras and signage as expeditiously as possible as a long-term safety measure; -Refer to the City Manager to perform an environmental safety assessment of the Berkeley marina with particular attention to the berther parking areas. Cameras will not use facial recognition or biometric software.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 90.00            | Work in Progress | Parks, Recreation & N Waterfront |                              | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 167 | Council and Budget Referrals - Project | 27. Green Affordable Housing Package (Continued from October 6, 2015)                                                                                                    | Refer that the Planning Commission and City Manager investigate the following two policies as ways to reduce barriers for the creation of affordable housing. City Council requests that commissions and staff address and propose solutions and/or an implementation plan using the recommendations in the report by September 1, 2016. Policy 1: Designate units and funding for affordable housing by prioritizing housing over parking spaces in new developments. Policy 2: Remove the structural and procedural barriers to creating more housing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 90.00            | Work in Progress | Planning                         | Involves Planning Commission | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 168 | Council and Budget Referrals - Project | City Manager Referral: Facilitate the Local Implementation of Senate Bill 1413 and Expedite the Development of Teacher and School Employee Housing [Housing Action Plan] | Refer to the City Manager to work with the Planning to facilitate the local implementation of Senate Bill 1413 in an effort to expedite the development of housing for teacher and school employees in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 0.00             | Not Started      | Planning                         | N                            | N            | N            | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Percent Complete | State            | Lead City Department | Commission?                                       | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 169 | Council and Budget Referrals - Project | Classify Home Occupation Activities Receiving Five or Fewer Visits as Moderate Impact Home Operation (PDF)                                                                                 | Refer to the City Manager that the zoning code for Moderate Impact Home Operation (Moderate Impact HO) be amended to include home occupation activities receiving five or fewer visits weekly, requiring an AUP rather than a Use Permit with public hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 90.00            | Work in Progress | Planning             | Involves Planning Commission                      | Y            | N            | N                     | N                                | Y                       | Y                                  |
| 170 | Council and Budget Referrals - Project | Deferral of Remaining Permit Fees for 2009 Addison Street                                                                                                                                  | Refer to the City Manager to conduct a feasibility analysis and develop an MOU with the Berkeley Repertory Theater to defer \$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street (leaving flexibility for timing, setting of interest, schedule of payments, and fund sources).                                                                                                                                                                                                                                                                                                                                                                         | 0.00             | Not Started      | Planning             | N                                                 | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 171 | Council and Budget Referrals - Project | Partial Response to Council Referral on Deep Green Building Initiative - Recommendation for Dedicated Revenue Stream to Incentivize Residential Energy Efficiency and Electrification      | City Council refers to staff a request to conduct an analysis to identify and develop a set of programs and policies consistent with the Climate Action Plan to incentivize residential energy efficiency and electrification investments, based on a cost benefit analysis to determine highest value energy-saving measures. This recommendation supports the Deep Green Building Initiative referral from the Council to the Energy Commission. Council further refers \$50,000 to the budget process for the staff work and analysis.                                                                                                                                                                                    | 20.00            | Work in Progress | Planning             | N                                                 | Y            | Y            | Y                     | N                                | Y                       | Y                                  |
| 172 | Council and Budget Referrals - Project | Permit Service Center Improvements                                                                                                                                                         | Refer to the City Manager to include in current efforts to improve the Land Use Permitting process the following proposals to increase the efficiency and outreach of the Permit Service Center, making the permitting process easier for staff and applicants alike. Specific proposals to consider include: 1. Website improvements for tracking of permits, calculating permit fees, and applying online; 2. Case Managers for coordinated intake of permit applications and materials; 3. Informational materials including an improved user guide and infographics modeled after BizGrid; 4. Customer service improvements at the Center including a fast track line, kiosks, and an online appointment booking system. | 50.00            | Work in Progress | Planning             | N                                                 | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 173 | Council and Budget Referrals - Project | Planning Commission Referral for a Pilot Density Bonus Program for the Telegraph Avenue Commercial District to Generate Revenue to House the Homeless and Extremely Low-Income Individuals | Refer a City Density Bonus policy for the Telegraph Avenue Commercial District to the Planning Commission to generate in-lieu fees that could be used to build housing for homeless and extremely low-income residents.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 25.00            | Work in Progress | Planning             | Involves Planning Commission                      | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 174 | Council and Budget Referrals - Project | Providing Requested Direction to the City Manager and Planning on the Number of Cannabis Retail Establishments and the Creation of an Equity Program                                       | That the Council provides requested direction to the Planning on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.                                                                                                                                                                                                                                                  | 25.00            | Work in Progress | Planning             | Involves Planning Commission, Cannabis Commission | N            | N            | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                                                                                                                                      | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Percent Complete | State            | Lead City Department | Commission?                  | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 175 | Council and Budget Referrals - Project | Referral to the Planning Commission to Allow 4 Temporary Zoning Amendments to Increase Student Housing in the Southside Area                                                                                                                                                                                              | Refer to the City Manager and the Planning Commission to consider conversion of existing commercial space for residential use between College Avenue and Fulton Street and Bancroft Way to Dwight Way.                                                                                                                                                                                                                                                                               | 50.00            | Work in Progress | Planning             | Y                            | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 176 | Council and Budget Referrals - Project | Short Term Referral to Expedite Components of the More Student Housing Now Resolution, and budget referral to the annual appropriation ordinance adoption                                                                                                                                                                 | Short term referral to the City Manager and the Planning to promptly move forward with components of the More Student Housing Now Resolution that do not require additional CEQA review, amend existing City ordinances and policies that prevent the implementation of SB 1227, and provide a budget referral to the annual appropriation ordinance adoption that would allocate the necessary resources as determined by the Planning Staff.                                       | 50.00            | Work in Progress | Planning             | Involves Planning Commission | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 177 | Council and Budget Referrals - Project | Tiny Homes and Tiny Home Communities as Homeless Housing Options [Housing Action Plan]                                                                                                                                                                                                                                    | 2. Refer the item to the City Manager for further research and analysis. The creation of Tiny Homes on public or private property for long-term use and/or as habitable dwellings with facilities intended as a homeless program would require modifications to the existing zoning and building codes and additional program requirements to ensure such developments are moving clients out of homelessness.                                                                       | 0.00             | Not Started      | Planning             | N                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 178 | Council and Budget Referrals - Project | Zoning Ordinance Amendments to Increase the Floor Area Ratio (FAR) and Building Heights in Portions of the Telegraph Avenue Commercial (C-T) District; Amending BMC Chapter 23E.56; REFERRAL: refer to the City Manager to develop community benefit requirements, with a focus on labor practices and affordable housing | Adopt first reading of an Ordinance amending the Zoning Ordinance, Berkeley Municipal Code Chapter 23E.56, Telegraph Commercial District (C-T) to increase the floor area ratio and building heights in portions of the Telegraph Avenue Commercial (C-T) District.                                                                                                                                                                                                                  | 50.00            | Work in Progress | Planning             | Involves Planning Commission | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 179 | Council and Budget Referrals - Project | ZORP   Customer Service Improvements to Land Use Permit Process                                                                                                                                                                                                                                                           | Direct staff to make structural improvements to the Zoning Ordinance, communication improvements to better explain complex technical and procedural elements to the public, and organizational improvements to the Land Use Planning Division; and authorize the issuance of a request for proposals (RFP) for the selection of consultants to make structural improvements to the Zoning Ordinance and develop graphic communication elements in an amount not to exceed \$300,000. | 30.00            | Work in Progress | Planning             | Involves Planning Commission | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 180 | Council and Budget Referrals - Project | City Manager Referral: Expanding Gun Safety Measures in Berkeley                                                                                                                                                                                                                                                          | Refer to the City Manager to consider the following ordinances: 1. Banning Unsecured Firearms And Ammunition Located In Unattended Vehicles In The Public Right Of Way And "Public Places" As Defined In The Ordinance; and 2. Requiring That City-Issued Firearms In Unattended Vehicles Be Secured.                                                                                                                                                                                | 30.00            | Work in Progress | Police               | N                            | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 181 | Council and Budget Referrals - Project | City Manager Referral: Plan for Lighting and Signage at the Ohlone Greenway at Cedar, Rose, and Hopkins                                                                                                                                                                                                                   | Refer to the City Manager to develop a plan to improve the lighting and signage (e.g. stop signs) at the Ohlone Greenway crossing at Cedar, Rose, and Hopkins, particularly for bicycle transit.                                                                                                                                                                                                                                                                                     | 0.00             | Work in Progress | Public Works         | N                            | Y            | N            | Y                     | N                                | Y                       | Y                                  |
| 182 | Council and Budget Referrals - Project | Four Way Stop Signs on Eighth Street at Carleton Street and Pardee Street                                                                                                                                                                                                                                                 | Refer to the City Manager a proposal to install stop signs at the intersections of Eighth Street and Carleton Street and Eighth Street and Pardee Street.                                                                                                                                                                                                                                                                                                                            | 2.00             | Work in Progress | Public Works         | N                            | N            | N            | N                     | N                                |                         | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Percent Complete | State               | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 183 | Council and Budget Referrals - Project | Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets                                                              | Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way. | 50.00            | Work in Progress    | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 184 | Council and Budget Referrals - Project | Referral to Consider Caregiver Parking in Residential Shared Parking Pilot                                                                                                                                  | Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 25.00            | Pending On Schedule | Public Works         | Y           | Y            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 185 | Council and Budget Referrals - Project | Referral to the City Manager: Prioritize Climate Action Plan's Policy to Redesign/Rebuild the Berkeley Transfer Station and Material Recovery Facility into a State of the Art Zero Waste Facility          | Referral to the City Manager: Prioritize the City of Berkeley's Climate Action Plan's policy to redesign/rebuild the Berkeley Transfer Station and the material recovery facility into a state of the art Zero Waste facility.                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Work in Progress    | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 186 | Council and Budget Referrals - Project | Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St. | Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.                                                                                                                                                                                                                                                                                                                                                                                                     | 25.00            | Work in Progress    | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 187 | Council and Budget Referrals - Project | Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street                                                                                    | Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started         | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | N                                  |
| 188 | Council and Budget Referrals - Project | Residential Preferential Parking (RPP) Program Reform and Expansion                                                                                                                                         | 2. Refer to the City Manager to explore options to amendments to the ordinance related to the cap on permits for situations such as caregivers, child care, and others.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 25.00            | Work in Progress    | Public Works         | N           | Y            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 189 | Council and Budget Referrals - Project | Restrict Parking in the Hills Hazardous Fire Area (Continued from January 12, 2016)                                                                                                                         | Refer to staff the design of a parking restriction program in the Hills Fire Zone to ensure access for emergency vehicles and to allow for safe evacuations in an emergency and to hold public meetings to get community input in the design of such a program.                                                                                                                                                                                                                                                                                                                                                                                      | 10.00            | Work in Progress    | Public Works         | N           | Y            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 190 | Council and Budget Referrals - Project | Special RPP Designation, Grant Street between Ohlone Park and Delaware Street                                                                                                                               | Request the City Manager to designate a special "no 2-hour parking grace period" residential permit parking zone for the one cul-de-sac block of Grant Street between Ohlone Park and Delaware Street. Also, request to provide Council with an Info Report on the process and perform increased enforcement.                                                                                                                                                                                                                                                                                                                                        | 0.00             | Work in Progress    | Public Works         | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Percent Complete | State            | Lead City Department                        | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 191 | Council and Budget Referrals - Project | Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces                                      | Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.                                                                                                                                                         | 75.00            | Work in Progress | Public Works/Parks, Recreation & Waterfront | Y           | Y            | Y            | N                     | N                                | Y                       | N                                  |
| 192 | Council and Budget Referrals - Project | Wildland Urban Interface Fire Safety and Fire Safety Education                                          | To address long term fire, earthquake and disaster preparedness, response, and safety: Refer all of the Proposed Measures from the Commission's report to the City Manager for review by the Fire Department, Public Works, Parks, Recreation & Waterfront and other affected departments to be considered and prioritized along with: Councilmember Bartlett's November 28, 2017 referrals, Councilmember Hahn's January 30, 2018 referrals, and The January 2018 Conceptual Study to Underground Utility Wires. All of these measures should be reviewed, evaluated and prioritized by the City Manager. Report the City Manager's prioritization to Council. | 0.00             | Work in Progress | Fire & Emergency Services                   | Y           | Y            | Y            | N                     | N                                | Y                       | N                                  |
| 193 | Council and Budget Referrals - Project | Treatment of women in custody at Santa Rita Jail                                                        | Refer to the Commission on the Status of Women the alleged offensive treatment of women in custody at Santa Rita Jail, as reported below with the aim of ensuring that searches of women not be conducted in the presence of men (be they male officers or inmates) and any other changes in protocol that might be needed to ensure appropriate policies are followed during searches of women in custody.                                                                                                                                                                                                                                                     | 0.00             | Work in Progress | City Manager's Office                       | Y           | Data Pending | N            | N                     | N                                | Data Pending            | N                                  |
| 194 | Council and Budget Referrals - Project | Traffic Circle Vegetation Maintenance Policy                                                            | Refer to Parks and Waterfront Commission and the Transportation Commission to establish a city/community task force to: a) Evaluate the City's current traffic circle vegetation policy and b) Conduct a community led process to update that policy to ensure pedestrian/bicycle/vehicle safety and preserve community efforts to beautify traffic circles.                                                                                                                                                                                                                                                                                                    | 0.00             | Not Started      | Parks, Recreation & Waterfront              | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 195 | Council and Budget Referrals - Project | Non-Citizen Voting in Berkeley Elections Refer to Peace and Justice Commission                          | Refer to the Peace and Justice Commission to consider preparation of an amendment to the Berkeley City Charter to be presented to the voters in Berkeley that would allow a non-citizen resident the right to vote in Berkeley city elections.                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | City Manager's Office                       | Y           | N            | N            | N                     | N                                | Data Pending            | N                                  |
| 196 | Council and Budget Referrals - Project | Referral to Peace and Justice Commission to Further Protections for Immigrants and Religious Minorities | Adopt a Resolution referring to the Peace and Justice Commission to: 1. Identify entities involved in attempts to create databases and registries used to target immigrants and religious minorities, and make recommendations to the City Council on divesting from such entities; and 2. Identify all service providers to US Immigration and Customs Enforcement, and make recommendations to the City Council on prohibiting city investment in such service providers.                                                                                                                                                                                     | 0.00             | Not Started      | City Manager's Office                       | Y           | N            | N            | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                                                                                             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 197 | Council and Budget Referrals - Project | Referral to the Peace & Justice Commission: Examine Internet Communications Platforms Servicing Berkeley                                                                                                                                                                         | Referral to the Peace & Justice Commission to examine the internet communications platforms servicing Berkeley to assess whether they are propagating or promoting racism and/or discrimination.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | City Manager's Office                | Y           | N            | N            | N                     | N                                | Data Pending            | N                                  |
| 198 | Council and Budget Referrals - Project | Accessory Dwelling Unit Ordinance Updates                                                                                                                                                                                                                                        | Refer to the Planning Commission to consider additional elements for Berkeley's Accessory Dwelling Unit Ordinance (BMC 23C.24), on an expedited basis, and refer to the Disaster and Fire Safety Commission bullet point #5, relating to potential obstruction of emergency vehicles, and request that their recommendations be sent directly to the Planning Commission to inform the Planning Commission's review and recommendations. Amendments: Remove the language regarding view protections; Add new #9 on hillside heights measurements where no previous structure exists; Add "and any other solutions" to #5 regarding parking; Include the referral from Item 15 with this referral. | 0.00             | Not Started      | Fire & Emergency Services            | Y           | Y            | Y            | N                     | Y                                | Y                       | Y                                  |
| 199 | Council and Budget Referrals - Project | Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow | Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate. 01/14/21 (SM for DB)<br>DFSC recommendation to be reviewed by Planning prior to going to Council.                                                                                                                                         | 90.00            | Work in Progress | Fire & Emergency Services            | Y           | Y            | N            | N                     | N                                | Y                       | N                                  |
| 200 | Council and Budget Referrals - Project | Comprehensive Study of Emergency Services Call Center, Staffing and Development Systems<br><br>Revised Materials                                                                                                                                                                 | Refer to the City Manager and the Disaster and Fire Safety Commission to work with the Berkeley Fire Department and Berkeley Firefighters Association to investigate the Department's current practices and determine the feasibility of implementing a criteria-based dispatching system that allocates staffing based on need and risk, ensures that calls are prioritized based on acuity, and more efficiently delivers the appropriate allocation of resources to every 911 call. Include Alta Bates ER closure in analysis.                                                                                                                                                                 | 0.00             | Work in Progress | Fire & Emergency Services            | Y           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 201 | Council and Budget Referrals - Project | Referral to the Disaster and Fire Safety Commission and the City Manager: Five Year Plan for Expanded Disaster Preparedness Services                                                                                                                                             | Refer to the Disaster and Fire Safety Commission and the City Manager's office to explore developing a five year plan for expanded disaster preparedness services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | On Hold          | Fire & Emergency Services            | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 202 | Council and Budget Referrals - Project | Amending BMC Chapter 9.04: Tax Rate for Non-Medical Cannabis Businesses                                                                                                                                                                                                          | 2) refer to the Community Health Commission to study the health effects of cannabis and possible funding recommendations for allocating the tax revenue;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 203 | Council and Budget Referrals - Project | First They Came for the Homeless Encampment                                                                                                                                                                                                                                      | to refer Item 38a back to the Homeless Commission with the chart of questions provided by Council and request that the commission develop a more specific policy that is broadly applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 204 | Council and Budget Referrals - Project | Homeless Youth Policy                                                                                                                                            | Refer to the City Manager, the Homelessness Commission, and the Labor Commission to develop a Homeless Youth Policy for the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 205 | Council and Budget Referrals - Project | Homeless Youth Policy                                                                                                                                            | Refer to the City Manager, the Homelessness Commission, and the Labor Commission to develop a Homeless Youth Policy for the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 206 | Council and Budget Referrals - Project | Mobile Shower Referral                                                                                                                                           | Refer to the Homeless Commission and City Manager the establishment of a mobile shower unit in Berkeley and assess the feasibility/cost of such a project in comparison to existing programs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 50.00            | Work in Progress | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 207 | Council and Budget Referrals - Project | Moderate-Income Housing Strategies [Housing Action Plan]                                                                                                         | Forward these strategies to the Housing Advisory Commission (HAC) and staff for follow-up as appropriate: 1. Renter Strategies: Encourage homeowners to rent out unused rooms. Encourage homeowners to build Accessory Dwelling Units (ADU's) that could be rented to tenants. 2. Owner/Renter Strategies: Continue to study the use of a small sites strategy to maintain affordability in existing housing. Commit to securing one site as a small sites case study that could be replicated. Encourage and support new development that is owned and financed in less traditional ways, including expanded use of land trusts, cooperative form of ownership, and other approaches, such as co-housing and collaborative housing. Promote construction of affordable housing on surplus public land, particularly for BUSD teachers and staff. 3. Allocation of New Funding Sources: Inform Berkeley residents of the new Measure A1 funds that will be available from the County to assist moderate-income homeowners. Allocate a portion of the Measure U1 funds for moderate-income housing development. | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 208 | Council and Budget Referrals - Project | Neighborhood Preference in Affordable Housing to Reduce the Impact of Displacement and Ellis Act Evictions (Continued from March 29, 2016) [Housing Action Plan] | Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within ½ mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) eviction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Work in Progress | Health, Housing & Community Services | Y           | Y            | Y            | Y                     | N                                | Y                       | Y                                  |
| 209 | Council and Budget Referrals - Project | Referral to the Health Commission to Consider a "Deemed Approved Ordinance"                                                                                      | Refer to the Health Commission to consider a Concurrent Sales of Gasoline and Alcoholic Beverages Law regulating the concurrent sales of gasoline and alcoholic beverages. Deem such establishments approved, subject to their adherence to certain standards of behavior.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Percent Complete | State       | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 210 | Council and Budget Referrals - Project | Decriminalizing Entheogenic Plants                                                                              | Refer to the Community Health Commission to consider the possibility of de-prioritizing enforcement of laws relating to entheogenic plants and fungi by persons over 21 years of age. Consider potential health and community benefits and concerns, as well as possible policy variations with regard to possession, use, growing/production, and sales; quantities involved; use while driving; use during pregnancy and other possible "special circumstances considerations."                                                                                                                                                                                                                                                 | 0.00             | Not Started | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 211 | Council and Budget Referrals - Project | Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing | Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley's affordable housing policies, programs and projects through 2030. The item is further amended to add a "Draft" notation, remove the phrase "rather than for profit-maximizing companies" from Section II, and remove reference to the 50% goal.                                                               | 0.00             | Not Started | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 212 | Council and Budget Referrals - Project | Local Construction Workforce Development Policy                                                                 | Policy Recommendation: That the City Council refer to the Commission on Labor to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals. | 0.00             | Not Started | Health, Housing & Community Services | Y           | N            | N            | N                     | N                                |                         | N                                  |
| 213 | Council and Budget Referrals - Project | Local Construction Workforce Development Policy                                                                 | Policy Recommendation: That the City Council refer to the Commission on Labor to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals. | 0.00             | Not Started | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                                                                                                                                                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Percent Complete | State       | Lead City Department                 | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 214 | Council and Budget Referrals - Project | Refer on a Short Term Basis to the Planning Commission Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation and to Consider Modifying the In Lieu Fee Structure for Owner Occupied Units; Refer to the Housing Advisor Commission to Assess the Rate of a Fixed Per-Unit Fee for Owner-Occupied Developments | 1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019.<br>2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.<br>3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.<br>4. The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted. | 0.00             | Not Started | Health, Housing & Community Services | Y           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 215 | Council and Budget Referrals - Project | Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee                                                                                                                                                                                                                   | Refer to the City Manager, the Planning Commission, and the Housing Advisory Commission to consider possible reforms to the Affordable Housing Mitigation Fee, including adopting a per-square-foot fee structure, potentially on a geographic basis.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 0.00             | Not Started | Health, Housing & Community Services | Y           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 216 | Council and Budget Referrals - Project | Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans                                                                                                                                         | Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following: - Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society. - Develop rules and regulations to halt the loss of People of Color including the African American communities. - Develop a "right to return" for Berkeleyans, including the African American communities who have been displaced by these economic and social developments, and those who continue to be employed in our City, even after having to relocate beyond our boundaries. - Solicit expert and lived experience testimonies regarding displacement and gentrification. - Recommend alternatives to prevent displacement and gentrification of our valued Berkeley residents of color and African Americans. Recommendation includes a request for public workshops.                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started | Health, Housing & Community Services | Y           | N         | Y       | Y                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Percent Complete | State            | Lead City Department                 | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 217 | Council and Budget Referrals - Project | Small Sites Loan Program Recommendations                                                                                    | 4. Request that the Council and Housing Advisory Commission receive copies of small sites loan applications along with staff's corresponding analysis and decision.<br>6. Refer further consideration of a long-term small sites program to the City Manager and the Housing Advisory Commission.<br>7. Refer the small sites program to the November budget update and next biannual budget planning cycle in 2019.                                                       | 0.00             | Not Started      | Health, Housing & Community Services | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 218 | Council and Budget Referrals - Project | Referral: Telegraph Crosswalk Art Installations                                                                             | Refer to the Civic Arts Commission to develop and return to Council with a plan to:<br>1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets.<br>2. Build the winning design on the intersections.                                                                                                                                                                             | 0.00             | Not Started      | Office of Economic Development       | Y           | N            | Y            | N                     | N                                | Data Pending            | Y                                  |
| 219 | Council and Budget Referrals - Project | Replacement Mural for Center for Independent Living (CIL)                                                                   | Request the Arts Commission to consider, with CIL representatives, potential locations and suggestions for a new mural to replace that which was at the CIL Telegraph site.                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Office of Economic Development       | Y           | N            | Y            | N                     | N                                | Data Pending            | Y                                  |
| 220 | Council and Budget Referrals - Project | Consider Fire Safety Options for Fire Pit at Codornices Park                                                                | Referral to the Parks & Waterfront Commission to consider safety options regarding the future of the fire pit at Codornices Park. Please consider 1) Complete removal of fire pit or 2) Manufacture of a cover that can be secured and locked.                                                                                                                                                                                                                             | 0.00             | Not Started      | Parks, Recreation & Waterfront       | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 221 | Council and Budget Referrals - Project | Direction to the Children, Youth, and Recreation Commission: Tackle the Summer Learning Loss for Elementary School Children | Direct the Children, Youth, and Recreation Commission to tackle the summer learning loss for low-income elementary children through: 1. Consolidation, Education, & Outreach as outlined in the report; and 2. Assessment & Policy Recommendations as outlined in the report.                                                                                                                                                                                              | 0.00             | Not Started      | Parks, Recreation & Waterfront       | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 222 | Council and Budget Referrals - Project | Pollinators and Habitat (Commission Referral)                                                                               | Adopt three referrals that will deepen Berkeley's commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment:<br>2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019. (COMMISSION REFERRAL)<br>Parts 1 and 3 referred to City Manager                               | 0.00             | Not Started      | Parks, Recreation & Waterfront       | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 223 | Council and Budget Referrals - Project | Potential Recreational Opportunities at Willard Park and Pool                                                               | Refer the issue of recreational opportunities in the vicinity of Willard Park to the City Manager, Parks and Waterfront Commission and the 2X2 Committee of the City Council and the Board of Education to determine the best course of action for increased recreational equity in South Berkeley, including but not limited to the re-opening of Willard Pool. Authorize staff to develop cost estimates for a minimal level of repairs to get Willard Pool operational. | 0.00             | Work in Progress | Parks, Recreation & Waterfront       | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                                                                                                                                                          | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Percent Complete | State            | Lead City Department           | Commission?                                                              | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 224 | Council and Budget Referrals - Project | Referral to the City Manager and Parks and Waterfront Commission to Create a Policy to Establish a Commemorative Tree Program                                                                                                                                                                                                 | Refer to the City Manager and the Parks and Waterfront Commission the creation of a policy establishing a Commemorative Tree Program, similar to the City's Park Bench Donation Policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Parks, Recreation & Waterfront | Y                                                                        | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 225 | Council and Budget Referrals - Project | Referral to the Parks and Waterfront Commission: Greg Brown Park                                                                                                                                                                                                                                                              | Recommend that the Parks and Waterfront Commission consider initiating a community process regarding the reopening of Greg Brown Park. Conduct a public hearing and invite relevant stakeholders – including neighbors, representatives from the Berkeley Police and the Parks, Recreation, and Waterfront Department. Include an assessment of any funding requirements and/or public safety concerns. Prepare a report for submission to Council summarizing feedback from the public hearing and the commission's recommendations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | Parks, Recreation & Waterfront |                                                                          | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 226 | Council and Budget Referrals - Project | Ban on Receipts Made with BPA and Other Phenols                                                                                                                                                                                                                                                                               | Refer to the Health Commission and the Community Environmental Advisory Commission to consider an Ordinance to ban the manufacture, distribution, sale, or use of receipt paper that contains BPA or other phenols, and request that the commissions conduct at least one public hearing that includes invitations to local business associations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started      | Planning                       | Y                                                                        | N            | N            | N                     | N                                | Y                       | N                                  |
| 227 | Council and Budget Referrals - Project | COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL   City Manager and Planning Commission Referral: Facilitate Primarily Student Housing by a Twenty Feet Height Increase and Adjust Floor Area Ratio in the R-SMU, R-S and R-3 Areas Only From Dwight to Bancroft and From College to Fulton | Refer to the City Manager and Planning Commission to facilitate primarily Student Housing by amending the Zoning Ordinance to add a twenty feet height increase and adjust Floor Area Ratio in the R-SMU, R-S and R-3 areas only from Dwight to Bancroft and from College to Fulton.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50.00            | Work in Progress | Planning                       | Involves Planning Commission                                             | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 228 | Council and Budget Referrals - Project | Housing Accountability Act                                                                                                                                                                                                                                                                                                    | Refer to the City Manager, Planning Commission, Zoning Adjustments Board, and Design Review Committee to consider the following actions, and others they may find appropriate, to address the potential impacts of the Housing Accountability Act and to preserve local land use discretion: 1. Amend the General Plan and Zoning Ordinance to adopt numerical density and/or building intensity standards that can be applied on a parcel-by-parcel basis in an easy and predictable manner. These would constitute reliable and understandable "objective general plan and zoning standards" that would establish known maximum densities. This could be done across the board or for specified districts. 2. Devise and adopt "objective, identified written public health or safety standards" applicable to new housing development projects. 3. Adopt "design review standards that are part of 'applicable, objective general plan and zoning standards and criteria". 4. Quantify and set objective zoning standards and criteria under the first sentence of Government Code Section 65589.5(j) for views, shadows, and other impacts that often underlie detriment findings. | 25.00            | Work in Progress | Planning                       | Involves Joint Subcommittee for the Implementation of State Housing Laws | N            | Y            | Y                     | Y                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

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| 229 | Council and Budget Referrals - Project | Referral to Planning Commission to Amend Zoning Ordinance (non-commercial ground floor)                           | Refer to the Planning Commission an amendment to the Zoning Ordinance to create a use permit process to allow non-commercial use on the ground floor where commercial might otherwise be required.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 25.00            | Work in Progress | Planning             | Y           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 230 | Council and Budget Referrals - Project | Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance           | Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance. | 0.00             | Not Started      | Planning             | Y           | N            | N            | N                     | N                                | Y                       | N                                  |
| 231 | Council and Budget Referrals - Project | Referral to the Community Environmental Advisory Commission and the City Manager: Anti-Idling Ordinance           | Refer to the Community Environmental Advisory Commission and the City Manager to explore developing an anti-idling ordinance. The ordinance should limit vehicle engine idling when a vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment; and prohibit all unattended private passenger motor vehicles from idling. The ordinance should outline enforcement and citation procedures. The Commission and the City Manager should develop appropriate exceptions for commercial vehicles. Any funds received through enforcement of the ordinance should accrue to the General Fund to provide additional funding for sustainability efforts. The Community Environmental Advisory Commission and the City Manager should review the District of Columbia's anti-idling regulations (attached to report) to aide in the development of the ordinance. | 50.00            | Work in Progress | Planning             | Y           | N            | N            | N                     | N                                | Y                       | N                                  |
| 232 | Council and Budget Referrals - Project | Referral: Update the definition of "Research and Development"                                                     | Refer to the Planning Commission to update the definition of "Research and Development."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started      | Planning             | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 233 | Council and Budget Referrals - Project | Removing Plastic Microfibers From The Water Supply: A Referral to the Community Environmental Advisory Commission | Refer to the Community Environmental Advisory Commission to assess the City's capacity to participate in an outreach program informing residents of the harmful nature of microfibers. Revised to add that the Council will send a letter to EBMUD requesting a report on EBMUD's water sourcing measures in drought years; and that the letter will be submitted to Council as an information item.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 0.00             | Not Started      | Planning             | N           | N            | N            | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Percent Complete | State       | Lead City Department     | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 234 | Council and Budget Referrals - Project | Refer the Police Review Commission to create training requirements for Police Review Commissioners                                                      | Request that the Police Review Commission establishes mandatory training requirements for Police Review Commissioners, with input from the Police Review Commission Officer and Chief of Police. Recommendation amended to request that the commission consult with the City Manager regarding the training.                                                                                                                                                                                                                                                                                | 0.00             | Not Started | Police Review Commission | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 235 | Council and Budget Referrals - Project | Refer the Police Review Commission to extend time period to impose discipline on Berkeley Police officers pursuant to Police Review Commission findings | Recommend that the Council refer to the Police Review Commission to extend the time limit for Police Review Commission investigations and notification of discipline from the current limit to one calendar year.                                                                                                                                                                                                                                                                                                                                                                           | 0.00             | Not Started | Police Review Commission | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 236 | Council and Budget Referrals - Project | City Manager Referral: Improving the City's Elevator Ordinance                                                                                          | Referral to the City Manager and Commission on Disability to improve the City's Elevator Ordinance by addressing the concerns of the disabled community.                                                                                                                                                                                                                                                                                                                                                                                                                                    | 0.00             | Not Started | Public Works             | Y           | N            | N            | N                     | N                                | Y                       | N                                  |
| 237 | Council and Budget Referrals - Project | Oversized Vehicle Restrictions on Bicycle Boulevards                                                                                                    | Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.050 to prohibit commercial trucks exceeding five tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network. Request that the commission work with business associations, the size limitations, the streets subject to the restrictions, and the clarifications added by Councilmember Wengraf related to emergency vehicles.                                                                                                                 | 0.00             | Not Started | Public Works             | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 238 | Council and Budget Referrals - Project | Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave                                                                         | That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.                                                                                                                                                                                                                                                                    | 0.00             | Not Started | Public Works             | Y           | N            | N            | N                     | N                                | N                       | Y                                  |
| 239 | Council and Budget Referrals - Project | Protected Pedestrian Walkways                                                                                                                           | Refer to the City Manager and request that the Transportation Commission review and craft potential policy solutions—including but not limited to open or covered protected walkways—to improve pedestrian accessibility immediately surrounding construction or sidewalk upgrades.                                                                                                                                                                                                                                                                                                         | 0.00             | Not Started | Public Works             | Y           | N            | N            | N                     | N                                |                         |                                    |
| 240 | Council and Budget Referrals - Project | Reassessing Traffic Calming Policy                                                                                                                      | Refer to the Transportation Commission to re-evaluate the City's qualifying criteria and ranking and prioritization process for traffic calming, by considering the following possibilities, among other changes that would promote safe residential streets and maximize the public health benefit of the traffic calming program: -Lowering the speed limit criteria to read "where the 85th percentile speed profile is greater than the speed limit" instead of "greater than 5 mph over the speed limit." -Taking alignment with the City's bicycle and pedestrian plans into account. | 0.00             | Not Started | Public Works             | Y           | N            | N            | N                     | N                                |                         |                                    |
| 241 | Council and Budget Referrals - Project | Refer the Transportation Commission to consider incentives for the public to use sustainable modes of transportation similar to Bologna, Italy          | Refer to the Transportation Commission to create incentives for members of the public to cycle, walk and take public transport as opposed to driving.                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Not Started | Public Works             | Y           | N            | N            | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                   | Name                                                                                                                                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Percent Complete | State            | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 242 | Council and Budget Referrals - Project | Refer to the City Manager, Disability Commission, and Planning Commission to Develop an Ordinance Requiring New Residential Buildings to Provide Auto-door Openers and Roll-in Showers | Refer to the City Manager, Disability Commission, and Planning Commission to require new residential buildings in Berkeley to include essential wheelchair-accessible modifications such as auto door openers and roll-in showers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Work in Progress | Public Works         | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 243 | Council and Budget Referrals - Project | Refer to the Commission on Disability to examine the impacts that the parking citation system may have on persons with low income and disabilities                                     | Refer to the Commission on Disability to examine the impacts that the parking citation system may have on people with low income and disabilities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Public Works         | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 244 | Council and Budget Referrals - Project | Refer to the Commission on Disability to examine the impacts that the parking citation system may have on persons with low income and disabilities                                     | Refer to the Commission on Disability to examine the impacts that the parking citation system may have on people with low income and disabilities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Public Works         | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 245 | Council and Budget Referrals - Project | Referral: Measures to Address Traffic Enforcement and Bicycle Safety                                                                                                                   | 1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement against the Idaho Stop convention for persons operating a bicycle, in an empty intersection after the operator has yielded to any other road users with the right of way, by limiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Section 22450(a), and to develop a process for evaluating the before and after effects on safety.                                                                                                                                                                                                                                                                                                                                                         | 0.00             | Not Started      | Public Works         | Y           | N            | N            | N                     | N                                | Y                       | N                                  |
| 246 | Council and Budget Referrals - Project | Referral: Street Lighting Near Campus                                                                                                                                                  | Refer to the Public Works Commission to include the following in the Street Lighting Subcommittee Work Plan, for the purposes of seeking input from key stakeholders and bringing together work that happens through parallel processes. The Subcommittee should: 1. Invite input from representatives from the UC Berkeley administration, UC Berkeley undergraduate and graduate students, UCPD and BPD, the Department of Public Works, and other relevant groups. 2. Develop a streamlined and accessible process for requesting street lights that includes neighborhood and campus input, while recognizing the overriding public safety concern posed by substandard lighting. 3. Develop a plan for expeditiously installing new streetlights near campus that prioritizes high-crime areas, high-injury pedestrian corridors, and student-priority areas as determined by student input. | 0.00             | Work in Progress | Public Works         | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 247 | Council and Budget Referrals - Project | Report on Public Realm Pedestrianization Opportunities                                                                                                                                 | Refer to the Transportation Commission to generate a report on potential public realm pedestrianization opportunities in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Public Works         | Y           | N            | N            | N                     | N                                | N                       | N                                  |
| 248 | Council and Budget Referrals - Project | Restricting the Number of Vehicles Being Parked on Our Streets                                                                                                                         | Refer to the Transportation Commission to establish an ordinance that would prevent the parking of many multiples of vehicles on any given Berkeley street, or contiguous streets, by an individual owner.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 0.00             | Not Started      | Public Works         | Y           | N            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                                                              | Name                                                                                                                                                         | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Percent Complete | State              | Lead City Department  | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------|-----------------------|-------------|--------------|--------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 249 | Council and Budget Referrals - Project / Strategic Plan - Project | Street Sweeping Improvement Plan                                                                                                                             | Refer to the City Manager, Public Works commission, and Zero Waste commission to develop a new strategy to ensure that street sweeping is not obstructed by waste/recycling pick-up. In addition to being unsightly, without proper street sweeping, trash and debris are more likely to go into the stormwater drains. Specifically 1. Staff should provide a map of streets in which sweeping days and waste/recycling pickup coincide to better understand where and when this problem occurs; and 2. Staff and Commissions should return to Council with a proposed solution including, but not limited to, rescheduling street sweeping and waste/recycling pickups to ensure that both services do not occur on the same day. | 0.00             | Not Started        | Public Works          | Y           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 250 | Open Audit Recommendation                                         | City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 1.1 | Clearly define the purpose, responsibilities, minimum qualifications, and training requirements for the line of business experts function.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Data Pending     | Partly Implemented | City Manager's Office | N           | Y            | N            | N                     | N                                | Data Pending            | Data Pending                       |
| 251 | Open Audit Recommendation                                         | City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 1.2 | Work with Information Technology to establish written policies and procedures for the line of business experts function at the appropriate organizational level based on the guiding principles established in Recommendation 1.1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Data Pending     | Partly Implemented | City Manager's Office | N           | Y            | N            | N                     | N                                | Data Pending            | Data Pending                       |
| 252 | Open Audit Recommendation                                         | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16) - Recommendation 6.6                                                                    | Use the information learned from surveying project managers and administrative staff (Recommendation 6.5) to identify critical business needs for the purchase of a comprehensive grants management system. Provide this information to the Department of Information Technology to use as part of Enterprise Resource Planning.                                                                                                                                                                                                                                                                                                                                                                                                    | 0.00             | Not Started        | City Manager's Office | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 253 | Open Audit Recommendation                                         | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.1                                                                     | Issue an internal policy assigning the division responsible for overall grants accounting (e.g., billing and monitoring receivables) and reporting. Make it clear to project managers that they are responsible for providing information on the grants they manage to the appointed division to assist with grants accounting.                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started        | City Manager's Office | N           | N            | N            | N                     | N                                | Data Pending            | N                                  |
| 254 | Open Audit Recommendation                                         | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.2                                                                     | Create a work team of Public Works staff who administer and manage grants. Team members should include the position responsible for overall grants accounting and reporting, and staff from the divisions that manage grants (e.g., Engineering and Transportation). The team should work collectively to evaluate their respective functions and their interrelated roles and responsibilities for grants management, billing, and accounting; and work towards developing an effective workflow that provides for accurate and timely grants accounting and reporting.                                                                                                                                                            | 0.00             | Not Started        | City Manager's Office | N           | N            | N            | N                     | N                                | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                     | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Percent Complete | State       | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|---------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------|-----------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 255 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.3 | <p>Require the grants team to work collectively to develop a written procedures manual that clearly explains roles, responsibilities, and workflows. The manual should:</p> <ul style="list-style-type: none"> <li>▪ provide guidance on the overall grant application, approval, and monitoring process within the department</li> <li>▪ refer to other applicable policies and procedures such as City Administrative Regulation 1.17 and Contracts Online</li> <li>▪ describe the specific tasks performed within divisions and/or by job classification</li> <li>▪ identify the forms and data sheets that staff are to use for recording, tracking, and monitoring grants (also see Recommendations 5.1 and 6.2)</li> <li>▪ describe coordinating efforts needed between divisions and with the grant coordinator in Finance</li> <li>▪ identify timelines and requirements for reporting, performing reconciliations, and providing information to the Finance grant coordinator (also see Recommendation 2.2)</li> <li>▪ provide enough detail to more easily train new hires or staff with new responsibilities</li> </ul> <p>As with all procedures, the work team should consider the manual a living document that they review and update regularly to reflect changes in practices, procedures, and assignments.</p> | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 256 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 1.4 | <p>Require the grants work team to have regular meetings to share information and discuss workflows between their divisions. These meetings may need to be more frequent at first, e.g., quarterly, and less frequent over time, e.g., annually. The team should invite the Finance grant coordinator to their meetings to ensure the coordinator is receiving the necessary information for recording grants to the central repository and issuing grants receivables reports.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 257 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 2.1 | <p>Provide the Finance grant coordinator with a list of personnel who are responsible for grants management, accounting, and reporting so that they can be notified when the grant coordinator posts the grants reports to the City's shared drive.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 258 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 2.2 | <p>Require the division responsible for grants accounting and reporting to use Finance's grant reports to:</p> <ul style="list-style-type: none"> <li>▪ reconcile Public Works' grant financial records with FUND\$ to ensure that the department is recording expenditures and payments to the correct accounts</li> <li>▪ work with Finance to make any necessary corrections to FUND\$ financial data when they identify discrepancies and errors</li> <li>▪ track grants receivables and follow up with grantors on outstanding receivables</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                     | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Percent Complete | State       | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|---------------------------|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------|-----------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 259 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 3.1 | Take ownership of City Administrative Regulation 1.16 and:<br><ul style="list-style-type: none"> <li>▪ review and update the regulation so that it is consistent with City practices and procedures, and cross reference the regulation to other guidance and policies, e.g., Contracts Online and City Administrative Regulation 1.17</li> <li>▪ reissue the updated guidance to all City staff with emphasis on ensuring that project managers and those responsible for identifying and applying for grant funding are notified of the update</li> </ul> | Data Pending     | Started     | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 260 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 4.1 | Request that all department directors notify their grant management and accounting staff of City Administrative Regulation 1.17, and their expectations that staff adhere to the guidance.                                                                                                                                                                                                                                                                                                                                                                  | Data Pending     | Started     | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 261 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 5.1 | Require those responsible for grant accounting use the summary of charges sheet and work with project managers and the Finance grant coordinator to obtain the data they need to populate the sheet (also see Recommendations 1.3 and 1.4).                                                                                                                                                                                                                                                                                                                 | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 262 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.1 | Require that all department directors ensure that their staff with grants management and fiscal responsibilities receive the following training:<br><ul style="list-style-type: none"> <li>▪ City Administrative Regulation 1.17: Pre-Award Authorization and Post-Award Grant Requirements</li> <li>▪ Contracts Online, in particular, the revenue contract requirements</li> </ul>                                                                                                                                                                        | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 263 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.2 | Require all departments that receive financial assistance from a third-party to ensure that their written procedures clarify that all such awards are consider grants and must be packaged in accordance with Contracts Online, and to follow City Administrative Regulation 1.17 to ensure that the grant coordinator receives the grant accounting data sheet (also see Recommendation 1.3).                                                                                                                                                              | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | Data Pending                       |
| 264 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.3 | Notify department directors when the grant coordinator finds that project managers and administrative staff are not providing grant information in accordance with City policy. Request that the department directors refer their staff to City Administrative Regulation 1.17, Contracts Online, and departmental procedures for guidance on ensuring they adhere to required grant policies and procedures.                                                                                                                                               | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | Data Pending                       |
| 265 | Open Audit Recommendation | Citywide Grants Management (formerly PW Grants Follow-up Audit FY16)- Recommendation 6.5 | Survey project managers and administrative staff who are responsible for grants management, reporting, and accounting to identify ways to improve the current grant database and reporting so that data are current and accurate, and reports are more user-friendly.                                                                                                                                                                                                                                                                                       | 0.00             | Not Started | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Percent Complete | State              | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|---------------------------|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------|-----------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 266 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.3 | Conduct a staffing analysis to determine the appropriate staffing level needed for the Code Enforcement Unit to effectively enforce City codes. In conducting the analysis, include an assessment of the workload impact created by the codes for which the CEU is solely responsible as well as those created by the codes for which CEU shares responsibility with other enforcement units.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 0.00             | Not Started        | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 267 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.4 | Use the staffing analysis performed in response to Recommendation 1.3 to:<br><ul style="list-style-type: none"> <li>• Quantify the full burden cost of additional staff</li> <li>• Determine if sufficient budgetary funding is available for additional staff</li> <li>• Request additional staffing from Council during the annual appropriations process</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | Not Started        | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 268 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 1.7 | Implement code enforcement software that:<br><ul style="list-style-type: none"> <li>• Identifies case assignment to CEU officers and other work units</li> <li>• Prioritizes cases, in particular high-risk cases posing health and safety risks</li> <li>• Captures pertinent case dates, e.g., opened, notice of violation, citation issuance, and closed</li> <li>• Tracks enforcement actions taken within the CEU and other work units</li> <li>• Quantifies citations issued and collected</li> <li>• Allows for readily identifying repeat offenders</li> <li>• Includes performance measurement tools, e.g., turnaround times within defined specifications (see Recommendation 2.2)</li> <li>• Allows for uploading information from mobile technologies (see Recommendation 1.8)</li> <li>• Includes reporting tool to showcase workload trends and capacity restrictions (i.e., backlogs)</li> </ul> | Data Pending     | Partly Implemented | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 269 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight-Recommendation 2.2 | Implement performance metrics and goals to:<br><ul style="list-style-type: none"> <li>• Assess the effectiveness of code enforcement operations and goal achievement</li> <li>• Identify constraints preventing goal attainability.</li> <li>• Submit regular reports, e.g., biannually, to City management on performance.</li> </ul> <p>Include a metric to provide at least some proactive code enforcement activities. Develop this metric after implementing the process and system improvement recommendations made in this report.</p>                                                                                                                                                                                                                                                                                                                                                                   | Data Pending     | Partly Implemented | City Manager's Office | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Percent Complete | State              | Lead City Department                  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|---------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------|---------------------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 270 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight- Recommendation 5 | If budgetary constraints prevent additional staffing or if Council does not approve the budget needed to fund additional staffing, report to Council the restrictions placed on the Code Enforcement Unit's ability to effectively enforce City codes. Include information explaining the hindrance this will cause for any new ordinances the City Council may want to pass in the future. Provide this information regularly, for example, annually as part of the budget process, to keep Council informed of the CEU's capacity restrictions. See also Recommendation 1.7.                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Data Pending     | Partly Implemented | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 271 | Open Audit Recommendation | Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight- Recommendation 8 | Implement mobile computers and printers to allow Code Enforcement Officers to complete more work in the field, thus improving their time spent in the community and reducing time in the office. Mobile computers should have the capacity to interface with the code enforcement case management software implemented in response to Recommendation 1.7.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Data Pending     | Partly Implemented | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 272 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.1                                              | The City Manager should formalize and approve the division of responsibilities between the Public Works department and other departments regarding lease management.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started        | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 273 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.2                                              | The Public Works department should determine and formally define the role of the real property administration staff given available resources.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 0.00             | Not Started        | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 274 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight- Recommendation 1.5                                              | Formally communicate the plan with all affected City departments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started        | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 275 | Open Audit Recommendation | Most Contracts Executed Timely but Contract Project Managers Could Use Better Tools and Guidance- Recommendation 5              | Require departments to document their specific procedures for contract preparation, oversight, and management. Procedures should include: <ul style="list-style-type: none"> <li>• planning for department specific actions, e.g., obtaining management's approval</li> <li>• tracking contract status and funding needs</li> <li>• attending City training courses when offered, e.g., contract preparation and FUND\$ 101</li> <li>• describing shared contract management responsibilities between project managers and support staff</li> <li>• requiring projects managers to coordinate with and respond to support staff's needs for contract administration</li> <li>• requesting contract extensions</li> <li>• aligning contract needs with department work plans</li> <li>• using Finance's contract process timelines and On Demand report of expiring contracts for contract planning (also see recommendations 1.1 and 1.2)</li> <li>• minimum level of documentation needed to effectively manage contracts</li> </ul> | Data Pending     | Started            | City Manager's Office                 | N           | N         | N       | N                     | N                                | Data Pending            | N                                  |
| 276 | Open Audit Recommendation | Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better - Recommendation 4                     | Develop a system for tracking, analyzing, and reporting on suspected misconduct, including written guidance and forms (or similar) to assist employees in making reports.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Data Pending     | Started            | City Manager's Office/Human Resources | N           | Y         | Y       | N                     | N                                | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                         | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Percent Complete | State              | Lead City Department                  | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 277 | Open Audit Recommendation | Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.2 | Promote ethical standards to employees and the public by:<br><br>1) Including the City's ethics statement in the new employee packet and discussing the City's commitment to ethical standards in new employee orientation<br><br>2) Providing all employees with training covering the City's ethics related policies and incorporating key aspects of the Fair Political Practices Commission ethics training<br><br>3) Providing a variety of ways to access ethics information and resources for employees, including those with no regular computer access at work, such as:<br>• Posters and wallet cards<br>• Centralized, intranet based ethics resource center<br>• Periodic inclusion of ethics statement in Berkeley Matters<br><br>4) Emphasizing the City's commitment to workplace ethics during formal meetings, informal staff discussions, and regular communications with outside parties<br><br>5) Making the code of ethics available to the public, such as including the ethics code and related material in a centralized location on the City's public internet | Data Pending     | Partly Implemented | City Manager's Office/Human Resources | N           | Y            | N            | N                     | N                                | Y                       | Data Pending                       |
| 278 | Open Audit Recommendation | Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.3 | Provide supervisors and midlevel management with written guidance and training on how to:<br><br>• Initiate and encourage discussions of ethical issues to help dispel misconceptions and alert management to actual problems<br><br>• Report concerns or complaints to management or an external resource, and conduct investigations of ethics related complaints according to the City's procedures                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Data Pending     | Partly Implemented | City Manager's Office/Human Resources | N           | Y            | N            | N                     | N                                | Data Pending            | Data Pending                       |
| 279 | Open Audit Recommendation | Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.5 | Provide employees and the City Council with summary reports about investigation and resolution of employee ethics complaints, such as the reports already provided about EEO complaints, taking care to protect confidential and identifying information.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 0.00             | Not Started        | City Manager's Office/Human Resources | N           | N            | N            | N                     | N                                | Data Pending            | Data Pending                       |
| 280 | Open Audit Recommendation | Berkeley's Ethical Climate Rated Strong Overall and Management Working to Make it Better- Recommendation 1.6 | Monitor and regularly evaluate the effectiveness of the ethics program and make improvements based on results.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Data Pending     | Partly Implemented | City Manager's Office/Human Resources | N           | Y            | N            | N                     | N                                | Y                       | Data Pending                       |
| 281 | Open Audit Recommendation | Credit Card Use: Clearer Guidance Needed- Recommendation 3                                                   | Align City policies and procedures reflecting purchasing requirements and restrictions: purchasing; travel and attendance; petty cash; credit card use; food purchases; and any others that, if not updated, would create disconnect regarding the City's expectations and create confusion for City staff expected to adhere to City policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Data Pending     | Started            | Finance                               | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Percent Complete | State            | Lead City Department      | Commission? | Underway? | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|---------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|---------------------------|-------------|-----------|--------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 282 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 1.1                  | Analyze the short- and long-term impact of putting forth a change to the Berkeley Municipal Code to reduce the types or frequency of fire prevention inspections.                                                                                                                                                                                                                                                                                                                                                        | 60.00            | Work in Progress | Fire & Emergency Services | N           | Y         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 283 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 1.2                  | Perform a workload analysis to quantify the staff needed now and in the future to comply with the local fire prevention inspection requirements.                                                                                                                                                                                                                                                                                                                                                                         | 60.00            | Work in Progress | Fire & Emergency Services | N           | N         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 284 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 2.1                  | Develop a process, in consultation with the Information Technology Department, for sharing information on property changes and additions between Fire and other City database platforms.                                                                                                                                                                                                                                                                                                                                 | Data Pending     | Started          | Fire & Emergency Services | N           | Y         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 285 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 2.2                  | Work with both the database's software vendor and the Information Technology Department to strengthen controls over the database, including:<br><br>· Assessing the needs for required fields for processing an inspection, such as unit, shift, inspector name, address, violation details, and violation location.<br><br>· Formatting drop-down menus for inspection status, inspection type, and violation status. Formatting the options available for the violation code numbers and violation description fields. | 0.00             | Not Started      | Fire & Emergency Services | N           | N         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 286 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.1                  | Coordinate work plans with Suppression for all mandated fire prevention inspections. These should take into consideration the volume and nature of the other work Suppression performs.                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | Fire & Emergency Services | N           | N         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 287 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.2                  | Create a risk-assessment plan to identify those properties that are most at risk of a fire.                                                                                                                                                                                                                                                                                                                                                                                                                              | 60.00            | Started          | Fire & Emergency Services | N           | Y         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 288 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.5                  | Revise the fire prevention inspection training to provide hands-on training, using experienced Suppression staff, on how to conduct inspections and interact with residents and community members during inspections.                                                                                                                                                                                                                                                                                                    | 25.00            | On Hold          | Fire & Emergency Services | N           | Y         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 289 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.6                  | Develop and distribute educational information to property owners prior to the beginning of the inspection cycle to provide information on the fire prevention inspection program, common violations, and any upcoming inspections for that area of the City.                                                                                                                                                                                                                                                            | 0.00             | Not Started      | Fire & Emergency Services | N           | N         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 290 | Open Audit Recommendation | Fire Prevention Inspections: Insufficient Resources Strain Code Compliance- Recommendation 3.7                  | Create a process for issuing, tracking, and following up on administrative citations for properties with repeat or high-risk violations, including revenue collections and tracking. That process should collaborate with other City work units that perform enforcement activities to provide consistency.                                                                                                                                                                                                              | 0.00             | Not Started      | Fire & Emergency Services | N           | N         | Data Pending | N                     | Data Pending                     | Data Pending            | Data Pending                       |
| 291 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.1 | Define and include sexual assault, stalking, and witnesses' rights.                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 0.00             | Not Started      | Human Resources           | N           | Y         | Y            | N                     | N                                | Y                       | Y                                  |
| 292 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.3 | Revise the policy title to reflect the comprehensive scope of the policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started      | Human Resources           | N           | Y         | Y            | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State              | Lead City Department   | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 293 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 1.4                                            | Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | Not Started        | Human Resources        | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 294 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 13.1                                           | Implement best practices, including:<br>- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;<br>- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;<br>- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and<br>- Adopting a trauma-informed and inclusive approach. | 0.00             | Not Started        | Human Resources        | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 295 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 2                                              | State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 0.00             | Not Started        | Human Resources        | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 296 | Open Audit Recommendation | Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees- Recommendation 2.1                                            | Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0.00             | Not Started        | Human Resources        | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 297 | Open Audit Recommendation | City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation- Recommendation 5 | Work with Human Resources to revise the job classification used for the portfolio coordinator position. Minimum qualification factors might include, but are not limited to:<br>- IT Governance/Portfolio Management experience;<br>- Project Management Professional certification;<br>- Project coordination experience; and<br>- Excellent verbal and written communication skills.                                                                                                                                                                                                                                                                                                                                                                                    | Data Pending     | On Hold            | Information Technology | N           | Y         | N/A     | N                     | N                                | N                       | N                                  |
| 298 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal- Recommendation 8       | Create a method for community members to track the status of their cases online, which will reduce the call volume to the 311 Call Center.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 0.00             | Not Started        | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 299 | Open Audit Recommendation | 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 2                                                               | Use the staffing analysis performed in response to recommendation 1.1, to determine future resource needs of the Communications Center, including staffing, equipment, and physical space. Take into account planned changes to services and factors that may influence call volume.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Data Pending     | Partly Implemented | Police                 | N           | Y         | N       | Y                     | N                                | N                       | N                                  |



**Disposition of  
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| 300 | Open Audit Recommendation | 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 6                                                            | Implement an automated scheduling software that has built-in decision-making capabilities to automatically fill shifts based on specified qualifications and staff availability.                                                                                                                                                                                                      | 25.00            | Partly Implemented | Police               | N           | Y         | N       | N                     | N                                | Y                       | N                                  |
| 301 | Open Audit Recommendation | 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale - Recommendation 7                                                            | Decrease the concentration of overtime among dispatchers.                                                                                                                                                                                                                                                                                                                             | 75.00            | Partly Implemented | Police               | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 302 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 1.3                                                                     | Develop and finalize a property management plan that documents the specific responsibilities of Public Works and of other departments for lease management.                                                                                                                                                                                                                           | 0.00             | Not Started        | Public Works         | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 303 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 1.4                                                                     | The property management plan should be coordinated with affected City departments, including the Contract Administrator in Finance/Purchasing, before finalizing.                                                                                                                                                                                                                     | 0.00             | Not Started        | Public Works         | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 304 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 2.1                                                                     | Administrative Regulation 6.6 and Contracts Online should be updated to give clear direction to City staff regarding administration and execution of lease agreements.                                                                                                                                                                                                                | 0.00             | Not Started        | Public Works         | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 305 | Open Audit Recommendation | Leases Audit: Conflicting Directives Hinder Contract Oversight - Recommendation 3.3                                                                     | Public Works should update the City's real property administration policies and procedures to align with management's expectations.                                                                                                                                                                                                                                                   | 0.00             | Not Started        | Public Works         | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 306 | Open Audit Recommendation | Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1                                                                   | Update the Street Rehabilitation and Repair Policy annually and define who is responsible for ensuring the Policy is updated, as stated in the Policy.                                                                                                                                                                                                                                | 50.00            | Work in Progress   | Public Works         | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 307 | Open Audit Recommendation | Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1.1                                                                 | Annually, conduct a budget analysis, based on the deferred maintenance needs at that point in time, to determine what level of funding is necessary to achieve the desired goals of the Street Rehabilitation Program. Report findings to City Council. This information will be helpful during updates to the Five-Year Street Rehabilitation Plan and during the budgeting process. | 50.00            | Work in Progress   | Public Works         | Y           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 308 | Open Audit Recommendation | Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 1.2                                                                 | Identify funding sources to achieve and maintain the goals of the Street Rehabilitation Program.                                                                                                                                                                                                                                                                                      | 0.00             | Work in Progress   | Public Works         | N           | Y         | N       | N                     | N                                | N                       | N                                  |
| 309 | Open Audit Recommendation | Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 2.2                                                                 | When updating the Street Rehabilitation and Repair Policy, incorporate equity to align with Vision 2050 and clearly define how it will be applied to the street maintenance and rehabilitation planning process.                                                                                                                                                                      | 50.00            | Work in Progress   | Public Works         | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 310 | Open Audit Recommendation | Rocky Road: Berkeley Streets at Risk and Significantly Underfunded - Recommendation 2.3                                                                 | Define goals and performance measures to guide the Street Rehabilitation and Repair Policy and Street Rehabilitation Program that align with other plans and policies relevant to street paving (e.g., Complete Streets Policy, Vision 2050, etc.). Regularly report to Council on performance measures.                                                                              | 25.00            | Work in Progress   | Public Works         | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 311 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.1 | Request the City Council to redefine and then reaffirm its commitment to zero waste (i.e., the percentage that the Council considers to be success), and to ensure sufficient resources to fund appropriate staffing and the necessary infrastructure to achieve stated goals by 2020.                                                                                                | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N       | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Percent Complete | State              | Lead City Department | Commission? | Underway? | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 312 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.2 | Draft and obtain Council approval of a written strategic plan to achieve zero waste by 2020, including annual or biennial interim waste diversion goals. Topics that the strategic plan should discuss include:<br><ul style="list-style-type: none"> <li>• Objectives and long-term and interim goals</li> <li>• Actions to be taken</li> <li>• Responsible parties</li> <li>• Expected cost and impact of implementation</li> <li>• Performance measures</li> <li>• External factors affecting performance and progress</li> </ul> | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 313 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.3 | Prepare detailed annual work plans that contain:<br><ul style="list-style-type: none"> <li>• Objectives</li> <li>• Annual/biennial (short-term) goals</li> <li>• Actions to be taken</li> <li>• Budget allocated for the actions</li> <li>• Timeline for completion</li> <li>• Lead staff responsible for task completion</li> <li>• Full-time equivalent employees assigned to the tasks</li> <li>• Performance measures</li> </ul>                                                                                                 | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 314 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.4 | Regularly communicate zero-waste goals and achievements to City staff and the Council, and offer training to staff on how they can help Berkeley achieve zero waste. This includes sharing strategic and annual work plan goals and regular updates regarding progress and completion.                                                                                                                                                                                                                                               | Data Pending     | Partly Implemented | Public Works         | N           | Y         | Data Pending | Data Pending          | N                                | Y                       | Data Pending                       |
| 315 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 1.5 | Determine if additional funds are needed for the education, outreach, compliance, and enforcement necessary to reach zero-waste goals. If sufficient funds are not available, propose to Council a separate fee to cover those costs for the City's zero-waste program, such as a regulatory fee as allowed under Proposition 218.                                                                                                                                                                                                   | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 316 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.1 | Work with the Department of Information Technology to configure the CRM system with a required field that auto populates valid route information based on address and service delivery type so that route-specific data can be collected on a going-forward basis.                                                                                                                                                                                                                                                                   | 0.00             | Not Started        | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 317 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.2 | Work with the Department of Information Technology to create a link between RouteSmart and the CRM system (or the software implementation of Recommendation 2.5 below).                                                                                                                                                                                                                                                                                                                                                              | 0.00             | Not Started        | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 318 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.4 | Designate a business-line expert within the Zero Waste Division and require that expert to develop internal capacity to configure optimal collection routes and produce standardized reports for route-specific reporting using existing software (or the software implementation of Recommendation 2.5 below). The reports developed should allow measurement of the performance metrics developed in Recommendation 1.2 and 1.3 above.                                                                                             | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Percent Complete | State              | Lead City Department | Commission? | Underway? | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 319 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.5 | Assess the benefits of using mobile technologies that would allow drivers to enter information directly into the CRM system while on their routes, take pictures of why pickups were skipped, and implement electronic route books and other mobile field reporting. Include in the assessment changes to job responsibilities that might require a meet and confer with union representatives. Purchase the software and hardware if cost beneficial.                                                                                                                                                                                                                                                | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 320 | Open Audit Recommendation | Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal - Recommendation 2.7 | Use the reports developed from implementing recommendation 2.4 to monitor customer complaints and determine what impact the annual bid process has on customer service. If the information demonstrates the annual bid process significantly affects customer service, meet and confer with union representatives to discuss the elimination the annual route bidding process to help reduce customer complaints and improve service delivery. Implement change if agreement is reached.                                                                                                                                                                                                              | 0.00             | Not Started        | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 321 | Open Audit Recommendation | Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.3                     | Require the zero waste team formed in response to recommendation 1.2 to develop written procedures that clearly support cross-departmental strategies and help staff perform their work, as well as understand how their work contributes to success. Include information that helps promote the unified view of zero waste operations, while also explaining the individual tasks that take place within the departments and how those connect. Examples include, but are not limited to, describing the process for routing customer cases from 311 calls, and detailing in layman's terms the monthly updates that take place to align the CX and RouteSmart systems. Also see recommendation 1.2. | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 322 | Open Audit Recommendation | Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.5                     | In collaboration with Information Technology and as part of Enterprise Resource Planning, budget for, select, and install an account management system designed for zero waste activities. Use information from the zero waste team evaluation (recommendation 1.2) and zero waste strategy analysis (recommendation 1.8) to identify the critical business needs that should be included in the purchase of new zero waste account management system, or that should be considered when determining whether sufficient middleware options exist to fully integrate existing systems with the new account management software. Also see recommendations 1.2 and 1.8.                                  | Data Pending     | Partly Implemented | Public Works         | N           | Y         | N            | N                     | N                                | N                       | N                                  |
| 323 | Open Audit Recommendation | Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.8                     | Request that Information Technology use the CX module data extracts, such as the one used for this audit, to provide Public Works staff with the data they need to analyze zero waste strategies. Use the data extracts to further identify the critical business needs for new zero waste account management software. Also see recommendation 1.5.                                                                                                                                                                                                                                                                                                                                                  | Data Pending     | Partly Implemented | Public Works         | N           | Y         | Data Pending | Data Pending          | N                                | Data Pending            | Data Pending                       |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                      | Name                                                                                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Percent Complete | State                     | Lead City Department  | Commission? | Underway? | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 324 | Open Audit Recommendation | Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity - Recommendation 1.9 | Perform, or contract for, a fully comprehensive route audit to align service delivery with billing rates. Use the route audit to:<br><ul style="list-style-type: none"> <li>▪ Make CX module and/or RouteSmart system updates to ensure customers are billed correctly for their City provided services.</li> <li>▪ Ensure that all residential accounts are receiving required services.</li> <li>▪ Ensure that the commercial accounts that the City is responsible for receive and pay for the zero waste services required by City policy.</li> <li>▪ Verify that roll-off bin customers serviced by the Zero Waste Division are accurately billed.</li> </ul> | Data Pending     | Partly Implemented        | Public Works          | N           | Y         | Data Pending | Data Pending          | N                                | Data Pending            | Data Pending                       |
| 325 | Strategic Plan - Project  | City Council Redistricting Process and Citizens' Redistricting Commission                                                           | After each decennial census the City is required to adjust the city council district boundaries so that each district has equal population. In 2016 voters adopted a charter amendment to conduct the redistricting process by using a Citizens' Redistricting Commission.                                                                                                                                                                                                                                                                                                                                                                                         | 10.00            | Work in Progress          | City Clerk            | N           | Y         | Y            | N                     | Y                                | Y                       | Y                                  |
| 326 | Strategic Plan - Project  | 2020 Vision Milestone                                                                                                               | PLACEHOLDER: Recognize the significance of the Year 2020 in Berkeley's 2020 Vision. Source: 2018 CC Berkeley's 2020 Vision Update report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 0.00             | On Hold                   | City Manager's Office | N           | N         | N            | N                     | N                                | Data Pending            | N                                  |
| 327 | Strategic Plan - Project  | African American Holistic Resource Center                                                                                           | In partnership with many in the community, plan for the development of a holistic African American Resource Center in South Berkeley, which will serve as a place of support and strength for the Berkeley community.                                                                                                                                                                                                                                                                                                                                                                                                                                              | 30.00            | Work in Progress          | City Manager's Office | N           | Y         | Y            | Data Pending          | N                                | Data Pending            | Data Pending                       |
| 328 | Strategic Plan - Project  | Annual Survey                                                                                                                       | Implementing an Annual Survey to better understand the needs of the community.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 0.00             | On Hold                   | City Manager's Office | N           | N         | N            | N                     | N                                | Data Pending            | N                                  |
| 329 | Strategic Plan - Project  | Bayer HealthCare, Inc Development Agreement                                                                                         | Engage with Bayer HealthCare, Inc re: the extension of their existing development agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 25.00            | Proposed Budget Reduction | City Manager's Office | N           | Y         | Y            | N                     | N                                | Y                       | Y                                  |
| 330 | Strategic Plan - Project  | Communications Staffing                                                                                                             | Introducing new positions of communications specialists to improve the City's communications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 20.00            | Work in Progress          | City Manager's Office | N           | Y         | Y            | N                     | N                                | Y                       | Data Pending                       |
| 331 | Strategic Plan - Project  | Data Analysis                                                                                                                       | PLACEHOLDER: Explore and identify possible additional data sources to supplement the City's existing measure of outcomes for Berkeley's 2020 Vision. Source: 2018 CC Berkeley's 2020 Vision Update report                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 70.00            | Work in Progress          | City Manager's Office | N           | N         | Data Pending | N                     | N                                | Data Pending            | N                                  |
| 332 | Strategic Plan - Project  | Equity Toolkit                                                                                                                      | Operationalizing equity lens in service delivery and project planning (e.g., toolkit deliverable from Racial Equity Action Plan including things like adding an equity item to agenda reports, requiring an equity checklist as part of project work plans, etc).                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | On Hold                   | City Manager's Office | N           | N         | N            | N                     | N                                | Data Pending            | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                      | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Percent Complete | State                     | Lead City Department  | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
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| 333 | Strategic Plan - Project | Establishing an Outdoor Emergency Shelter | <p>1. Refer to the City Manager to establish an outdoor emergency shelter in Berkeley. Such a shelter should consider the following amenities to be provided but not required: A. Climate-controlled, wind-resistant durable tents with wooden pallets for support. B. Seeking an agency to manage and oversee the emergency shelter. C. Portable toilet service and handwashing service. D. Shower and sanitation services E. Garbage pickup and safe needle disposal.</p> <p>2. Refer to the November budget process \$615,000 to be considered alongside other Measure P recommendations.</p> <p>3. Temporarily waive BMC Article 9 Section 19.28.100 Section N106, to allow for the installation of tents and membrane structures that may be erected for longer than 180 days even if they do not meet all physical requirements.</p> <p>4. Refer to the City Manager protocol for selecting residents that mirror other shelter selection criteria and are less restrictive than HUD protocols.</p> <p>Action: 28 speakers. M/S/C (Harrison/Davila) to adopt the item as written in Supplemental Communications Packet #1 and #2, amended as follows:</p> <ul style="list-style-type: none"> <li>• Remove "November" from "November budget process"</li> <li>• Refer to the City Manager to analyze what elements, if any, of the municipal code need to be amended to implement program; any suggested locations to be presented to Council prior to implementation; provide an updated budget including estimated installation costs.</li> </ul> | 25.00            | Work in Progress          | City Manager's Office | N           | Y         | Y       | Data Pending          | N                                | Data Pending            | N                                  |
| 334 | Strategic Plan - Project | Fleet-Related Initiatives                 | <p>A series of initiatives to:</p> <ul style="list-style-type: none"> <li>• increase alternative fuel vehicles,</li> <li>• standardize fleet,</li> <li>• reduce backlog,</li> <li>• implement fleet/system upgrades, and</li> <li>• conduct a City Vehicle Fleet Assessment.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 8.32             | Proposed Budget Reduction | City Manager's Office | N           | N         | Partial | N                     | N                                | Data Pending            | Data Pending                       |
| 335 | Strategic Plan - Project | Legislative Platform                      | Creating a formal structure and process to communicate policy and policy support to and from local, regional, and State legislative bodies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 50.00            | On Hold                   | City Manager's Office | N           | N         | Y       | N                     | N                                | Data Pending            | N                                  |
| 336 | Strategic Plan - Project | New City of Berkeley Website              | <p>Create a new design, look and information architecture for the City website so that it is interactive and serves and prioritizes the needs of the community, including a focus on increasing the number and types of transactions and services available online.</p> <p>Redesign the City website to improve the information and services available to community members online, to create web server redundancy in case of emergencies</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 70.00            | Work in Progress          | City Manager's Office | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 337 | Strategic Plan - Project | Performance Management                    | Implementing results-based accountability citywide and provide a dashboard to better communicate results                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 0.00             | Proposed Budget Reduction | City Manager's Office | N           | Y         | N       | N                     | N                                | Data Pending            | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                      | Description                                                                                                                                                                                                                                                             | Percent Complete | State                     | Lead City Department                 | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------|--------------------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 338 | Strategic Plan - Project | Racial Equity Action Plan                 | With assistance from the Government Alliance on Race and Equity and researchers from UC Berkeley, develop a Racial Equity Action Plan designed to integrate equity considerations throughout City operations and services and to influence change within the community. | 83.40            | Work in Progress          | City Manager's Office                | N           | Y         | N       | N                     | N                                | Y                       | N                                  |
| 339 | Strategic Plan - Project | UC Long-Range Development Plan            | Participate in UC's Long Range Development Plan process                                                                                                                                                                                                                 | 25.00            | Work in Progress          | City Manager's Office                | N           | Y         | Y       | N                     | N                                | Data Pending            | Y                                  |
| 340 | Strategic Plan - Project | Web Content Training                      | Create and develop a governance structure and a training program so that all departments have the appropriate tools and skills to build effective web content.                                                                                                          | 50.00            | Work in Progress          | City Manager's Office                | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 341 | Strategic Plan - Project | Equal Pay Vendor Preference               | Draft an ordinance related to an equal pay vendor preference for City contractors who demonstrate equal pay for male and female employees (gender based on self-identification).                                                                                        | 0.00             | Pending Not On Schedule   | Finance                              | N           | N         | Y       | N                     | N                                | Y                       | N                                  |
| 342 | Strategic Plan - Project | Fire Department Communications            | Increase and improve communication to the community by updating the Fire Department web page and creating social media policy and procedures                                                                                                                            | 0.00             | On Hold                   | Fire & Emergency Services            | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 343 | Strategic Plan - Project | Fire Department Reserve Truck             | Enhance the City's firefighting capacity by replacing a 20-year old ladder truck that has exceeded its user life.                                                                                                                                                       | 85.29            | Work in Progress          | Fire & Emergency Services            | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 344 | Strategic Plan - Project | Fire Prevention                           | Increase fire/life safety capacity and resources to effectively maintain community safety.                                                                                                                                                                              | 51.36            | Work in Progress          | Fire & Emergency Services            | N           | Y         | Y       | N                     | Y                                | Y                       | N                                  |
| 345 | Strategic Plan - Project | Outdoor Emergency Public Alerting Systems | (part of Rescue and Disaster Response Capabilities Program) Exploring options for system and then procuring and implementing system.                                                                                                                                    | 0.00             | On Hold                   | Fire & Emergency Services            | Y           | N         | Y       | N                     | N                                | Y                       | N                                  |
| 346 | Strategic Plan - Project | Safe Passages                             | (part of Wildfire Safety Program) Develop standards, update code, develop enforcement; identify narrow streets that need parking restrictions to keep areas clear.                                                                                                      | 0.00             | Proposed Budget Reduction | Fire & Emergency Services            | Y           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |
| 347 | Strategic Plan - Project | Wildfire Vegetation Management            | (part of Wildfire Safety Program) Hand Crews                                                                                                                                                                                                                            | 59.68            | Proposed Budget Reduction | Fire & Emergency Services            | Y           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 348 | Strategic Plan - Project | Adult Mental Health Clinic Renovation     | The Adult Mental Health Clinic at 2640 MLK is currently uninhabitable and in need of significant repairs to be open to help people in Berkeley with severe and persistent mental illness.                                                                               | 99.98            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | Y                     | N                                | Y                       | Y                                  |
| 349 | Strategic Plan - Project | Age Friendly Plan Implementation          | Establish infrastructure for implementation of Aging-Friendly Plan                                                                                                                                                                                                      | 93.04            | Work in Progress          | Health, Housing & Community Services | Y           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 350 | Strategic Plan - Project | Cannabis Dispensary/ Production           | Develop, propose and implement responsive education and enforcement strategies                                                                                                                                                                                          | 54.44            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |
| 351 | Strategic Plan - Project | Community Agency Funding Information      | Develop and publish comprehensive report on outcomes of community agencies funded by City of Berkeley.                                                                                                                                                                  | 1.35             | Work in Progress          | Health, Housing & Community Services | N           | N         | Y       | N                     | N                                | Y                       | N                                  |
| 352 | Strategic Plan - Project | Home-cook Food Industry                   | Develop, propose and implement responsive education and enforcement strategies.                                                                                                                                                                                         | 76.88            | Work in Progress          | Health, Housing & Community Services | N           | Y         | N       | N                     | N                                | Y                       |                                    |
| 353 | Strategic Plan - Project | Homeless Services Expansion               | Implement plan to expand homeless services with Measure P funding as defined by Council.                                                                                                                                                                                | 73.70            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                       | Description                                                                                                                                                                                                                                                                  | Percent Complete | State                     | Lead City Department                 | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------|--------------------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 354 | Strategic Plan - Project | Increase Affordable Housing: Measure O Implementation                                      | Implement plan to expand affordable housing options with Measure O funding as defined by Council.                                                                                                                                                                            | 30.50            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       |                       |                                  |                         | Y                                  |
| 355 | Strategic Plan - Project | Landlord Participation in Affordable Housing Programs                                      | Increase the supply of landlords who provide units for Shelter Plus Care and Section 8 programs. Provide other incentives to landlords to participate in these programs.                                                                                                     | 49.23            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | N                     |                                  |                         |                                    |
| 356 | Strategic Plan - Project | Paid Family Leave Ordinance                                                                | Explore an ordinance that guarantees paid leave for new parents.                                                                                                                                                                                                             | 0.00             | On Hold                   | Health, Housing & Community Services | N           | Y         | N       | N                     | N                                | Y                       | N                                  |
| 357 | Strategic Plan - Project | Public Health Strategic Plan Implementation                                                | Implement a tracking and reporting system for Division program performance measures                                                                                                                                                                                          | 25.72            | Work in Progress          | Health, Housing & Community Services | N           | Y         | N       | N                     | N                                | Y                       | N                                  |
| 358 | Strategic Plan - Project | Results-Based Accountability Framework for Health, Housing & Community Services Programs   | Implement a results-based accountability performance management framework to better account for and improve the work that the Department of Health, Housing & Community Services undertakes, and to maximize impact. Develop and publish outcomes data on selected programs. | 19.61            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | N                     | N                                | N                       | Y                                  |
| 359 | Strategic Plan - Project | Shelter Plus Care Expansion                                                                | Expand Shelter Plus Care through addition of 53 new housing vouchers                                                                                                                                                                                                         | 43.33            | Work in Progress          | Health, Housing & Community Services | N           | Y         | Y       | Y                     |                                  |                         |                                    |
| 360 | Strategic Plan - Project | Sugar Sweetened Beverage Policy Development                                                | Develop a City of Berkeley healthy beverage policy                                                                                                                                                                                                                           | 42.62            | Work in Progress          | Health, Housing & Community Services | N           | Y         | N       | N                     | Y                                | N                       |                                    |
| 361 | Strategic Plan - Project | Develop Labor Relations Strategy Plan                                                      | In preparation for contract negotiations in 2020. Prepare a plan                                                                                                                                                                                                             | 80.00            | Work in Progress          | Human Resources                      | N           | Y         | Y       | N                     | Y                                | Y                       | N                                  |
| 362 | Strategic Plan - Project | Revision of Personnel Rules and Regulations and the Employer-Employee Relations Resolution | Update and revise both sets of Rules and Regulations to comply with current federal and state laws; reflect best practices; and ensure the established rules are comprehensive and consistent.                                                                               | 40.00            | Work in Progress          | Human Resources                      | N           | Y         | N       | N                     | Y                                | Y                       | N                                  |
| 363 | Strategic Plan - Project | Succession Planning                                                                        | In advance of a large amount of expected retirements in fiscal year 2018, develop and provide guidance to all City departments to improve succession planning and minimize disruption to the City government and the community it serves.                                    | 0.10             | Work in Progress          | Human Resources                      | N           | Y         | Y       | N                     | N                                | N                       | N                                  |
| 364 | Strategic Plan - Project | 360 Street Level Imagery                                                                   |                                                                                                                                                                                                                                                                              | 22.22            | Work in Progress          | Information Technology               | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 365 | Strategic Plan - Project | Accela Implementation - Phase 5                                                            | Modules to Implement:<br>Utility Permits: almost complete<br>Fire Permits Enhancements<br>Public Works Permits Online<br>Code Enforcement - HOLD<br>Right of Way Management - HOLD                                                                                           | 0.00             | Proposed Budget Reduction | Information Technology               | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 366 | Strategic Plan - Project | Active Directory Upgrade                                                                   | Version upgrade for Active Directory.                                                                                                                                                                                                                                        | 0.00             | Not Started               | Information Technology               | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 367 | Strategic Plan - Project | AD Cleanup (Prep for future Projects)                                                      | AD CleanUP (Prep for future Projects)                                                                                                                                                                                                                                        | 6.67             | Work in Progress          | Information Technology               | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                                                     | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Percent Complete | State            | Lead City Department   | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 368 | Strategic Plan - Project | Avaya Phone System (VoIP) Support Transition                                                                             | Avaya Support Transition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 79.78            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |
| 369 | Strategic Plan - Project | BIA (Business Impact Assessment)                                                                                         | BIA (Business Impact Assessment)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 10.00            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 370 | Strategic Plan - Project | Broadband Infrastructure Master Plan                                                                                     | Develop a master plan to improve infrastructure for high-speed internet access in Berkeley. Release the RFP to develop a Broadband Infrastructure Master Plan that provides a roadmap for implementing the broadband infrastructure to increasing internet access and addressing the digital divide                                                                                                                                                                                                                                                                                                                       | 80.00            | Work in Progress | Information Technology | N           | Y         | N       | N                     | N                                | N                       | N                                  |
| 371 | Strategic Plan - Project | California Public Health Info Exchange Electronic Case Reporting (eCR)                                                   | Implement Electronic Case Reporting (eCR) which will automate public health case reporting by automatically generating and transmitting case reports from Electronic Health Records (EHRs) to public health agencies for review and action. The California Reportable Disease Information Exchange - Electronic Case Reporting (CalREDIE eCR) module will allow health care providers and organizations to more easily comply with the California Department of Public Health (CDPH) requirement for the reporting of certain diseases and conditions per the California Code of Regulations (CCR) Title 17 Section 2500. | 0.00             | On Hold          | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 372 | Strategic Plan - Project | Capital Project Management Software                                                                                      | Implement a Capital Improvement Project (CIP) tracking tool to better document and manage project implementation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | On Hold          | Information Technology | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 373 | Strategic Plan - Project | City Data Services System Replacement                                                                                    | Project to replace hosted Grants and Loan Data Management for Health, Housing & Community Services. Community Agency Allocations & Contract Management, Rehab Programs, Housing Trust Fund, Mental Health Division Contracts, etc.                                                                                                                                                                                                                                                                                                                                                                                        | 0.00             | On Hold          | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 374 | Strategic Plan - Project | Citywide Backup Solution Replacement                                                                                     | Barracuda Backup Upgrade                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 79.36            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 375 | Strategic Plan - Project | Citywide Windows 10 Upgrade                                                                                              | Pilot and then fully launch the Windows 10 operating system for City computers, including all necessary staff training and application compatibility testing                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 93.13            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 376 | Strategic Plan - Project | Clinical Intake Workflow Improvements: Develop and Integrate Clinic Reproductive and Sexual Health (RSH) Intake Template | Clinical Intake Workflow Improvements: Develop and Integrate Clinic Reproductive and Sexual Health (RSH) Intake Template                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 40.00            | On Hold          | Information Technology | N           | Y         | Y       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 377 | Strategic Plan - Project | Compliance with Data Security Standards                                                                                  | Continue to implement Payment Card Industry (PCI), Department of Justice (DOJ), and Health Insurance Portability and Accountability Act (HIPAA) compliance requirements to maintain data security                                                                                                                                                                                                                                                                                                                                                                                                                         | 10.00            | Work in Progress | Information Technology | N           | Y         | Partial | N                     | Y                                | Y                       | Y, if funded                       |
| 378 | Strategic Plan - Project | Configure Remote Software installations for Off Network Laptops                                                          | Configure SCCM IBCM (Internet Based Configuration Management)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 51.02            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 379 | Strategic Plan - Project | Crime forum transition to new vendor (XenForo)                                                                           | Migrate police crime forum data away from vBulletin to Xenforo. They use AWS for hosting. internal crime information sharing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 80.00            | Work in Progress | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |



**Disposition of  
Referrals, Projects, and Audits**

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| 380 | Strategic Plan - Project | Customer Relationship Management (CRM) Database                           | Implement a 311 CRM solution and a mobile app to better track and manage community member queries                                                                                                                                                                 | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 381 | Strategic Plan - Project | Customer Relationship Management of Economic Development                  | Implement a customer and communications management platform to assist the Office of Economic Development in their business attraction and retention efforts                                                                                                       | 0.00             | Not Started               | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 382 | Strategic Plan - Project | Cyber Resilience Strategy                                                 | Develop a Cyber Resilience Plan in alignment with the City's Resilience Strategy, including software upgrade needs, policies and cyber security training for staff                                                                                                | 85.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | N                       | Y                                  |
| 383 | Strategic Plan - Project | Data Exchange for TCM Program (Alameda Alliance / Medi-Cal Managed Care)  | Data Exchange for TCM Program (Alameda Alliance / Medi-Cal Managed Care)                                                                                                                                                                                          | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 384 | Strategic Plan - Project | Data Exchange for TCM Program (Blue Cross / Medi-Cal Managed Care)        | Data Exchange for TCM Program (Blue Cross / Medi-Cal Managed Care)                                                                                                                                                                                                | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 385 | Strategic Plan - Project | Digital Permitting System                                                 | Conduct a needs assessment, issue an RFP, and procure a new permitting software                                                                                                                                                                                   | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 386 | Strategic Plan - Project | Disaster Recovery/Business Continuity Plan                                | Develop a Information Technology infrastructure Disaster Recovery and Business Continuity Plan                                                                                                                                                                    | 50.00            | Not Started               | Information Technology | N           | Y         | Partial | N                     | N                                | Y, if funded            | Y, if funded                       |
| 387 | Strategic Plan - Project | Emergency Operations Center (EOC) Management Software                     | Implement a software solution to assist with enhanced preparedness, disaster recovery and track emergency management efforts during EOC activations                                                                                                               | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 388 | Strategic Plan - Project | Emphasys Elite System Replacement                                         | Assess business needs and review feasibility of utilizing ERMA modules. Replace software to manage Shelter Plus Care housing subsidy program for the chronically homeless. (Also used by Berkeley Housing Authority with separate databases.)                     | 0.00             | Not Started               | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 389 | Strategic Plan - Project | Environmental Health Field Operations Improvements                        | Assess and implement tools to enhance capacity and efficiency of Environmental Health field operations.                                                                                                                                                           | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 390 | Strategic Plan - Project | EnvisionConnect System Replacement                                        | Develop options, costs and timelines for replacing Decade (Accela) software to manage Environmental Health inspections, work processes, and to produce regular local and State required reports. (System also used by Toxics Management, with separate database). | 0.00             | Not Started               | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 391 | Strategic Plan - Project | Extracts/Interfaces for data to Munis from (1) NextGen and (2) Persimmony | Extracts/Interfaces for data to Munis from (1) NextGen and (2) Persimmony                                                                                                                                                                                         | 0.00             | Not Started               | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 392 | Strategic Plan - Project | FUND\$ Replacement - Fleet Management System                              | Replacing the 28-year-old FUND\$ Fleet module for vehicle fleet asset and parts management system                                                                                                                                                                 | 23.06            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 393 | Strategic Plan - Project | FUND\$ Replacement - Work Order Application                               | Replace the Work Order module of FUND\$ with a Commercial Off the Shelf (COTS) software that will enable management of customer requests and work orders, preventive maintenance, resources and inventory, best practices and regulatory compliance.              | 48.51            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 394 | Strategic Plan - Project | FUND\$ Replacement - Zero Waste Solution                                  | Replace the Refuse Billing module of FUND\$ with a Commercial Off the Shelf (COTS) software that will enable billing, routing, and operations software for the public works operations.                                                                           | 25.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

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|-----|--------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------|------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 395 | Strategic Plan - Project | FUND\$ Replacement: Core Financial and HR/Payroll        | "To replace City's Enterprise Resource Management Application to improve access to services and information for community members and create more efficient financial and information management processes for City staff, replace the City's core data management system.<br><br>To improve access to services and information for community members and create more efficient financial, human resources, and information management processes for staff, replace the City's core 28-year old financial and data management system" | 84.33            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 396 | Strategic Plan - Project | Fund\$ Software Upgrades                                 | SunGard Software Upgrade Project for Fund\$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 20.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 397 | Strategic Plan - Project | Green City GIS Inventory                                 | Create a database for PRW for Park Assets. Databases design and field inventory of all infrastructure, buildings, such as bathrooms, benches and newly planted trees in the city parks system                                                                                                                                                                                                                                                                                                                                         | 95.00            | Work in Progress          | Information Technology | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 398 | Strategic Plan - Project | Help Desk Metrics Expansion                              | PURPOSE: This project addresses both processes/procedures and various tools that focus on the delivery of customer service across City departments by the HelpDesk and to measure and adjust team productivity to demand.                                                                                                                                                                                                                                                                                                             | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 399 | Strategic Plan - Project | Help Desk Process Improvements                           | Help Desk Process Improvements Year 1 (2019)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N       | N                     | N                                | Y                       | N                                  |
| 400 | Strategic Plan - Project | Help Desk Standard Operating Procedures                  | Help Desk Standard Operating Procedures                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 25.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 401 | Strategic Plan - Project | HIPAA Security Risk Assessment Audits Calendar Year 2019 | HIPAA Security Risk Assessment Audits Calendar Year 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 0.00             | Not Started               | Information Technology | N           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |
| 402 | Strategic Plan - Project | HR Onboarding                                            | Purchase a software system for HR to streamline the new hire onboarding process. The onboard software will provide new hire access to forms, documents, videos, and checklist.                                                                                                                                                                                                                                                                                                                                                        | 22.06            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 403 | Strategic Plan - Project | Human Resources Case Management                          | Software to manage and track Human Resources Employee Relations and Equal Employment Opportunity cases.                                                                                                                                                                                                                                                                                                                                                                                                                               | 65.76            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 404 | Strategic Plan - Project | Infrastructure and Security Project Metrics              | Infrastructure and Security Project Metrics                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 405 | Strategic Plan - Project | IT Classification Study                                  | Conduct an IT Classification Study                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 0.00             | Proposed Budget Reduction | Information Technology | N           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |
| 406 | Strategic Plan - Project | IT Service Management/Enterprise PM Tool                 | Replace Help Desk software, implement project portfolio management software                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 69.58            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 407 | Strategic Plan - Project | Learning Management System (ERP)                         | To deploy a learning management system for the administration, documentation, tracking, reporting and delivery of training programs                                                                                                                                                                                                                                                                                                                                                                                                   | 10.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                              | Description                                                                                                                                                                                                                                                                                                                                                                                 | Percent Complete | State                     | Lead City Department   | Commission? | Underway? | Funded?                     | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------|------------------------|-------------|-----------|-----------------------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 408 | Strategic Plan - Project | Legal Case Management Tool                                        | Software to track and manage cases for City Attorneys                                                                                                                                                                                                                                                                                                                                       | 0.00             | On Hold                   | Information Technology | N           | N         | N                           | N                     | N                                | Y, if funded            | Y, if funded                       |
| 409 | Strategic Plan - Project | Medication Inventory software                                     | Identify business requirements and software that will also integrate with the NextGen EPM-EHR System.                                                                                                                                                                                                                                                                                       | 10.00            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | Y                                  |
| 410 | Strategic Plan - Project | Microfiche Digitizing for Berkley Police                          | Digitize remaining Police microfiche data to improve data management and accessibility                                                                                                                                                                                                                                                                                                      | 70.00            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | Y                                  |
| 411 | Strategic Plan - Project | Microsoft Office Upgrade                                          | (Formerly "ProofPoint & MS EA FY20 roll-out")                                                                                                                                                                                                                                                                                                                                               | 0.00             | Not Started               | Information Technology | N           | N         | Y                           | N                     | N                                | Y                       | Y                                  |
| 412 | Strategic Plan - Project | Migrate Veripic Data to Axon Capture (evidence.com)               | Migrate evidence data from Veripic (legacy system) to evidence.com (current system from Axon). This is a two step process: 1) export evidence and metadata from VeriPic, and 2) import evidence and metadata to evidence.com. This will allow officers to have one source of evidence and will remove a legacy system. Veripic is currently read only and has no new evidence as of 9-1-18. | 75.76            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | Y                                  |
| 413 | Strategic Plan - Project | Mobile Device Management (MDM) Software Replacement               | Transition from Meraki to Intune                                                                                                                                                                                                                                                                                                                                                            | 25.00            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | Y                                | Y                       | Y                                  |
| 414 | Strategic Plan - Project | MS Enterprise O365 Exchange Migration and OneDrive Implementation | Migrate Exchange (Email) to the cloud, and implement OneDrive for cloud-based file storage and file sharing.                                                                                                                                                                                                                                                                                | 87.78            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | N                                  |
| 415 | Strategic Plan - Project | MS Rights Management (& AIP)                                      | MS Rights Management (& AIP)                                                                                                                                                                                                                                                                                                                                                                | 25.00            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | Y                                  |
| 416 | Strategic Plan - Project | Network Architecture                                              | Network Architecture (roadmap of capabilities, connections, capacities means, & devices)                                                                                                                                                                                                                                                                                                    | 0.00             | Pending On Schedule       | Information Technology | N           | N         | Y                           | N                     | N                                | Y                       | Y                                  |
| 417 | Strategic Plan - Project | Network Device Replacement for FY18                               | Network Device Replacement for FY18                                                                                                                                                                                                                                                                                                                                                         | 87.50            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | N                                  |
| 418 | Strategic Plan - Project | Network Device Replacement FY20                                   | Network Device Replacement FY20                                                                                                                                                                                                                                                                                                                                                             | 0.00             | Not Started               | Information Technology | N           | Y         | Y, pending Council approval | N                     | N                                | Y, if funded            | Y, if funded                       |
| 419 | Strategic Plan - Project | New Fire Records Management System                                | Prepare a new fire records management system that will be compliant with the National Fire Information System and improve data collection and response information.                                                                                                                                                                                                                         | 0.00             | On Hold                   | Information Technology | N           | N         | N                           | N                     | N                                | Y, if funded            | Y, if funded                       |
| 420 | Strategic Plan - Project | NextGen eSignatures                                               | NextGen eSignatures                                                                                                                                                                                                                                                                                                                                                                         | 90.00            | On Hold                   | Information Technology | N           | N         | Y                           | N                     | N                                | N                       | N                                  |
| 421 | Strategic Plan - Project | Online Business Registration Permitting                           | Implement software program to help entrepreneurs get their businesses up and running more quickly and easily by providing an online interface to the permitting process at City Hall                                                                                                                                                                                                        | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | N                           | N                     | N                                | Y, if funded            | Y, if funded                       |
| 422 | Strategic Plan - Project | Performance Evaluations (ERP)                                     | To deploy a performance evaluation software                                                                                                                                                                                                                                                                                                                                                 | 10.00            | Work in Progress          | Information Technology | N           | Y         | Y                           | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                           | Description                                                                                                                                                                        | Percent Complete | State                     | Lead City Department   | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|---------------------------|------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 423 | Strategic Plan - Project | Public Records Act (PRA) Request Management    | Implement a solution to track and manage PRA requests and provide visibility and transparency for PRA compliance                                                                   | 92.51            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 424 | Strategic Plan - Project | RLSS Loan/Grants Management System Replacement | Project to replace the Revolving Loan Servicing Software (Loan Profile Data, Loan Transactions, and Reporting for State & Federal Programs) Used for Senior Disabled Loan Program. | 5.00             | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 425 | Strategic Plan - Project | ServiceNow: Asset Management Implementation    | Implement SNOW Asset Management Module & create Software & Hardware inventory dashboard                                                                                            | 80.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 426 | Strategic Plan - Project | SharePoint Intranet                            | Implement SharePoint based TeamSites and Project sites                                                                                                                             | 45.54            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | N                       | Y                                  |
| 427 | Strategic Plan - Project | SIEM/MSSP                                      | SIEM/MSSP                                                                                                                                                                          | 50.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 428 | Strategic Plan - Project | SimsUshare                                     | SimsUshare CTC is a training system for emergency responders to develop and enhance knowledge, skills and abilities in safely and efficiently managing all types of incidents.     | 90.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 429 | Strategic Plan - Project | Smart Rooms                                    | Improve IT systems in the City's conference rooms, including conference call, videoconference, and star phone capabilities.                                                        | 99.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 430 | Strategic Plan - Project | Software for Managing Leased Properties (ERP)  | Implement a software solution to track and manage properties that the City leases to other entities                                                                                | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | N                       | N                                  |
| 431 | Strategic Plan - Project | SQL Server 2008 Upgrade/Migration CityWide     | SQL Server 2008 Upgrade/Migration CityWide                                                                                                                                         | 80.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 432 | Strategic Plan - Project | Tiburon/CRIMES Data warehousing                | needed enterprise license for phones (close to completion)                                                                                                                         | 70.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 433 | Strategic Plan - Project | Time Management Application for Police         | Time Management Application for Police (Telestaff)                                                                                                                                 | 0.00             | On Hold                   | Information Technology | N           | N         | N       | N                     | N                                | Y, if funded            | Y, if funded                       |
| 434 | Strategic Plan - Project | Upgrade Youth Lab computers                    | Upgrade Youth Lab computers                                                                                                                                                        | 0.00             | On Hold                   | Information Technology | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 435 | Strategic Plan - Project | Vendor Remote Access Improvements              | Improvements to vendor's remote access capabilities.                                                                                                                               | 80.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 436 | Strategic Plan - Project | Virtual Desktop Pilot Program                  | Virtual Desktop Infrastructure (VDI) pilot program with Citrix and Nutanix                                                                                                         | 10.00            | Work in Progress          | Information Technology | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 437 | Strategic Plan - Project | Virtualize Firewalls                           | (Formerly "Microsoft Windows Security Patch Deployment", Configure Windows updates for all desktops and Laptops)                                                                   | 0.00             | Not Started               | Information Technology | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |
| 438 | Strategic Plan - Project | VoIP Emergency Announcement Service            | PURPOSE: Enhance Voice-over-IP (VoIP) technical capabilities to introduce an Emergency Announcement Service within City buildings and office spaces.                               | 0.00             | Proposed Budget Reduction | Information Technology | N           | N         | Y       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                               | Description                                                                                                                                                                                                                                           | Percent Complete | State            | Lead City Department           | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 439 | Strategic Plan - Project | Windows Security Patch Deployment Upgrade                                                          | Re-Configure Windows Updates                                                                                                                                                                                                                          | 53.75            | Work in Progress | Information Technology         | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 440 | Strategic Plan - Project | Windows Server Operating System Upgrades                                                           | Windows Server Operating System Upgrades                                                                                                                                                                                                              | 90.00            | Work in Progress | Information Technology         | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 441 | Strategic Plan - Project | Berkeley Business Marketing & Communications Project (i.e., Berkeley Branding & Marketing Project) |                                                                                                                                                                                                                                                       | 95.00            | Work in Progress | Office of Economic Development | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 442 | Strategic Plan - Project | Berkeley Ventures, Berkeley Values                                                                 | Develop and implement a "Berkeley Tech, Berkeley Values", a campaign to leverage local tech sector skills, wealth, and other resources to support equitable and inclusive growth.                                                                     | 75.00            | Work in Progress | Office of Economic Development | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 443 | Strategic Plan - Project | Expand and Modify the Downtown Arts District Overlay                                               | Examine and develop recommendations for expanding the boundaries of the current Downtown Arts District Overlay as well as the allowable active ground-floor uses. Related to PRJ0013155 and DMND0002497                                               | 95.00            | Work in Progress | Office of Economic Development | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 444 | Strategic Plan - Project | Interactive Digital Kiosks                                                                         | Facilitate the installation of interactive digital kiosks to share information about civic resources; market local businesses, arts organizations, and commercial districts; and generate revenue for the City of Berkeley                            | 95.00            | Work in Progress | Office of Economic Development | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 445 | Strategic Plan - Project | Measure T1 Public Art Projects                                                                     | Implement new public art commissions associated with T1 Bond Projects at North Berkeley Senior Center and San Pablo Park, which will be integrated into the planned improvements in order to beautify these spaces and enhance their unique character | 90.00            | Work in Progress | Office of Economic Development | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 446 | Strategic Plan - Project | Aquatic Park Tide Tubes Renovation Project                                                         | Design, permitting, and environmental documents.                                                                                                                                                                                                      | 0.00             | Not Started      | Parks, Recreation & Waterfront | N           | N         | N       | Y                     | N                                | N                       | Y                                  |
| 447 | Strategic Plan - Project | Berkeley Municipal Pier Conceptual Design                                                          | Feasibility study for potential repairs to Pier.                                                                                                                                                                                                      | 75.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 448 | Strategic Plan - Project | Berkeley Rose Garden Pathways, Tennis Courts, Pergola                                              | Reconstruction of the pergola, ADA paths, and retaining Walls - Design and Construction.                                                                                                                                                              | 75.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 449 | Strategic Plan - Project | Berkeley Tuolumne Camp Rebuild                                                                     | Rebuild Berkeley Tuolumne Camp. Permitting, Environmental, Design, and Construction.                                                                                                                                                                  | 75.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | Y                     | N                                | Y                       | Y                                  |
| 450 | Strategic Plan - Project | Cazadero Camp Landslide Fix and Dormitory Replacement                                              | Repair significant damage to the City's Cazadero Camp caused by a landslide that occurred in 2016.                                                                                                                                                    | 60.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 451 | Strategic Plan - Project | Grove Park Field backstop, dugout, lights, and irrigation                                          | Renovation of existing ballfield backstop, dugout, lights, and irrigation - Construction.                                                                                                                                                             | 30.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 452 | Strategic Plan - Project | Live Oak Community Center Seismic Upgrade and Renovations                                          | Seismic upgrades and building renovations - Construction.                                                                                                                                                                                             | 95.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 453 | Strategic Plan - Project | San Pablo Park Tennis Courts and Play Equipment Upgrade (Ages 5-12 Play Areas)                     | Renovation of existing play equipment (ages 2-5 and 5-12) and tennis courts - Construction.                                                                                                                                                           | 70.00            | Work in Progress | Parks, Recreation & Waterfront | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                           | Description                                                                                                                                                                                                                                            | Percent Complete | State            | Lead City Department           | Commission?                                                              | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------------------------|--------------------------------------------------------------------------|--------------|--------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 454 | Strategic Plan - Project | Training and Certification for Sports Coaches and Officials                                    | Start to implement a new program to provide the latest training and certifications all staff who serve as sports officials and coaches for the City's many sports programs, including softball, baseball, and tennis leagues, skateboarding, and more. | 35.00            | Work in Progress | Parks, Recreation & Waterfront | N                                                                        | Y            | N            | Y                     | N                                | Y                       | Y                                  |
| 455 | Strategic Plan - Project | Tree Planting Project in South and West Berkeley                                               | Plant 500 trees in South and West Berkeley                                                                                                                                                                                                             | 50.00            | Work in Progress | Parks, Recreation & Waterfront | N                                                                        | Y            | Y            | Y                     | N                                | Y                       | Y                                  |
| 456 | Strategic Plan - Project | University Avenue (West Frontage Rd to Marina Blvd), Marina Blvd, and Spinnaker Way Renovation | Renovate three roads at the Berkeley Marina (University Ave, Marina Blvd, and Spinnaker Way) - Construction - Design and Construction.                                                                                                                 | 30.00            | Work in Progress | Parks, Recreation & Waterfront | N                                                                        | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 457 | Strategic Plan - Project | WETA MOU and Ferry Feasibility Study                                                           | Develop an MOU with WETA and conduct an engineering feasibility study for potential WETA ferry service and recreation at the existing or a new Berkeley Pier.                                                                                          | 80.00            | Work in Progress | Parks, Recreation & Waterfront | N                                                                        | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 458 | Strategic Plan - Project | Ashby and North Berkeley and Development Parameters (formerly station area plan)               | State-mandated zoning study and updates at the North Berkeley and Ashby BART stations                                                                                                                                                                  | 25.00            | Work in Progress | Planning                       | Involves Planning Commission                                             | Y            | Y            | Y                     | Y                                | Y                       | Y                                  |
| 459 | Strategic Plan - Project | Clean energy (i.e., Fuel switching)                                                            | Promote strategies and make available resources for residents to convert to cleaner fuel use in buildings.                                                                                                                                             | 50.00            | Work in Progress | Planning                       | N                                                                        | Y            | N            | Y                     | N                                | N                       | Y                                  |
| 460 | Strategic Plan - Project | Climate Adaptation Work                                                                        | New climate adaptation work                                                                                                                                                                                                                            | 5.00             | Work in Progress | Planning                       | Y                                                                        | Y            | N            | Y                     | N                                | N                       | N                                  |
| 461 | Strategic Plan - Project | Demolition Ordinance and Affordable Housing                                                    | Study issues pertaining to demolition and replacement of existing rent controlled and affordable housing. Depending on outcomes of study, may result in a revised fee and/or ordinance                                                                 | 25.00            | Work in Progress | Planning                       | Involves Planning Commission, Rent Stabilization Board                   | Y            | N            | N                     | Y                                | Y                       | N                                  |
| 462 | Strategic Plan - Project | Development/Density Standards Project                                                          | Study options and proposed comprehensive density standards                                                                                                                                                                                             | 25.00            | Work in Progress | Planning                       | Involves Joint Subcommittee for the Implementation of State Housing Laws | Y            | Y            | Y                     | Y                                | N                       | F                                  |
| 463 | Strategic Plan - Project | Expanded and streamlined rental housing safety program                                         | Expand and streamline the Rental Housing Safety Program to enable proactive inspections and other actions to maintain Berkeley's aging rental housing stock.                                                                                           | 65.00            | Work in Progress | Planning                       | N                                                                        | Y            | Y            | N                     | Y                                | N                       | N                                  |
| 464 | Strategic Plan - Project | Increased EV infrastructure                                                                    | Provide better facilities and infrastructure for Electrical Vehicle charging, with an emphasis on electric mobility strategies to make cleaner transportation available to all across income lines.                                                    | 80.00            | Work in Progress | Planning                       | N                                                                        | Y            | N            | Y                     | N                                | N                       | N                                  |
| 465 | Strategic Plan - Project | Increased Student Housing                                                                      | Identify opportunities to enable additional student housing, such as through Zoning Ordinance amendments focused on increasing student housing capacity in the Telegraph Avenue Commercial District.                                                   | 50.00            | Work in Progress | Planning                       | Involves Planning Commission                                             | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 466 | Strategic Plan - Project | Local density bonus policy                                                                     | Develop and pilot a local Density Bonus program that enables payment of housing in-lieu fees to be used and leveraged to create additional affordable housing.                                                                                         | 50.00            | Work in Progress | Planning                       | Involves Planning Commission                                             | Y            | Y            | N                     | N                                | Y                       | N                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Percent Complete | State            | Lead City Department | Commission?                                                              | Underway? | Funded?  | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|----------------------|--------------------------------------------------------------------------|-----------|----------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 467 | Strategic Plan - Project | Missing Middle Housing Study / Housing Element Update | Refer to the City Manager to prepare a report to the Council of examining methods, including potential revisions to the zoning code, that may foster a broader range housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services. Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, and community outreach and engagement. Council requests that staff initiate this work as soon as possible. (Text from 4/23/19 Council Referral) | 1.00             | Work in Progress | Planning             | Involves Planning Commission                                             | Y         | Deferred | N                     | Y                                | Y                       | N                                  |
| 468 | Strategic Plan - Project | New Municipal Building Energy Policy                  | Develop options for a new Municipal Building Energy Policy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 5.00             | Work in Progress | Planning             | N                                                                        | N         | N        | N                     | N                                | Y                       | N                                  |
| 469 | Strategic Plan - Project | Objective Development Standards                       | Consultant work with community and commissions to describe, define, and revise objective development standards in corridors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 25.00            | Work in Progress | Planning             | Involves Joint Subcommittee for the Implementation of State Housing Laws | Y         | Y        | Y                     | Y                                | N                       | N                                  |
| 470 | Strategic Plan - Project | Parking Reform                                        | Strategies to unbundle parking requirements from development requirements to facilitate housing production and car-free modes of transit                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 90.00            | Work in Progress | Planning             | Involves Planning Commission                                             | Y         | Y        | N                     | N                                | Y                       | Y                                  |
| 471 | Strategic Plan - Project | Permit Conditions Enforcement Process                 | Review process/approach to monitoring and enforcing agreed-to conditions on Land Use permits                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 50.00            | Work in Progress | Planning             | N                                                                        | Y         | N        | N                     | N                                | Y                       | N                                  |
| 472 | Strategic Plan - Project | Permit Service Center and Land Use Planning Survey    | Develop and administer a customer service survey relating to permitting services and land use planning processes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 33.00            | Work in Progress | Planning             | N                                                                        | Y         | Y        | N                     | N                                | Y                       | Y                                  |
| 473 | Strategic Plan - Project | Planning DOC                                          | Planning Operations Center (DOC) and Emergency Operations Plan (EOP)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 0.00             | Not Started      | Planning             | N                                                                        | N         | N        | N                     | N                                | Y                       | N                                  |
| 474 | Strategic Plan - Project | Seismic safety programs                               | Continue implementation of the City's Soft Story and Unreinforced Masonry Ordinances and administer a \$3 million Hazard Mitigation Grant from FEMA, which will provide design and construction grants to owners of the most seismically vulnerable buildings in Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 70.00            | Work in Progress | Planning             | N                                                                        | Y         | Y        | Y                     | Y                                | N                       | Y                                  |
| 475 | Strategic Plan - Project | Sign Policy                                           | Evaluate and update design review processes/policies and Sign Ordinance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 50.00            | Work in Progress | Planning             | Involves Planning Commission, Design Review Committee                    | Y         | N        | N                     | N                                | Y                       | N                                  |
| 476 | Strategic Plan - Project | Solar + Storage Project                               | Latest strategy from previous Microgrid pilot program to co-locate solar and storage capacity, especially for emergency backup uses                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 30.00            | Work in Progress | Planning             | N                                                                        | Y         | N        | Y                     | N                                | Y                       | N                                  |
| 477 | Strategic Plan - Project | ZORP (Zoning Ordinance Revision Project)              | Revise the City of Berkeley Zoning Ordinance in order to clarify zoning rules and procedures for community members and improve the implementation process for City staff.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50.00            | Work in Progress | Planning             | Involves Planning Commission                                             | Y         | Y        | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Percent Complete | State            | Lead City Department | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|----------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 478 | Strategic Plan - Project | Community Safety During Demonstrations                                                                          | Increase Police capacity, resources, tools and training, including training a bike-officer response unit, to effectively protect and facilitate free speech and maintain community safety when demonstrations and protests occur.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 80.00            | Work in Progress | Police               | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 479 | Strategic Plan - Project | Comprehensive Police Policy Review                                                                              | Fully implement and update Police policies to Lexipol format, ensuring full compliance with current law, case law, and incorporate best practices.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 85.00            | Work in Progress | Police               | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 480 | Strategic Plan - Project | Develop resources and programs for employee resiliency                                                          | Expand Police employee wellness and resiliency programs, including mental health, fitness, and nutrition resources.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 75.00            | Work in Progress | Police               | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 481 | Strategic Plan - Project | Hire, Train, and Retain Excellent Police Personnel                                                              | In order to continue to provide excellent service to the community, expediently fill any position vacancies while maintaining a highly qualified, well educated work force.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 80.00            | Work in Progress | Police               | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 482 | Strategic Plan - Project | Implementation of new public safety technology. (Comprehensive Review of Police Equipment and Technology Needs) | Conduct a needs assessment and prioritization of tools and technology that would better enable the Police to safeguard the community. Implement new technology.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 80.00            | Work in Progress | Police               | N           | Y         | N       | N                     | N                                | N                       | Y                                  |
| 483 | Strategic Plan - Project | Police Community Engagement Strategy                                                                            | Enhance the Police's existing efforts to engage and inform community members about public safety by developing a Police Community Engagement Strategy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 70.00            | Work in Progress | Police               | N           | Y         | N       | N                     | N                                | Y                       | Y                                  |
| 484 | Strategic Plan - Project | Revise use-of-force policy and implement software                                                               | Implement software enhancements used to report and review department commendations and uses of force, in conjunction with a revised use of force policy. This will enable the BPD ability to report aggregate information internally and externally.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 95.00            | Work in Progress | Police               | N           | Y         | Y       | N                     | N                                | Y                       | Y                                  |
| 485 | Strategic Plan - Project | 2nd Street, Monterey Avenue, Ward Street, Hopkins Street and Bancroft Way                                       | Pavement rehabilitation of 1,600 linear feet (0.3 miles) on Ward Street from San Pablo Avenue to Action Street with full-depth reclamation including sidewalk, driveway, and curb ramp replacement. The street will also include green infrastructure improvements, pervious concrete in the parking lane (8 feet wide) to infiltrate storm water into the native soil. Pavement rehabilitation of 1,600 linear feet (0.3 miles) on 2nd Street from Addison Street to Delaware Street, including installation of sidewalk, curb and gutter, crosswalks along University Avenue underpass, and removal of Railroad tracks on project area. Pavement rehabilitation of 3,100 linear feet (0.6 miles) on Monterey Avenue from Hopkins Street to The Alameda, including installation of sidewalk, curb & gutter, curb ramps, and striping of bike lanes and crosswalks. Pavement rehabilitation of 6,600 linear feet (1.25 miles) on Hopkins Street from San Pablo to The Alameda, including installation of sidewalk, curb & gutter, curb ramps, and striping of bike lanes and crosswalks. Pavement rehabilitation of 350 linear feet (0.06 miles) on Bancroft Way from Shattuck Avenue to Milvia Street, including installation of sidewalk, curb & gutter, curb ramps, and a protected bike lane from Fulton Street to Milvia Street. | 50.00            | Work in Progress | Public Works         | N           | Y         | Y       | N                     | Y                                | Y                       | Y                                  |



**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                          | Description                                                                                                                                                                                                                                                                                                                                                                                                                                        | Percent Complete | State            | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|----------------------|-------------|--------------|--------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 486 | Strategic Plan - Project | 50/50 Sidewalk Program                                                                        | Reduce 50/50 sidewalk backlog                                                                                                                                                                                                                                                                                                                                                                                                                      | 70.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | N                       | N                                  |
| 487 | Strategic Plan - Project | American Disabilities Act Transition Plan                                                     | Work with DAC consultants to survey accessibility and ADA compliance for City facilities, public right of way, and parks, as well as programs and services.                                                                                                                                                                                                                                                                                        | 72.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | Y                                | Y                       | Y                                  |
| 488 | Strategic Plan - Project | Berkeley Rose Garden Drainage                                                                 | Repair creek channel to protect channel and contain creek flows.                                                                                                                                                                                                                                                                                                                                                                                   | 35.00            | On Hold          | Public Works         | N           | N            | N            | N                     | N                                | N                       | Y                                  |
| 489 | Strategic Plan - Project | Bicycle and Pedestrian Infrastructure Improvements (Ongoing Program)                          | Implement protected bicycle lanes on Milvia and Dana Streets and currently-funded Safe Routes to Schools and Active Transportation Program projects, including the 9th Street path crossing at Ashby Avenue. Implement BeST and Bicycle and Pedestrian Plan improvements during repaving projects. Identify funding sources for implementing all Tier 1 Bicycle Boulevard crossing recommendations from the Bicycle Plan.                          | 25.00            | Work in Progress | Public Works         | N           | Y            | Y            | Y                     |                                  | Y                       | Y                                  |
| 490 | Strategic Plan - Project | Bicycle Plan FY 2022 Update                                                                   | Construct bikeway projects and implement encouragement, education, enforcement, and evaluation programs to make Berkeley a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation and recreation for people of all ages and abilities                                                                                                                                                           | 0.00             | Not Started      | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 491 | Strategic Plan - Project | Compostable or Recyclable Foodware                                                            | Implementation: Phase 2 - All foodware certified compostable & vendor charges \$0.25 per disposal cup<br>Phase 3 - Only onsite foodware provided by vendor.                                                                                                                                                                                                                                                                                        | 5.00             | Work in Progress | Public Works         | N           | Y            | N            | N                     | Y                                | Y                       | N                                  |
| 492 | Strategic Plan - Project | Corporation Yard Roof and Electrical Upgrades                                                 | This facility requires general upgrades of the electrical system including panelboards, switchboard, and electrical feeders.                                                                                                                                                                                                                                                                                                                       | 75.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 493 | Strategic Plan - Project | Gilman Street Interchange Project                                                             | Improve the mobility and safety of the Gilman Street Corridor by reconstructing the Gilman Street Interchange and creating a new gateway into North Berkeley. In FY 2018-2019, complete the environmental documents and begin final design for the I-80 Gilman Interchange and pedestrian overcrossing projects.                                                                                                                                   | 90.00            | Work in Progress | Public Works         | N           | Y            | Y            | Y                     |                                  | Data Pending            | Data Pending                       |
| 494 | Strategic Plan - Project | Long-Term Waste Operations Strategy                                                           | RFP to develop long term Zero Waste Strategic Plan                                                                                                                                                                                                                                                                                                                                                                                                 | 10.00            | Work in Progress | Public Works         | N           | N            | N            | N                     | Y                                | N                       | N                                  |
| 495 | Strategic Plan - Project | Major Improvements to Downtown Berkeley Infrastructure and Amenities (Milvia Bikeway Project) | The project is currently in the grant funded planning phase for a protected bikeway between Hearst Ave and Channing Way, with a protected bikeway or traffic calming to upgrade the bikeway between Channing and Blake Street. Conceptual design will be complete in October 2019. Engineering design will start January 2020 and end October 2020. If additional grant funds are secured, construction would begin May 2021 and end January 2022. | 45.00            | Work in Progress | Public Works         | N           | Y            | Y            | Y                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Percent Complete | State            | Lead City Department | Commission? | Underway?    | Funded?      | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|----------------------|-------------|--------------|--------------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 496 | Strategic Plan - Project | Major Improvements to Downtown Berkeley Infrastructure and Amenities (Center Street Plaza)      | Convert Center Street between Shattuck and Oxford to a slow street with enhanced streetscape treatments emphasizing use by pedestrians and cyclists while retaining access for transit and deliveries. Project is on hold because anticipated SOSIP funds from hotel development were deferred for up to 10 years.                                                                                                                                                                                                                 | 0.00             | On Hold          | Public Works         | N           | N            | N            | N                     | N                                | N                       | N                                  |
| 497 | Strategic Plan - Project | Major Improvements to Downtown Berkeley Infrastructure and Amenities (Shattuck Reconfiguration) | Improve pedestrian safety by changing traffic flow and turning patterns at the Shattuck/University intersection. Put all through traffic in both directions on the newly two-way west leg of Shattuck between Center and University. Improve parking capacity and shorten pedestrian crossings on the east leg of Shattuck. Provide enhanced transit plaza on the east side of Shattuck between Alston and Center. Contract award by Council is scheduled for October 2018 and Construction is scheduled to commence January 2019. | 95.00            | Work in Progress | Public Works         | N           | Y            | Y            | Y                     | N                                | Y                       | Y                                  |
| 498 | Strategic Plan - Project | Marina Corporation Yard Electrical Upgrades                                                     | Electrical upgrades to the maintenance building.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 75.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 499 | Strategic Plan - Project | North Berkeley Senior Center Seismic Upgrades and Renovations                                   | Seismic and general upgrades to meet immediate occupancy rating.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 75.00            | Work in Progress | Public Works         | N           | Y            | Y            | Y                     |                                  | Y                       | Y                                  |
| 500 | Strategic Plan - Project | Pedestrian Plan Update                                                                          | Update the 2010 Pedestrian Master Plan to guide City efforts to make walking in Berkeley safe, attractive, easy, and convenient for people of all ages and abilities.                                                                                                                                                                                                                                                                                                                                                              | 97.00            | Work in Progress | Public Works         | Y           | Y            | Y            | Y                     | Y                                | Y                       | Y                                  |
| 501 | Strategic Plan - Project | Public Safety Building Improvements                                                             | Renovate the Public Safety Building lobby to improve service to community members and enhance the safety of Fire Department personnel. Install new carpet. Fix water leak on south side of building.                                                                                                                                                                                                                                                                                                                               | 95.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 502 | Strategic Plan - Project | Residential Preferential Parking (RPP) Program                                                  | Assess the potential for and interest in expansion of RPP in additional commercial districts.                                                                                                                                                                                                                                                                                                                                                                                                                                      | 60.00            | Work in Progress | Public Works         | N           | N            | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 503 | Strategic Plan - Project | Sewer Master Plan                                                                               | The plan will provide flow monitoring, hydraulic modeling and capacity assessment, and condition assessment of the sewer system. These services will allow for identification of areas of high inflow and infiltration and capacity deficiency in the sewer system. In addition, they will provide prioritization of capital sewer improvements and a sanitary sewer rate study                                                                                                                                                    | 70.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 504 | Strategic Plan - Project | Solano Avenue Revitalization Plan                                                               | Conceptual design                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 0.00             | Not Started      | Public Works         | N           | Data Pending | Data Pending | Data Pending          | Data Pending                     | Data Pending            | Data Pending                       |
| 505 | Strategic Plan - Project | Substation relocation project                                                                   | Relocation of the BPD Traffic Substation to a City of Berkeley-owned facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 75.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |
| 506 | Strategic Plan - Project | Transfer Station - Master Plan                                                                  | Re-construct the nearly 8-acre West Berkeley site where waste materials are sorted. The eventual goal of a new site is simple: if we recover more of what can be re-used or recycled, we slash what Berkeley trucks to the mountains of garbage that fill landfills.                                                                                                                                                                                                                                                               | 50.00            | Work in Progress | Public Works         | N           | Y            | Y            | N                     | N                                | Y                       | Y                                  |

**Disposition of  
Referrals, Projects, and Audits**

| No. | Type                     | Name                                                     | Description                                                                                                                                                                                                         | Percent Complete | State            | Lead City Department | Commission? | Underway? | Funded? | Grant funding likely? | Required by legislative mandate? | Achievable in ~2 years? | Have adequate staff resources for? |
|-----|--------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|----------------------|-------------|-----------|---------|-----------------------|----------------------------------|-------------------------|------------------------------------|
| 507 | Strategic Plan - Project | Undergrounding Utility Wires                             | Finalize design and begin construction of Underground Utility District #48 (Grizzly Peak). The City is responsible for installation of decorative solar street lighting in support of this Undergrounding District. | 80.00            | Work in Progress | Public Works         | N           | Y         | Y       | N                     | N                                | Y                       | N                                  |
| 508 | Strategic Plan - Project | Update Watershed Management and Storm Drain Master Plans | Undertaking a necessary update to citywide watershed management and storm drain master plans                                                                                                                        | 90.00            | Work in Progress | Public Works         | N           | N         | Y       | N                     | N                                | Y                       |                                    |
| 509 | Strategic Plan - Project | Zero Waste Rate Evaluation                               | Develop a study that provides for a new five year rate structure that sets rates through the Proposition 218 process.                                                                                               | 50.00            | Work in Progress | Public Works         | N           | N         | Y       | N                     | Y                                | Y                       | Y                                  |





Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission and Open Government Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

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This memorandum to the Fair Campaign Practices Commission (FCPC) and the Open Government Commission (OGC) substitutes for the one previously posted, mailed to members of the FCPC, and appearing as Item 7 on the agenda of the FCPC. The key difference is that this memorandum addresses not only officeholder accounts, but also proposed changes to City Council Expenditure and Reimbursement Policies (so-called D-13 Accounts). These two proposals are closely linked and should be considered together. Because the proposal relating to officeholder accounts falls under the jurisdiction of the FCPC and that relating to D-13 accounts falls under the jurisdiction of the OGC, the FCPC and OGC should act jointly in considering the proposed changes to BERA and the Reimbursement Policies.

The memorandum also makes the following recommendation:

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

The preceding recommendations are consistent with previous discussions and the annual workplans of the FCPC and the OGC.

To implement the recommendations in this memorandum, a revised report to the Council is attached.

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. It agreed that the Council Committee would work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, I propose that the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action:

Vote:

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.”

In the course of its review of the issue of officeholder accounts, the FPPC considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.)



At the February 4, 2020 meeting, the Council had a lengthy discussion about their D-13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D-13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember's discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization "from the discretionary council budget" of the Councilmember. This line item ("Services and Materials") from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment 1 – Council Office Budget Summaries). While not technically a "campaign contribution," those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember's contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council's Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember's D-13 accounts.

**Proposed Action:**

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder

accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions,  
(510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open  
Government Commissions, (510) 981-6998



Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act to regulate officeholder accounts

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In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts. At its July 16, 2020 meeting, the Commission voted to direct Commissioner O’Donnell to return at the Commission’s September 17, 2020 meeting with a version of the proposal drafted as an amendment to BERA that can be voted on and presented to Council.

## Background

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or

(3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

Given the Council's opposition to accepting an outright prohibition of officeholder accounts, the FCPC should at least explore some alternatives, including the option of amending the BERA to allow for officeholder accounts that would be subject to limitations, as the City of Oakland has done. The subcommittee which examined officeholder accounts briefly discussed this option but, given that there was unanimous support for prohibiting officeholder accounts entirely, it never developed a detailed proposal for this kind of alternative. However, now that the FCPC/OGC will be in conversation with the council about the options going forward, it seems to make good sense to examine in more detail what the alternative might look like.

For discussion purposes, a draft proposal to amend the BERA is attached (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are

used *strictly* for officeholder purposes and may not be used for political campaigns or other non-officeholder purposes. The proposal would also include limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures. And they would specify how officeholder accounts are to be terminated.

Although not as fully effective as the complete prohibition of officeholder accounts previously recommended by the FCPC, this approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

In the end, it may well be that the alternative presented here—or any other—may be unable to carry the day. Because of the double-green light requirements of BERA, no proposal may be able to garner the 2/3 votes of both the Council and Commission required to change the law. But for the purposes of collaborating with the Council on ways of improving the officeholder account process, the Commission should review the attached proposal which offers at least one possible scenario for addressing the problems and pitfalls involved with officeholder accounts.

Prior to approving this item, the Commission will need to make a determination regarding the dollar amounts for limits on donations to officeholder accounts. These amounts are highlighted in the attached Proposal in Section 2.12.600.E & F.

Attachments:

1. New draft proposed amendments to BERA to allow for officeholder accounts, to limit such accounts to being used strictly for officeholder purposes, and to subject these accounts to various other limitations and disclosure requirements (“Proposal”)
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)



Fair Campaign Practices Commission

PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council  
From: Brad Smith, Chair, Open Government Commission  
Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Adopt an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to regulate officeholder accounts.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Lobbyist Registration Act were approved by the Open Government Commission at its regular meeting of XXXXX XX, XXXX.

**Action:**

**Vote:**

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts.

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated

by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

At its September 17, 2020 meeting, the FCPC passed the attached proposal to amend the BERA (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are used *strictly* for officeholder purposes and may not be used for political

campaigns or other non-officeholder purposes. The proposal also includes limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures, and specify how officeholder accounts are to be terminated.

This approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

This proposal is offered as an alternative to the proposed ban on officeholder accounts previously submitted to Council by the FCPC. This proposal would regulate – rather than prohibit – officeholder accounts.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

#### CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998

#### Attachments:

1. Proposed ordinance amending BERA to allow and regulate officeholder accounts
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)



ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT TO REGULATE  
OFFICEHOLDER ACCOUNTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code section 2.12.157 is added to read as follows:

**Section 2.12.157 Officeholder account.**

“Officeholder account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows

Article 9. Officeholder Accounts

**Section. 2.12.600 Regulation of officeholder accounts.**

A. The mayor and council members (the “officeholder” or “office holders”) shall each be permitted to establish one officeholder account, as defined in section 2.12.157.

B. All donations deposited into an officeholder account shall be deemed to be held in trust solely for expenses associated with holding the office currently held by the elected city officer. For the purpose of this section, “donation” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, in support of the office currently held by an elected official.

C. Only a natural person who is a resident of the City may make a donation to an officeholder account.

D. Donations to an officeholder account must be made by a separate check or other separate written instrument. Single donations may not be divided between the officeholder account and any candidate committee or other entity.

E. No donor shall make, and no elected officer shall receive from a donor, a donation or donations under this section totaling more than fifty [or two-hundred and fifty] dollars (\$50.00 [or \$250.00]) per person for the calendar year. “Donor” means a natural person who is a resident of the City who makes a donation as defined in paragraph B.

F. For the office of mayor, total donations to an officeholder account from all donors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year. For each member of the city council, total donations to an officeholder account from all donors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

G. All donations received for, and expenditures made from, an officeholder account during a calendar year shall be reported at least annually on the date or dates prescribed by the commission and the report shall be made available to the public promptly thereafter. The commission shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's officeholder account. The forms shall be filed electronically. The information on the form or forms shall be verified by the officeholder. The information that shall be included in the officeholder account report shall include the following:

1. The name of the officeholder and the office held;
2. The reporting period covered by the report;
3. A description of all receipts and expenditures.
4. The full name of each donor from whom a donation or donations has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed; the amount which he or she donated; the date on which the each donation was received during the period covered by the report; and the cumulative amount that the donor donated. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated with regard to each lender, together with the date and amount of the loan, and if the loan has been repaid, the date of the payment and by whom paid;
5. The full name and street address of each person to whom an expenditure or expenditures have been made, together with the amount of each separate expenditure to each person during the period covered by the report; a description of the purpose for which the expenditure was made; and the full name and street address of the person receiving the expenditure.
6. Under the heading "receipts," the total amount of donations received, and under the heading "expenditures," the total amount of expenditures made during the reporting period and cumulative amount of such totals;
7. The balance of cash and cash equivalents, including the amounts in the officeholder bank account, at the beginning and end of each period covered by the report.

H. Expenditures from an officeholder account may be made only for-lawful officeholder purposes, and may not be used for any of the purposes prohibited in subsections J. and K. of this section.

I. Allowable expenditures from an officeholder account include the following:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder account;
2. Expenditures for office equipment, furnishings and office supplies;

3. Expenditures for office rent;

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) or such other person designated by the officeholder who is authorized to perform such government duties;

8. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

9. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

10. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council or Mayor;

11. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

12. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions; and

13. Expenditures for accounting, professional and administrative services provided to the officeholder account.

J. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office or in connection with a ballot measure;

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3. Membership in any athletic, social, fraternal, veteran or religious organization;

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519, and any provisions of the BERA.

K. Prohibitions:

1. No funds may be contributed or transferred from an officeholder account to any candidate or committee, as defined in sections 2.12.085 and 2.12.095 of this chapter, including to any committee in which the officeholder is a candidate. An officeholder may not redesignate his or her officeholder account as a committee for a future term of the same office or redesignate his or her officeholder funds to be used as campaign funds by his or her committee for a future term of the same office.

2. No funds may be used from an officeholder account to pay any campaign expenses.

3. An officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account.

L. Once an officeholder's term of office ends or she or he leaves that office, whichever is earlier, the former officeholder may use his or her officeholder funds only for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses.

2. Repaying contributions to contributors to the officeholder accounts.

3. Making a donation to a bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

M. The officeholder shall terminate the officeholder account within 90 days of the date that the officeholder's term of office ends or he or she leaves that office, whichever is earlier. The Commission may for good cause extend the termination date. The disposition of all funds from the closed officeholder account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, shall be described on a form prescribed by the Commission. The officeholder must verify and file the form electronically no later the date prescribed for the termination of the officeholder account or an approved extension thereof.

N. All funds from a closed officeholder account not properly disposed of within the 90 day period prescribed above, or an approved extension thereof, shall be deposited in the City's general fund.

O. Violations of this article involving the unlawful use of officeholder accounts are subject to the procedures of, and the penalties in, Article 7 of this chapter.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

## AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the regulation of officeholder accounts.

The hearing will be held on, [date of hearing] at [6:00 p.m.] in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of [date of agenda posting].

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

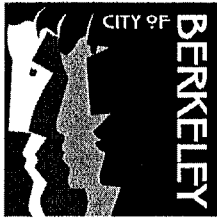
Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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 or in person to the City Clerk. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** [Publication Date in Newspaper]

Pursuant to Berkeley Municipal Code section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 [Enter Date].

Mark Numainville, City Clerk



Fair Campaign Practices Commission

PUBLIC HEARING
February 4, 2020

To: Honorable Mayor and Members of the City Council
From: Fair Campaign Practices Commission
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission
Subject: Amendments to the Berkeley Election Reform Act to prohibit
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

Action: M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

Vote: Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Definition of an Officeholder Account

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

Contributions to Officeholder Accounts

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

Expenditures from Officeholder Accounts

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.¹ Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

Part 8 - OFFICEHOLDER ACCOUNTS

12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

¹Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE
CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

BMC 2.12.157 Officeholder account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

BMC 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

Section 3. 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



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TITLE 9. POLITICAL REFORM [81000 - 91014] (Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 5. Limitations on Contributions [85100 - 85802] (Chapter 5 added June 7, 1988, by initiative Proposition 73.)

ARTICLE 3. Contribution Limitations [85300 - 85321] (Article 3 added June 7, 1988, by initiative Proposition 73.)

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.62. Elected State Officeholder Bank Accounts.

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

- (1) "Officeholder" means an elected state officer.
- (2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.
- (3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).
- (4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

HISTORY

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the
City Attorney

DATE: December 28, 1999

TO: BARBARA GILBERT,
Aide to Mayor Shirley Dean

FROM: MANUELA ALBUQUERQUE, City Attorney *MA*
By: CAMILLE COUREY, Deputy City Attorney

SUBJECT: APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.¹ For similar reasons, the BERA does not

¹ However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert
Re: Application of Berkeley Election Reform Act To Officeholder Accounts
December 28, 1999
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.² Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

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² Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS
December 9, 1991
Page 2

in opposition to the nomination or election of one or more candidates (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.^{1/} (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

^{1/}I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

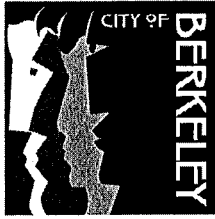
Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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 or in person to the City Clerk. 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 at 981-6900 or clerk@cityofberkeley.info for further information.

Published: January 24, 2020 – The Berkeley Voice
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk





[First Last name]  
Councilmember District [District No.]

## **SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** February 4, 2020

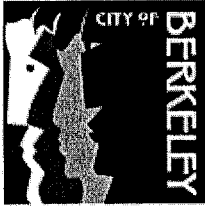
**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



**SOPHIE HAHN**

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
(510) 981-7150  
shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Sophie Hahn  
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [ ] delivered, by any means [ ] to a person's residence, place of employment or business, or post office box."<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

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<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

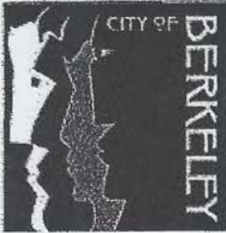
By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>



Fair Campaign Practices Commission

**Date:** February 12, 2020  
**To:** FAIR CAMPAIGN PRACTICES COMMISSION  
**From:** Dean Metzger, Commission Chair  
**Subject:** Council discussion and action with regards to the Officeholder Accounts FCPC proposal.

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At the Special City Council meeting of Tuesday February 4, 2020, the City Council had a lengthy discussion about their D13 accounts, and the lack of discretionary funds Council Members have to spend. They then decided not to approve the FCPC recommendation to prohibit Officeholder Accounts.

To remedy this concern the FCPC should request from the City Manager the amount each Council Member receives in their D13 accounts and after some discussion make a recommendation to Council. If the D13 account is large enough to allow Council members to make the expenditures they feel will keep their constituents informed of their activities, travel to local meetings, provide transportation expenses and meals - there would be no need for Officeholders Accounts.

A search of the City's Budget documents did not reveal the amounts allocated to the Council D13 accounts. Once the information is available the FCPC can make its recommendations to City Council.

**Attachments:**

1. Mayor and City Council Financial Summary
2. Draft request to City Manager for budget details of the Mayor and each individual Council Member

**MAYOR AND CITY COUNCIL FINA**

|                        | FY 2015<br>Actual | FY 2016<br>Actual | FY 2017<br>Adopted | FY 2018<br>Proposed | FY 2019<br>Proposed |
|------------------------|-------------------|-------------------|--------------------|---------------------|---------------------|
| <b>EXPENDITURES</b>    |                   |                   |                    |                     |                     |
| <b>By Type:</b>        |                   |                   |                    |                     |                     |
| Salaries and Benefits  | 1,660,661         | 1,760,619         | 1,723,617          | 1,833,734           | 1,880,031           |
| Services and Materials | 36,942            | 43,407            | 113,526            | 113,526             | 113,526             |
| Capital Outlay         | 1,953             | 7,674             |                    |                     |                     |
| Internal Services      | 89,100            | 81,181            | 81,181             | 81,181              | 81,181              |
| Indirect Cost Transfer |                   |                   |                    |                     |                     |
|                        | <u>1,788,656</u>  | <u>1,892,881</u>  | <u>1,918,324</u>   | <u>2,028,441</u>    | <u>2,074,738</u>    |
| <b>By Division:</b>    |                   |                   |                    |                     |                     |
| Mayor's Office         | 515,095           | 558,137           | 584,877            | 554,389             | 566,917             |
| Council Offices        | 1,273,561         | 1,334,744         | 1,333,447          | 1,474,052           | 1,507,821           |
| Exiting Officials      |                   |                   |                    |                     |                     |
|                        | <u>1,788,656</u>  | <u>1,892,881</u>  | <u>1,918,324</u>   | <u>2,028,441</u>    | <u>2,074,738</u>    |
| <b>By Fund:</b>        |                   |                   |                    |                     |                     |
| General Fund           | 1,788,656         | 1,892,881         | 1,918,324          | 2,028,441           | 2,074,738           |
|                        | <u>1,788,656</u>  | <u>1,892,881</u>  | <u>1,918,324</u>   | <u>2,028,441</u>    | <u>2,074,738</u>    |

|                         |       |       |       |       |       |
|-------------------------|-------|-------|-------|-------|-------|
| <b>General Fund FTE</b> | 12.00 | 12.00 | 12.00 | 12.00 | 12.00 |
| <b>Total FTE</b>        | 12.00 | 12.00 | 12.00 | 12.00 | 12.00 |

**DRAFT**

**DRAFT**

**DRAFT**

**Date:** February 20, 2020  
**To:** Dee Williams-Riley  
City Manager  
**From:** Fair Campaign Practices Commission  
**Subject:** Request for budget details of the Mayor and each individual Council Member.

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At the Special Council meeting of Tuesday, February 4, 2020 the Council heard and took action on the FCPC recommendation to amend the Berkeley Municipal Code to prohibit Officeholder Accounts. The Council discussion went to great lengths about why they needed the Officeholder Account before declining to approve the FCPC recommendation.

The FCPC needs to understand why the Council took the action it did.

To help the Commission determine if any further action on its part would be helpful, the Commission requests that your office provide the FCPC with the detailed budgets of the Mayor and each Council Member. The Commission has the budget summaries of the Mayor and City Council but it is of little use for the discussion.

Please provide the requested information in time for the FCPC meeting on March 19, 2020.

Thank you,

**Fair Campaign Practices Commission**





Fair Campaign Practices Commission  
Open Government Commission

ACTION CALENDAR  
January 26, 2021

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action: *Motion to submit report to City Council recommending creation of a subcommittee of members of the Council, FCPC and OGC to (1) prepare an ordinance prohibiting or regulating officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies*

Vote: M/S/C: Blome/Metzger; Ayes: O'Donnell, Ching, Blome, Tsang, Smith; Noes: Metzger, Sheahan; Abstain: none; Absent: McLean.

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: "[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws."

In the course of its review of the issue of officeholder accounts, the FCPC considered three options:

- (1) leaving the law on officeholder accounts unchanged;
- (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or
- (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D- 13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D- 13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember’s discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization “from the discretionary council budget” of the Councilmember. This line item (“Services and Materials”) from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment – Council Office Budget Summaries). While not technically a “campaign contribution,” those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember’s contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council’s Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember’s D-13 accounts.

Proposed Action:

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

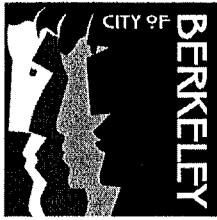
CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Attachments:

1. FCPC February 4, 2020 report to Council and attachments
2. Mayor and City Council Financial Summary



Fair Campaign Practices Commission

PUBLIC HEARING  
February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act to prohibit  
Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

**Definition of an Officeholder Account**

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

### **Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

### **Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

**Recommendation**

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

**Part 8 - OFFICEHOLDER ACCOUNTS**

**12.06.810 - Officeholder account prohibited.**

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

**2.12.157 Officeholder Account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

**2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

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<sup>1</sup>Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)



Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

ORDINANCE NO. ##,###-N.S.

OFFICEHOLDER ACCOUNT PROHIBITED; AMENDING BERKELEY MUNICIPAL CODE  
CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

Section 3. 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


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**GOVERNMENT CODE - GOV**
**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )
**ARTICLE 3. Contribution Limitations [85300 - 85321]** ( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.



**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.

2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (SFPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert  
Re: Application of Berkeley Election Reform Act To Officeholder Accounts  
December 28, 1999  
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

PAUSERS\BBL2\ofthldr.mem.doc

<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991 Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso, Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS  
December 9, 1991  
Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

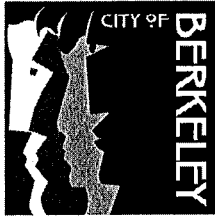
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley 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 or in person to the City Clerk. 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 at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing 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 January 30, 2020.

Mark Numainville, City Clerk



[First Last name]
Councilmember District [District No.]

SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: February 4, 2020

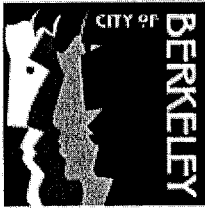
Item Number: 2

Item Description: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

Submitted by: Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



SOPHIE HAHN

Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Sophie Hahn
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.¹ They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.² Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

¹ <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

² <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [] delivered, by any means [] to a person's residence, place of employment or business, or post office box."³ Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.⁴ Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

³ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

⁴ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.⁵ For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

⁵ Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.⁵

members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.⁶

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

⁶ <http://www2.oaklandnet.com/w/OAK052051>

MAYOR AND CITY COUNCIL FINANCIAL SUMMARY

	FY 2015 Actual	FY 2016 Actual	FY 2017 Adopted	FY 2018 Proposed	FY 2019 Proposed
EXPENDITURES					
By Type:					
Salaries and Benefits	1,660,661	1,760,619	1,723,617	1,833,734	1,880,031
Services and Materials	36,942	43,407	113,526	113,526	113,526
Capital Outlay	1,953	7,674			
Internal Services	89,100	81,181	81,181	81,181	81,181
Indirect Cost Transfer					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Division:					
Mayor's Office	515,095	558,137	584,877	554,389	566,917
Council Offices	1,273,561	1,334,744	1,333,447	1,474,052	1,507,821
Exiting Officials					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Fund:					
General Fund	1,788,656	1,892,881	1,918,324	2,028,441	2,074,738
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
General Fund FTE	12.00	12.00	12.00	12.00	12.00
Total FTE	12.00	12.00	12.00	12.00	12.00



Lori Droste
Vice Mayor, District 8

February 1, 2021

To: Agenda and Rules Committee

From: Vice Mayor Lori Droste

Subject: Supplemental Item for Commission Reorganization in Light of COVID-19

This item is in response to Councilmember Hahn’s request that the Agenda and Rules committee provide specific recommendations on how to proceed with commission reorganization in light of COVID-19. The original legislation recommended to *“refer to the City Manager and every policy committee to agendize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.”*

After consultation with many staff members and commissioners, an initial draft of recommendations are listed below to advise and align with Council’s policy committees.

To be clear, there is no proposal to eliminate the participation of commissions in Berkeley. Many commissions cover the same content area and this proposal is to ensure that commissions are heard in an effective manner and their charges aren’t redundant.

Public Safety

1. Disaster and Fire Safety Commission
2. Police Accountability Board
3. Reimagining Public Safety Task Force (NICJR contract ends on June 30, 2022)

Facilities, Infrastructure, Transportation and the Environment

1. Environmental Commission--combines CEAC, Zero Waste and Energy
2. Parks, Recreation and Waterfront--combines Children, Youth and Recreation with Parks and Waterfront--Marina subcommittee
3. Public Works and Transportation (combine the two? Ensure this commission can address concerns around traffic circles)

X sunset the Traffic Circle Task Force

Land Use and Economic Development

1. Labor and Economic Development (combines Labor, Loan Administration Board and BID boards. Alternatively, BIDs can transition to boards so they don't have to be staffed. Legal question around BIDS...)
2. Housing Advisory and Measure O oversight (combines two commissions dealing with housing. Can we combine HAC and Measure O because the latter was a ballot initiative?)
3. figure out how to combine Design Review and Landmarks with qualified individuals
4. figure out with Planning staff how to best deal with Planning and ZAB given workloads

Civic Arts Commission (charter)--would civic arts better advise land use committee?

X sunset the Cannabis Commission

X sunset Joint Subcommittee on the Implementation of State Laws

Health, Life, and Equity

1. Civil Rights Commission with a focused on intersectionality with non-staffed subcommittees (two appointees per councilmember, with youth mandate)
 - a. (will conduct HWCAC's state and federal mandate)
2. Community Health Commission and SSB Oversight--(Can we combine Health and SSB because the latter was a ballot initiative)?
3. Homeless Panel of Experts (folds in Homeless Commission--can we combine Homeless Panel of Experts and Homeless Commission because the former was a ballot initiative?)
4. Mental Health Commission (state/federal mandate)

X sunset Animal Care Commission

Agenda and Rules

1. Fair Campaign Practices/Open Government Commission (ballot initiative)
2. Personnel Board (charter)
3. BOLT--(doesn't generally advise policy committees)

Budget and Finance

Referrals must have budgetary impact and be referred to budget and finance.

Conversation on Commissions

The following are preliminary thoughts to contribute to a discussion.
This is not a “proposal.”

Conversation Points reflect a quick review of Commission charters/purposes/enabling legislation and not a deep dive into the work of each Commission.

Framework

- Commissions play important role for community to have a voice
- Democracy is facing a crisis of confidence. Meaningful community participation promotes confidence, along with transparency and respect
- Commissions should be organized and supported to contribute meaningfully to Berkeley's wellbeing and to Council policy formation and review
- Commissions that are well organized/do meaningful work will always be a good use of time for Commissioners and Secretaries/Staff
- Good to periodically review the organization of our Commissions and their "charters" (charges, purposes, enabling legislation, etc.) to optimize for the Community, City and Commissioners, as well as for staff who support Commissions.

Suggestion:

Consider baking-in a process for Council to review Commissions every 10 years to ensure Commissions and their charters remain vital and responsive to the community.

Possible ways to Strengthen Commissions

(reflects input at last meeting)

- Strengthen/update charters
- Combine similar Commissions and expand/update a consolidated charter
- Increase # of people on a merged Commission (9/18)
- Create Standing Subcommittees so that important areas of emphasis are retained, and/or add Standing Subcommittees for other areas of emphasis.
- Consider requiring certain lived experience or qualifications for service on some commissions
- Consider adding non-voting members and/or official delegates from one Commission to another.
- Consider training for chairs and vice chairs

Conversation points organized as follows:

- **SUGGESTED ADDS**
- **SUGGEST KEEPING AS STAND-ALONE + REVIEW & UPDATE CHARTERS**
- **CONSIDER TO MERGE/REWORK**

Did not start with any numerical goals in mind. At end, counted up and it's 24.5+

SUGGESTED ADD (1)

**Commission on a Sustainable
Locally-Based Economy**

SUGGEST KEEPING AS IS + REVIEW & UPDATE CHARTER (16+ total)

- BIDS
- Status of Women
- Peace & Justice
- Disability
- Disaster & Fire (Resilience)
- Labor
- Mental Health
- Personnel
- ZAB
- Civic Arts
- Loan Admin Board
- PRC/Police Accountability Board
- CYRC – Children Youth and Recreation
- Parks & Waterfront
- Landmarks (LPC)
- Planning

CONSIDER TO MERGE/REWORK (2)

- Create a “universal” HEALTH-focused commission (possibly still named Community Health Commission) and fold in
 - Sugar Sweetened Bev Panel of Experts
 - Health Considerations of CEAC
 - Broaden scope/lens on health
- Create a universal EQUITY & HUMAN WELFARE-focused commission (possibly named Commission on Equity & Human Welfare) and fold in
 - Aging
 - Homeless
 - Broaden scope/lens on EQUITY and ANTI- POVERTY
 - Consolidate more/all Community Grants Review into one Commission

CONSIDER TO MERGE/REWORK (1)

Create global **Climate and Environmental Action** Commission focused on all elements of COB Climate Action Plan and other environmental and climate issues, and fold in:

- Energy
- Zero Waste
- Some elements of CEAC
- Animal Care (expanded - urban habitat, bees, birds, meat, etc.)
- Consider sending official non-voting delegates to Disaster & Emergency (Resilience) and Public Works/Transportation
- Consider doubling size of Commission and creating Standing Subcommittees

CONSIDER TO MERGE/REWORK (1)

- Public Works + Transportation
 - Includes hardscape and funding elements of Transportation; environmental considerations at Climate & Environmental Action Commission + Delegate to bridge the two
 - Double size of PW/Transportation and manage with Standing Subcommittees?

CONSIDER TO MERGE/REWORK (3)

- Measure P Panel of Experts + Homeless Commission
- Measure O Oversight + Housing Advisory Commission (HAC)
- FCPC – Fair Campaign Practices + Open Government (OGC)

CONSIDER TO MERGE/REWORK (.5)

Rework:

- Design Review – Maintain a separate Board of design experts, as currently configured, but have DRC and ZAB meeting simultaneously on major projects subject to Design Review
- Cannabis – Fold permitting elements into ZAB or Planning, and planning elements into Planning, and close out elements that are no longer relevant – major work of legalization is done. Require Mayor to establish a task force if major State, Local or Federal changes in view

CONSIDER TO MERGE/REWORK

Rework:

- Youth Commission
 - Consider adding a youth representative to every commission, appointed by Council, non-voting
 - Consider creating more direct and meaningful opportunities for participation in Government for High School aged youth (and possibly for BCC and CAL Students as well).
 - Consider creating a formal internship program for students to shadow CMs/Mayor/City Manager/City Attorney/City Auditor and Department heads, as well as other City Staff, and to do projects/internships with them.



Lori Droste
Councilmember, District 8

ACTION CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste (Author) and Councilmembers Rigel Robinson (Co-Sponsor) and Rashi Kesarwani (Co-Sponsor)

Subject: Commission Reorganization for Post-COVID19 Budget Recovery

RECOMMENDATION

- 1) Reorganize existing commissions with the goal of achieving 20 total commissions.
- 2) Reorganize existing commissions within various departments to ensure that no single department is responsible for more than five commissions.
- 3) Reorganize commissions within the Public Works Department to ensure Public Works oversees no more than three commissions.
- 4) Refer to the City Manager and every policy committee to agendaize at the next meeting available to discuss commissions that are in their purview and make recommendations to the full Council on how to reorganize and address the various policy areas. Commission members should be notified and chairs should be invited to participate. Policy committee members are encouraged to consider the renaming of some commissions in order to ensure that all policy areas are addressed.

PROBLEM/SUMMARY STATEMENT

Demand for city workers staffing commissions is larger than the City's ability to supply it at an acceptable financial and public health cost. Thirty-seven commissions require valuable city staff time and funding that could be better spent providing essential services. The COVID-19 pandemic has impacted the City of Berkeley in a myriad of ways, resulting in enormous once-in-a-lifetime socioeconomic and public health impacts. While the City Manager and department heads are addressing how to best prepare and protect our residents, particularly our most vulnerable, they are also required to oversee an inordinate amount of commissions for a medium-sized city at a significant cost.

The City of Berkeley faces many challenges, including the COVID-19 pandemic and its resultant budget and staffing impacts. Prior to the onset of COVID-19, the City Council and staff spent significant Council time on items originating with the City's advisory commissions. As the Shelter in Place is gradually lifted, critical city staff will resume staffing these 37 commissions. As a result, too much valuable staff time will continue to be spent on supporting an excessive amount of commissions in Berkeley rather than addressing the basic needs of the City.

BACKGROUND

Review of Existing Plans, Programs, Policies, and Laws

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter)

- 12. Police Review Commission (ballot measure)
- 13. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley’s Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California’s Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

Comparable Bay Area City	Population (est.)	Number of Commissions	Links
Berkeley	121,000	37	https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3 - Commissions/External%20Roster.pdf
Antioch	112,000	6	https://www.antiochca.gov/government/boards-commissions/
Concord	130,000	14	https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Comm
Daly City	107,000	7	http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm
Fairfield	117,000	7	https://www.fairfield.ca.gov/gov/comms/default.asp
Fremont	238,000	15	https://www.fremont.gov/76/Boards-Commissions-Committees
Hayward	160,000	12	https://www.hayward-ca.gov/your-government/boards-commissions
Richmond	110,000	29	https://www.ci.richmond.ca.us/256/Boards-and-Commissions
San Mateo	105,000	7	https://www.cityofsanmateo.org/60/Commissions-Boards

Sunnyvale	153,000	10	https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804
Vallejo	122,000	17	http://www.ci.vallejo.ca.us/cms/one.aspx?pageId=22192

Consultation and Outreach

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

Commission Name	Overseeing Department (Total Commissions in Department)
Animal Care Commission	City Manager (7)
Civic Arts Commission	City Manager (7)
Commission on the Status of Women	City Manager (7)
Elmwood BID Advisory Board	City Manager (7)
Loan Administration Board	City Manager (7)
Peace and Justice Commission	City Manager (7)
Solano Ave BID Advisory Board	City Manager (7)
Cannabis Commission	Planning (8)
Community Environmental Advisory Commission	Planning (8)
Design Review Committee	Planning (8)
Energy Commission	Planning (8)
Joint Subcommittee on the Implementation of State Housing Laws	Planning (8)
Landmarks Preservation Commission	Planning (8)
Planning Commission	Planning (8)
Zoning Adjustments Board	Planning (8)
Children, Youth, and Recreation Commission	Parks (3)
Parks and Waterfront Commission	Parks (3)
Youth Commission	Parks (3)
Commission on Aging	Health, Housing, and Community Services (HHCS) (10)
Commission on Labor	HHCS (10)
Community Health Commission	HHCS (10)

Homeless Commission	HHCS (10)
Homeless Services Panel of Experts	HHCS(10)
Housing Advisory Commission	HHCS (10)
Human Welfare & Community Action Commission	HHCS (10)
Measure O Bond Oversight Committee	HHCS (10)
Mental Health Commission	HHCS (10)
Sugar-Sweetened Beverage Product Panel of Experts	HHCS (10)
Disaster and Fire Safety Commission	Fire (1)
Commission on Disability	Public Works (5)
Public Works Commission	Public Works (5)
Traffic Circle Task Force	Public Works (5)
Transportation Commission	Public Works (5)
Zero Waste Commission	Public Works (5)
Fair Campaign Practices Commission/Open Government Commission	City Attorney (1)
Personnel Board	Human Resources (1)
Police Review Commission	Police (1)
Board of Library Trustees	Library (1)

Gray=charter
 Red=state/federal mandate
 Yellow=quasi-judicial
 Blue=ballot initiative
 Orange=state/federal mandate and quasi-judicial
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (8 commissions), and the City Manager’s department (7 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular

content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

Department and Policy Committee alignment

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

CRITERIA CONSIDERED

Effectiveness

How does this proposal maximize public interest? For this analysis, the effectiveness criterion includes analysis of the *benefits* to the entire community equitably with specific emphasis on public health, racial justice and safety.

Fiscal Impacts/Staffing Costs

What are the costs? The fiscal impact of the proposed recommendation and various alternatives considered includes direct costs of commissions.

Administrative Burden/Productivity Loss

What are the operational requirements or productivity gains or losses from this proposal?

The administrative burden criterion guides the analysis in considering operational considerations and productivity gains and losses. While operational considerations and tradeoffs are difficult to quantify in dollar amounts, productivity losses were considered in its absence.

Environmental Sustainability

The environmental sustainability criterion guides legislation in order to avoid depletion or degradation of the natural resources and allow for long-term environmental quality.

ALTERNATIVES

Alternative #1–The Current Situation

The current situation is the status quo. The City of Berkeley would retain all commissions and no changes would be made.

Alternative #2–Collaborative Approach with Quantity Parameters

This approach would specify a specific number (20) of commissions the City of Berkeley should manage and set parameters around individual department responsibilities. Furthermore, it requires a collaborative approach and outreach to address specific policy areas by referring it to the Council policy committees for further analysis and specific recommendations.

Alternative #3–Committee Alignment, Mandated and Quasi-Judicial Commissions

This alternative would consist of five commissions aligned directly with the policy committees in addition to quasi-judicial bodies and ones required by charter, ballot measure or law.

- *Budget and Finance Commission*
- *Facilities, Infrastructure, Transportation, Environment and Sustainability Commission (state/federal mandate--CUPA)*
- *Health, Equity, and Life Enrichment*
- *Land Use and Economic Development*
- *Public Safety*
- Board of Library Trustees (charter)
- Civic Arts Commission (charter)
- Community Environmental Advisory Commission (state/federal mandate--CUPA)
- Fair Campaign Practices Commission/Open Government (ballot measure)
- Homeless Services Panel of Experts (ballot measure)
- Housing Advisory Commission (state/federal mandate)
- Human Welfare and Community Action (state/federal mandate)
- Landmarks Commission (quasi-judicial)
- Measure O Bond Oversight Committee (ballot measure)
- Mental Health Commission (state/federal mandate)
- Planning (quasi-judicial)
- Personnel (charter)
- Police Review Commission (ballot measure)
- Sugar-Sweetened Beverages (ballot measure)
- Zoning Adjustments Board (quasi-judicial)

Alternative #4: Extreme Consolidation

This alternative represents a prescriptive approach with maximum consolidation in content area and mandated commissions, absent charter amendments.

- Board of Library Trustees (charter)
- Business Improvement District (state/federal mandate)
- Civic Arts Commission (charter)
- Community Environmental Advisory Commission/Energy/Zero Waste (state/federal--CUPA)
- Fair Campaign Practices Commission/Open Government (ballot measure)
- Homeless Services Panel of Experts (ballot measure)
- Human Welfare and Community Action (state/federal mandate)
- Measure O Bond Oversight Committee (ballot measure)/Housing Advisory Commission (state/federal mandate)
- Mental Health Commission (state/federal mandate)
- Personnel (charter)
- Planning Commission (quasi-judicial and appeals)
- Board of Appeals (land use appeals)
- Police Review Commission (ballot measure)
- Health and Sugar-Sweetened Beverages (ballot measure)

PROJECTED OUTCOMES (CRITERIA X ALTERNATIVES)

	Current Situation	Collaborative Approach	Policy Committee Alignment	Extreme Consolidation
Benefit/ Effectiveness	medium	high	medium	low
Cost	high	medium	low	low
Administrative Burden	high	low	low	medium
Relative Environmental Benefit	low	medium	medium	high

Current Situation and Its Effects (Alternative #1)

Effectiveness of the Current Situation

Commissions serve a vital role in the City of Berkeley’s rich process of resident engagement. An analysis of agendas over the past several years shows that the

commissions have created policy that have benefited the community in meaningful and important ways. In 2019, approximately two-thirds of commission items submitted to Council passed. From 2016-2019, an average of 39 items were submitted by commissions to Council for consideration. Every year roughly 15-18 (~40-45%) commissions do not submit any items for Council policy consideration in any given year. The reason for this varies. Some commissions don't submit policy recommendations (BIDs) and some commissions recommendations may not rise to Council level at all or come to Council as a staff recommendation (e.g. ZAB and DRC). Additionally, a few commissions struggle to reach monthly quorum as there are currently 64 vacancies on the various commissions, excluding alternative commissioners.

It is also important to consider equitable outcomes and the beneficiaries as well. For example, the City's Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley's size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

Staffing Costs

Based upon preliminary calculations of staff titles and salary classifications, the average staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

Commission	Step 5 Rate of Pay	Reported Hours a Month	Total Direct Cost of Commission per Month
Animal Care	\$70.90	8	\$567.20
Landmarks Preservation Commission	\$57.96	80	\$4,636.80
Design Review Commission	\$52.76	60	\$3,165.60
Peace and Justice	\$60.82	32	\$1946.24

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

Productivity Losses and Administrative Burden

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach. The Joint Subcommittee on the Interpretation of State Housing Laws is another example. Planners dedicate 50 hours a month to that commission. Meanwhile, this commission has limited ability in affecting state law and the City Attorney's office is responsible for interpreting state law. While this commission does important work on other issues, there is little nexus in interpreting state housing laws and could be disbanded and consolidated with an existing commission. If this commission were disbanded, the current planner could dedicate significant hours to Council's top priorities in Planning. This year's top Council priority is the displacement of Berkeley's residents of color and African Americans (Davila).

Environmental Sustainability

The current commission structure doesn't have a large impact on the environment but, in relative terms, is the most burdensome because of the potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs associated with a large number of commissions.

ALTERNATIVES CONSIDERED

Effectiveness

Alternative #2--Collaborative approach

While the outcome is unknown, a collaborative approach with a specified target quantity of commissions and departmental responsibility would likely yield significant benefit to the community. Due to the projected budget cuts, city staff will need to have more bandwidth to deliver baseline services and priority projects. Civic engagement will still be retained due to a myriad of ways to provide public input but more importantly, current commissioners and civic partners are invited to provide feedback to the policy committees for consideration. Additionally, this approach is a less prescriptive approach which allows Council to acknowledge that the current number of commissions is unsustainable and impacts baseline services. Instead of recommending specific commission cuts at this moment, this approach simply allows Council to state an appropriate number of commissions (20) and acknowledge the severe staffing impacts of the current configuration. Furthermore, twenty commissions is a reasonable starting point, especially when considering that most area cities that are approximately Berkeley's size have seven commissions.

Alternative 3--Policy Committee Alignment

This approach would yield some benefit in that commissions would reflect current policy committees and would directly advise those bodies. This is beneficial because commissions directly aligned with policy committees would be an independent civic replica of the appointed policy committee bodies. It further retains mandated commissions. However, this prescriptive approach doesn't allow for flexibility in retaining historically important commissions and it does not address the benefit of potentially consolidating two commissions that address the same policy content area. For instance, it may be possible to combine the sugar-sweetened beverage oversight panel with the Health, Life, and Equity commission or the CEAC with the Facilities, Infrastructure, Transportation, Environment and Sustainability.

Alternative 4--Extreme Consolidation--

This approach is the most drastic alternative and the overall effectiveness is likely low, mainly due to potential community backlash due to Berkeley's long history of civic engagement. Furthermore, the Planning Commission would likely become overburdened and less effective because land use appeals would have to be routed through the Planning Commission.

Costs/Fiscal Impact

Alternative 2--Collaborative Approach

The fiscal impact of the Collaborative Approach is unknown at this time because this recommendation does not prescribe specific commission consolidations or cuts. However, if commissions are reorganized such that Berkeley will have 20 instead of 38, there will be significant direct cost savings. One can reasonably assume that the direct financial cost could reduce to almost half the current amount.

Alternative 3--Policy Committee Alignment

The fiscal impact of Policy Committee Alignment would yield significant savings due to commission consolidation. One can reasonably assume that the direct financial cost could reduce to more than half the current amount.

Alternative 4--Extreme Consolidation

Extreme Consolidation would yield the most savings due to commission consolidation. One can reasonably assume that the direct financial cost would reduce to 25%-30% of the current amount spent on commission work.

Productivity

Alternative 2--Collaborative Approach

The most glaring impact on the current commission structure is administrative impacts and productivity. Whether City Council consolidates commissions or not, attributable salary costs will still exist. The primary benefit of pursuing the Collaborative Approach would center on productivity. The City of Berkeley is likely to garner significant productivity gains by specifying a target number of commissions overall and within departments. Using the Peace and Justice and Joint Subcommittee on the Interpretation of State Housing Laws examples above, more staff will be able to focus on core services and priority programs. Thousands of hours may be regained by dedicated staff to tackle the tough issues our community faces, especially in light of COVID-19 and concerns around racial equity.

Alternative 3--Policy Committee Alignment

This alternative likely will yield the same productivity benefits as the collaborative approach, if not more. The City of Berkeley would likely garner significant productivity gains by specifying less than twenty commissions. Thousands of hours may be regained by dedicated staff to tackle the tough issues our community faces, especially in light of COVID-19 and concerns around racial equity.

Alternative 4–Extreme Consolidation

This alternative would likely provide the most productivity gains and lessen administrative burdens overall. However, there could be unintended consequences of productivity within the planning department absent additional policy changes. For example, the quasi-judicial Zoning Adjustments Board and Planning Commission agendas are packed year round. It is unclear whether eliminating one of these commissions would lessen the administrative burden and increase productivity in the Planning Department or whether those responsibilities would merely shift commissions. At the same time, the Planning Department could benefit from reducing commissions to increase productivity within the planning department.

Environmental Sustainability

Alternative 2–Collaborative approach

This alternative doesn't have a large impact on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs. However, these environmental impacts could be cut in half with commission reorganization.

Alternative 3--Policy Committee Alignment

This alternative doesn't have a large impact on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs. However, these environmental impacts could be cut in half with commission reorganization.

Alternative 4–Extreme Consolidation

This alternative would have negligible impacts on the environment other than potential vehicle miles travelled by hundreds of commissioners (VMT) and printing costs.

RATIONALE FOR RECOMMENDATION

The Collaborative Approach is the best path forward in order to pursue Berkeley's commitment to

- Create affordable housing and housing support services for our most vulnerable community members
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment
- Champion and demonstrate social and racial equity
- Provide an efficient and financially-healthy City government
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Foster a dynamic, sustainable, and locally-based economy
- Create a resilient, safe, connected, and prepared City

- 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

The status quo—37 commissions— is too costly and unproductive. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.