



**BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE  
REGULAR MEETING**

**Thursday, October 28, 2021  
10:00 AM**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Lori Droste  
Alternate: Councilmember Rashi Kesarwani

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council Budget & Finance Committee will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/85993222513>. 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: **859 9322 2513**. 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 Budget & Finance 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.

# AGENDA

## Roll Call

## Public Comment on Non-Agenda Matters

## Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

### 1. Minutes - September 23, 2021

## Committee Action Items

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.*

*Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

### 2. Presentation from Budget Office on Budget Process Survey

**From: City Manager**

Contact: Rama Murty, Budget Office, (510) 981-7000

### 3. Review of Council's Fiscal Policies

**From: City Manager**

Contact: Rama Murty, Budget Office, (510) 981-7000

### 4. Cash v. Accrual Basis Accounting

**From: City Manager**

Contact: Henry Oyekanmi, Finance, (510) 981-7300

### 5. Housing Trust Fund Resources

**From: City Manager**

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

## 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.*

6. **Budget Referral and Resolution Establishing A Pilot Existing Building Electrification Incentive Program to Assist New Homeowners, Renters and Existing Homeowners with Transition to Zero-Carbon Buildings**  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)**

**Referred: May 17, 2021**

**Due: March 1, 2022**

**Recommendation:** 1. Adopt a Resolution establishing: a. a two-year Pilot Existing Building Electrification Incentive Program to Assist New Homeowners, Renters and Existing Homeowners with Transition to Zero-Carbon Buildings; and b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community groups, to provide input to staff and Council about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion. 2. Refer to the June, 2021 budget process: a. \$1,500,000 of general fund monies from excess equity as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

**Financial Implications:** See report

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

## Items for Future Agendas

- **Discussion of items to be added to future agendas**

## Adjournment

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*Written communications addressed to the Budget & Finance Committee and submitted to the City Clerk Department 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. 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.

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I hereby certify that the agenda for this meeting of the Standing Committee 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 October 21, 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 BUDGET & FINANCE COMMITTEE  
REGULAR MEETING MINUTES**

**Thursday, September 23, 2021  
10:00 AM**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Lori Droste  
Alternate: Councilmember Rashi Kesarwani

**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 Budget & Finance 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/81668140426>. 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: **816 6814 0426**. 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 Budget & Finance 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.

## AGENDA

**Roll Call:** 10:06 a.m. All present.

**Public Comment on Non-Agenda Matters:** 6 speakers.

### Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

1. **Minutes for Approval: June 22, 2021, June 24, 2021, June 28, 2021, and June 29, 2021**

**Action:** M/S/C (Droste/Harrison) to approve the minutes of June 22, 2021, June 24, 2021, June 28, 2021, and June 29, 2021

**Vote:** All Ayes.

### Committee Action Items

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.*

*Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

2. **Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances**

**From:** Parks and Waterfront Commission

**Referred:** April 5, 2021

**Due:** October 9, 2021

**Recommendation:** That Council adopt a Resolution adopting a policy that all Transient Occupancy Taxes (TOT hotel tax) generated at the Berkeley Waterfront be allocated to the City's Marina Enterprise Fund. All other property, sales, utility users, and parking taxes; as well as business license and franchise fees, would continue to be allocated to the City's General Fund.

**Financial Implications:** See report

Contact: Roger Miller, Commission Secretary, (510) 981-6700

**Action:** 5 speakers. M/S/C (Harrison/Arreguin) to send the item to Council with a negative recommendation. Additionally, the committee would like to request a referral to the Budget & Finance Policy Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.

**Vote:** All Ayes.

## Committee Action Items

3. **Budget Referral and Resolution Establishing A Pilot Existing Building Electrification Incentive Program to Assist New Homeowners, Renters and Existing Homeowners with Transition to Zero-Carbon Buildings**  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)**

**Referred: May 17, 2021**

**Due: November 1, 2021**

**Recommendation:** 1. Adopt a Resolution establishing: a. a two-year Pilot Existing Building Electrification Incentive Program to Assist New Homeowners, Renters and Existing Homeowners with Transition to Zero-Carbon Buildings; and b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community groups, to provide input to staff and Council about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion. 2. Refer to the June, 2021 budget process: a. \$1,500,000 of general fund monies from excess equity as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

**Financial Implications:** See report

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

**Action:** 6 speakers. M/S/C (Harrison/Arreguin) to continue the item to March 1, 2022.

**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.*

4. **Review of Council's Fiscal Policies**  
**From: City Manager**  
Contact: Rama Murty, Budget Office, (510) 981-7000
5. **Cash v. Accrual Basis Accounting**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
6. **Housing Trust Fund Resources**  
**From: City Manager**  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

## Unscheduled Items

### 7. Disposition of Referrals, Projects and Audits From: City Manager

Contact: Melissa McDonough, City Manager's Office, (510) 981-7000

Item removed from agenda as an updated item is being introduced at the Council meeting on October 12, 2021.

## Items for Future Agendas

1. Presentation from Budget Office on survey of budget process – October 14

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 12:00 p.m.

I hereby certify that this is a true and correct record of the Budget & Finance Committee meeting held on September 23, 2021.

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April Richardson, Assistant City Clerk

## Communications

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There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

The City of Berkeley Budget & Finance Policy Committee Webpage:  
[https://www.cityofberkeley.info/Clerk/Home/Policy\\_Committee\\_Budget\\_Finance.aspx](https://www.cityofberkeley.info/Clerk/Home/Policy_Committee_Budget_Finance.aspx)



### **Council's Fiscal Policies**

The fiscal policies adopted by the Council include:

- ❖ Focusing on the long-term fiscal health of the City by adopting a two-year budget and conducting multi-year planning;
- ❖ Building a prudent reserve;
- ❖ Developing long-term strategies to reduce unfunded liabilities;
- ❖ Controlling labor costs while minimizing layoffs;
- ❖ Allocating one-time revenue for one-time expenses;
- ❖ Requiring enterprise and grant funds to balance and new programs to pay for themselves; and
- ❖ Any new expenditure requires new revenue or expenditure reductions.
- ❖ Transfer Tax in excess of \$12.5 million will be treated as one-time revenue to be used for the City's capital infrastructure needs (Fund 501).
- ❖ As the General Fund subsidy to the Safety Members Pension Fund declines over the next several years, the amount of the annual decrease will be used to help fund the new Police Employee Retiree Health Plan (Fund 731).
- ❖ Starting in FY 2019, staff costs as approved by the City Council that exceed the enforcement fees and penalties shall be appropriated from the short term rental taxes collected pursuant to BMC Section 23C.22.050, Section H, with the primary allocation of the rental tax to the purposes listed below:
  - Two thirds (66.7%) allocated to the Affordable Housing Trust Fund.
  - One third (33.3%) allocated to the Civic Arts Grant Fund.

Proposed new policy:

- ❖ Funding the 115 Pension Trust

### **Additional Information**

At the meeting on January 23, 2020, the Committee stated it will continue to review and revise specific policies and added the following items to future agendas:

1. Transfer tax revenue policy amendment for Measure P
2. Provide more flexible language in policy that new programs need to pay for themselves
3. Change CIP to longer-term (possibly 5 years)
4. Short-term rental distribution – no longer use percentages for distribution; set priorities and prioritize programs
5. Community agency funding process overview – what role can the Budget & Finance committee play in this process?
6. 115 Pension Trust funding





There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

The City of Berkeley Budget & Finance Policy Committee Webpage:  
[https://www.cityofberkeley.info/Clerk/Home/Policy\\_Committee\\_Budget\\_Finance.aspx](https://www.cityofberkeley.info/Clerk/Home/Policy_Committee_Budget_Finance.aspx)





Health Housing and  
Community Services Department  
**Office of the Director**

## MEMORANDUM

**To:** David White, Deputy City Manager

**From:** Kelly Wallace, Interim Director

**Date:** March 3, 2020

**Subject:** **City of Berkeley Housing Trust Fund Resources**

The purpose of this memo is to provide an overview of the City's Housing Trust Fund (HTF), the current balance of HTF program funds, and an overview of how HTF funds can be used.

The City of Berkeley created its HTF program in 1990<sup>1</sup>. Berkeley's HTF pools funds for affordable housing development and predevelopment costs from a variety of sources with different requirements, and makes them available through one single application process to local developers. The purpose of the HTF is to develop and preserve long-term below market rate housing for low, very low, and extremely-low income households in order to maintain and enhance the ethnic and economic diversity of the City.

Revenues for the HTF come from the following sources:

- Federal HOME Partnership for Investment Program (HOME Program) annual allocations;
- Allocated Community Development Block Grant (CDBG) funds;
- Housing fees provided by development projects, demolitions and condominium conversions;
- Proceeds obtained from the sale of City-owned residential properties;
- Payments of interest and principal due to the City from borrowers of previous HTF loans;
- Funds from other sources authorized by the City Council and the voters.

Under the HTF Guidelines, the Housing Advisory Commission advises Council on HTF allocations. HTF proceeds are awarded to eligible projects as loans that must be repaid on favorable terms.

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<sup>1</sup> <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=6532>

### Total Housing Trust Fund Resources

While the “Housing Trust Fund” name may imply that all funds are pooled together in a single fund code for accounting purposes, the City maintains each source separately. The balance of funds available for the HTF program as of this writing on March 3, 2020 is \$6,704,128.

| <b>Table 1. Housing Trust Fund Available Balance 3/3/2020</b> |                    |
|---------------------------------------------------------------|--------------------|
| <b>Source of Funds</b>                                        | <b>Amount</b>      |
| HOME (310)                                                    | \$0                |
| Housing Mitigation Fee (Commercial) (331)                     | \$1,084,680        |
| Inclusionary In Lieu Fee (122)                                | \$329,778          |
| Condo Conversion Fee (123)                                    | \$1,109,459        |
| Housing Mitigation Fee (Residential) (120)                    | \$4,180,210        |
| <b>HTF Total</b>                                              | <b>\$6,704,128</b> |

### Housing Trust Fund Mitigation Fee Revenue

The majority of the funding now available for allocation in the HTF came from fees, and has accrued over time. Fee income is variable with the market and the timing difficult to predict precisely because it depends on individual development project timelines.

Table 2 provides an overview of the total HTF fees collected over time. The vast majority of the AHMF have been collected in the past year. The first AHMF was collected in 2015 with a payment of \$280,000 for the Aquatic at 800 University then \$1.58M for the Varsity on Durant. Over the next three years, \$2.9 million in AHMF were collected. Since January 2019, over \$7.8 million in AHMF have been collected.

| <b>Table 2. Housing Trust Fund Fees Collected Over Time</b> |                   |                       |
|-------------------------------------------------------------|-------------------|-----------------------|
| <b>Fee Program and Fund Code</b>                            | <b>First Year</b> | <b>Total Received</b> |
| Inclusionary Housing Fund (254)                             | FY 2006           | \$1,533,441           |
| Condo Conversion Fund (258)                                 | FY 2009           | \$2,960,826           |
| Affordable Housing Mitigation Fee (249)                     | FY 2015           | \$12,604,968          |
| Housing Mitigation Fee on Commercial Development (250)      | FY 1992           | \$4,486,275           |
| <b>Total</b>                                                |                   | <b>\$21,585,510</b>   |



*Housing Mitigation Fee (Commercial)*

In 1993, the City established a housing linkage fee on commercial development, designed to mitigate the need for affordable housing it creates. On June 3, 2014 Council adopted Resolution 66,617 N.S. which updated this fee which applies to all new commercial construction in which the net additional, newly constructed gross floor area is over 7,500 square feet. Most commercial new construction projects in the City are below this threshold. Applicants may either 1) create one unit of housing either on site or off site within the City of Berkeley (with an average size of two bedrooms) affordable to households whose income is at or below 30% of the area median income, or 2) pay an equivalent In-Lieu Impact Fee according to a schedule. None of these funds can be used for administration.

*Inclusionary In Lieu Fee [BMC 23C.12](#)*

In 1986 the City adopted an Inclusionary Housing Ordinance (IHO), which required, among other things, that a percentage of all new residential rental units in projects of 5 or more units be provided at below market rates for the life of the project. The IHO only includes an in-lieu fee option for ownership units, not for rental, although it does allow for fractional unit fees for rental. A 2009 decision of the California Court of Appeal (Palmer/Sixth Street Properties v. City of Los Angeles (2009) 175 Cal. App. 4th 1396) held that the City may not require rents to be limited in rental projects unless it provides assistance to the rental project, thus invalidating the City's IHO requirements for rental projects. The City still enforces the IHO for ownership projects, but this year's Bloom project is the first new condo development since 2007. 100% of the fee must be deposited in the City's HTF; none of these funds can be used for administration.

*Condominium Conversion Fee [BMC 21.28.070](#)*

The Condominium Conversion Ordinance allows property owners to convert rental units to ownership units subject to certain requirements and payment of an Affordable Housing Mitigation Fee (AHMF). This fee shares a name with—but is different from—the AHMF for new construction market-rate housing in BMC 22.20.065. The ordinance went through a period of frequent revisions so previously converted properties were subject to a variety of requirements. Currently, the fee is based on the appraised value or sales price of the unit and is 4% for properties with two units and 8% for properties with three or more units. Not more than 10% of revenues can be used for HTF program delivery. Not more than 10% of revenues can be used for HTF program and project monitoring and enforcement. Not less than 80% of revenues must be placed into the City of Berkeley HTF to finance activities described as eligible in the City of Berkeley HTF Program Guidelines.

*Affordable Housing Mitigation Fee (Residential)*

<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=74682>

In 2010, as a result of the Palmer court decision, the City replaced its IHO requirements for rental housing with the Affordable Housing Mitigation Fee (AHMF). Developments are subject to whichever requirement was in place at the time they obtained a Use Permit. Together these requirements are referred to as the City's Below Market Rate (BMR) program.

The AHMF requires new market rate developments to provide affordable housing units equal in number to 20% of the market rate units, or to pay a fee per market rate unit, or provide a combination of units and fee. Effective July 1, 2018, the AHMF is \$37,962 per new unit of rental housing, payable at the issuance of Certificate of Occupancy. If the AHMF is paid in its entirety no later than issuance of the building permit, the fee is \$34,884 per new unit of rental housing. Resolution 68,074-N.S. established the fee and the method to adjust the fee every other year. In most cases, developers choosing to provide units on site in lieu of paying the fee also receive credit under the state Density Bonus law, allowing them to increase the number of market rate units produced. Ten percent of the funds can be used for program delivery.

*HOME Investment Partnership Program*

Historically, the most consistent source of funds in the HTF has been HOME funds. From FY 2000 through FY 2012, the City received an average of nearly \$1.3M in HOME funds annually. The HOME allocation peaked in FY 2005 when the City received \$1.5M. In FY 2013, however, the allocation was cut by over one-half and has remained near this level ever since. The City's FY2020 allocation of HOME funds is \$737,273. Ninety percent of this allocation is placed in the HTF and ten percent is used for program delivery costs. HOME funds come with many federal requirements, including onerous commitment deadlines and required scopes of work, that make administering decreasing funds increasingly challenging. For at least five years each federal budget process has involved proposals to greatly reduce or eliminate HOME, though City of Berkeley HOME funding has not changed appreciably.