

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

**MONDAY, FEBRUARY 24, 2025**  
**2:30 P.M.**

2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

To access the meeting remotely use this URL - <https://cityofberkeley-info.zoomgov.com/j/1614776340> . To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 477 6340**. To provide public comment, press \*9 and wait to be recognized by the Chair. To submit a written communication for the public record, email [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).

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

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

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

# AGENDA

**Roll Call**

**Public Comment**

## **Review of Agendas**

1. **Approval of Minutes: February 10, 2025**
2. **Review and Approve Draft Agenda:**
  - a. 3/11/25 – 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**

- **None**

## **Unscheduled Items**

8. **City Council Legislative Systems Redesign, Including Strengthening the Committee System to Provide More In-Depth Review and Vetting of Major Items**

## **Items for Future Agendas**

- **Requests by Committee Members to add items to the next agenda**

**Adjournment – Next Meeting Monday, March 3, 2025**

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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 in advance of the meeting and retained as part of the official record.*

*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 public participation may be addressed to the City Clerk Department (510) 981-6900.*



### **COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at [ada@berkeleyca.gov](mailto:ada@berkeleyca.gov), (510) 981-6418 (V), or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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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 Thursday, February 20, 2025.



Mark Numainville, City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).*



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

**MONDAY, FEBRUARY 10, 2025**

**2:30 P.M.**

2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

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**Roll Call:** 2:34 p.m. All present.

**Public Comment** – 6 speakers

## **Review of Agendas**

**1. Approval of Minutes: January 27, 2025**

**Action:** M/S/C (Humbert/Taplin) to approve the minutes of 1/27/2025.

**Vote:** All Ayes.

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

a. 2/25/25 – Regular City Council Meeting

**Action:** M/S/C (Humbert/Taplin) to approve the agenda of 2/25/2025 with the changes noted below.

- *Item Added: BPA Contract Amendment (City Manager) – item added to Consent Calendar*
- *Item 14 Marine Animals (Lunaparra) – scheduled for 2/25/25 Consent Calendar*

Order of Action Items

Item 12 Inclusionary Housing

Item 13 Zoning Ordinance

**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** – update to Evacuation Study date

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

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

## **Referred Items for Review**

**8. Discussion and Possible Action on City Council Rules of Decorum, Procedural Rules, and Public Comment Processes**

**Action:** 2 speakers. M/S/C (Ishii/Humbert) to complete the Committee's consideration of Items 8, 10, 11, and 12; take no further action on the items; and remove the items from the Committee agenda.

**Vote:** All Ayes.

## Unscheduled Items

**9. City Council Legislative Systems Redesign, Including Strengthening the Committee System to Provide More In-Depth Review and Vetting of Major Items**

**Action:** 3 speakers. M/S/C (Taplin/Humbert) to keep Item 9 on the Committee agenda and request staff to provide follow up analysis at the April 1 Committee meeting on the supplemental materials submitted by Councilmember Kesarwani at the September 24, 2024 meeting related to the legislative process.

**Vote:** All Ayes.

**10. Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**

**Action:** See action recorded under Item 8.

**11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**

**Action:** See action recorded under Item 8.

**12. Consideration of Changes to Supplemental Material Timelines (referred by Council at the May 7, 2024 meeting)**

**Action:** See action recorded under Item 8.

## Unscheduled Items

- None

## Items for Future Agendas

- None

## Adjournment

**Action:** M/S/C (Humbert/Taplin) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 3:13 p.m.

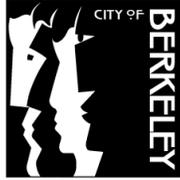
I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on February 10, 2025.

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Mark Numainville, City Clerk

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**DRAFT AGENDA**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 11, 2025**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
 DISTRICT 2 – TERRY TAPLIN  
 DISTRICT 3 – BEN BARTLETT  
 DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SHOSHANA O'KEEFE  
 DISTRICT 6 – BRENT BLACKABY  
 DISTRICT 7 – CECILIA LUNAPARRA  
 DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244). All Council meetings are recorded.*

*To access the meeting remotely use this URL: <<INSERT ZOOM for GOV URL HERE>>. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: <<INSERT MEETING ID HERE>>**. To provide public comment, Press \*9 and wait to be recognized by the Chair. To submit a written communication for the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.*

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## Preliminary Matters

### Roll Call:

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

**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:** *Up to ten persons will be selected to address matters not on the Council agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council agenda, each person selected will be allotted one minute each.*

*In-person attendees wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.*

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

**Public Comment by Employee Unions (first regular meeting of the month):** *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

## 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 or Information Calendar for it to move to Action.*

## Consent Calendar

*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. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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. 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. Police Accountability Board – Appointment of New Member**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Humbert.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 2. 2025 Updated Commissioners’ and Board Members’ Manual**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the 2025 Commissioners’ and Board Members’ Manual, with administrative and procedural amendments including new and reorganized commissions, ADA and teleconferencing policy changes, and gender-neutral language; and rescinding Resolution No. 69,063-N.S.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Consent Calendar

**3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 11, 2025**

**From: City Manager**

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** See report

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

**4. Annual Purchase Orders for L.N. Curtis and Sons: Fire Department**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute annual purchase orders and any amendments with L.N. Curtis and Sons for the purchases of: turnouts, and personal protective equipment (PPE) such as wildland coats and pants, gloves, helmets, hearing and eye protection, and fire boots; Firefighting tools and equipment such as firehose, fire extinguishers, foam, ladders, pumps, and related tools and equipment; and the purchase order for FY2026 shall not exceed \$330,000, with an annual increase no more than 5% each year through March 27, 2028. A 20% contingency is added to cover costs arising from unforeseen incidents or operations for a total amount not to exceed (NTE) \$1,040,324.

**Financial Implications:** See report

Contact: David Sprague, Fire, (510) 981-3473

**5. Contract No. 32400177 Amendment: Health Officer Coverage Contract – Dr. Lisa B. Hernandez**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or his designee to amend Contract No. 32400177 with Dr. Lisa B. Hernandez to increase by \$60,000 for a total not to exceed amount (NTE) of \$180,000.

**Financial Implications:** See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

6. **Joint Homekey+ Application for MLK House at 2942-44 Martin Luther King, Jr. Way**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions approving the following actions in support of a Homekey+ program funding allocation by:
1. Authorizing the City Manager or designee to prepare and submit a joint application with Insight Housing to the State of California Housing and Community Development (HCD) Department's Homekey+ program for the MLK House project, which will provide permanent supportive housing for veterans.
  2. Authorizing the City Manager or designee to take all necessary actions for the City's participation in HCD's Homekey+ program, including entering into HCD's Standard Agreement and any amendments.
  3. Authorizing the City Manager or designee to execute all original or amended documents or agreements necessary to effectuate these actions.
- Financial Implications:** See report  
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400
7. **Salary Adjustments – Deputy Director of Public Works (Unrepresented) and Deputy Director of Health, Housing, and Community Services (Unrepresented)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution increasing the top step of the Deputy Director of Public Works classification to \$110.9807 per hour and of the Deputy Director of Health, Housing, and Community Services to \$107.0460 per hour to rectify compaction with salaries of classifications they supervise.  
**Financial Implications:** See report  
Contact: Monica Walker, Human Resources, (510) 981-6800
8. **Berkeley Fire Fighters Association – Side Letters Pertaining to Probationary Periods, Pre-Promotional Academies, and Vacation Slots**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving three side letters with Berkeley Fire Fighters Association to (1) amend Section 33 of the union's Memorandum of Understanding (MOU) with the City to modify the Firefighter probationary period to 18 months; (2) amend Section 34.3.2 of the MOU to allow employees on 40-hour-week schedules to attend pre-promotional academies if placed on Outside the City status; and (3) amend Sections 19.4 and 19.5 of the MOU to create a new structure for vacation slots.  
**Financial Implications:** None.  
Contact: Monica Walker, Human Resources, (510) 981-6800

## Consent Calendar

### 9. **Berkeley Chief Fire Officers Association Side Letter – Battalion Coverage**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving a side letter with Berkeley Chief Fire Officers Association adding Section 2.1.14 (Battalion Coverage) to the City's Memorandum of Understanding with the union.

**Financial Implications:** See report

Contact: Monica Walker, Human Resources, (510) 981-6800

## Council Consent Items

### 10. **A Referral to the City Manager to make a recommendation for further Council action: Transfer Tax Exemption for 100% Affordable Housing Projects**

*(Reviewed by the Land Use, Housing & Economic Development Policy Committee)*

**From: Councilmember Tregub (Author), Councilmember Bartlett (Co-Sponsor) and Councilmember O'Keefe (Co-Sponsor)**

**Recommendation:** Adopt a referral to the City Manager to study the fiscal impacts and feasibility of a transfer tax exemption for 100% affordable housing projects owned and operated by non-profit entities or community land trusts, including but not limited to: the rehabilitation of existing projects; acquisition, rehabilitation, and conversion of market-rate housing complexes into deed-restricted affordable housing; and land donated for the purpose of constructing deed-restricted affordable housing and make a recommendation for further Council action.

*Policy Committee Recommendation: Forward item to Council with a Qualified Positive Recommendation that the Council: 1) Clarify that the rehabilitation of the restricted properties, would be included as part of the 100% affordable [housing projects]. 2) Bolster the rationale section of the report with greater detail and analysis.*

**Financial Implications:** See report

Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140

### 11. **First Year Free - Fill Empty Storefronts Act** *(Reviewed by the Land Use, Housing & Economic Development Policy Committee)*

**From: Councilmember Hahn (Author)**

**Recommendation:** Refer to the City Manager to (1) create and implement a First Year Free Program for Berkeley, modeled after San Francisco's successful program, for an initial period of 5 years and (2) study and report back to Council on other strategies to attract new businesses and fill empty storefronts.

*Policy Committee Recommendation: Forward item to Council with a negative recommendation to take no action. The committee will revisit this issue at a later date with the intention of further developing the goals of the item.*

**Financial Implications:** See report

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

## Action Calendar

*The public may comment on each item listed on the agenda for action. 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 during the Action Calendar public comment period on the item*

*The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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.*

*The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.*

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by first the appellant and then the applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.*

*If ten or fewer persons are interested in speaking during a public hearing, each speaker 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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.*

*When applicable, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

### 12. Appeal of Special Assessment Tax Lien – 1806 Walnut St

#### **From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution rejecting the property owners' appeal, and allowing the special assessment lien for 1806 Walnut Street (APN 057-2049-004) to be recorded with the County of Alameda as written and approved by the City Manager.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Action Calendar – New Business

**13. Contract: Edgeworth Integration LLC to Purchase and Provide Installation of New Security System Server at Berkeley Animal Care Services**

**From: City Manager**

**Recommendation:** Following a positive recommendation from the Police Accountability Board at their February 5, 2025 regular meeting, adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Edgeworth Integration LLC for the purchase and installation of a new security camera system server (cameras already exist) to replace an obsolete server at Berkeley Animal Care Services (BACS) for March 12, 2025, to March 11, 2026, which establishes a contract in an amount not to exceed \$57,908.08.

**Financial Implications:** See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

**14. Authorize Integration of BUSD Preferences with the City of Berkeley's Housing Preference Policy for BUSD Workforce Housing Project (1701 San Pablo)**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the Berkeley Unified School District (BUSD) Workforce Housing project (1701 San Pablo / SAHA / Abode) to apply both a set of housing preferences ("BUSD Preferences") (Exhibit A) developed by its Governance Committee and the City of Berkeley's Housing Preference Policy ("City Preferences"), integrated, with the following clarifications:

- Lottery results within BUSD preference tiers each will be re-sorted by applicant's total number of City preference points.
- Lottery results for Non-BUSD employees would also be re-sorted by applicant's total number of City preference points.
- The persons experiencing homelessness preference would be applied within the BUSD preference framework.
- Layering of City preferences onto BUSD preferences will be conditional on implementation feasibility, as determined by the City Manager.
- Prior to finalizing the Tenant Selection and Marketing Plan, the project team would need to submit a Fair Housing Analysis to the City.

**Financial Implications:** None

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

## Action Calendar – New Business

15. **Adopt an Ordinance to Prohibit the Sale or Use of Algorithmic Devices to Set Rents or Manage Occupancy Levels for Residential Dwelling Units** *(Reviewed by the Land Use, Housing & Economic Development Policy Committee)*  
**From: Housing Advisory Commission**  
**Recommendation:** Adopt an ordinance amending the Municipal Code adding section 13.63 to prohibit the sale or use of algorithmic devices to set rents or manage occupancy levels for residential dwelling units.  
*Policy Committee Recommendation: Forward item to Council with a Qualified Positive Recommendation to Council with a request to forward to the 4x4 Committee to review the effectiveness of the implementation.*  
**Financial Implications:** See report  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400

## Action Calendar – Policy Committee Track Items

16. **Referral to 4 x 4 Committee: Removing On-Site Manager Exemption Loophole for Certain Multi-Family Properties that are Adjacent and/or Share the Same Common Area**  
**From: Councilmembers Igor Tregub (Author) and Terry Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the 4 x 4 Committee of the Berkeley City Council and Rent Stabilization Board a proposal related to the removal of an on-site manager exemption loophole, which is currently used by certain Berkeley properties to circumvent California Code Regulation, Title 25, Paragraph 42, for certain multi-family properties that are adjacent and/or share the same common area. If the recommended regulation is enacted, it is the intent of the referral to apply it to subject properties in a prospective manner that ensures that the rights of sitting tenants continue to be fully protected (i.e., a fully occupied property will not be required to rent to an on-site manager until at least one unit becomes vacant in accordance to all applicable state and local laws governing good cause eviction protections). The referral further requests that the 4 x 4 Committee discuss and provide recommendations as to:
- Any parameters that may limit the scope of this referral, including but not limited to situations in which one or more of the subject properties are owned by limited liability corporations (LLCs) and/or owners that own multiple other properties in Berkeley, California and/or beyond, with a total number of units or properties under ownership to be determined;
  - Any exemptions to the on-site manager requirement for certain circumstances, such as for hardship of the property owner and/or LLC and/or other circumstances in which the interest of justice may supersede the public interest of this requirement;
  - The enforcement mechanism and enforcing jurisdiction (i.e., City of Berkeley or Berkeley Rent Stabilization Board, with compensation by the City of Berkeley) that the City of Berkeley should employ in furtherance of the recommended regulation; and
  - Any other provisions pertinent to the efficient, just, and fair administration of the recommended regulation.

# Action Calendar – Policy Committee Track Items

**Financial Implications:** See report

Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140

## Information Reports

**17. FY 2025 First Quarter Investment Report: Ended September 30, 2024**

**From: City Manager**

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

## 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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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street, and through the City's online records portal:

<https://records.cityofberkeley.info/>.

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City Clerk Department - 2180 Milvia Street, First Floor  
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901  
Email: [clerk@berkeleyca.gov](mailto:clerk@berkeleyca.gov)

Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,

North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

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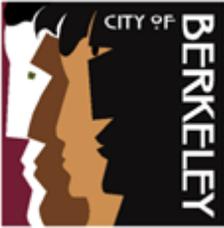
Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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Igor Tregub  
Councilmember, District 4

CONSENT CALENDAR

MARCH 11, 2025

To: Honorable Mayor Adena Ishii and Members of the City Council  
From: Councilmember Tregub (Author), Councilmember Bartlett (Co-Sponsor) and Councilmember O’Keefe (Co-Sponsor)  
Subject: A Referral to the City Manager to make a recommendation for further Council action: Transfer Tax Exemption for 100% Affordable Housing Projects

**RECOMMENDATION**

Adopt a referral to the City Manager to study the fiscal impacts and feasibility of a transfer tax exemption for 100% affordable housing projects owned and operated by non-profit entities or community land trusts, including but not limited to: the rehabilitation of existing projects; acquisition, rehabilitation, and conversion of market-rate housing complexes into deed-restricted affordable housing; and land donated for the purpose of constructing deed-restricted affordable housing and make a recommendation for further Council action.

**POLICY COMMITTEE RECOMMENDATION**

On February 3, 2025 the Land Use, Housing & Economic Development Policy Committee adopted the following action: M/S/C (Tregub/Lunaparra) to forward item to Council with a Qualified Positive Recommendation that the Council:

- 1. Clarify that the rehabilitation of the restricted properties, would be included as part of the 100% affordable [housing projects].
- 2. Bolster the rationale section of the report with greater detail and analysis.

Vote: All Ayes.

**CURRENT SITUATION AND ITS EFFECTS**

The City of Berkeley, and the entire Bay Area region, is experiencing a housing unaffordability crisis. As the cost of housing has risen, more people have found themselves unable to afford a place to live. People on a fixed income, including seniors,

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people with disabilities, and other marginalized communities, bear the brunt of these impacts. Deed-restricted affordable housing, in which resident rents are capped based on their income level, is a critical component of the solution to this housing crisis. Affordable housing provides the foundation for better health, economic and educational opportunities, and stable neighborhoods.

There are currently around 2,000 affordable housing units in Berkeley. Nearly 40% of these units were constructed more than 30 years ago. Mission-driven non-profit owners and the City of Berkeley are jointly invested in ensuring that these existing affordable properties remain safe, well-maintained, and beautiful places to live. This commitment is evidenced in the City's recent release of a Request for Proposals (RFP) to support the rehabilitation of existing affordable projects.

While some rehabilitations may be able to proceed with only City funding, other rehabilitation projects require larger amounts of money. To raise capital for more substantial rehabilitation projects, affordable housing developers will typically pursue an additional allocation of tax credits through the Low-Income Housing Tax Credit (LIHTC) program. This requires a new tax credit equity investor to enter the ownership structure for the project. The most efficient way to execute this complex transaction is to have a new limited partnership purchase the property from the prior ownership entity. While the property experiences a technical change of ownership, the non-profit affordable housing organization remains the controlling and managing partner after the transaction.

The City of Berkeley charges a transfer tax any time real estate changes ownership. The City's transfer tax was established in 1978 at the rate of 1.5% for all transactions. Measure P (2018) increased the real property transfer tax for ten years to 2.5% for transactions of \$1.6M or more. Measure W (2024) again increased the real property transfer tax to 3.5% for transactions \$3M or greater and removed the expiration date. Measure W will take effect on January 1, 2027.<sup>1</sup>

Currently, the sale and transfer of ownership completed as part of an affordable housing rehabilitation project is subject to the property transfer tax. This is despite being essentially a refinancing event.

Resources for Community Development (RCD)<sup>2</sup>, a reputable nonprofit affordable housing developer with several sites in Berkeley, is exploring rehabilitation projects at a handful of Berkeley developments over the next several years. RCD estimates that they would pay approximately \$6,000 to \$8,000 per unit in transfer tax on these properties

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<sup>1</sup> [BMC Chapter 7.52, Real Property Transfer Tax](#)

<sup>2</sup> <https://rcdhousing.org/>

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under the current Measure P rates, or \$8,000 to \$11,000 per unit under the recently adopted Measure W rates.

Property	Units	Est. Valuation <sup>3</sup>	Transfer Tax, total 2.5%	Transfer Tax, per unit 2.5%	Transfer Tax, total 3.5%	Transfer Tax, per unit 3.5%
Oxford	97	\$ 27,602,978	\$690,074	\$7,114	\$ 966,104	\$ 9,960
Margaret Breland	28	\$ 6,507,333	\$162,683	\$5,810	\$ 227,757	\$ 8,134
Mable Howard	40	\$ 13,073,900	\$326,848	\$8,171	\$ 457,587	\$ 11,440

While the estimates above are specific to RCD’s use case, RCD’s experiences are generally applicable to other affordable housing developers seeking to rehabilitate their affordable housing holdings in Berkeley.

State and federal funding for rehabilitation projects is extremely competitive. Projects are scored on many different characteristics, and one of the most influential characteristics is cost efficiency. Berkeley projects are scored against projects across the region and state, many of which do not have a transfer tax or explicitly exempt affordable housing rehabilitations from the transfer tax. The additional cost of the transfer tax makes Berkeley’s applications for these state and federal funding sources less competitive. In turn, developers face pressure to reduce the scope of their rehabilitation work by a corresponding \$6,000 to \$8,000 per unit to improve their ability to win funds.

**Precedent in Other Jurisdictions:** San Francisco offers a [transfer tax exemption](#) for deed-restricted affordable housing. San Francisco’s ordinance text can be found [here](#).

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<sup>3</sup> The estimated valuation is based on the previous tax roll valuation from the time of construction, multiplied by a factor of 2.5. This is the typical 15-year tax roll valuation increase that have been observed on other recent resyndications.

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**Alternative Pathways:** In collaboration with our affordable housing providers, we have identified two possible avenues for this policy change:

1. The City Council could add an exemption to BMC 7.52.060 for the transfer of ownership associated with rehabilitation at any property with a recorded agreement requiring that it be maintained as 100% rent-restricted affordable housing, with the exception of staff units, for at least 55 years from the date of the transfer event.
2. The City Council could pass a resolution establishing a time-limited waiver of the transfer tax for any transfer of ownership associated with rehabilitation at a property with a recorded agreement requiring that it be maintained as 100% rent-restricted affordable housing, with the exception of staff units, for at least 55 years from the date of the transfer event.

The former strategy would provide more certainty and permanence. The latter strategy would provide greater flexibility for the City Council if, at a future date, the City decides that the City could no longer forego the lost revenue from providing a waiver or exemption. The referral requests the study of both strategies as well as any other recommendations by April 15, 2025 City Council Meeting.

Additionally, at the Land Use, Housing, and Economic Development Committee meeting on February 3, 2025, exploring a transfer tax exemption for other types of affordable housing work was contemplated. These projects include transfer tax exemption for acquisition and rehabilitation projects, which involve a non-profit or community land trust purchasing an existing market-rate housing complex and converting it into deed-restricted affordable housing, as well as land donated for the purpose of constructing deed-restricted affordable housing. This referral recommends that staff additionally study these inclusions and their potential fiscal implications.

## **BACKGROUND**

The Berkeley City Council has granted transfer tax refunds or waivers to three known affordable housing projects:

- 2014: Refund given to RCD for Oxford Plaza re-financing
- 2019: Waiver given to BACLT for 1638 Stuart Street acquisition
- 2021: Refund given to BACLT for 1685 Solano Avenue acquisition

These waivers and refunds have been granted on a case-by-case basis via a City Council resolution. We are not aware of any waivers and/or refunds that have been denied by City Council.

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On February 3, 2025, this item was heard at the Land Use, Housing, and Economic Development Committee meeting. Some of the following questions have been asked and we provided replies to the best of our knowledge.

**Why is this needed right now, on a quick timeframe?**

Rehabilitation projects have historically not scored as highly as new construction projects in the competition for state resources. While funding is available for new construction of affordable housing, it is incredibly challenging to receive the resources needed to do substantial rehabilitations. Right now, there is very little local and state funding for new construction affordable housing. This creates a brief window in which rehabilitation projects will likely be competitive for state resources in 2025. By passing a transfer tax exemption now, the City can assist non-profit organizations in accessing those state resources for affordable housing rehabilitation.

**How many waivers or refunds were previously requested?**

We are aware of one previous waiver and two previous refunds, as detailed in the staff report.

**Have any waiver requests previously been denied by Council?**

We are not aware of any requests being denied by Council.

**Why is the current process not working?**

- Due to the timing and lack of certainty, the current process does not enable non-profits to remove the transfer tax from the financial documentation associated with their request for state financing resources. This makes Berkeley rehabilitation projects less competitive for state resources.
- The current process takes substantial staff time from both City staff and non-profit developers to prepare materials for the Council report.
- The current process is not equitable. Not all developers know about the opportunity to receive a transfer tax refund or waiver from City Council.

**RATIONALE FOR RECOMMENDATION**

The complexities of federal, state, and local policies—along with private sector dynamics—continue to make affordable housing extraordinarily difficult to build and even more challenging to maintain in a livable, healthy condition.

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This referral takes a modest step toward addressing that challenge by directing city staff to explore potential strategies for preserving our affordable housing stock. It does not propose any immediate changes to Berkeley's Transfer Tax for Affordable Housing; rather, it initiates an analysis of possible opportunities for such a measure.

Given the current economic environment, any financial decision must be approached with diligence. The Transfer Tax serves as a crucial funding mechanism for municipal services, including homeless shelters, navigation centers, mental health support, rehousing, rental subsidies, and other essential programs for those experiencing homelessness. Ensuring fiscal responsibility while supporting affordable housing is key, which is why this proposal is structured as a referral for further study.

Here are some considerations that make the Transfer Tax exemption for Affordable Housing a sound policy:

### **Intention of the Transfer Tax**

The Transfer Tax is intended to fund homelessness response and housing programs. If Transfer Taxes are meant to support affordable housing, it raises the question: why are we taxing affordable housing providers on their projects while simultaneously funding them from a different City source? This redundancy not only creates unnecessary bureaucratic hurdles for City staff but also places an added burden on affordable housing nonprofits, which already operate with limited resources.

### **Fictitious Transfer Process**

The City's Transfer Tax was intended to apply to actual transfers of real property. Yet, affordable housing nonprofits are forced to navigate a complicated fictitious transfer process just to secure affordable credits that help them build, rehabilitate, and maintain affordable housing. In reality, ownership of these properties remains with the same nonprofit entity.

The irony is stark: under Proposition 13, private real estate owners can transfer actual ownership of properties without triggering a reassessment, allowing them to avoid higher tax payments. Meanwhile, affordable housing nonprofits—whose mission is to provide stable housing—must undergo this convoluted process just to access essential funding.

### **An Anti-Displacement Measure**

Preserving and rehabilitating existing affordable housing is essential to preventing displacement and homelessness. The shortage of healthy, affordable housing in Berkeley is well-documented. The City itself does not directly produce affordable

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housing. Instead, it relies almost entirely on nonprofit affordable housing providers to build, maintain, and meet its affordable housing obligations.

If these nonprofits are unable to access the funding needed for their projects, affordable housing is not being built, rehabilitated, or maintained at the pace required to meet growing demand. Ensuring that funding mechanisms support—not hinder—affordable housing efforts is essential to keeping people housed and strengthening the City’s ability to address its housing crisis.

### **Saving City Staff’s Time**

As discussed in the “Background” section of this report, affordable housing rehabilitation projects may currently apply to receive a case-by-case refund of the transfer tax from City Council. All previous waivers submitted for City Council consideration have been approved. A formal exemption or waiver would simply save time and simplify the City’s procedures.

### **Positive Impact for Housing Rehabilitation**

Affordable housing providers have no alternative revenue sources for making necessary improvements.

Establishing a formal exemption or universal waiver would have a significant project-level impact. It would provide more certainty to affordable housing developers pursuing rehabilitation projects. Unlike a case-by-case refund, it would allow affordable housing developers and community land trusts to remove the transfer tax as a line item in project budget, improving the development’s cost efficiency and enabling them to be more competitive for state and federal funding sources. This would translate into direct benefits for residents, as it would open up more room in project budgets for additional amenities to be included in the scope of the rehabilitation.

### **Good Governance Measure**

This measure is not about helping developers – it is about ensuring that the City can build and preserve the affordable housing that we and our residents urgently need. It also has the potential to eliminate inefficiencies and redundancies that currently waste resources and slow down progress.

When the system functions as intended, nonprofits recover their costs. When it does not, funding gaps arise, leading to missed opportunities for affordable housing rehabilitation, acquisition and development. Additionally, affordable housing developers and land trusts are required to pay into the Transfer Tax while also relying on city funds for their projects. This creates a cost-neutral cycle but adds unnecessary administrative burdens.

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## **FISCAL IMPACTS OF RECOMMENDATION**

Affordable housing rehabilitations requiring a transfer of ownership are relatively rare events. Initial conversations with affordable housing developers identified 4-5 potential transfer events over the next 5-10 years. Potential financial impacts from forgone Measure P/W funds during transfers associated with the rehabilitation of 100% affordable housing projects, would be somewhat offset by the elimination of staff time required to submit case-by-case recommendations for waivers and refunds to the City Council.

## **ENVIRONMENTAL SUSTAINABILITY**

The preservation of affordable housing supports Berkeley's broader greenhouse gas reduction goals.

## **CONTACT PERSON**

Igor Tregub, Councilmember District 4

Phone: 510-981-7140

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Olga Bolotina, Chief of Staff, Council District 4

Email: [OBolotina@Berkeleyca.gov](mailto:OBolotina@Berkeleyca.gov)



Sophie Hahn  
Councilmember, District 5  
City of Berkeley  
2180 Milvia Street  
Berkeley, CA, 94704  
(510) 981-7150 | shahn@berkeleyca.gov

To: Honorable Mayor and Members of the City Council  
From: Councilmember Sophie Hahn (Author)  
Subject: First Year Free - Fill Empty Storefronts Act

RECOMMENDATION

Refer to the City Manager to (1) create and implement a First Year Free Program for Berkeley, modeled after San Francisco’s successful program, for an initial period of 5 years and (2) study and report back to Council on other strategies to attract new businesses and fill empty storefronts.

POLICY COMMITTEE RECOMMENDATION

On February 3, 2025 the Land Use, Housing & Economic Development Policy Committee adopted the following action: M/S/C (Bartlett/Tregub) to forward item to Council with a negative recommendation to take no action. The committee will revisit this issue at a later date with the intention of further developing the goals of the item.  
Vote: All Ayes.

SUMMARY STATEMENT

The COVID-19 pandemic had an unprecedented impact on Berkeley’s small and local businesses. While Berkeley’s business sector has progressed toward recovery, commercial vacancy rates remain high. To address similar challenges in San Francisco, a First Year Free program was established in 2021 to waive the cost of initial registration fees, license fees, first-year permits, and other fees for qualifying local businesses. More than 4,000 new businesses have already opened and taken advantage of the program.

To help fill empty storefronts and attract new, small businesses in Berkeley, this item directs the City Manager to create and implement a First Year Free program, modeled after San Francisco’s successful 2021 program – for a period of 5 years – and study, implement, and/or recommend to the City Council other strategies to fill empty storefronts and foster a thriving small business environment in Berkeley.

BACKGROUND

America’s small business sector has been struggling for several decades, decimated by the rise of Big Box, Chains, and e-commerce. Berkeley, which has been fortunate to retain many small businesses, has nevertheless been impacted by these trends. The arrival of big retail has thrown local economies into turmoil, leaving smaller and local businesses unable to compete

with the scale of giant retail chains. The global shut down of commerce during the COVID-19 pandemic was another huge blow to small and locally owned retail and restaurants, precipitating enormous stress, and widespread closures.

The economic impacts of the pandemic have been significant and widespread. While businesses of all sizes were impacted, small businesses – which are more likely to struggle with financial fragility – faced the most uncertainty.

The public health crisis, lockdowns, and social distancing measures resulted in economic challenges that forced many owners to reckon with supply chain delays, loss of revenue, and closure. While the Small Business Association (SBA) did provide financial assistance including the Paycheck Protection Program (PPP), and various loan and grant programs, many small businesses were unable to access state and federal aid. Businesses in California also benefited from various state-level programs but a survey of small businesses in California found that women and minority-owned businesses struggled more during the recovery because they may not have received assistance in proportion to their acute need, loss of revenues, and impacts on business operations.<sup>1</sup>

During COVID's time of acute uncertainty, and following feedback from small business owners, conversations with the Director of Economic Development, the Chamber of Commerce, and various Business Improvement District leaders, Councilmember (then Vice Mayor) Hahn introduced an item to begin regular small business listening sessions, so Berkeley's small enterprises could more easily communicate with the Council, City, and Mayor.<sup>2</sup>

In March 2020, when the regional stay at home order was enacted, Berkeley took immediate steps to protect businesses impacted by the sharp decline in patronage, including a ban on evictions for both residential and commercial tenants. Council also established the Berkeley Relief Fund, which provided a down payment of \$3 million from the City in concert with a fundraising campaign from private donors and community members that raised \$1.5 million. *Through this generous local funding, 700 businesses received grants to pay rent, payroll, and other expenditures.*<sup>3</sup>

In April, the Berkeley City Council approved the creation of the Save Our Small (SOS) Business Loan Fund, introduced by Councilmember Hahn and based on an innovative proposal by faculty and students at the Haas School of Business at UC Berkeley to create a public-private partnership that could provide a supplemental source of capital for small businesses impacted by the COVID-19 emergency. Thanks to the City's leadership, and with the expert guidance and

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<sup>1</sup> Dani, L., Earle, J. S., & Min Lee, K. (2022, January). *Small Business in the time of COVID-19: A Survey of California's Small Businesses*. Economic Development Collaborative . <https://edcollaborative.com/wp-content/uploads/2022/01/COVID-19-Impact-on-California-Entrepreneurs-v2.pdf>

<sup>2</sup> Hahn, S. (2020, January 21). *Small Business Listening Sessions*. City of Berkeley. <https://berkeleyca.gov/sites/default/files/documents/2020-01-21%20Item%2035%20Small%20Business%20Listening%20Sessions.pdf>

<sup>3</sup> Arreguin, J. (2022, August 10). *The Big Impact of Berkeley's Small Businesses*. Mayor Jesse Arreguin. <https://www.jessearreguin.com/newsletters-2/2022/8/10/the-big-impact-of-berkeleys-small-businesses>

advocacy of Haas School faculty, including Professors Adair Morse and Laura D. Tyson, the SOS Business Loan Fund was transformed to a statewide initiative announced as the California Rebuilding Fund.

For Berkeley's small businesses, nonprofits, and other eligible enterprises to take advantage of this now statewide opportunity, Councilmember Hahn referred to the City Manager to immediately engage in a robust outreach effort throughout Berkeley, focusing particularly on underserved small businesses and nonprofits, entrepreneurs in historically disenfranchised communities, and enterprises serving children.<sup>4</sup> Technical assistance from the City helped many businesses successfully apply for support as soon as the California Rebuilding Fund portal opened.

While Berkeley is fortunate to be home to some 5,000 small businesses and took many steps to support and protect local businesses during the pandemic, commercial spaces remain vacant at higher than pre-pandemic levels.<sup>5</sup> According to the 2023 Economic Dashboard, the citywide average vacancy rate was 8.1% as compared to the pre-pandemic rate of 5.4%.<sup>6</sup> Certain neighborhoods struggle more than others, with several Berkeley neighborhoods having vacancy rates in the double digits including South Berkeley, University, San Pablo, and the Downtown.

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<sup>4</sup> Hahn, S. (2020, September 15). *Outreach and Technical Assistance for Berkeley Small Businesses Eligible to Participate in the California Rebuilding Fund*. City of Berkeley.

<https://berkeleyca.gov/sites/default/files/documents/2020-09-15%20Item%2027%20Outreach%20and%20Technical%20Assistance.pdf>

<sup>5</sup> Arreguin, J. (2022, August 10). *The Big Impact of Berkeley's Small Businesses*. Mayor Jesse Arreguin.

<https://www.jessearreguin.com/newsletters-2/2022/8/10/the-big-impact-of-berkeleys-small-businesses>

<sup>6</sup> Berkeley Office of Economic Development. (2024, February 1). *2023 Economic Dashboard*. City of Berkeley.

<https://berkeleyca.gov/sites/default/files/documents/Economic%20Dashboard%202023.pdf>

**Vacancy Rates by District, Calculated by Square Footage, 2018-2023**

District	2018	2019	2020	2021	2022	2023
Downtown	3.1%	5.1%	9.9%	15.7%	11.9%	10.8%
Elmwood	7.3%	7.3%	10.9%	10.9%	7.7%	6.2%
North Shattuck	1.7%	0.7%	4.3%	4.3%	4.3%	1.9%
San Pablo	4.9%	4.6%	4.8%	7.9%	10.8%	15.5%
Solano	4.1%	2.6%	6.7%	4.4%	3.7%	2.6%
South Berkeley	9.7%	7.6%	10.1%	8.8%	11.8%	19.2%
Telegraph	7.9%	4.4%	17.2%	12.6%	8.5%	9.3%
University	11.0%	7.8%	11.0%	9.1%	12.8%	17.7%
Neighborhood Commercial (C-N)			7.3%	3.2%	2.3%	2.6%
West Berkeley	3.7%	5.8%	3.7%	4.7%	5.2%	2.2%
Citywide Avg.	5.0%	5.4%	6.9%	8.3%	8.4%	8.1%

Source: Berkeley OED

Even though the City worked diligently to provide small and local businesses with financial and technical support during the pandemic, many still struggle to recover and empty storefronts have proliferated; the First Year Free program directly addresses this challenge.

**First Year Free**

The First Year Free Program was created by San Francisco's Board of Supervisors and the Mayor to support and revive San Francisco's small businesses as the City recovered from the pandemic. The program waives the cost of initial registration fees, initial license fees, first-year permit, and other applicable fees for qualifying businesses. There is no paperwork to apply, as enrollment is automatic with the registration of a new business or location within the City. Since its inception, 8,349 businesses have enrolled and \$3.7 million in fees have been waived.<sup>7</sup>

Earlier this year, San Francisco decided to renew the program for a third year due to its popularity and success, with some 4,000 new businesses opening in the City as a result of the program.

To qualify for San Francisco's First Year Free program, the applicant must be a new business, or new location of a business, that begins on or after July 1, 2023 and:

<sup>7</sup> Sos, Z. (2024, September 21). *New Castro business touted as Success Story of SF's First Year Free Program*. KTVU FOX 2 San Francisco. <https://www.ktvu.com/news/new-castro-business-touted-success-story-sfs-first-year-free-program>

- Have \$5,000,000 or less in estimated (or reported) San Francisco gross receipts; and
- Have a registered location that is for commercial use; and
- Not be a home-based business or a short-term rental

Only small businesses are eligible for the program; the program is not applicable to Formula Retail (chain store) locations. For qualifying businesses, the program waives: 1) the initial business registration fee (for new businesses only), 2) application, inspection and one-time permit fees, 3) initial license fees.

Andrea Becerra, who fell in love with cooking during the pandemic as she grieved the death of her father, is one of those new business owners. Once her small business outgrew her kitchen, the First Year Free program made it possible for her to open her first restaurant in the Mission – El Mil Amores.<sup>8</sup>



Photo credit: Astrid Kane/The Standard<sup>9</sup>

As a result of the program, Ismel Deluna opened a new wellness center – Healing Cuts – providing haircuts and wellness services for the disability and LGBT community, operating out of the Castro.<sup>10</sup> Hailed as a success story, the owner explained that the First Year Free program played a significant role by allowing his small business to build a base while saving money on fees and permits, giving businesses a boost to start.

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<sup>8</sup> Pena, L. (2024, February 16). *SF extends program that waived \$2.5M in fees to new businesses and ones struggling to stay open*. ABC7 San Francisco. <https://abc7news.com/sf-extends-first-year-free-program-small-business-permit-registration/14430751/>

<sup>9</sup> Kane, A. (2023a, June 25). *Mexican breakfast gets an upgrade at this restaurant in San Francisco's Mission District*. The San Francisco Standard. <https://sfstandard.com/2023/06/25/mexican-breakfast-gets-an-upgrade-at-this-restaurant-in-san-franciscos-mission-district/>

<sup>10</sup> Sos, Z. (2024, September 21). *New Castro business touted as Success Story of SF's First Year Free Program*. KTVU FOX 2 San Francisco. <https://www.ktvu.com/news/new-castro-business-touted-success-story-sfs-first-year-free-program>



Photo credit: San Francisco Business Times<sup>11</sup>

Small businesses often represent and reflect the communities they serve, filling gaps left behind by big business. They help foster stronger community relations, providing a place for people to not only shop but gather. They are unique, one of a kind, and important to a community's identity. Small businesses keep money in the local economy, create job opportunities, and can provide environmental benefits. They are an asset to our City and we should continue to create and support opportunities to expand and support the small and local business landscape.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

In addition to Berkeley's various pandemic-related programs, Berkeley's Office of Economic Development (OED) has helped finance small businesses through the Revolving Loan Fund and Resiliency Loan Program, lending a total of \$2,744,987 to 45 small businesses.<sup>12</sup>

Berkeley's OED also provides assistance to businesses, entrepreneurs, artists, and community organizations to access services and resources available to them. This includes connecting with local leaders, finding a business location, going green, navigating Berkeley's codes, receiving financing, recruiting talent, and more.<sup>13</sup>

The City has also developed a Business Resource Guide which includes information on starting and sustaining a successful business in Berkeley. The guide walks potential business owners through the key steps of launching a new business including creating a business plan, exploring financing options, establishing as a legal entity, and obtaining a business license and permits.

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<sup>11</sup> Bloomberg, S. (2024, June 6). *How the SF LGBT Center is empowering entrepreneurs*. San Francisco Business Times. <https://www.bizjournals.com/sanfrancisco/news/2024/06/06/business-of-pride-lgbt-center.html>

<sup>12</sup> Berkeley Office of Economic Development. (2024, February 1). *2023 Economic Dashboard*. City of Berkeley. <https://berkeleyca.gov/sites/default/files/documents/Economic%20Dashboard%202023.pdf>

<sup>13</sup> Berkeley Office of Economic Development. (2022, January). *Office of Economic Development Services*. City of Berkeley. <https://berkeleyca.gov/sites/default/files/2022-01/OED-Services-Brochure.pdf>

Furthermore, Berkeley's Strategic Plan includes the goal of fostering a dynamic, sustainable, and locally-based economy. Berkeley has taken many steps to cultivate a thriving local economy and a thriving small business sector, and this item supports those goals.

#### ACTIONS/ALTERNATIVES CONSIDERED

The City Manager should study San Francisco's program, consider what adjustments might need to be made for the Berkeley context, and implement a version of First Year Free that is supportive of the goal of attracting new businesses to Berkeley storefronts.

#### CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Councilmember Hahn discussed strategies for filling empty storefronts with the City Manager, who expressed interest in the First Year Free program. Staff also contacted the Berkeley Chamber of Commerce and the Downtown Berkeley Association for input.

#### RATIONALE FOR RECOMMENDATION

Berkeley's unique character is owed in large part to the presence of small and local businesses and not for profits and arts organizations. These enterprises are indispensable, contributing significantly to our economic and cultural vitality, stimulating the local economy, attracting tourism, and most importantly, fostering a sense of community.

However, Berkeley's small and local businesses continue to face significant challenges due to inflation and rising costs, space constraints, and growing competition from online stores and chain retailers.

#### IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

The City Manager should review studies and consult experts on best strategies to fill empty storefronts. Additionally, staff should consult with the City of San Francisco to better understand the program, details around implementation, marketing, and success. Consider how much revenue the City generates and stands to lose from waiving initial business registration fees, application, inspection and one-time permit fees, and initial license fees, as well as the short and long-term benefits in waiving those fees to get new businesses in place that will generate increased tax revenues over the long run.

#### ENVIRONMENTAL SUSTAINABILITY

While virtually all businesses have a carbon footprint, small and local businesses tend to have a much smaller impact on the climate than large corporations. According to TIME Magazine, while small and mid-sized businesses make up roughly 90% of businesses worldwide, most global emissions can be tracked to a small number of the world's largest companies.<sup>14</sup>

#### FISCAL IMPACTS

The First Year Free program will result in the City "not receiving" fees and taxes it would otherwise receive - if a new small business were to establish itself. Without that new business,

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<sup>14</sup> Kane, A. (2023a, June 25). *Mexican breakfast gets an upgrade at this restaurant in San Francisco's Mission District*. The San Francisco Standard. <https://sfstandard.com/2023/06/25/mexican-breakfast-gets-an-upgrade-at-this-restaurant-in-san-franciscos-mission-district/>

however, there will be no fees and taxes at all. Backfilling of fees and taxes may be required if a tax or fee isn't part of the general fund; the City Manager will need to understand the "back end" implications of the policy and ensure departments collecting special/enterprise fees and taxes, if any, are made whole.

On the other side of the equation, the successful establishment of new businesses will generate additional tax revenues every year they are in business, and filling one empty storefront can have the beneficial impact of attracting additional businesses to nearby empty storefronts, creating a positive cycle of business health for areas particularly hard hit by vacancies.

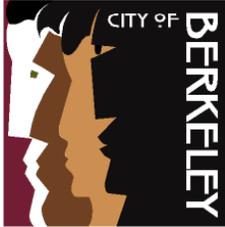
It is exactly this positive feedback loop that First Year Free is trying to jump-start, with the cost of waiving fees and taxes in the first year to be offset by the benefits, including direct financial benefits to the City, of adding new businesses to our tax rolls and encouraging business health overall.

#### OUTCOMES AND EVALUATION

It is suggested that two years after the program is established, the City Manager undertakes a review – including but not limited to quantifying the number of new businesses established under the program, the costs of waiving taxes and fees, and the benefits to the City of the additional tax revenue from those new businesses. Other appropriate metrics can be used to further inform the study, and adjustments to the program considered for implementation by the City Manager.

#### CONTACT

Councilmember Hahn, (510) 981-7150



Housing Advisory Commission

ACTION CALENDAR  
March 11, 2025

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Debbie Potter, Chairperson, Housing Advisory Commission

Subject: Adopt an Ordinance to Prohibit the Sale or Use of Algorithmic Devices to Set Rents or Manage Occupancy Levels for Residential Dwelling Units

RECOMMENDATION

Adopt an ordinance amending the Municipal Code adding section 13.63 to prohibit the sale or use of algorithmic devices to set rents or manage occupancy levels for residential dwelling units.

POLICY COMMITTEE RECOMMENDATION

On February 3, 2025 the Land Use, Housing & Economic Development Policy Committee adopted the following action: M/S/C (Lunaparra/Tregub) to forward item to Council with a Qualified Positive Recommendation to Council with a request to forward to the 4x4 Committee to review the effectiveness of the implementation. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to the City of Berkeley from adopting this ordinance. The ordinance solely prohibits the sale or use of algorithmic devices to set rents or manage occupancy levels for residential dwelling units. The ordinance includes remedies that provide for reasonable attorneys' fees and costs to the City Attorney if the City Attorney is the prevailing party in any civil action to enforce the ordinance.

The ordinance would have a positive financial impact on the city's tenants as there is documented evidence that use of these algorithmic devices has led to year-over-year rent increases of 5%-12% across housing markets. A prohibition on the sale and use of these devices will lead to reduced rents and elimination of artificial scarcity.

CURRENT SITUATION AND ITS EFFECTS

The proposed ordinance is provided as Attachment 1. Attachment 2 is a PowerPoint presentation regarding the proposed ordinance provided to the Housing Advisory Commission (HAC) at its October 10, 2024 meeting. A new type of rental software (often referred to as algorithmic devices) is increasing rents and vacancy rates by allowing large landlords to collude on pricing decisions. Third-party revenue management companies collect and combine proprietary large landlord data and make

pricing and occupancy recommendations. These recommendations allow landlords to manipulate the market and the practice amounts to illegal price-fixing. The use of algorithmic devices in setting rents and occupancy levels contributes to double-digit rent increases, increased rates of eviction, and artificial housing scarcity. Lee Hepner, an antitrust attorney at the American Economic Liberties Project, states that “widespread use of price fixing software presents a new front in the housing affordability crisis.”

While numerous lawsuits have been filed to prohibit such antitrust activities, these cases may take years to resolve. This ordinance prohibits the sale or use of algorithmic devices for the purpose of setting rents to bring immediate relief to Berkeley tenants, as well as to put landlords who have been using these devices on equal footing with those who are willing to adhere to fair standards for setting rental rates.

Given the widespread use of these algorithmic devices in housing markets throughout the country and their impact on rents and occupancy levels, local and state jurisdictions are taking action to ban the use of these devices to set rents and meter lease-up activity. Local ordinances can respond more quickly to current situations on the ground than law suits which can take years to resolve. Therefore, HAC Chairperson Debbie Potter brought an item to the HAC recommending that it recommend to the City Council that it adopt an ordinance amending the Municipal Code to prohibit the sale or use of algorithmic devices to set rents or manage occupancy levels for residential dwelling units.

Preliminary information provided by the Berkeley Rent Board and shared at the October 10, 2024 HAC meeting noted that six of the named plaintiffs in the various lawsuits own over 1,300 units in the City of Berkeley.

Following a presentation and discussion, the HAC voted unanimously on the following:

Action: M/S/C (Bell/Twu) to recommend that Council adopt the ordinance as set forth in the HAC agenda packet, with the amendment to clarify in which lawsuits local trade associations have been named.

Vote: Ayes: Bell, Braslaw, Haycox, Mendonca, Potter, Shere, Simon-Weisberg, and Twu. Noes: None. Abstain: None. Absent: Ortiz-Cedeño (unexcused).

## BACKGROUND

Antitrust lawsuits have been filed against certain third-party revenue management companies, including RealPage, Inc. and Yardi Systems, Inc. The lawsuits allege that these companies are enabling and participating in a scheme of unlawful rent-fixing. In August 2024, The United States Department of Justice (DOJ), alongside the attorneys general of California and seven other states, filed an antitrust lawsuit against RealPage, accusing the company of reducing competition among landlords and taking over the market for such algorithm-based rental software.

A 2022 class action lawsuit filed in the U.S. District Court in the Western District of Washington at Seattle [subsequently transferred to the Middle District Court of Tennessee (one of over 20 private class action lawsuits that have been consolidated into one case)] accuses nearly 50 trade associations - including the East Bay Rental Housing Association and the Berkeley Property Owners Association – of serving as “conduits of the cartel” by providing a venue for RealPage and their property owners to conspire. The lawsuit further alleges that landlords use the software to agree on prices to set for rent, and to stagger their lease renewal dates so as to avoid any oversupplies in rental properties.

The use of these algorithmic devices is widespread in markets throughout the country and has helped fuel the national housing affordability crisis. Local jurisdictions can eliminate this specific contributor to the on-going affordable housing crisis by adopting local ordinances to ban the use and sale of algorithmic devices to set rents and/or manage occupancy levels.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

There are no identifiable CEQA impacts associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

Fifty-seven percent of the city’s population are renters. People of color are three times more likely to rent than to own homes in Berkeley. Sixty percent of renter households are lower income and one-half of all renters are rent burdened. According to an article about the antitrust lawsuits (noted above) in the Mercury News, over the last nine years, rents have increased 19% in the East Bay. The city’s Housing Element notes that rents for rent-controlled units have increased dramatically over the last decade, as have rents for market rate units. At the same time, the city’s Black population has decline rapidly over the last twenty years, as families are forced out of the community due to rising housing costs. Maintaining and growing an economically, racially, and ethnically diverse city is a top priority.

The City has many initiatives to increase affordable housing and neighborhood diversity, from a priority system for affordable housing units that recognizes residents from historically redlined communities should have access to these units and funding a wide range of housing rehabilitation programs to keep residents in Berkeley, to updating how inclusionary housing fees are calculated and funding hundreds of units of new affordable housing through the Housing Trust Fund.

Given the city's commitment to affordable housing and growing its diverse community, it is appropriate for the City Council to consider adopting an ordinance to prohibit the use and sale of algorithmic devices to set rents and occupancy levels as use of these devices amounts to illegal price-fixing and negatively impacts the rental housing market by artificially inflating rents and creating housing scarcity.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CITY MANAGER

The City Manager recommends that the report be referred to the Land Use, Housing & Economic Development Policy Committee for further discussion, including of staffing impacts to the City Attorney's Office and the Health, Housing, and Community Services Department.

CONTACT PERSON

Anna Cash, Commission Secretary, HHCS, (510) 981-5403

Attachments:

- 1: Ordinance
- 2: PowerPoint Presentation – HAC October 10, 2024 meeting

ORDINANCE NO. -N.S.

ADDING CHAPTER 13.63 TO THE BERKELEY MUNICIPAL CODE PROHIBITING ON THE SALE OR USE OF ALGORITHMIC DEVICES TO SET RENTS OR MANAGE OCCUPANCY LEVELS FOR RESIDENTIAL DWELLING UNITS

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

Section 1. That Berkeley Municipal Code 13.63 is added to read as follows:

### **Chapter 13.63**

## **PROHIBITION ON THE SALE OR USE OF ALGORITHMIC DEVICES TO SET RENTS OR MANAGE OCCUPANCY LEVELS FOR RESIDENTIAL DWELLING UNITS**

### **Sections:**

#### **13.63.010 Findings and Purpose**

#### **13.63.020 Definitions**

#### **13.63.030 Use and Sale of Algorithmic Devices Prohibited**

#### **13.63.040 Remedies**

#### **13.63.050 Undertaking for the General Welfare**

#### **13.63.060 Severability**

#### **13.63.010 Findings and purpose.**

The Council hereby finds and determines that the adoption of this chapter is necessary to the promotion of the public health, safety, and welfare.

A. In recent years, a number of new software programs, often referred to as “algorithmic devices”, have threatened to destabilize rental housing markets in cities nationwide, including the City of Berkeley.

B. These programs enable landlords to indirectly coordinate with one another through the sharing of non-public competitively sensitive data in order to artificially inflate rents and vacancy rates for rental housing. Participating landlords provide vast amounts of proprietary data to the programs, which in turn set or provide recommendations for rent and occupancy levels.

C. More and more landlords in U.S. cities now pool their data and pricing decisions using such software.

D. The software has contributed to double-digit rent increases (over the last nine years, median rents have increased 19% in the East Bay), higher vacancy rates, and higher rates of eviction, and has generally distorted markets so that rents and vacancy rates have increased in tandem.

E. Often used by large corporate landlords, the software fuels the consolidation of corporate and private equity ownership of rental housing, at the expense of landlords

large and small who are willing to play by the normal rules. Landlords using these tools are not engaging in appropriate market behavior. And the companies developing and selling these tools to Berkeley landlords are not doing so either, and are contributing to these problems.

F. A 2022 class action lawsuit filed in the U.S. District Court in the Western District of Washington at Seattle (one of over 20 private class action lawsuits that have been consolidated into one case) accuses nearly 50 trade associations - including the East Bay Rental Housing Association and the Berkeley Property Owners Association – of serving as “conduits of the cartel” by providing a venue for RealPage and their property owners to conspire. The lawsuit further alleges that landlords use the software to agree on prices to set for rent, and to stagger their lease renewal dates so as to avoid any oversupplies in rental properties.

G. Numerous antitrust lawsuits have been filed against certain of these companies, including RealPage, Inc. and Yardi Systems, Inc. The lawsuits allege that these companies are enabling and participating in a scheme of unlawful rent-fixing. These include a lawsuit filed by the District of Columbia Attorney General in November 2023, a lawsuit filed by the Arizona Attorney General in February 2024, and more than 20 federal private class action lawsuits filed nationwide that have been consolidated in the federal court in the Middle District of Tennessee. In August 2024, The United States Department of Justice, alongside the attorneys general of California and seven other states, filed an antitrust lawsuit against RealPage, accusing the company of reducing competition among landlords and taking over the market for such algorithm-based rental software.

H. Instead of waiting for court processes which may take years to resolve, this ordinance prohibits the sale or use of algorithmic devices for the purpose of setting rents on residential dwelling units in the city of Berkeley, to bring immediate relief to Berkeley tenants, as well as to put landlords who have been using these devices on equal footing with those who are willing to adhere to fair standards for setting rental rates.

I. This Chapter is not intended to prevent the development or sale of software to help landlords manage their units generally or through the use of public data. Nor does this Chapter regulate the amount of rent that a landlord may charge. This Chapter solely regulates the use and sale of the algorithmic devices that analyze and share non-public data, to prevent the harms described above.

### **13.63.020 Definitions.**

A. “Algorithmic device” means a device such as a software program that uses one or more algorithms to perform calculations of non-public competitor data concerning local or statewide rents or occupancy levels, for the purpose of advising a landlord whether to leave their unit vacant or on the amount of rent that the landlord may obtain from a tenant. “Algorithmic device” includes a product that incorporates an algorithmic device, but does not include (a) any report published by a trade association that receives renter data and publishes it in an aggregated and anonymous manner or (b) a product used for the purpose of establishing rent or income limits in accordance with the affordable housing guidelines of a local government, the state, the federal government, or other political subdivision.

B. “Non-public competitor data” means information that is not available to the general public, including information about actual rent prices, occupancy rates, lease start and end dates, and similar data, regardless whether the information is attributable to a specific competitor or anonymized, and regardless whether it is derived from or otherwise provided by another person that competes in the same market or a related market.

**13.63.030 Use and sale of algorithmic devices prohibited.**

A. It shall be unlawful to sell, license, or otherwise provide to city of Berkeley landlords any algorithmic device that sets, recommends, or advises on rents or occupancy levels that may be achieved for residential dwelling units in the city of Berkeley.

B. It shall be unlawful for a landlord to use an algorithmic device described in subsection A when setting rents or occupancy levels for residential dwelling units in the city of Berkeley. Each separate month that a violation exists or continues, and each separate residential dwelling unit for which the landlord used the algorithmic device, shall constitute a separate and distinct violation.

**13.63.040 Remedies.**

A. The City Attorney may file a civil action for violations of section 13.63.030, subsections A and/or B, for damages, injunctive relief, restitution/return of illegal profits, and/or civil penalties of up to \$1,000 per violation. The court shall award reasonable attorney’s fees and costs to the city Attorney if the City Attorney is the prevailing party in such a civil action.

B. A tenant may file a civil action for violations of section 13.63.030, subsection B, for injunctive relief, money damages, and/or civil penalties of up to \$1,000 per violation. The court shall award reasonable attorney’s fees and costs to the tenant if the tenant is the prevailing party in such a civil action. A lease provision that limits a prevailing tenant from obtaining attorneys’ fees shall not be enforceable against a tenant’s claim for attorneys’ fees that arises under this subsection 13.63.040 B.

**13.63.050 Undertaking for the general welfare.**

In enacting and implementing this Chapter 13.63, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

**13.63.060 Severability.**

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

Section 2. 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.

# Ordinance to Prohibit Algorithmic Devices to Set Rents or Manage Occupancy Levels

Housing Advisory Commission  
October 10th, 2024

# What is “Automated Rent Setting” or “AI Revenue Management”?

- Landlords delegate their rental price and supply decisions to a common decisionmaker
- Landlords, who should be competing with each other as to price, share data with a common decisionmaker, and the common decisionmaker provides “daily pricing and ongoing revenue oversight”
- Rather than function as separate economic entities, participating landlords make key competitive decisions regarding the price and supply of multifamily apartments collectively
- This drives up rents and amounts to illegal price-fixing

# What's RealPage?

- RealPage “provides property management software, data analytics, and services to efficiently manage rental properties and real estate”
- For several years, RealPage and its resetting software YieldStar has been the subject of controversy, especially due to a 2022 expose by ProPublica titled [“Rent Going Up? One Company’s Algorithm Could Be Why.”](#)
- Aug. 2024 DOJ lawsuit accuses RealPage of being a monopoly, controlling 80% of the property management software market

# “Hub and Spoke” Price Fixing

- Centralized company (data broker, trade association, software algorithm) facilitates illegal agreements among competitors
- RealPage is the “hub” and landlords who depend on its recommendations regarding rent levels are the “spokes”
- By agreeing to follow the rent recommendations, using competitively sensitive and/or proprietary data, landlords tacitly agree to fix rents without need to directly compete with each other
- System allows landlords to conspire to limit rental supply and drive up rents, creating a cartel

# Legal Actions to Date

- Over 30 class-action lawsuits have been filed against RealPage and landlords who use the software
- A Dec. 2022 class action lawsuit accuses the East Bay Rental Housing Association and the Berkeley Property Owners Association of serving as “conduits of the cartel”\*
- The Department of Justice sued RealPage on August 23, 2024, for its unlawful scheme to decrease competition among landlords in apartment pricing and to monopolize the market for commercial revenue management software.”
- Eight Attorneys General (inc. CA AG) joined the DOJ lawsuit

\*U.S. District Court Western District of WA at Seattle (transferred to Middle District of TN)

# Rationale for Ordinance

- **57% of Berkeley's population are renters:**
  - People of color are 3x more likely to rent than to own homes
  - 60% of tenants are lower income
  - 1/2 of all renters are rent burdened (pay more than 30% of income to rent)
- **Increasing corporate concentration in housing :**
  - Q1 2024: six largest publicly traded apartment companies saw their combined net incomes climb by nearly \$300 million
  - Even in markets that don't have corporate concentration, landlord trade associations facilitate the use of algorithms among small and mid -sized landlords

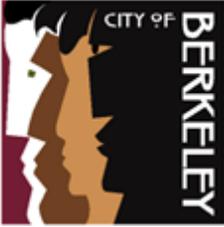
# Rationale for Ordinance (cont.)

- Over the last nine years, rents have increased 19% in the East Bay
- Housing Element notes that rents for rent-controlled and market-rate units have increased dramatically over the last decade
- The city's Black population has declined rapidly over the last 20 years due to rising rents
- Use of algorithmic devices is illegal price fixing and negatively impacts the rental market by artificially inflating rents and creating housing scarcity

# Why Take Local Action?

- Numerous lawsuits have been filed that allege harmful practices that could take years to litigate
- Acting locally to ban these practices protects tenants now
- San Francisco is the first local jurisdiction to ban the sale and use of these devices
- San Diego, Oakland, San Jose, Chicago, Miami, Philadelphia, Washington State and Texas are considering similar bans
- Recommend that HAC recommend to City Council adoption of an ordinance banning the sale and use of algorithmic devices to set rents and manage occupancy rates

Internal



Igor Tregub  
Councilmember, District 4

CONSENT CALENDAR

MARCH 11, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmembers Igor Tregub (Author) and Terry Taplin (Co-Sponsor)

Subject: Referral to 4 x 4 Committee: Removing On-Site Manager Exemption Loophole for Certain Multi-Family Properties that are Adjacent and/or Share the Same Common Area

**RECOMMENDATION**

Refer to the 4 x 4 Committee of the Berkeley City Council and Rent Stabilization Board a proposal related to the removal of an on-site manager exemption loophole, which is currently used by certain Berkeley properties to circumvent California Code Regulation, Title 25, Paragraph 42, for certain multi-family properties that are adjacent and/or share the same common area. If the recommended regulation is enacted, it is the intent of the referral to apply it to subject properties in a prospective manner that ensures that the rights of sitting tenants continue to be fully protected (i.e., a fully occupied property will not be required to rent to an on-site manager until at least one unit becomes vacant in accordance to all applicable state and local laws governing good cause eviction protections). The referral further requests that the 4 x 4 Committee discuss and provide recommendations as to:

- Any parameters that may limit the scope of this referral, including but not limited to situations in which one or more of the subject properties are owned by limited liability corporations (LLCs) and/or owners that own multiple other properties in Berkeley, California and/or beyond, with a total number of units or properties under ownership to be determined;
- Any exemptions to the on-site manager requirement for certain circumstances, such as for hardship of the property owner and/or LLC and/or other circumstances in which the interest of justice may supersede the public interest of this requirement;
- The enforcement mechanism and enforcing jurisdiction (i.e., City of Berkeley or Berkeley Rent Stabilization Board, with compensation by the City of Berkeley)

Internal

that the City of Berkeley should employ in furtherance of the recommended regulation; and

- Any other provisions pertinent to the efficient, just, and fair administration of the recommended regulation.

## **CURRENT SITUATION AND ITS EFFECTS**

California Code Regulation, Title 25, Paragraph 42 (CCR 25 ¶42) includes the following requirements (germane language is emphasized in **bold**):

**“A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments**, and of every hotel in which there are 12 or more guest rooms, **in the event that the owner of an apartment house or hotel does not reside upon said premises**. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land. **If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating the owner's name and address, or the name and address of the owner's agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.**”<sup>1</sup>

Over the past several months, it has come to our attention that at several contiguous properties in Berkeley have, in total, over 16 apartments but fulfill neither the on-site “manager, janitor, housekeeper, or other responsible person” nor the “notice stating the owner’s name and address” requirement. The properties in question share an entrance, common area space, and required amenities such as garbage and recycling collection and appear to have been part of a single parcel that was, somewhere over the course of their operation as apartment buildings, subdivided into separate parcels such that, individually, the number of apartment units on each parcel numbered less than sixteen (“16”).

It is the intent of this referral to explore local pathways to close this loophole and ensure that the integrity of CCR 25 ¶42 is restored in the face of efforts to subdivide a parcel with contiguous multifamily rental properties or hotels that otherwise, based on the number of apartments or hotel rooms would be subject to the “on-site manager, housekeeper, or other responsible person” provision. While not specifically the subject of this item, in the intent of this item is to ¶reveal how, if at all, the “notice” section of CCR 25 ¶42 is being enforced for existing properties on a parcel that, in total, includes between four (“4”) and sixteen (“16”) units.

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1

[https://govt.westlaw.com/calregs/Document/I3F1C71434C8611ECB533000D3A7C4BC3?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/calregs/Document/I3F1C71434C8611ECB533000D3A7C4BC3?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)

Internal

## **RATIONALE FOR RECOMMENDATION**

The lack of an on-site manager within contiguous properties have, in total, over 16 apartments but fulfill neither the on-site “manager, janitor, housekeeper, or other responsible person,” sometimes coupled with the nonexistence of a “notice stating the owner’s name and address,” in contravention to the spirit, if not the letter, of CCR 25 ¶42 has led to significant adverse impacts to the neighbors as well as the sitting occupants of the properties in question. These have included but not been limited to: poor or nonexistent garbage and/or recycling collection; slow or non-existent efforts on the part of the property owner and/or off-site manager to comply with “warranty of habitability” and/or health and safety requirements; and inability to effectively mitigate for noise violations. It is the intent of this recommendation to address a clear loophole in the state code that has been exploited by some property owners and LLCs to the detriment of the residents and neighbors of the subject properties.

## **FINANCIAL IMPLICATIONS**

Financial implications may include staff time associated with writing, reviewing, and, as necessary, enforcing the recommended language. It is the intent of this referral that discussion at the 4 x 4 Committee among members and staff from the City of Berkeley and Berkeley Rent Stabilization Board may be able to finetune these cost projections.

## **ENVIRONMENTAL SUSTAINABILITY**

Indirect environmental sustainability benefits may result from these items, particularly around improved enforcement of disaggregation between recyclable, non-recyclable, and compostable items within subject multifamily housing buildings that currently do not have an on-site manager but would be required to under language contemplated by this referral.

## **CONTACT PERSON**

Igor Tregub, Councilmember District 4

Olga Bolotina, Chief of Staff, Council District 4

Phone: 510-981-7140

Email: [ITregub@Berkeleyca.gov](mailto:ITregub@Berkeleyca.gov)

[OBolotina@Berkeleyca.gov](mailto:OBolotina@Berkeleyca.gov)



Upcoming Worksessions and Special Meetings	
Scheduled Dates	
Feb 25 (4pm)	Economic Dashboards Update
March 11 (TBD)	City Council Referral Prioritization (RRV)
March 18 (4pm)	Berkeley Police Department Annual Update
March 25 (4pm)	Pavement Management Program Development
April 22 (6pm)	City Council ZAB Appeal Hearing for UA Theater Project (6:00pm)
April 29 (4pm)	Presentation on City's Unfunded Liabilities
May 13 (6pm)	Evacuation Study and Response Times

Unscheduled Presentations and Special Meetings
1. Council Referral: Mixed-Income Housing

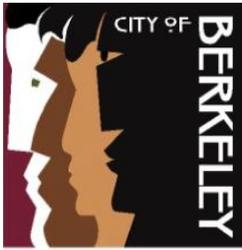
Future Information Reports
<ol style="list-style-type: none"> <li>1. Reimagining Public Safety Update</li> <li>2. Affordable Housing Fee Feasibility Study</li> <li>3. Berkeley Fire Department Annual Report</li> <li>4. Greenhouse Gas Inventory / Climate Action Plan Update</li> </ol>

	<b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>
	<b>None</b>

CITY CLERK DEPARTMENT			
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL			
Address	Board/ Commission	Appeal Period Ends	Public Hearing
<b>NOD – Notices of Decision</b>			
<b>Public Hearings Scheduled</b>			
3000 Shattuck Avenue (construct 10-story mixed-use building)	ZAB		3/25/2025
2274 Shattuck Avenue (UA Theater Project)	ZAB		4/22/2025
1048 Keith Avenue	ZAB		5/6/2025
2500-12 San Pablo Avenue/1094-98 Dwight Way	LPC		5/20/2025
<b>Remanded to ZAB or LPC</b>			
<b>Notes</b>			

2/19/2025





Rashi Kesarwani  
Councilmember, District 1

## REVISED AGENDA MATERIAL

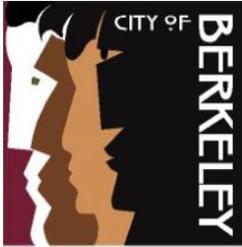
**Meeting Date:** September 24, 2024

**Item Number:** Item #11

**Item Description:** City Council Rules of Procedure and Order Revisions

**Submitted by:** Rashi Kesarwani

This revised recommendation modifies the [City Council Rules of Procedure and Order Revisions](#) presented by the City Manager and passed by the Agenda and Rules Committee.



Rashi Kesarwani  
Councilmember, District 1

**ACTION CALENDAR**

September 24, 2024

**TO:** Honorable Mayor Jesse Arreguín and Members of the City Council

**FROM:** Councilmember Rashi Kesarwani (Author)

**SUBJECT:** Council Rules and Procedures Amendments

**Summary of Recommendation:**

Amend the Council Rules and Procedure in the following areas:

- 1) Delete change that permits three no votes to cause a Consent item to automatically shift to the Action calendar.
- 2) Recognize BUSD spring break in the City Council recess schedule.
- 3) Objectively define “Major Items.”
- 4) Simplify “Standards for Agenda Items.”
- 5) Eliminate Supplemental #3 Items.
- 6) Reinstate Council approval for reordering of the agenda.
- 7) Simplify language and require a budget referral for “Major Items.”
- 8) Clarify that legal and operational concerns should be discussed at policy committees.
- 9) Legislation introduced by a member of the Council who is no longer serving on the City Council must be resubmitted by a sitting member of the Council and reconsidered by the Agenda and Rules Committee.
- 10) Prohibit a speaker from speaking on the same issue twice.
- 11) Shorten debate on the non-debatable Consent Calendar.
- 12) Eliminate Appendix B, as it is not substantive.

**Issue #1: Rationale for Amendment to II.D. Council Meeting Conduct of Business**

This new rule, which requires that a Consent item is automatically moved to the Action calendar simply when three Councilmembers wish to record a no vote or abstention is a poor use of limited meeting time. Under a different rule, if at least three Council members wish to have discussion about an item on Consent, then it is moved to the Action calendar for consideration.

This new policy, as written, has the potential to cause unwarranted delay of important Action items—potentially to a future meeting. Councilmembers already have the ability to express an interest in pulling an item to Action so this change is unnecessary.

**Recommendation:**

~~With respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.~~

**Issue #2: Rationale for Amendment to II.G. City Council Schedule and Recess Periods**

In recent years, the Council's spring recess has been adjusted to coincide with the Berkeley Unified School District's spring recess, facilitating alignment of breaks for City employees and Councilmembers. It is recommended that this alignment be formally codified in the City Council Rules of Procedures and Order.

**Recommendation**

II.G. "Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays, Berkeley Unified School District Spring recess, and election dates.

**Issue #3 Rationale for Amendments to III. B. 11. "Major Items"**

It is essential to establish objective criteria for determining what qualifies as a "Major" action in order to ensure the integrity of the legislative process.

**Recommendation**

"Major Item" means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or Councilmember.

The determination of a Major Item is based on the following objective criteria:

1. In consultation with the City Manager, an item is deemed to have moderate to significant administrative, operational, or resource impacts due to an implementation timeline that would take six months or longer; or
2. An item is considered to have significant budgetary impacts if either it does not specify fiscal impacts or if the City Manager's overall budget estimate exceeds \$200,000; or
3. An item is identified as having significant programmatic impacts or if existing city programming must be adjusted to accommodate the new initiative.

**Issue #4: Rationale for Amendments to III.C. "Standards for Agenda Items"**

1. The Standards for Agenda Items are overly prescriptive. Strike the unnecessary and superfluous standards. Consolidate “Review of Existing Plans, Programs, Policies and Laws and Consultation/Outreach Overview and Results” into “Background.”
2. Strike Implementation, Administration and Enforcement. This is for the City Manager to address, not City Council.
3. Since this is the *City Council’s* Rules and Procedures, reference to city contracts is unnecessary.

**Recommendation**

1. Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the report’s Primary Author that describes the action to be taken on the item, if applicable;
  - d. Fiscal impacts of the recommendation
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - ~~i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);~~
  - j. Person or persons to contact for further information, with telephone number;
  - k. Additional information and analysis, as may be required.
  - l. Environmental sustainability and climate impacts.

It is recommended that Regular Item reports also include, to the extent relevant, the points of analysis in Major Council Item Standards in Section C.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below ~~and more fully described in Appendix B~~, Guidelines for City Councilmember/Mayor Major Items:
  - a. **Title**
    - i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.
  - b. **Consent/Action/Information Calendar**
    - i. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**c. Recommendation**

- i. A clear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

**d. Summary Statement/Current Situation and its effects**

- i. A short resume of the circumstances that give rise to the need for the recommended actions.

**e. Background**

- i. A full discussion of the evidence, history, circumstances and concerns to be addressed by the item. Background may include stakeholder input and review of existing plans, programs, policies, and law.

~~**f. Review of Existing Plans, Programs, Policies and Laws**~~

- ~~i. Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.~~

**g. Actions/Alternatives Considered**

- i. A listing of solutions/measures that other jurisdictions, or advocates, experts, or organizations have studied or adopted to address the same or similar subject matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

~~**h. Consultation/Outreach Overview and Results**~~

- ~~i. Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.~~

**i. Rationale for Recommendation**

- i. A clear and concise statement that explains why the proposed policy is the best alternative. ~~as to whether t~~The item should explain if proposed actions (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

~~**j. Implementation, Administration and Enforcement**~~

- ~~i. A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.~~

**k. Environmental Sustainability and Climate Impacts**

- i. A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

**I. Fiscal Impacts**

- i. A review of the recommended action’s potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

**m. Outcomes and Evaluation\***

- i. A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

**n. Contact Information**

**o. Attachments/Supporting Materials**

**Issue #5: Rationale for Amendments to III.5.c Submission of Supplemental and Revised Agenda Material**

This section pertaining to Supplemental Communications #3 should be removed. To promote transparency, any revisions or supplemental materials submitted less than 24 hours before a meeting should not be allowed.

***Recommendation***

~~After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 40 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the Agenda Item in order for the material to be considered.~~

**Issue #6 Rationale for Amendments to III.F. “Agenda Sequence and Order of Business”**

The September 24, 2024 version eliminates the consent of the Council and allows the Chair sole discretion. The Chair should have approval from the Council with regard to agenda sequence.

***Recommendation***

Action items may be reordered at the discretion of the Chair with the consent of Council.

**Issue #7: Rationale for Amendments to 3.H. “Major Items”**

The current language is confusing and unclear. This section should also mandate that Major Items must include a budget referral.

**Recommendation**

The Agenda & Rules Committee must take action on an item as prescribed in Chapter III.D. at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

The Agenda & Rules Committee may ~~only~~ assign the item to a single Policy Committee, ~~except that However, if~~ an item ~~meeting the definition of~~ qualifies as a Major Item ~~that also includes a budget referral may be referred to both,~~ it must include a budget referral and be sent to the Budget & Finance Committee in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

**Issue #8: Rationale for Amendments to III.4.h “Functions of the Policy Committee”**

Report standards are already listed above in III.C. Instead of “reports” including operational and legal analysis that may be beyond the subject matter expertise of a Council office, the policy committee should discuss with appropriate staff, budget implications, administrative feasibility, and legal considerations.

**Recommendation**

~~Reports leaving a~~ Policy Committees ~~s~~ must adequately include discuss budget implications, administrative feasibility, basic legal concerns, and staff resource demands before sending reports to the full Council. ~~in order to~~ This allows ~~s~~ for informed consideration by the full Council.

**Issue #9: Rationale for Amendments to “Agenda Items Authored by Former Mayors and Councilmembers”**

If a Councilmember wants to adopt an item originally submitted by a former member of the Council, that item must be resubmitted for reconsideration. It cannot be fast-tracked for a vote if the former official is no longer on the Council.

**Recommendation**

**Agenda Items Authored by Former Mayors and Councilmembers**

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda. At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. If the item is adopted by a member of the Council, it must be resubmitted and reconsidered at a future Agenda and Rules Committee. ~~The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.~~ If any of the items from the former

official are not assumed by the Mayor or any Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

**Issue #10: Rationale for Amendments to IV.2. “Public Comment on Consent Calendar and Information Items”**

It is redundant to permit a speaker to speak twice on the same matter within one Council meeting.

***Recommendation***

~~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.~~

**Issue #11: Rationale for Amendments to V.G “Procedural Matters: Debate Limited”**

The purpose of a Consent calendar is to facilitate efficient decision-making without extensive discussion. Allowing each Councilmember and the Mayor up to seven minutes each of comment could extend the duration of the consent calendar to more than one hour and defeats the purpose of a Consent calendar.

***Recommendation***

**G. Debate Limited**

For the Consent Calendar, the Mayor and Councilmembers will ~~initially~~ have three up to five minutes each to make comments. ~~After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.~~

**Issue #12 Rationale for Amendments to Appendix B “Guidelines for City Council/Mayor Major Items”**

See Issue #4 Rationale above. This section is unnecessary, given the “Standards for Agenda Items” section.

***Recommendation***

Delete [Appendix B](#) (p.44-47).

**CONTACT PERSON**

Rashi Kesarwani

(510) 981-7110



Office of the City Manager

ACTION CALENDAR

September 24, 2024

*(Continued from the September 10, 2024 meeting)*

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted By: Mark Numainville, City Clerk

Subject: City Council Rules of Procedure and Order Revisions

RECOMMENDATION

Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.

POLICY COMMITTEE RECOMMENDATION

On August 26, 2024, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the proposed amendments to the Rules of Procedure, as discussed and further amended on August 26, 2024, to the City Council with a positive recommendation. Vote: Ayes – Hahn, Arreguin; Noes – None; Abstain – Wengraf.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This review and update of the Rules of Procedure was precipitated several factors, 1) the end of the state-declared emergency and the return to in-person meetings in the hybrid format; 2) approval of the Open Government Commission (OGC) recommendations by Council on May 7, 2024; and 3) the legislative redesign process that has been discussed for several years by the full Council and at the Agenda & Rules Committee. In addition, all defined terms have been capitalized for consistency.

During the review, other technical corrections and updates were identified that will keep the Rules of Procedure current and effective. The updates are shown in track changes with explanatory comments in Attachment 2. The primary categories of updates are noted below.

(Continued from the September 10, 2024 meeting)

- Add new amendments to the legislative process related to “Major Items” submitted by Councilmembers, the authority of the Agenda & Rules Committee with regards to items submitted by the Mayor and Council, and process improvements for policy committees.
- Incorporate the recommendations from the OGC that Council adopted on May 7, 2024 related to public comments, consideration of consent calendar items, and meeting/agenda management.
- Modify the noticing procedures for ad hoc committees to align with the rules in the Brown Act, and for consistency with City boards and commissions.
- Update the legislative process rules to account for the new Charter Offices of City Attorney and Director of Police Accountability, and properly account for the role of the Auditor in the process.
- Update public comment procedures to account for speakers participating both remotely and in-person under the hybrid meeting model.
- Remove Appendix C, specific to all-remote pandemic meetings, and incorporate certain successful provisions into the main body regarding moving items to the Action Calendar, public comments, and Council debate procedures.

### BACKGROUND

The City Council Rules of Procedure and Order governs the duties of the Council, the conduct of meetings, the agenda, procedural matters and facilities. The rules have been amended as necessary over time to improve the function of the legislative process and the conduct of City Council meetings.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

### RATIONALE FOR RECOMMENDATION

The changes to the Rules are intended to keep the document current and directly applicable to Council meeting format and procedure.

### ALTERNATIVE ACTIONS CONSIDERED

The Council may adopt all, some, or none of the proposed amendments.

### CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: City Council Rules of Procedure and Order

2: Track Changes Version - City Council Rules of Procedure and Order



Office of the City Manager

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council Rules of Procedure and Order attached hereto as Exhibit A shall govern all proceedings of the City Council therein described, subject to the exception and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure.

BE IT FURTHER RESOLVED that this update is to clarify and reorganize existing language, make technical corrections related to hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add certain new provisions approved by Council; and make changes related to improvements in the legislative process.

BE IT FURTHER RESOLVED that all preceding amendatory resolutions are hereby rescinded.

Exhibit A: City Council Rules of Procedure and Order

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ##,###–N.S.

Effective [Date]

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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

## II. MEETINGS

### A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting Agenda and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

### B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

### C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

### D. Council Meeting Conduct of Business

The Agenda for the regular business meetings shall include the Order of Business described in Chapter III.F. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) on Action will be heard.

Three or more members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent at least three members concurring, the item will stay on the Consent or Information Calendar.

With respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

A public hearing that is not expected to be lengthy may be placed on the Agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the Agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

The Council will endeavor to inform meeting attendees of the approximate time for high interest items. In addition, the Council will make best efforts to determine if items should be carried over to future meetings earlier in the meeting rather than later.

**E. Adjournment**

No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific Agenda Items to be covered and shall specify in which order these items shall be handled.

Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council Agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council

recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

#### **H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

#### **I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the Agenda of the meeting and posted in accordance with Section III.E.2. Exceptions to this rule are limited to circumstances listed in Section III.E.4.b and items continued from a previous meeting and published on a revised Agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the Agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, a Charter Officer, the Auditor, or any board/commission/committee created by the City Council or City Charter, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from a Charter Officer concerning any item to be acted upon by the Council shall be submitted as a report on the Agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney-client communication concerning a litigation matter. Council Agenda Items are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added by the Primary Author (1) at the Agenda Committee meeting where the item is placed on a Council Agenda; or (2) after the item has been placed on a Council Agenda, through the Supplemental process, or (3) at the Council meeting where the item appears on the Agenda.

2. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.
3. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.
4. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be Co-Sponsors of the Council Agenda Item.
5. "Agenda" means the compilation of the descriptive titles of Agenda Items submitted to the City Clerk, arranged in the sequence established in Section III.F hereof.
6. "Packet" means the Agenda plus all of its corresponding Agenda Items.

7. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
  - a) A work stoppage or other activity which severely impairs public health, safety, or both exists;
  - b) A crippling disaster, which severely impairs public health, safety or both exists.
  - c) Notice of the Council's proposed consideration of any such Emergency Matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
8. "Continued Business" means Items carried over from a prior Agenda of a meeting occurring 11 or fewer days earlier.
9. "Old Business" means Items carried over from a prior Agenda of a meeting occurring more than 11 days earlier.
10. "Charter Officer" means the City Manager, City Attorney, and the Director of Police Accountability.
11. "Major Item" means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or any Councilmember.
12. "Regular Item" means any Agenda Item not classified as a Major Item.

### **C. Standards for Agenda Items**

1. Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:
  - i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
  - ii. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - iii. Recommendation of the report's author that describes the action to be taken on the item, if applicable;
  - iv. Fiscal impacts of the recommendation;
  - v. A description of the current situation and its effects;
  - vi. Background information as needed;
  - vii. Rationale for recommendation;

- viii. Alternative actions considered;
  - ix. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);
  - x. Person or persons to contact for further information, with telephone number;
  - xi. Additional information and analysis as may be required.
  - xii. Environmental sustainability and climate impacts.

It is recommended that Regular Item reports also include, to the extent relevant, the points of analysis in Major Council Item Standards in Section C.2.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below and more fully described in Appendix B, Guidelines for City Councilmember/Mayor Major Items:

**i. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**ii. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**iii. Recommendation**

A clear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

**iv. Summary Statement/Current Situation and its effects**

A short resume of the circumstances that give rise to the need for the recommended actions.

**v. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

**vi. Review of Existing Plans, Programs, Policies and Laws**

Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.

**vii. Actions/Alternatives Considered**

A listing of solutions/measures that other jurisdictions, advocates, experts, or organizations have studied or adopted to address the same or similar subject matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

**viii. Consultation/Outreach Overview and Results**

Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.

**ix. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

**x. Implementation, Administration and Enforcement**

A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.

**xi. Environmental Sustainability and Climate Impacts**

A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

**xii. Fiscal Impacts**

A review of the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

**xiii. Outcomes and Evaluation**

A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

**xiv. Contact Information****xv. Attachments/Supporting Materials****D. Procedure for Bringing Matters Before City Council****1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the Agenda by the Mayor or any Councilmember, the Auditor, Charter Officers, or any board/commission/committee created by the City Council, ballot measure, or the City Charter. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules

and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the Agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee Packet, including a draft Agenda and reports from the Mayor and Councilmembers, the Auditor, and Commission shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

**a) Regular Items Authored by the Mayor or a Councilmember.**

As to Regular Items authored by the Mayor or a Councilmember, the Agenda & Rules Committee shall review the item and may take the following actions:

- i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
- ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
- iii. Refer the item back to the Primary Author for requested amendments, adherence to required form, or for additional analysis, as required in Section III.C.1 (Primary Author may decline and request Policy Committee assignment).
- iv. Refer the item to a Policy Committee.
- v. Schedule the item for the Agenda under consideration or one of the next three regular Council Agendas.

**b) Major Items.**

The Agenda & Rules Committee retains the authority to designate which Agenda Items are classified as Major Items. With regards to Major Items, the Agenda & Rules Committee shall review the item and may take the following actions:

- i. Return the item to the Author if the committee determines that the item is not substantially compliant with Chapter III.C.2 and the guidelines in Appendix B.
- ii. Refer the item to a policy committee and send a notice to the Budget & Finance Committee if the item contains a budget referral.
- iii. Schedule the item for the Council Agenda under consideration.
- iv. Schedule the item for one of the subsequent three Council Agendas or a special meeting.
- v. Refer the item to a commission with the consent of the Primary Author.

- c) For referrals of Regular Items under Chapter III.D.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:
- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
  - 2) withdraw the item completely; or
  - 3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council Agenda under consideration; or
  - 4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.D.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft Agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft Agenda for consideration by the Agenda & Rules Committee.

Items being resubmitted for a future meeting to allow for modifications will be placed on the next available Council meeting Agenda at the time that the revised version is submitted to the City Clerk.

**d) Items Authored by Charter Officers and the Auditor.**

The Agenda & Rules Committee shall review agenda descriptions of items authored by Charter Officers and the Auditor. The Committee can recommend that the matter be referred to a commission, to a Policy Committee, or back to the Charter Officer or the Auditor for adherence to required form, additional analysis as required in Section III.C.1, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the Charter Officer or the Auditor determines that their item should proceed notwithstanding the Agenda & Rules Committee's recommendation, it will be placed on the Agenda as directed by the Charter Officer or the Auditor. All Charter Officer and Auditor items placed on the Council Agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

**e) Items Authored by Boards and Commissions.**

Agenda Items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.

i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission item in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
2. Re-schedule the commission report to appear on one of the next three regular Council meeting Agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
3. Refer the item to a Policy Committee for review.
4. Allow the item to proceed as submitted.

ii) For any commission report that requires a City Manager companion report, the Agenda & Rules Committee may schedule the item on a Council Agenda. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph e.i. above.

f) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section F.

**2. Removal of Agenda Items from the Legislative Process**

A Primary Author may withdraw their Agenda Item from the legislative process as follows:

1) during the time it is pending at a policy committee by sending written notification to the City Clerk or verbally at the meeting; 2) verbally at the Agenda & Rules Committee meeting when the item appears on a draft Council Agenda; or 3) verbally at the City Council meeting when the item appears on the Council Agenda or in writing through the supplemental process.

**3. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

**4. Submission of Agenda Items.**

- a) **Charter Officer Items.** Except for Continued Business and Old Business, as a condition to placing an item on the Agenda, Agenda Items from departments, including Agenda Items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and Councilmembers is 5:00 p.m. on Monday, 22 days before each regular Council meeting.
- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the Author and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by a Charter Officer, the Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published Agenda.

The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) **Timelines.** The City Clerk may not accept any Agenda Item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring 11 or fewer days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

**5. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an Agenda Item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for public review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 40 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the Agenda Item in order for the material to be considered.

#### **6. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)**

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an Agenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the Agenda by the City Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the Agenda as a

Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the Author to list the facts which support consideration of the item for addition to the Agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the Agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the Agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the Agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

## **7. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

## **E. Packet Preparation and Posting**

### **1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the Packet, which shall include the Agenda plus all its corresponding Agenda Items. No item shall be considered if not included in the Packet, except as provided for in Section III.D.5. and Section III.E.4.

### **2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each Agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each Agenda of a special meeting at least 24 hours prior to the meeting on the official bulletin

board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each Agenda.

- b) The City Clerk shall also post Agendas and annotated Agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the Agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for Agenda Items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any Agenda Item or revised Agenda Item after the deadlines established.
- b) Matters not included on the published Agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.7.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the Agenda as required by law.
- c) Matters listed on the printed Agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the Agenda Packet, shall not be discussed or acted upon.

**F. Agenda Sequence and Order of Business**

The Council Agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Land Acknowledgement Statement, Comments from the City Manager, Comments from the City Auditor [if requested], Non-Agenda Public Comment, Public Comment by Employee Unions)
  - a) The Land Acknowledgement Statement and Public Comment from Employee Unions are regularly agendized only for the first regular meeting of each month.
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

Action items may be reordered at the discretion of the Chair.

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**G. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

## H. Regulations Governing City Council Policy Committees

### 1. Legislative Item Process

All Agenda Items begin with submission to the Agenda & Rules Committee.

#### Exempt Items

Regular Items under this category submitted by the Mayor or Councilmembers are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the Agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Exempt Items are listed below.

- a. Position Letters and Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- b. Donations from the Mayor and Councilmember District Office Budgets
- c. Referrals to the Budget Process that are not related to a Major Item
- d. Proclamations
- e. Sponsorship of Events
- f. Information Reports
- g. Presentations from Outside Agencies and Organizations
- h. Ceremonial Items
- i. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember is classified as an Exempt Item or if the item is subject to Policy Committee review

#### Major Items

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council Agenda.

The Agenda & Rules Committee must take action on an item as prescribed in Chapter III.D. at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee

in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

#### 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 Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published Agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

Time Critical items that would otherwise be assigned to a Policy Committee, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.

Time Critical items that are submitted at a meeting of the Agenda & Rules Committee may go directly on a Council Agenda if determined to be time critical.

### **2. Council Referrals to Policy Committees**

The full Council may refer any Agenda Item to a Policy Committee by majority vote.

### **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.
- d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.
- e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee

is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.

- g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### **4. Functions of the Policy Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting Agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.C.1 and III.C.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the Agenda Packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item

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to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee and the City Clerk by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a City board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate City staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council Agenda. The Agenda & Rules Committee may leave the item on the Agenda under consideration or place it on the next Council Agenda. Items appearing on a City Council Agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council Agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their Agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee on the next available Agenda. The Agenda & Rules Committee may leave the item on the Agenda under consideration or place it on the following Council Agenda. The Agenda & Rules Committee may agendize the item on the Consent Calendar or Action Calendar.

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Policy Committees**

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

#### **I. Agenda Items Authored by Former Mayors and Councilmembers**

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda.

At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.

If any of the items from the former official are not assumed by the Mayor or Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- At the first regular meeting of the month, a period of public comment reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.
- Public comment on the Consent and Information Calendars.
- Public comment on the Action Calendar at the onset of the Action calendar with the exception of appeals, public hearings, and quasi-judicial matters requiring public comment for due process purposes (if invoked by the Presiding Officer).
- Public comment on Action items by those who did not speak in the earlier Action Calendar public comment period, any appeals, public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Except in the case of public comment by employee unions, speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

With respect to public comment by employee unions, each union's allocated time may be shared between more than one representative, and representatives and other members of unions may speak during other public comment periods in the same manner as members of the public.

If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this chapter.

The Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring extended public comment as a matter of due process.

### **1. Public Comment on Non-Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, up to ten persons will be selected to address matters not on the Council Agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council Agenda, each person selected will be allotted one minute each.

In-person attendees wishing to address the Council on matters not on the Council Agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the Agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized or raise their hand on the videoconference application to determine the number of persons interested in speaking at that time. Each speaker will be

entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate.

If the meeting is automatically adjourned at 11:00 p.m., or the expiration of any extension after 11:00 p.m., the meeting shall be automatically extended for up to fifteen minutes to hear public comment on non-agenda items.

## **2. Public Comment on Consent Calendar and Information Items.**

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.” 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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

## **3. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, reserved public comment by employee unions, public comment on Consent and Information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the Agenda for action as the item is taken up.

At the discretion of the Presiding Officer, with the consent of the Council, there may be a public comment period for one or several of the Action Calendar items at the beginning of the Action Calendar. Speaking time during this comment period is subject to the standard rules for public comments in Chapter IV.A. Speakers may speak to multiple items, but may only speak once during this period. This provision is not applicable to public hearings, appeals, and/or quasi-judicial matters. Attendees that speak on an action item at the scheduled public comment period may not speak again when the action item is taken up by the Council.

During the public comment period for each Action Item, the Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and raise their hand on the videoconference application to determine the number of persons interested in speaking on that item.

**4. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed lien (nuisance abatement/special assessment) lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council Agenda.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the Agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting Agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor, and Charter Officers deem to be of such nature that no debate, prolonged discussion, or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of Consent Calendar items can be minimized.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The Agenda will indicate that at the request of the Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Written Communications**

Written communications from the public will not appear on the Council Agenda as individual matters for discussion but will be distributed as part of the Council Agenda Packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the Agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council Agenda to the Council to be reproduced in the "Communications" section of the Council Packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a Consent or Action item for placement on a future Agenda.

Communications related to an item on the Agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.D.5.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, and prior to opening the public hearing, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by first the appellant and then the applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons

supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak line up at the podium to be recognized or raise their hand on the videoconference platform, to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent Agenda under the Action portion of the Council Agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak line up at the podium or raise their hand on the videoconference to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

#### **G. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the Presiding Officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Robert's Rules of Order**

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have five minutes each to make initial comments on an Agenda Item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.D.5.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

**L. Use of Cellular Phones and Electronic Devices**

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use of cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

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## VI. FACILITIES

### A. Meeting Location Capacity

Attendance at Council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Amplified Sound, Signs, Objects, and Symbolic Materials

Amplified sound devices such as bullhorns, megaphones, portable sound systems, and similar devices are prohibited within the meeting location during Council meetings.

Objects and symbolic materials such as signs and banners are permitted in the meeting location provided that they do not interfere with the cameras that broadcast the meeting, obstruct the view of other attendees, or create a fire or safety hazard.

Any type of stick, pole, or similar object is prohibited in the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

**F. Format of Meetings**

The City Council may conduct regular meetings or special meetings held at the School District Boardroom in the hybrid format with both in-person and virtual participation as provided for in the Brown Act, and as noticed on the meeting Agenda. Council meetings at other locations may be conducted in the hybrid format if technologically feasible.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks, Recreation & Waterfront Commission – Parks, recreation centers, camps, plazas, public open spaces, and public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

Transportation and Infrastructure Commission – Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community.
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.

- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
  
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination.
  
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.
  - 1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
  
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR CITY COUNCILMEMBER/MAYOR MAJOR ITEMS

Requirements for City Councilmember/Mayor Major Items are provided in Chapter III.C.2 of the City Council Rules of Procedure and Order. These guidelines further explain the requirements and are intended to assist in the preparation of fully researched and documented items that are likely to be eligible to move forward in the legislative process as determined by the Agenda & Rules Committee.

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### 1. Title

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

### 2. Consent/Action/Information Calendar

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

### 3. Recommendation

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

### 4. Summary Statement/ "Current situation and its effects"

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.

- Example (fictional):

*Winter rains are lasting longer than expected. Berkeley's winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season,*

*hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley's winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

## 5. **Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

## 6. **Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

**7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

**8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or Deputy CM, Department Heads, City Attorney, City Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

**9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability and Climate Impacts**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

Attachment 2

## The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~71,174###,###~~-N.S.

Effective ~~January 22, 2024~~[Date]

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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

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I. DUTIES

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting Agenda and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting Conduct of Business

The agendaAgenda for the regular business meetings shall include the Order of Business described in Chapter III.F. following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) on Action will be heard. with the consent of Council.

Three (3) or more members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent at least three members concurring, the item will stay on the Consent or Information Calendar.

and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

Commented [NML1]: Eliminates redundancy within the document. Chapter III.F. is more detailed.

Commented [NML2]: Per Council action on 5/7/24.

Commented [NML3]: Process moved here from Appendix C

Commented [NML4]: Per Council action on 5/7/24.

## II. MEETINGS

A public hearing that is not expected to be lengthy may be placed on the agenda~~Agenda~~ for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda~~Agenda~~ for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

The Council will endeavor to inform meeting attendees of the approximate time for high interest items. In addition, the Council will make best efforts to determine if items should be carried over to future meetings earlier in the meeting rather than later.

Commented [NML5]: Per Council action on 5/7/24.

#### E. Adjournment

No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific Agenda Items to be covered and shall specify in which order these items shall be handled.

Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

#### F. Unfinished Business

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda~~Agenda~~. The 60 day period is tolled during a Council recess.

#### G. City Council Schedule and Recess Periods

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

## II. MEETINGS

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

~~Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items~~

**Commented [NML6]:** Ad hoc committees are not legislative bodies under the Brown Act. These requirements have been repealed for commissions and need to be repealed for the Council for consistency.

II. MEETINGS

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~~but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.~~

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.~~

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the ~~agenda~~Agenda of the meeting and posted in accordance with Section III.ED.2. Exceptions to this rule are limited to circumstances listed in Section III.ED.4.b and items continued from a previous meeting and published on a revised ~~agenda~~Agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

- "Agenda Item" means an item placed on the ~~agenda~~Agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, ~~the City Manager or Charter Officer~~, the Auditor, or any board/commission/committee created by the City Council ~~or City Charter~~, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from ~~the City Manager or Charter Officer~~ concerning any item to be acted upon by the Council shall be submitted as a report on the ~~agenda~~Agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney-client communication concerning a litigation matter. Council ~~Agenda~~ items are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added ~~in the following manner: by the Primary Author (1) at the Agenda Committee meeting where the item is placed on a Council~~ ~~agenda~~Agenda; or (2) after the item has been placed on a Council ~~agenda~~Agenda, through the Supplemental process, or (3) at the Council meeting where the item appears on the Agenda ~~for action~~.

- ~~• In the original item as submitted by the Primary Author~~
- ~~• In a revised item submitted by the Primary Author at the Agenda & Rules Committee~~
- ~~• By verbal request of the Primary Author at the Agenda & Rules Committee~~
- ~~• In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2~~
- ~~• By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full Council at which the item is considered~~

- ~~Agenda~~ items shall contain all relevant documentation, including the information listed below:–

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;

**Commented [NML7]:** Per discussion at Agenda & Rules on 7/8/24; replaces text immediately below

**Commented [NML8]:** Moved to C. below

III. AGENDA

- ~~b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;~~
  - ~~c) Recommendation of the report's Primary Author that describes the action to be taken on the item, if applicable;~~
  - ~~d) Fiscal impacts of the recommendation;~~
  - ~~e) A description of the current situation and its effects;~~
  - ~~f) Background information as needed;~~
  - ~~g) Rationale for recommendation;~~
  - ~~h) Alternative actions considered;~~
  - ~~i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);~~
  - ~~j) Person or persons to contact for further information, with telephone number;~~
  - ~~k) Additional information and analysis as required. It is recommended that reports include the points of analysis in Appendix B – Guidelines for Developing and Writing Council Agenda Items.~~
2. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.
  3. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.
  4. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be ~~co-sponsor~~Co-Sponsors of the ~~Council agenda item~~Agenda Item.
  5. "Agenda" means the compilation of the descriptive titles of ~~A~~agenda ~~i~~items submitted to the City Clerk, arranged in the sequence established in Section III.~~FE~~ hereof.
  6. "Packet" means the ~~agenda~~Agenda plus all ~~of~~ its corresponding ~~agenda item~~Agenda Items.
  7. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

III. AGENDA

- a) A work stoppage or other activity which severely impairs public health, safety, or both exists;
- b) A crippling disaster, which severely impairs public health, safety or both exists.

b)c) \_\_\_\_\_ –Notice of the Council's proposed consideration of any such ~~emergency matter~~ Emergency Matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

8. "Continued Business" means Items carried over from a prior ~~agenda~~ Agenda of a meeting occurring ~~less than 11~~ or fewer days earlier.

9. "Old Business" means Items carried over from a prior ~~agenda~~ Agenda of a meeting occurring more than 11 days earlier.

10. "Charter Officer" means the City Manager, City Attorney, and the Director of Police Accountability.

11. "Major Item" means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or any Councilmember.

9-12. "Regular Item" means any Agenda Item not classified as a Major Item.

**C. Standards for Agenda items**

1. Agenda item Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:

- i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- ii. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- iii. Recommendation of the report's ~~Primary A~~author that describes the action to be taken on the item, if applicable;
- iv. Fiscal impacts of the recommendation;
- v. A description of the current situation and its effects;
- vi. Background information as needed;
- vii. Rationale for recommendation;
- viii. Alternative actions considered;

**Commented [NML9]:** Per discussion at Agenda & Rules on 7/8/24

**Commented [NML10]:** Moved here from above

III. AGENDA

ix. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items):

x. Person or persons to contact for further information, with telephone number;

xi. Additional information and analysis as may be required.

xii. Environmental sustainability and climate impacts.

It is recommended that **Regular Item** reports also include, to the extend relevant, the points of analysis in Major Council Item Standards ~~at~~ **Section C.-(2)**.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below and more fully described in Appendix B, Guidelines for City Councilmember/Mayor Major Items:

Commented [NML11]: Moved here from Appendix B

**i. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**ii. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**iii. Recommendation**

A clear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

**iv. Summary Statement/Current Situation and its effects**

A short resume of the circumstances that give rise to the need for the recommended actions.

**v. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

**vi. Review of Existing Plans, Programs, Policies and Laws**

Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.

**vii. Actions/Alternatives Considered**

A listing of solutions/measures that other jurisdictions, ~~or~~ advocates, experts, or organizations have studied or adopted to address the same or similar subject

matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

#### **viii. Consultation/Outreach Overview and Results**

Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.

#### **ix. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

#### **x. Implementation, Administration and Enforcement**

A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.

#### **xi. Environmental Sustainability and Climate Impacts**

A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

#### **xii. Fiscal Impacts**

A review of the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

#### **xiii. Outcomes and Evaluation**

A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

#### **xiv. Contact Information**

#### **xv. Attachments/Supporting Materials**

### **D. Procedure for Bringing Matters Before City Council**

#### **1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the ~~agenda~~Agenda by the Mayor or any Councilmember, ~~the City Manager~~, the Auditor, Charter Officers, or any board/commission/committee created by the City Council, ballot measure, or the City Charter. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

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The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the ~~agenda~~Agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee ~~packet~~Packet, including a draft ~~agenda~~Agenda and ~~reports from the Mayor and Councilmembers,~~ the Auditor, and Commission ~~reports~~ shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

a) ~~Regular~~ **Regular Items Authored by the Mayor, or a Councilmember, or the Auditor.**

As to ~~item~~Regular Items authored by the Mayor, or a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may take the following actions:

- i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
- ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
- iii. Refer the item back to the Primary Author for requested amendments, adherence to required form, or for additional analysis, as required in Section III.CB.12 (Primary Author may decline and request Policy Committee assignment).
- iv. Refer the item to a Policy Committee.

Commented [NML12]: Auditor moved to paragraph (c) below with the consent of the Auditor

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- v. Schedule the item for the ~~agenda~~Agenda under consideration or one of the next three ~~fullregular~~ Council ~~agenda~~Agendas.

**b) Major Items Authored by the Mayor, a Councilmember, or the Auditor.**

The Agenda & Rules Committee retains the authority to designate which Agenda Items are classified as Major Items. With regards to Major Items, the Agenda & Rules Committee shall review the item and may take the following actions:

- vi.i. Return the item to the Author if the committee determines that the item is not substantially compliant with Chapter III.C.2 and the guidelines in Appendix B.
- ii. Refer the item to a policy committee and send a notice to the Budget & Finance Committee if the item contains a budget referral.
- iii. Schedule the item for the Council Agenda under consideration.
- iv. Schedule the item for one of the subsequent three Council Agendas or a special meeting.
- v. Refer the item to a commission with the consent of the Primary Author.

**Commented [NML13]:** Per discussion at Agenda & Rules on 7/8/24 to create a process for the new category of "Major Items"

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c) For referrals of Regular Items under Chapter III.DC.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
- 2) ~~withdraw~~pull the item completely; or
- 3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council ~~agenda~~Agenda under consideration; or
- 4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.CD.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft ~~agenda~~Agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft ~~agenda~~Agenda for consideration by the Agenda & Rules Committee.

Items ~~held-being resubmitted~~ for a future meeting to allow for modifications will be placed on the next available Council meeting ~~agenda~~Agenda at the time that the revised version is submitted to the City Clerk.

e)d) Items Authored by ~~the City Manager~~Charter Officers and the Auditor.

The Agenda & Rules Committee shall review agenda descriptions of items authored by ~~the City Manager~~Charter Officers and the Auditor. The Committee can recommend that the matter be referred to a commission, to a Policy Committee, or back to the ~~City Manager~~Charter Officer or the Auditor for adherence to required form, additional analysis as required in Section III.C.1B-2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the ~~City Manager~~Charter Officer or the Auditor determines that their ~~item matter~~ should proceed notwithstanding the Agenda & Rules Committee's ~~recommendation~~action, it will be placed on the ~~agenda~~Agenda as directed by the ~~Manager~~Charter Officer or the Auditor. All ~~Charter Officer and Auditor~~City Manager items placed on the Council ~~agenda~~Agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

**d)e) Items Authored by Boards and Commissions.**

Agenda Items~~Council items~~ submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.

i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission item~~report~~ in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
2. Re-schedule the commission report to appear on one of the next three regular Council meeting agenda~~Agendas~~ that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
3. Refer the item to a Policy Committee for review.
4. Allow the item to proceed as submitted.

ii) For any commission report that requires a City Manager companion report, the Agenda & Rules Committee may schedule the item on a Council agenda~~Agenda~~. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph ee.i. above.

**f)** The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section FE.

**2. Removal of Agenda Items from the Legislative Process**

A Primary Author may withdraw their Agenda Item from the legislative process as follows: 1) during the time it is pending at a policy committee by sending written notification to the City Clerk or verbally at the meeting; 2) verbally at the Agenda & Rules Committee meeting when the item appears on a draft Council Agenda; or 3) verbally at the City Council meeting when the item appears on the Council Agenda or in writing through the supplemental process.

**Commented [NML14]:** Per discussion at Agenda & Rules on 7/8/24

**2.3. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

#### 3.4. Submission of Agenda Items.

- a) **City Manager/Charter Officer Items.** Except for Continued Business and Old Business, as a condition to placing an item on the ~~agenda~~Agenda, ~~agenda-item~~Agenda Items from departments, including ~~agenda item~~Agenda Items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and ~~City Council~~members is 5:00 p.m. on Monday, 22 days before each regular Council meeting.
- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the ~~Author~~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 or Charter Officer,~~ the Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda~~Agenda~~.

The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) **Timelines.** The City Clerk may not accept any ~~agenda-item~~Agenda Item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring ~~less than~~ 11 or fewer days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

#### 4.5. Submission of Supplemental and Revised Agenda Material.

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an ~~agenda-item~~Agenda Item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

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- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Councilmember evaluation.
- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 4240 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the ~~agenda item~~Agenda Item in order for the material to be considered.

Commented [NML15]: For web posting so that virtual attendees have access

#### 5.6. **Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)**

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an agendaAgenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the agendaAgenda by the City

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Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the agendaAgenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the authorAuthor to list the facts which support consideration of the item for addition to the agendaAgenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the agendaAgenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the agendaAgenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the agendaAgenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

#### **6.7. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

### **E. Packet Preparation and Posting**

#### **1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packetPacket, which shall include the agendaAgenda plus all its corresponding agenda-itemAgenda Items. No item shall be considered if not included in the packetPacket, except as provided for in Section III.D.5.C-4 and Section III.D.E.4.

#### **2. Distribution and Posting of Agenda.**

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- a) The City Clerk shall post each ~~agenda~~Agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each ~~agenda~~Agenda of a special meeting at least 24 hours ~~prior to in advance of~~ the meeting ~~in on~~ the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each ~~agenda~~Agenda.
- b) The City Clerk shall also post ~~agenda~~Agendas and annotated ~~agenda~~Agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the ~~agenda~~Agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for ~~agenda item~~Agenda Items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any ~~agenda item~~Agenda Item or revised ~~agenda item~~Agenda Item after the deadlines established.
- b) Matters not included on the published ~~agenda~~Agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.78.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the ~~agenda~~Agenda as required by law.
- c) Matters listed on the printed ~~agenda~~Agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the ~~agenda~~Agenda ~~packet~~Packet, shall not be discussed or acted upon.

**E.F. Agenda Sequence and Order of Business**

The Council ~~agenda~~Agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Land Acknowledgement Statement, Comments from the City Manager, Comments from the City Auditor [if requested], Non-Agenda Public Comment, Public Comment by Employee Unions)

a) The Land Acknowledgement Statement and Public Comment from Employee Unions are regularly agendized only for the first regular meeting of each month.

**Commented [NML16]:** Per discussion at Agenda & Rules on 7/8/24 – for clarity.

1.2. Consent Calendar

2.3. Action Calendar

- a) Appeals
- b) Public Hearings
- c) Continued Business
- d) Old Business
- e) New Business

3.4. Information Reports

4.5. Non-Agenda Public Comment

5.6. Adjournment

6.7. Communications

Action items may be reordered at the discretion of the Chair, ~~with the consent of Council.~~

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F.G. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session

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meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

**G.H. Regulations Governing City Council Policy Committees****1. Legislative Item Process**

All ~~agenda item~~ Agenda Items begin with submission to the Agenda & Rules Committee.

Full Council Exempt Items Track

Regular Items under this category submitted by the Mayor or Councilmembers are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the ~~agenda~~ Agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of ~~Full Council Track Exempt~~ items are listed below.

- a. ~~Items submitted by the City Manager and City Auditor~~
- b. ~~Items submitted by Boards and Commissions~~
- c. Position Letters and Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. ~~Position Letters and/or Resolutions of Support/Opposition~~
- e. d. Donations from the Mayor and Councilmember District Office Budgets
- f. e. Referrals to the Budget Process that are not related to a Major Item
- g. f. Proclamations
- h. g. Sponsorship of Events
- i. h. Information Reports
- j. i. Presentations from Outside Agencies and Organizations
- k. j. Ceremonial Items
- l. k. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council is classified as an Exempt Item Track exception or if it will be processed as a Policy Committee or if the item is subject to Policy Committee review Track item.

Policy Committee Track Major Items Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda Agenda.

The Agenda & Rules Committee must ~~refer an~~ take action on an item as prescribed in Chapter III.D. to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee in the form of a notice that a budget referral is under

**Commented [NML17]:** Changes in this section are primarily related to the new definition of Major Items and Regular Items as well as the amended process for the Agenda & Rules Committee in Chapter III.D.

**Commented [NML18]:** This is already covered in Chapter III.D.1.c.

**Commented [NML19]:** This is not covered in Chapter III.D.1.d.

**Commented [NML20]:** No change in process, just reworded with new terms

consideration at another Committee, and one other Policy Committee for subject matter review.

~~For a Major Item Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the Council Agenda currently under consideration, 2) one of the next subsequent three full Council Agendas for a Regular Meeting of the City Council (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.~~

**Commented [NML21]:** These actions are now enshrined in Chapter III.D.1.b.

#### Time Critical Track 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 Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agendaAgenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

Time Critical items ~~submitted on the Full Council Track deadlines~~, that would otherwise be assigned to a the Policy Committee ~~Track~~, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.

Time Critical items ~~on the Full Council Track or Policy Committee Track~~ that are submitted at a meeting of the Agenda & Rules Committee may go directly on a Council agendaAgenda if determined to be time critical.

#### **2. Council Referrals to Policy Committees**

The full Council may refer any ~~agenda item~~Agenda Item to a Policy Committee by majority vote.

#### **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's

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discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.

- d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.
- e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### 4. Functions of the **Policy Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting **agendaAgendas** will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.

## III. AGENDA

- h. Committees will review items for completeness in accordance with Section III.C.1 and III.C.2B-2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee and the City Clerk by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a City board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate City staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

## III. AGENDA

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agendaAgenda. The Agenda & Rules Committee may leave the item on the agendaAgenda under consideration or place it on the next Council agendaAgenda. Items appearing on a City Council agendaAgenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agendaAgenda for consideration.

Policy Committees may add discussion topics that are within their purview to their agendaAgenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee on the next available agendaAgenda. The Agenda & Rules Committee may leave the item on the agendaAgenda under consideration or place it on the following Council agendaAgenda. The Agenda & Rules Committee may agendaize the item on the Consent Calendar or Action Calendar. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

**Commented [NML22]:** Per discussion at Agenda & Rules on 7/8/24 to allow for more discretion to place items returning from committee on Consent

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

#### 5. Number and Make-up of Policy Committees

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered "legislative bodies" under the Brown Act and must conduct all business in accordance with the Brown Act.

**6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

**I. Agenda Items Authored by Former Mayors and Councilmembers**

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda.

At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.

If any of the items from the former official are not assumed by the Mayor or any Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

**Commented [NML23]:** New policy based on discussion at Agenda & Rules on 7/8/24

**Commented [NML24]:** From discussion at Agenda & Rules on 8/26/24

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- At the first regular meeting of the month, a period of public comment reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.
- Public comment on the Consent and Information Calendars.
- Public comment on the Action Calendar at the onset of the Action calendar with the exception of appeals, public hearings, and quasi-judicial matters requiring public comment for due process purposes (if invoked by the Presiding Officer).
- Public comment on Aaction items by those who did not speak in the earlier Action Calendar public comment period, any appeals, public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Except in the case of public comment by employee unions, speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

With respect to public comment by employee unions, each union's allocated time may be shared between more than one representative, and representatives and other members of unions may speak during other public comment periods in the same manner as members of the public.

If ten or fewer persons are interested in speaking on an individual Actionagenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

**Commented [NML25]:** Moved here as these rules are intended to cover all types of public comments

**Commented [NML26]:** Stated above, no need to repeat.

IV. CONDUCT OF MEETING

This procedure also applies to public hearings except those types of public hearings specifically provided for in this chapter section, below.

The Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.

**Commented [NML27]:** From Appendix C

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

**Commented [NML28]:** From Appendix C

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring extended public comment as a matter of due process.

**1. Public Comment on Non-Agenda Matters.**

**Commented [NML29]:** This section moved here to mirror the order of business on the agenda

Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, up to ten persons will be selected by lottery to address matters not on the Council Agenda. If five or fewer persons submit speaker cards for the lottery are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda. Agenda, and each person selected will be allotted one minute each.

In-person attendees Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items commencement of that meeting. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

**Commented [NML30]:** Revised to account for hybrid meetings.

**Commented [NML31]:** Per discussion at Agenda & Rules on 7/8/24 to facilitate public participation

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters. Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at

**Commented [NML32]:** Per discussion at Agenda & Rules on 7/8/24 – not current or even recent practice

IV. CONDUCT OF MEETING

~~the podium to be recognized or raise their hand on the videoconference application to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate. given the number of speakers.~~

**Commented [NML33]:** Per discussion at Agenda & Rules on 7/8/24

~~Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m., the meeting is automatically adjourned at 11:00 p.m., or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for to hear public comment on non-agenda items.~~

**Commented [NML34]:** Language is simplified and removed repetition from other sections.

**2. Public Comment on Consent Calendar and Information Items.**

The Council will first determine whether to move items on the ~~agenda~~Agenda for "Action" or "Information" to the "Consent Calendar," or move "Consent Calendar" items 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."

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

## IV. CONDUCT OF MEETING

**3. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, reserved public comment by employee unions, public comment on Consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the Agenda for action as the item is taken up.

At the discretion of the Presiding Officer, with the consent of the Council, there may be a public comment period for one or several of the Action Calendar items at the beginning of the Action Calendar. Speaking time during this comment period is subject to the standard rules for public comments in Chapter IV.A. Speakers may speak to multiple items, but may only speak once during this period. This provision is not applicable to the public may comment on each remaining item listed on the agenda for action. Public comment will occur for each Action item—excluding public hearings, appeals, and/or quasi-judicial matters. Attendees that speak on an action item at the scheduled public comment period may not speak again when the action item is taken up by the Council,—in separate but consecutive public comment periods before the Action Calendar is discussed by Council and staff and as the item is taken up. The Presiding Officer will open and close the public comment period for each Action Item, and each period will occur based on the order of the items on the agenda, or based on the discretion of the Presiding Officer.

During the public comment period for each Action Item, the Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and raise their hand on the videoconference application to determine the number of persons interested in speaking onat that item.time.

If ten or fewer persons are interested in speaking on an individual Action Item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

**Commented [NML35]:** Per discussion at Agenda & Rules Committee this is a re-working of the previous language adopted by Council in 2023.

## IV. CONDUCT OF MEETING

**4. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed lien (nuisance abatement/special assessment) lien, the appellant shall have seven minutes to comment.

Commented [NML36]: Clarification based on BMC language

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**5. ~~Public Comment on Non-Agenda Matters.~~**

~~Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, 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. Persons wishing to address the Council on matters not on the Council agenda during the initial ten minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.~~

Commented [NML37]: Moved above

~~The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.~~

## IV. CONDUCT OF MEETING

~~Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.~~

~~For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one minute is appropriate given the number of speakers.~~

~~Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.~~

#### 6. Ralph M. Brown Act Pertaining to Public Comments.

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the ~~agenda~~Agenda. However, the Council may refer a matter to the City Manager.

#### B. Consent Calendar

There shall be a Consent Calendar on all regular meeting ~~agenda~~Agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor, and ~~Charter Officers~~City Manager deem to be of such nature that no debate, prolonged discussion, or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of ~~e~~Consent ~~e~~Calendar items can be minimized.

~~Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.~~

Commented [NML38]: Moved to Chapter II.D.

#### C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The ~~agenda~~Agenda will indicate that at the request of ~~the~~the Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Written Communications**

Written communications from the public will not appear on the Council agendaAgenda as individual matters for discussion but will be distributed as part of the Council agendaAgenda packetPacket with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agendaAgenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agendaAgenda to the Council to be reproduced in the "Communications" section of the Council packetPacket, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a eConsent or aAction item for placement on a future agendaAgenda.

Communications related to an item on the agendaAgenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III. DC.54.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, and prior to opening the public hearing, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by first the appellant and then the applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a

Commented [NML39]: Codifies long-standing practice

## IV. CONDUCT OF MEETING

public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized or raise their hand on the videoconference platform, and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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.

**F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium or raise their hand on the videoconference to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the ~~P~~presiding ~~O~~fficer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

## V. PROCEDURAL MATTERS

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Robert's Rules of Order**

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

V. PROCEDURAL MATTERS

**G. Debate Limited**

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have ~~five~~two minutes each to make initial comments on an agenda itemAgenda Item., ~~except for the author of an agenda item who will have five minutes to initially present the item.~~ After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

1. ~~Consideration~~ of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:

- a) ~~A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or~~
- b) ~~If there are one or more motions on the floor, a motion for the previous question, which, if passed by a 2/3 vote, shall require an immediate vote on pending motions.~~

2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.

3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may

**Commented [NML40]:** Per Council direction on 5/7/24

**Commented [NML41]:** Per discussion at Agenda & Rules on 7/8/24 – eliminates redundancy in this paragraph.

**Commented [NML42]:** This obsolete “20-minute rule” language is replaced with the language immediately above from Appendix C

## V. PROCEDURAL MATTERS

be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III. ~~D.5.C.4.~~

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

**L. Use of Cellular Phones and Electronic Devices**

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use of cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

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## VI. FACILITIES

### A. Meeting Location Capacity

Attendance at Council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Amplified Sound, Signs, Objects, and Symbolic Materials

Amplified sound devices such as bullhorns, megaphones, portable sound systems, and similar devices are prohibited within the meeting location during Council meetings.

Objects and symbolic materials such as signs and banners are permitted in the meeting location provided that they do not interfere with the cameras that broadcast the meeting, obstruct the view of other attendees, or create a fire or safety hazard.

Any type of stick, pole, or similar object is prohibited in the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

**F. Format of Meetings**

The City Council may conduct regular meetings or special meetings held at the School District Boardroom in the hybrid format with both in-person and virtual participation as provided for in the Brown Act, and as noticed on the meeting Agenda. Council meetings at other locations may be conducted in the hybrid format if technologically feasible.

Commented [NML43]: Per Council direction on 5/7/24

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

**APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES**

Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

Board of Library Trustees

~~Parks, and Recreation & Waterfront Commission – Parks, recreation centers, camps, plazas, and public open spaces, and public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.~~

~~Transportation and Infrastructure Public Works Commission – Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.~~

~~Waterfront Commission – Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.~~

Commented [NML44]: Moved above due to commission consolidation

Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination

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APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.
  - 1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING CITY COUNCIL MEMBER/MAYOR MAJOR AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. ~~Agenda items shall contain all relevant documentation, including the following as Applicable:~~
  - a. ~~A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;~~
  - b. ~~Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;~~
  - c. ~~Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);~~
  - d. ~~Fiscal impacts of the recommendation;~~
  - e. ~~A description of the current situation and its effects;~~
  - f. ~~Background information as needed;~~
  - g. ~~Rationale for recommendation;~~
  - h. ~~Alternative actions considered;~~
  - i. ~~For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);~~
  - j. ~~Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

**Commented [NML45]:** Eliminated here – redundant with text in the body of the ROP

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

Guidelines for City Council Items: Requirements for City Councilmember/Mayor Major Items are provided in Section [XXX]Chapter III.C.2 of the City Council Rules of Procedure and Order. These guidelines further explain the requirements and are intended to assist in the preparation of fully researched and documented items that are likely to be eligible to move forward in the legislative process as determined deemed complete by the Agenda and Rules Committee. in [process].

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

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### 1. **Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

### 2. **Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

### 3. **Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

**7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

**8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or Deputy CM, Department Heads, City Attorney, City Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

**9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

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- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability and Climate Impacts**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

**APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

**Commented [NML46]:** Relevant portions have been moved to the body of the document.

**Mayor and Councilmember Speaking Time on Agenda Items**

~~For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.~~

~~For non-Consent items, the Mayor and Councilmembers will have two minutes each to make initial comments on an agenda item, except for the author of an agenda item who will have five minutes to initially present the item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).~~

~~Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.~~

**Procedure for Pulling Items from Consent or Information Calendar**

~~Three (3) members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent three members concurring, the item will stay on Consent or Information Calendar and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar.~~

~~Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.~~

**Public Comment Speaking Time**

~~With the exception of prescribed times in the Rules of Procedure for public hearings and public comment by employee unions, the amount of time for each speaker during public comment is limited to two minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.~~

**Commented [NML47]:** Relevant portions have been moved to the body for the Rules of Procedure.

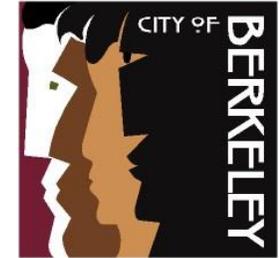
~~In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.~~

~~Public Comment on Non-Agenda Matters will be conducted in the order of hands raised on the Zoom platform, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the~~

**Commented [NML48]:** This paragraph is only applicable to virtual-only meetings, which are currently not permitted under the Brown Act.

~~meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.~~





# Item 11

# City Council Rules of Procedure Amendments

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SEPTEMBER 24, 2024

# Sources of Amendments

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- Planned Technical Revisions from Fall 2023
- Council Direction on May 7, 2024
- Agenda & Rules Committee Recommendations

# Planned Technical Revisions

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- Eliminate Appendix C (Emergency Procedure from Pandemic) and incorporate useful provisions in the body of the Rules
- Account for Hybrid Meeting Format
- Ad Hoc Committee policy alignment with Brown Act and City Commissions
- Charter Officer Definition and associated revisions
- Clarification of Public Comment rules in Chapter IV
- Update Commissions in Naming Policy (Appdx A) per commission reorganization

# Council Direction on May 7, 2024

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- Proposed changes from Open Government Commission; reviewed by Agenda & Rules Committee; Council adopted committee recommendation
- Chair can reorder agenda without consent of the full Council
- If three members abstain or vote no on a Consent item, it moves to Action
- Five-minute time limit on initial Council comments on Action Items
- Officially specify hybrid format for Council meetings if feasible

# Agenda & Rules Recommendations

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- Definition of a “Major Item”
- Recommended guidelines for Major Items now mandatory
- Spells out authority of Agenda & Rules with regards to Major Items
- Clarifies process for Author to remove an item from the legislative process
- Allows for Budget & Finance committee to receive notice of Major Items at other committees
- Adds new process for disposition of items from former Councilmembers and former Mayor
- Revises the previous Rules change adding a general public comment period on Action items

# Requested Action

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- Approve the Rules amendments as proposed
- If further discussion is required on certain amendments, Council may adopt some/most of the proposed amendments and continue discussion on other amendments.

Office of the Mayor

Jesse Arreguín  
Mayor

February 21, 2019

To: City Council Land Use, Housing and Economic Development Committee  
From: Mayor Jesse Arreguin  
Subject: Purposes, Procedures and Requirements for Policy Committees

As this is the first meeting of the new Land Use Policy Committee, I wanted to remind Committee members about the purposes of our committee system, the procedures adopted by the Council on December 11, 2018, and requirements for reviewing and recommending legislation to the City Council.

In thinking about a rational review process, I also wish to propose some new procedures which I hope we will adopt by unanimous consent to guide our future deliberations.

**Purposes of Policy Committees:**

As described in Resolution No. 68,726-N.S. which established our new Policy Committee system the purposes are to:

Ensure “*an efficient and standardized structure for public policy development and consideration*”; and

“*Provide the community and the City Council with adequate opportunity for detailed policy discussions outside of a meeting of the full City Council*”

As stated in the Governing Policies and Procedures for City Council Policy Committees adopted on December 11, 2018, items with moderate to significant administrative, operational, budgetary, resource or programmatic impacts should be referred to a Policy Committee.

Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.

Committees are also designed to allow a fuller review and discussion of City Council items, to allow Councilmembers to engage with authors and ask questions, to afford citizens and commissions an opportunity to comment on proposals before they come to Council and allow for recommended changes based on discussion with the Committee and the authors.

In addition, to assist in Committee and full Council review, staff will undertake a high-level, preliminary analysis of potential costs, timelines, and staffing demands associated with the item.

**Procedures Adopted by Council for Committee review:**

Items must appear on a Committee agenda within 60 days of referral by either the Agenda Committee or Council.

Within 120 days of the referral date, the Committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (2) send the item to the Agenda Committee to be placed on a Council agenda with a Committee recommendation.

The Committee shall review items for completeness in accordance with Section III.B.2 and use the "Guidelines for Developing and Writing Council Agenda Items" in their analysis of items for completeness.

In addition, the Committee will engage with the author to understand the purposes, costs, and impacts and feasibility of implementation and may propose amendments to the author for consideration.

After preliminary discussion, the Committee will request that staff provide the "high-level, preliminary analysis of potential costs, timelines and staffing demands associated with the item".

After substantive policy discussion and review for completeness, the Committee will make one of the four recommendations to the City Council:

- "Positive Recommendation": Recommending Council pass the item as proposed originally by the author;
- "Qualified Positive Recommendation": Recommending Council pass the item with some changes;
- "Qualified Negative Recommendation": Recommending that Council reject the item unless certain changes are made;
- "Negative Recommendation": Recommending that the item not be approved.

If a Committee does not take final action by the 120-day deadline the item is automatically returned to the Agenda Committee and appears on the next Council agenda.

**Issue Focus of Land Use Committee:**

- Land Use
- Preservation
- Development standards
- Housing and Affordable Housing
- Disability/Universal Access
- Business and economic growth
- Business retention, attraction and development
- Civic arts and culture

**Proposed New Procedures for Committee Review:**

**Public Comment:** Public comment at the beginning of the Committee meeting should be for non-agenda items within the purview of the policy committee.

The Committee will allow public comment when each agenda item is taken up.

**Order of Committee Discussion of Items:**

1. When an item is called, the Chair will permit the author of the referred item 5 minutes to introduce the item.
2. Then the Committee will ask initial questions of the author on the proposal.
3. After initial questions, the Committee will then take public comment on the item. The Committee will follow the established time limits in the Council Rules of Procedure, 2 minutes, and if 10 or more speakers 1 minute, with time yielded for a maximum of 4 minutes per speaker.
4. After public comment, the Committee will return to discussion and possible action. Items will likely take two or more meetings to complete Committee discussion and review.

The Committee will request the financial, legal, administrative high-level analysis from staff to be presented at the next Committee meeting.

The Committee after review for completeness and discussion of policy merits, can make a Positive Recommendation to Council, or a Qualified Recommendation.

**Focus of Committee Process:**

The Policy Committee process should not just be limited to review of referred items. If time permits, the Committee should allow for hearings on policy matters within the jurisdiction of the Committee, allowing open forums to solicit input from community members or experts on relevant policy issues, and initiate policy proposals for Council consideration.

Along these lines, I am specifically proposing that the Land Use, Housing and Economic Development Committee have an open forum of 30 minutes (or more if Committee wishes to extend time) to invite representatives of Business Associations and other small business owners to speak and engage with the Committee on issues impacting businesses.

## Agenda Committee 1/16/2024

### Item 10 - City Council Legislative Systems Redesign

#### Discussion Items - Part 1

#### Background:

The Agenda Committee presented materials and solicited input from the City Council during fall of 2023 regarding possible Legislative Systems Redesign options. The goal of Systems Redesign is to improve processes for developing, introducing, vetting, passing, funding, and implementation of Major Council Items and initiatives. Based on City Council input, the Agenda Committee has been tasked with proposing a new set of improvements to:

1. Consider possible refinements to the definition of Major Items
2. Make the Council Item Guidelines mandatory for Major Items (formerly referred to as "Policy Track Items")
3. Establish transparent deadlines for budget processes and clarity about what kind of "asks" can be submitted/considered at each budget cycle
4. Strengthen the Committee System to provide more in-depth review and vetting of Major Items
5. Clarify levels of input from Staff and City Attorney at all stages, from development to implementation
6. Clarify processes and timelines for implementation of items once passed and funded
7. Establish protocols for one-time vetting/disposition of currently backlogged items
8. Consider yearly prioritization processes in light of the intended outcome of fewer, more fully considered Major Items in the queue

To facilitate focused discussion, this memo only addresses proposals related to items 1, 2, and 3, above. Additional considerations will be discussed at subsequent meetings.

#### **1. Consider possible refinements to the definition of Major Items**

"Major Items" are items meeting the current definition of *Policy Committee Track Items*:

*"Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts."*

Some Councilmembers expressed that the definition might be further clarified. After discussing a variety of options, and considering times when the definition might have

proved problematic, it was decided that no changes should be proposed; the definition appears to provide good guidance to members of the Agenda & Rules Committee and has not been a source of controversy to date.

Consideration was given to potentially require all Ordinance changes to be labeled Major Items, but on further discussion, it was concluded that only Ordinance changes/new Ordinances with “moderate to significant administrative, operations, budgetary, resources, or programmatic impacts” would be worthy of being considered as Major Items - thus reinforcing the appropriateness of the existing definition.

One possible improvement could be to add examples of items that may be considered Major Items, rather than to amend the rule:

*“Examples may include, but are not limited to Items that:*

- *Clarify or extend existing Plans, Programs, Policies and Laws in moderate to significantly impactful ways*
- *Change/Amend existing Plans, Programs, Policies and Laws in moderate to major ways*
- *Create a new and meaningful exception to existing Plans, Programs, Policies and Laws*
- *Reverse/change existing Plans, Programs, Policies and Laws in moderate to significant ways*
- *May require moderate to significant increases in funding or additional FTE for start-up and/or ongoing operations”*

**Recommendation:** Keep existing definition, add examples, and revisit should controversies occur.

## **2. Make the Council Item Guidelines mandatory for Major Items (formerly referred to as “Policy Track Items”)**

In discussing this seemingly straightforward concept, a number of considerations arose that are addressed in the following proposed path forward.

The Council Rules of Procedure and Order already include an outline of what is “required” for Council items, in Section XXX of the Rules. The Guidelines – suggested but not required and included in an Appendix to the Rules – were built from the Rules, providing more elaboration and specificity.

As suggested but not required, the Guidelines have not been “in conflict” with the Rules. However, adopting the Guidelines as requirements changes this equation; *the existing Rules and the Guidelines cannot both be simultaneously required*. The proposed path forward addresses the potential conflict that arises when the Guidelines are adopted as mandatory for Major Items.

In addition, if the Guidelines are mandatory only for Major Items, we must consider what will be mandatory for “all other” items – hereinafter referred to as “Standard Items.” The proposed path forward thus addresses both Major Item and Standard Item requirements.

Another consideration is how the Agenda Committee will evaluate whether an item - Major or Standard - is in compliance with mandatory requirements, and what the Agenda Committee must or may do if it finds an item falls short of the requirements. The following proposal addresses these issues as well.

Finally, the Guidelines were reviewed to identify any possible edits that might be suggested prior to adoption of the Guidelines as mandatory.

**Proposal:**

1. Make Edits to Guidelines:
  - a. Remove “preamble” language
  - b. Make light changes to the Guidelines and expand illustrative examples
  - c. *See Edited Version of the Guidelines*
  
2. Remove/eliminate existing Rules about how to present/write Items and adopt a two-tiered set of Rules for **Standard Items** and **Major Items**, based on the Guidelines.
  - a. For **Major Items**, make the full Guidelines MANDATORY
  - b. For **Standard Items**, make elements **1, 2, 3, 4, 5, 14 and 15** of the Guidelines MANDATORY, with other elements RECOMMENDED.
  - c. **Drafting Consideration** - Keep the Guidelines as an Appendix – incorporated by reference into the Rules – rather than “pasting” the full Guidelines directly into the Rules.

- d. **Clerk Templates** - the Clerk's Office will create updated, more user-friendly and easily accessible templates for Major and Standard Items, as well as for Supplemental, Late, and other Submissions.
  - e. For "**Speciality Items**" such as D13 Account grants, letters and resolutions in support of State or Federal Legislation, and other "special" Item types, the Clerk's Office will provide updated RECOMMENDED templates.
3. **For MANDATORY elements of both Major and Standard Items**, suggest adopting the following (or similar) standard for review by the Agenda Committee:

*If a Major or Standard Item, as submitted by the Primary Author, does not substantially and materially meet reasonably applicable Mandatory Elements of the Guidelines, the Agenda & Rules Committee shall request, and may require, that the Primary Author provide additional analysis and/or consultation to fulfill Guideline requirements.*

*If the Agenda & Rules Committee requests or requires the Primary Author to provide additional analysis or consultation, the Item may or shall be referred back to the Primary Author and may be resubmitted for a future Agenda.*

4. **For RECOMMENDED elements of Standard Items and Speciality Items**, authorize the Agenda Committee to do what it currently has the power to do under Rules Section (C)(1) (with some edits):

*Refer the item back to the Primary Author for adherence to ~~required~~ recommended form or for additional analysis as ~~required~~ recommended in Section III.B.2 (Primary Author may decline and request Policy Committee assignment).*

5. **For Emergency/Time Sensitive Items**, Items can bypass mandatory Guidelines requirements if the Agenda Committee makes the findings for a Time Critical Track Item (existing definition).

**Proposed Standard for allowing Emergency/Time Sensitive Items to go forward without fulfilling the Mandatory Guidelines:**

*The Agenda Committee may make an exception to Mandatory Guidelines requirements for a Major or Standard Item if the Item meets the definition of a Time Critical Track Item, as provided in Section (3)(g)(1) of the Rules, in which case the Item may go forward as submitted on the Action Calendar for the Agenda under consideration with a notation, added by the Clerk's Office, that additional materials have been requested by the Agenda Committee. The Primary Author shall submit such additional materials as a Supplemental 1 filing.*

**Time Critical Track Item Definition (existing, Section (3)(g)(1)):**

*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.*

**6. Appeals - provide a mechanism to appeal Agenda Committee decisions to the full Council?**

May be advisable to have a bypass mechanism - or not?

**3. Establish transparent deadlines for budget processes and clarity about what kind of "asks" can be submitted/considered at each budget cycle**

The Council did not support a single, yearly cycle for submitting Council items, but expressed a desire for clear deadlines to be established for submission/consideration of items for various budget processes. In addition, questions have arisen regarding what kinds of requests can/should be submitted for consideration at various junctures in the yearly/biennial budget cycle.

Overall, it was determined that *the Agenda Committee should formally ask the Budget Committee for guidance on these questions*, as they fall more squarely into the Budget Committee's purview.

- By when should Standard and Major Items with budgetary considerations be passed out from Council to be considered in the June budget adoption/update?
- Working back from that date, by when should a Major Item or Standard Item be submitted, to allow time for consideration by the appropriate

Policy Committee and/or the City Council? (This may be a question for Agenda & Rules Committee to determine, once B&F sets the deadline)

- What kinds of budget requests are allowed/appropriate for the June budget?
- Consider establishing deadlines for the City Manager to bring Budget Updates (Fall and Spring) to the City Council.
- With established deadlines for Budget Updates, work back to establish deadlines for Major and Standard items to be submitted for consideration at each Budget Update. (This may be a question for Agenda & Rules Committee to determine, once B&F sets the deadline)
- What kinds of budget requests will be considered at Fall and Spring updates - from both Council and from the City Manager/Staff?
- If only emergency/time sensitive requests will be considered (or, for example, expansions of existing programs but not new programs, etc.), how will excess funds, if any, be rolled over and made available for Council priorities at the next June budget?

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

~~These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”~~

~~These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. These Guidelines are mandatory for all Major Items and strongly recommended for all other council reports Standard Items. While not all elements ~~would be~~ are applicable to every type of A ~~Agenda~~ item, the Guidelines ~~are intended to~~ prompt Authors to consider important elements of a complete item and to present ~~presenting~~ items with as much relevant information and analysis as possible.~~

~~Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:~~

- ~~2. Agenda items shall contain all relevant documentation, including the following as Applicable:
 
  - ~~a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;~~
  - ~~b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;~~
  - ~~c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);~~
  - ~~d. Fiscal impacts of the recommendation;~~
  - ~~e. A description of the current situation and its effects;~~
  - ~~f. Background information as needed;~~
  - ~~g. Rationale for recommendation;~~
  - ~~h. Alternative actions considered;~~
  - ~~i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);~~
  - ~~j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be~~~~

~~duplicate. In such case the agenda item distributed with the packet shall so indicate.~~

Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal ~~Impacts~~ [Considerations](#)
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

---

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options, [that can be presented singularly or in combination with others](#), include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, [it is not placed on any referral list](#))
- Referral to a Commission, ~~or to a Standing or Ad Hoc~~ Council [Policy Committee, or other Legislative Body](#)

- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/“Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. **Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. **Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted, as relevant.
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, City Clerk, etc.
  - **Commissions:** what Commissions were or will be consulted and what were their recommendations/concerns/suggestions?
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. **Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws

- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. ~~Plus~~In addition, further elaboration of terms for recommendations, if any, should be spelled out with clarity.

- Example: Keeping winter shelters open for an extra three months extends the City's existing Winter Shelter program in a minor way. The shelters have been open during inclement weather every year for decades, and have been extended to accommodate extended rainy and cold seasons in previous years. Keeping winter shelters open through April ensures our homeless neighbors will continue to have a place to keep dry and warm and supports the City's strategic plan goal of providing services to those with critical needs in our community. All services associated with the Winter Shelter program, including but not limited to meal and storage services, are specifically included in the direction to extend the program.

#### **10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation? Initial, high-level consultation with the City Manager and/or the City Attorney regarding implementation, administration, and enforcement is strongly recommended, but not required.

#### **11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

#### **12. Fiscal ~~Impacts~~ Considerations**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs and benefits. Initial, high-level consultation with the City Manager and/or the City Attorney regarding the fiscal impacts of the proposal is strongly recommended, but not required.

#### **13. Outcomes and Evaluation**

State the specific outcomes expected, if any.

- ~~(i.e., Example: “it is expected that 100-300 homeless people will be referred to housing every year able to access dry and warm shelter during the 3-month extension of the winter shelter program”)~~

Also state and what reporting or evaluation is recommended. \_

- Example: The shelter operator shall keep an accounting of the number and any available demographic information about individuals who use the shelter during the extension period and report to the City Council, through the City Manager, on success or challenges of the program extension).

#### **14. Contact Information**

#### **15. Attachments/Supporting Materials**

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These Guidelines are mandatory for all Major Items and strongly recommended for Standard Items. While not all elements are applicable to every type of agenda item, the Guidelines prompt Authors to consider important elements of a complete item and to present items with as much relevant information and analysis as possible.

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### 2. **Consent/Action/Information Calendar**

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### 3. **Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

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- Referral to a Commission, Council Policy Committee, or other Legislative Body
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

#### 4. **Summary Statement**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley's winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley's winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

#### 5. **Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

#### 6. **Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

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- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

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- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted, as relevant.
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, City Clerk, etc.
  - **Commissions:** what Commissions were or will be consulted and what were their recommendations/concerns/suggestions?
- What reports, articles, books, websites and other materials were consulted?

- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

### **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. In addition, further elaboration of terms for recommendations, if any, should be spelled out with clarity.

- *Example: Keeping winter shelters open for an extra three months extends the City's existing Winter Shelter program in a minor way. The shelters have been open during inclement weather every year for decades, and have been extended to accommodate extended rainy and cold seasons in previous years. Keeping winter shelters open through April ensures our homeless neighbors will continue to have a place to keep dry and warm and supports the City's strategic plan goal of providing services to those with critical needs in our community. All services associated with the Winter Shelter program, including but not limited to meal and storage services, are specifically included in the direction to extend the program.*

### **10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation? Initial, high-level consultation with the City Manager and/or the City Attorney regarding implementation, administration, and enforcement is strongly recommended, but not required.

### **11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

### **12. Fiscal Considerations**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs and benefits. Initial, high-level consultation with the City Manager and/or the City

Attorney regarding the fiscal impacts of the proposal is strongly recommended, but not required.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any.

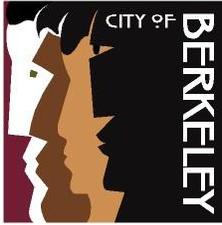
- Example: *“It is expected that 300 homeless people will be able to access dry and warm shelter during the 3-month extension of the winter shelter program.”*

Also state what reporting or evaluation is recommended.

- Example: *“The shelter operator shall keep an accounting of the number and any available demographic information about individuals who use the shelter during the extension period and report to the City Council, through the City Manager, on success or challenges of the program extension).”*

**14. Contact Information**

**15. Attachments/Supporting Materials**



Kate Harrison  
Councilmember District 4

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

**Meeting Date:** October 10, 2023

**Item Number:** 1

**Item Description:** City Council Legislative Systems Redesign

**Submitted by:** Councilmembers Harrison, Robinson, and Taplin

Refer to the Agenda Committee the elements contained in the “Alternative Legislative Alignment Process” as described in the background section.



Kate Harrison  
Councilmember District 4

ACTION CALENDAR

October 10, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Taplin (Co-Sponsor)

Subject: Alternative Council Legislative Process

RECOMMENDATION

Refer to the Agenda Committee the elements contained in the “Alternative Legislative Alignment Process” as described below in the background section:

1. Incorporate positive elements of the Councilmember Hahn proposal, including mandatory Council memo guidelines, a formal process for City staff to provide conceptual input to authors, re-evaluating backlogged items for potential removal, and policy committees’ using a checklist to guide their analysis;<sup>1</sup>
2. Establish objective definitions and provide for comprehensive consideration of significant items;
3. Require referrals and budget requests over a given threshold to be considered first by a policy committee.
4. Preserve and formalize rolling deadlines for significant item submission;
5. Retain policy/budget judgement and prioritization to Council as a whole rather than policy committees, while tasking committees with role of ensuring items are drafted to form and sufficiently inform Council and the public’s consideration.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

At the October 2019 Council retreat, the Council and the City Manager discussed approaches to better align the legislative process to the budget and ensure implementation was feasible. In particular, many referrals to the City Manager were not well drafted and were not reviewed by policy committees before being referred. Many budget referrals were also not considered by policy committees despite their potential to have outsized impacts on staff and budgetary resources. Even with the referral ranking system, there remain a sizeable backlog of items that are not necessarily funded or considerate of staff resources. Councilmembers have not identified a sufficient number of lower-ranked items for removal from the list and may remain there for years.

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<sup>1</sup> Councilmember Hahn, Draft Proposal, p. 44., <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-09-18%20Agenda%20Packet%20-%20Agenda%20Committee.pdf>  
2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7140 • TDD: (510) 981-6903 • Fax: (510) 981-6903 E-Mail: KHarrison@cityofberkeley.info

These considerations merit Council consideration and possible action. At the same time, proposals dictating how often Council can submit legislation and overly complex rules for policy committees risks veering into limiting councilmembers' legislative authority, fails to respond to emerging circumstances, is unprecedented in comparable cities and risks violating the spirit if not the letter of the City Charter. This item finds that (1) policy committee system created in 2018 is fundamentally sound with certain enhancements, and (2) that the problem that needs to be addressed is ending the practice of allowing significant policy and budget referrals to bypass the policy committee system.

Before Council could consider the issue in depth, the COVID-19 pandemic occurred. During the first year of the COVID-19 pandemic, the Mayor and Council briefly suspended consideration of nearly all non-emergency Council legislation and meetings of committees and commissions. As the pandemic wore on, the reality of governing and the needs of the people, including the pressing need for street improvements, responses to our affordable housing crisis, the murder of George Floyd and socio-economic factors – some related and some not to the pandemic – made introducing no new policy infeasible, and Council began legislating anew.

On June 15, 2021 City Management proffered its "Systems Alignment Proposal" proposal to Council. The proposal recommended restricting the time period for submitting Council items (exempting Departments and the City Manager) to only four months per year, among other details, citing the need for more in depth budgetary and implementation analysis. However, the Council's policy committees, created shortly before this time, were tasked with vetting items for any staffing impacts in light of vacancies and considering budget impacts Current rules provide that the policy committees are to:

- review items for completeness and alignment with Strategic Plan goals;
- ensure Council items include adequate discussion of budget implications, administrative feasibility, basic legal concerns, and staff resource demands to allow for informed consideration by the full Council;
- include a positive, qualified, or negative "Committee recommendation" based on these criteria.<sup>2</sup>

Many items improved significantly through the committee process.

Questions about the impact of the city management proposal on the City Charter were outlined in an alternative Council item submitted by Councilmember Harrison in June 2021.<sup>3</sup> Ultimately the City Manager's proposal was not adopted by Council, and was

<sup>2</sup> Berkeley City Council Rules of Procedure, <https://berkeleyca.gov/sites/default/files/documents/City%20Council%20Rules%20of%20Procedure%20-%20July%2011%202023%20-%20FINAL.pdf>.

<sup>3</sup> Councilmember Harrison, "Comments and Alternative Systems Alignment Proposal," June 15, 2021, <https://records.cityofberkeley.info/PublicAccess/api/Document/AemaKwyWOMW%C3%89OLzGWGj2m%C3%81pnQxBkfMC7W2S7PsoYWkE%C3%81c3kNbNXoWpsj%C3%891iLPosUUUV90e0sL0rH3HFNV2BEtmCo%3D/>.

instead referred to the Agenda Committee for consideration alongside alternative proposals. The City Manager has indicated that it would be inappropriate for the City Manager under the Charter to be recommending or determining how the Council makes policy decisions. Indeed, the policy and legislative function is firmly lodged under the Council per the Charter as was noted in Councilmember Harrison's 2021 alternative item.

Some of the elements of the City Manager's 2021 proposal have reemerged as part of a new proposal led by Councilmember Hahn through the Agenda Committee. According to the Agenda Committee record, Councilmember Hahn indicated that her proposal represents an understanding between the City Manager and City Clerk's office. The City Manager noted that "there are characteristics of my [the City Manager's] proposal woven into what you [Councilmember Hahn] will be providing [the Council]" but has indicated this is clearly a matter for Council to determine.

The Council's process is not fundamentally flawed, and does not require measures such as a nearly 300-day legislative process for "major items." The Council's Policy Committee and budget process systems are sound, and among other updates the main task before Council is to close outstanding loopholes to the committee process.

This alternative item builds upon the proposal submitted by Councilmember Harrison in 2021, comments directly to the positive and less positive elements of Councilmember Hahn's proposal, and offers an updated alternative proposal that better aligns the legislative process to the budget and staff implementation process without sacrificing Berkeley's democratic process, and directly deals with referrals and budget requests submitted without sufficient budget and implementation analysis.

Certain elements of the legislative processes that have largely bypassed the policy committee process include: (1) referrals to the City Manager, (2) departmental, City Manager, including some major policy items, and (3) departmental, City Manager and Council budget referrals. All of these can have an outsized impact on limited budget resources and staff time and should be incorporated in the policy committee process ahead of the respective budget process. The policy committees are where—before passing out an item—significant budgetary impacts and feasibility, in addition to the proposals merits, ought to be determined.

*We can fix the process without stripping the people's representatives of their Charter responsibility to respond to the public's needs and of due process to propose, debate, and consider legislation.*

## BACKGROUND

### ***Positive Aspects of the Councilmember Hahn Proposal***

## Alternative Council Legislative Process

- Council items are required to follow the guidelines already promulgated rather than leaving these guidelines as recommended only;<sup>4</sup>
- Formal process for City staff to provide high level conceptual input to authors before they submit proposals;<sup>5</sup>
- Process for addressing or re-prioritizing the “backlog” of unfunded items;<sup>6</sup>
- Major Items passed by Council but not funded are automatically rolled-over to future funding opportunities (this has already been implemented to a certain extent).<sup>7</sup>
- Policy Committees’ analysis is enhanced using a checklist (excluding Hahn proposal to rate items).<sup>8</sup>

**Concerns about the Councilmember Hahn Proposal**

- Does not clearly articulate the specific legislative problems it is trying to solve, or provide examples of how the current system is “[in]consistent[],” how it “overwhelm[s]” City staff, and how the current system fails to “[s]uccessfully implement state of the art and/or innovative programs and policies.”<sup>9</sup>
- Severely limits the public’s access to the democratic process and extends the legislative process for “Major Items” to nearly 300-days (September to July and beyond). This compares to the current expected 120-day timeline. Items can that quickly become stale or inadequate by the time they are finally implemented.<sup>10</sup> The proposal does not appreciate the September deadline artificially circumscribes Council’s ability to be responsive to public.<sup>11</sup> For example, if a Councilmember develops a non-time critical but nonetheless important piece of major legislation in October, the public will have to wait 11 months until September plus another nine months (July of the next year) before the item can be budgeted and implemented.
- Does not align with the fall budget process in which “excess equity” is considered and most council budget referrals are funded.
- Does not subject City Management’s “Major Items” to the same review. Neighboring cities such as Oakland require all non-time critical staff policy items to be routed through Policy Committees so all budgetary decisions (the purview of Council) are made against the same criteria.<sup>12</sup>
- Provides Agenda Committee with too much power to determine pick ‘winners and losers’ as to what constitutes a “Major Item” or time critical. Existing and proposed definition of “Major Item” and “Time Critical” are overly subjective.<sup>13</sup>
- Provides Policy Committees inappropriate authority to prioritize/score items they review. Currently, Policy Committees provide recommendations about individual

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<sup>4</sup> Councilmember Hahn Draft Proposal, p. 44.

<sup>5</sup> Id., p. 43.

<sup>6</sup> Id., p. 47.

<sup>7</sup> Id., p. 44.

<sup>8</sup> Id., p. 36.

<sup>9</sup> Id., p. 24.

<sup>10</sup> Id., p. 43.

<sup>11</sup> Id. p. 27.

<sup>12</sup> Oakland City Council Rules of Procedure, March 8, 2023, <https://www.oaklandcityattorney.org/wp-content/city-council/89588%20CMS.pdf>. See also Councilmember Hahn Draft Proposal, p. 27.

<sup>13</sup> Id., p. 44.

Alternative Council Legislative Process

policies, and Council as a whole is rightly tasked with prioritizing and scoring items in terms of approval and budgeting.<sup>14</sup>

- Asserts that Policy Committees are a burden on staff and the Council, when in fact they have been shown to benefit the legislative process and reduce discussion at full Council. The Council's policy committees would only be allowed to meet to consider major legislation during less than six months of the year (down from the current nine months).<sup>15</sup>
- Requires Council to score items as part of the budget process through opaque and non-public processes, rather than through the current deliberative Council meeting process, Budget Committee, and Mayoral budget process provided for in Charter.<sup>16</sup>
- Creates an implementation team that includes the Councilmember author after it is passed by a policy committee. The stated goal is to "establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc." These are functions that the policy committees are tasked to do. The role for the Councilmember should be circumscribed as to prevent inappropriate meddling in administrative matters that are assigned to the City Manager under the Charter.<sup>17</sup>

***Alternative Council Legislation Alignment Proposal***

From the perspective of the authors of this item, a workable and sensible democratic process proposal should include the following:

Incorporate Positive Elements of Councilmember Hahn Proposal

- The positive elements listed above under "Positive Aspects of the Councilmember Hahn Proposal."

Establish Objective Definitions and Comprehensive Consideration of Significant Items

- Establish *objective* definitions for items with "significant" or "insignificant" budgetary or staffing implications, e.g., a dollar figure threshold, number of FTE needed, or requirement for consultant work. The current system fails to define "moderate to significant" and leaves subjective discretion to the Agenda Committee. This would ensure fairness amongst all Councilmembers. Alternatively, items could be referred directly to Policy Committees for such determination bypassing the Agenda Committee, unless deemed time critical.

Under this proposal, significant items would be subject to the normal maximum 120-day Policy Committee review timeline and include some of the enhancements offered by Councilmember Hahn. Items with insignificant impacts could be routed directly to Council or be provided a more streamlined maximum 90-day timeline and a less intensive review. In the case that items referred under

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<sup>14</sup> Id.

<sup>15</sup> Id., p. 26.

<sup>16</sup> Id.

<sup>17</sup> Id., p. 45

Alternative Council Legislative Process

the 90-day timeline are found by the Policy Committee to have more significant impacts, a committee would be empowered to extend the item to 120 days for enhanced review.

- Ensure that all items submitted as referrals to the City Manager or budget referrals over the threshold are thoroughly vetted by Policy Committees and include estimates of all budget and staffing implications before coming out of the committee process so that they can be properly routed to the budget process.
- Ensure that policy items from City Management and Departments (other than time critical contracts and strictly administrative matters) are routed to policy committees as in Oakland and San Francisco.

Preserve and Formalizing Rolling Deadlines for Significant Item Submission

- Provide rolling submission deadlines ahead of applicable biennial (July), annual adjustment (July), and annual appropriation ordinance budget processes (fall/spring). The Council and City Manager may strive to encourage Councilmembers to submit the bulk of their items to the biennial and AAO #1 processes, but circumstances and community demands may warrant submission and consideration at other budget process periods. The Council, Mayor, and Budget Committee should, as in the past, continue to defer items or not fund items with significant budgetary or staffing implications as appropriate. There does not need to be an artificial deadline imposed on items.

Retain Policy/Budget Judgement and Prioritization to Council as a Body, While Tasking Committees with Ensuring Items Are Drafted to Form and Sufficiently Inform Council and Public Consideration

- Pursuant to the Council's historic rules of procedures, *subjective judgements* of legislation are appropriately the purview of the Council as a whole, not Committees.

This alternative proposal would achieve the important goal of aligning Council items with significant budget and staff impacts with legislation in an objective way that is not detrimental to the Council's obligations under the Charter and the public's right to representative democracy.

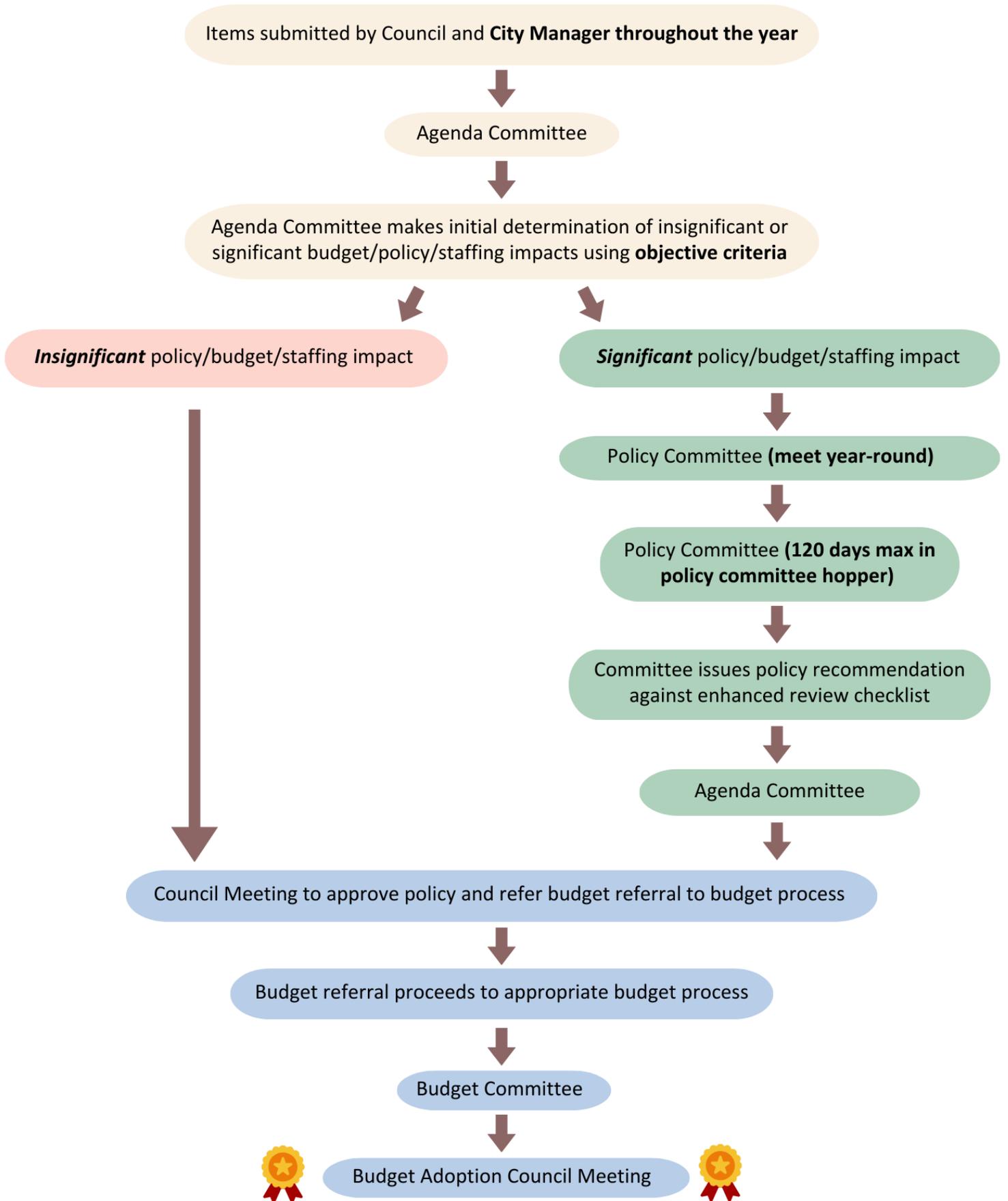
CONTACT

Councilmember Kate Harrison  
kharrison@cityofberkeley.info | 510-981-7140

ATTACHMENTS:

1. Flowchart of Alternative Systems Alignment Proposal

## Alternative Council Legislative Process Proposal





Office of the Mayor

WORKSESSION  
October 10, 2023

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: City Council Legislative Systems Redesign

**BACKGROUND**

On February 8, 2021, at the direction of City Council during a retreat, the City Manager presented a Systems Alignment Proposal to the Agenda and Rules Committee. Following discussion, the Systems Alignment proposal was calendared for a future Council meeting.

On April 26, 2021 the Systems Alignment proposal was presented to All Council.

Councilmember Droste submitted a response to the Systems Alignment proposal at the May 18, 2021 meeting followed by Councilmembers Hahn and Harrison at the June 15, 2021 meeting. During the June 15, 2023 Council engaged in discussion and referred the Systems Alignment proposal to the Agenda and Rules Committee for further consideration.

On March 14, 2023, Councilmembers Robinson and Wengraf presented Reforms to Public Comment Procedures at meetings of the City Council for discussion and action.

At the Agenda & Rules Committee Councilmember Hahn, in collaboration with the City Clerk and other staff, presented "Major Item Legislative, Budgeting & Implementation Systems Redesign". Upon deliberation, the Agenda & Rules Committee set a worksession for full council discussion on October 10, 2023.

In order to assist Council in understanding the various recommendations from previous meetings, Mayor Arreguin directed his staff, with assistance from Councilmember Wengraf's staff, to create a matrix of all the proposals and responses from City Councilmembers at the relevant meetings which was reviewed at the September 26, 2023 Agenda and Rules Committee meeting.

**CONTACT PERSON**

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: PowerPoint Presentation
- 2: Council Rules of Procedure – Appendix B
- 3: Comparison Matrix
- 4: Background Materials

# MAJOR ITEM

## Submission, Review, Approval, Funding, & Implementation

### PROCESS SKETCH FOR DISCUSSION

Presented to Berkeley City Council  
by the Agenda & Rules Committee

October ##, 2023

# TERMINOLOGY

## MAJOR ITEM

Is an Item meeting the current/existing definition of a **Policy Committee Track Item**:

*Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts*

# BIG IDEAS

**COUNCIL/MAYOR** - Successfully develop and implement State of The Art/ Innovative Programs and Policies to serve Berkeley, and to model best practices

**CITY CLERK** - Consistency in process for Major Item Development, Budgeting and implementation

**CITY ATTORNEY** – Ensure legal and drafting compliance

**CITY MANAGER** - Help the Organization deliver without overwhelm; help staff be successful in their work

# YEARLY CYCLE

Built around **JUNE 30** Budget Adoption/Update

July – September

**COUNCIL**

Finalize Y2 Items

**CITY MANAGER**

Implement Y1 Items

October – March

**COMMITTEE  
SEASON**

April – June

**COUNCIL + BUDGET  
SEASON**

# LEGISLATIVE SESSION

## One Cycle - Benefits

- **Every Year, opportunity to submit** and have Council review/vote on and fund Major Items
- **Four Subject Matter Committees** only meet during a Committee Season (except if emergency or special circumstance)
- Staff can **focus on implementation** during the “off season,” and Councilmembers can finalize the next year’s items
- Significantly **reduce gap between approval and implementation**

# MAJOR ITEM DEVELOPMENT & SUBMISSION

*All Year* → *End of September*

- Must use **Major Item Guidelines** format  
(Appendix B to Council Rules of Procedure & Order)
- September 30 **Submission Deadline**
- Major Items **can be submitted prior** to September 30 and reviewed by Agenda & Rules for **compliance with guidelines**
- Timeline allows for Councilmembers to **work all year** on items, with **concentrated opportunity** July-September
- **Staff input** at Pre-submission = high level/conceptual; early vetting of concepts with **City Attorney** to identify legal & drafting inputs

# AGENDA COMMITTEE

## OCTOBER

*Review & Assign Major Items to Committees*

- Early October **Special Meeting(s)**
- Review Major Items for **compliance with Guidelines**
- Assign *compliant* Major Items to Policy Committees
- Send *non-compliant* Major Items back to Authors for resubmission by End of October

# POLICY COMMITTEES

## OCTOBER - MARCH

- Organizing Meeting(s) Mid-October – Plan Committee Session/Schedule Hearings
- Major Items reviewed by Committee and move out on Rolling Basis, November - March
- [Committees may also prioritize/score items they review]
- All Major Items OUT of Policy Committees by March 30

# CITY COUNCIL

## APRIL

- Vote on all Major Items by **April 30**
- May require special meeting(s) in April
- **City Attorney** sign-off on **drafting and legal conformity** of Ordinances, Resolutions, and Formal Policies
- Approved items sent to **Budget Committee**

# PRIORITIZATION OF MAJOR ITEMS\* EARLY MAY

- All **Major Items** that have been passed by Council, both NEW and PENDING/previously unfunded, to be prioritized by Councilmembers
- Prioritization due Second Friday in May (process TBD)

*\* Not the same as All-Item prioritization*

# BUDGET COMMITTEE

## MAY - JUNE

- Council [and Committee?] Prioritizations provided to Budget Committee as guides, but **not binding**
- Budget Committee makes **Recommendations** to Full Council
- Budget passed; Major Items funded move forward to **Implementation**
- ROLLOVER: Major Items passed by Council but not funded get **automatically rolled-over** to future funding opportunities

# IMPLEMENTATION

## JULY +

- **Implementation Lead** assigned by **City Manager**
- **Implementation Team** assembled by **Lead + CM**
- Meet with **Author(s)** to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- **Implementation Team** prepares
  - **Launch Plan**
  - **Operating Plan**
- Program/Policy is **Launched + Implemented**

# OVERRIDE

## for Time Critical Items

### SPECIAL TOPIC # 1

- Rules of Procedure and Order already provide Override:  
*An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item*
- Time Critical definition - may need to be reviewed/amended
- May still go to a Policy Committee or directly to Council, per A&R
- [**Possible Add:** Council-level override/appeal if Author doesn't agree with the A&R decision on Time Critical nature of a Major Item].

# PRE-SUBMISSION DETAILS

## SPECIAL TOPIC # 2

- **Guidelines Format Mandatory** for all Major Items
- **Only Authors (no Co-Sponsors) allowed** at Pre-Submission and Committee stages, to reduce Brown Act issues
- Available: **Pre-Submission Consult with City Manager** to recommend internal subject matter experts for high-level input
- Required: **Pre-Submission Consult with City Attorney** to identify legal and drafting considerations
- *Consider role for **COMMISSIONS** in Pre-Submission Phase*

# STRENGTHEN COMMITTEE REVIEW

## SPECIAL TOPIC # 3

### DEVELOP STANDARDS for review of Major Items:

- Relevance to Strategic Priorities or current needs/events
- Added value of program/policy
- Potential benefits/costs of program/policy to Community and COB
- Alternative means to achieve same or similar goals
- Phasing/timelines for implementation
- Staffing and Resources needed to Launch and Operate
- Evaluation/Metrics/Enforcement
- [Rate/Rank Major Items at end of Committee Session?]
- [Increase options re: positive and negative recommendations?]
- Other?

# STRENGTHEN COMMITTEE REVIEW

## SPECIAL TOPIC # 3

### Public, Staff, City Attorney, Commission Inputs

- Active Outreach to all identifiable Stakeholders
- Multiple Hearings to allow for robust community, Staff, and City Attorney inputs + Discussion
- ENHANCE/EMPOWER City Attorney & Staff participation to ensure meaningful input, without requirement for formal reports
- Committee Schedule (set early October) will help ensure the right staff/attorneys are present for each item
- *Consider how to obtain/integrate input from Commissions*

# PRIORITIZATION – SPECIAL *BACKLOGGED QUEUE*

Need a one-time process to “clear the backlog” of Major Items *currently* in queue. Suggest sending all pending (but not initiated) items to Policy Committees for review to suggest:

- Merging items and/or Updating Referrals
- Re-approval of items “as is”
- Recommendation to Sunset/Remove moot items
- Recommend disposition of all items, ranked By Lead Department
- Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
- May need some criteria - to ensure all council members get at least some of their priorities addressed
- May also include consideration of an RRV- or other kind of prioritization by full Council, organized by Lead Department and/or holistically

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# PRIORITIZATION – REGULAR

## *YEARLY QUEUE*

- Enhanced Committee process should result in fewer or no backlogs and items implemented in a reasonable timeframe
- Prioritization becomes less of a BIG ISSUE

### **Prioritization in a rationalized system:**

- More fully conceived and vetted items
- Committee scoring and/or ranking of items at end of Committee Season
- Council Ranking of items by Lead Department and Overall

# Need Process & Criteria for funding Items at AA01 and AA02

## *High Level Suggestions – need input from Budget & Finance*

- Only Time Critical and Rollover (previously approved but unfunded) items considered - *same rule for Council and City Manager items*
- Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council initiatives going through yearly legislative process
- AA01 and 02 only for one-time and/or time sensitive needs, except special circumstances

# IMPLEMENTATION

Once Major Item is passed + funded, move to Implementation

- **Implementation Lead** is assigned by City Manager – *Single Individual* Responsible for managing and ensuring implementation
- **Implementation Team** assembled by Lead + City Manager
- **Consult with Author(s)** to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares **LAUNCH** and **OPERATING** Plans
  - **LAUNCH** elements + Timeline
  - **OPERATING** Plan
- Long term/ongoing operation of program/policy

# DISCUSSION + QUESTIONS

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

#### **7. Actions/Alternatives Considered**

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

#### **8. Consultation/Outreach Overview and Results**

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

#### **9. Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

Systems Realignment Matrix - Updated 10-3-2023

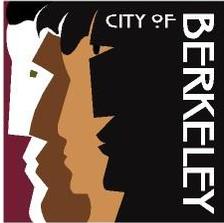
	JM	LM	LM	JM	LM	LM	JM	JM
Item Date	City Manager's System's Realignment Proposal 4/26/2021	Droste Response 5/18/2021	Council Feedback from Work Session 5/18/2021	Hahn Proposal 6/15/2021	Harrison Proposal 6/15/2021	2021 Council Feedback 6/15/2021	Droste BERIPE Plan 3/14/2023	Hahn/City Clerk Proposal to A & R 10/10/2023
<b>Item Summary</b>				Thesis: Legislative process should support Council in passing legislation of important local concerns and value-based issues with impact locally and more broadly. New legislation should be thoroughly researched, revised and vetted with input from stakeholders, the public, City Staff and Council colleagues. City staff contribute with increased levels of input and participation as the legislation moves forward.		Thesis: Council recommendation was to review the proposal for systems alignment and provide edits and suggestions in order to compile Council feedback for the purpose of drafting a revised proposal for adoption. Sent back to A&R to prepare a new proposal and Council voices. No Councilmembers commented on the Consent Item during the meeting.		Thesis: Align with budget process, create consistency in process and proposal writing; ramp-up staff engagement as proposal moves through process. Create "seasons" (specific annual timeframes for development, policy committee, council and budget approval)
<b>Decisions/ Actions Taken</b>	Thesis: Councilmembers to return with thoughts/proposals	Thesis: Supports CM Proposal. Recommends template adjustments to increase effectiveness and clarify reason for proposal and its recommendations and increase effectiveness.	Thesis: Mayor proposed and Council approved continuing the item to the June 15, 2021 regular meeting to allow Councilmembers to submit written comments for the public record.					
<b>Process for Council Items</b>	A & R determines if Major Item If not major, agendaized for Council meeting	Council Agenda Item Template recommended adjustments: - add: Define the Problem -Include Criteria Considered & -Rationale for Recommendation -Make Equity its own category Sample red-lined template in item	Some Councilmembers expressed concern about the yearly April deadline for Major items because it would create stale items and/or limit ability to respond to the concerns of the moment. CM reminded public and Council that this process is just for the 15 -20 Major items drafted each year.	Guideline Format drives development of Council, City Manager or Commission proposals All Major Items, regardless of where originated follow the prescribed process Council is encouraged to consult with staff during proposal development but may wait until during the Committee process CAO must provide preliminary review prior to initial submittal	Council Streamlines Existing Backlog of staff involved items through Policy Committees' review and recommendations to Council.	N/A		Built around June Budget Adoption Divided into Seasons with deadlines for each phase
<b>Major Item Definition</b>	- Cannot be operationalized over time with existing resources - Displaces an existing prioritized item - Not implementable with existing resources - Unable to sustain enforcement activities - Subject to legal challenge and/or pre-emption - Additional/new FTE on a temporary or permanent basis - Additional or new infrastructure or technology costs			Any law, program, or policy that represents a significant change or addition to existing law, program, or policy and/or is likely to call for or elicit significant study, analysis, or input from the community, staff or Council colleagues, and/or is likely to require significant new resources or staffing to implement.		N/A		Definition required
<b>Major Item Determination</b>	A & R in consultation with CM EXCEPTIONS: - Grant deadlines - Public Safety Issues - Declared local emergencies If exceptions granted, projects "in process" must be identified and delayed	Major Item Determination Checklist recommended adjustments: Define "smaller" and "less impactful" and state how that is determined.		(see definition above) Can originate from Councilmembers, City Manager (often as referral responses) or Commissions A & R makes determination if a submittal is a Major Item - can be sent back to originator for more information and compliance with Guidelines	Should be determined by Policy Committees, not Agenda Committee, via objective determination. No determination criteria given.	N/A	N/A	Submission Season: Year round submittal September 30 cut off for consideration through process Submittals reviewed by A & R for Major Item Determination and compliance with Guidelines
<b>Major Item Deadline</b>	A & R agenda prior to April 30 to be considered in legislative year Agendaized at A & R on rolling basis	none provided		none provided	120 days maximum, which includes the Implementation Conference.	N/A	LIMITS NUMBER OF MAYOR ITEM SUBMITTALS Councilmember limited to submitting 1 major legislative item or set of amendments to existing ordinances/yr Mayor limited to submitting 2 major legislative items or set of amendments to existing ordinances/yr DEADLINE TBD	September 30 for next fiscal year consideration

Systems Realignment Matrix - Updated 10-3-2023

Item Date	JM	LM	LM	JM	LM	LM	JM	JM	
	City Manager's System's Realignment Proposal 4/26/2021	Droste Response 5/18/2021	Council Feedback from Work Session 5/18/2021	Hahn Proposal 6/15/2021	Harrison Proposal 6/15/2021	2021 Council Feedback 6/15/2021	Droste BERIPE Plan 3/14/2023	Hahn/City Clerk Proposal to A & R 10/10/2023	
Item Distinction/ Process	<b>Policy Committee Review</b>	Referred by A & R Reviewed for completeness and alignment with Strategic Plan goals. Commission review. Once approved for consideration moves to Implementation Conference	Policy Committee Ranking Form recommended adjustments: -Use score rather than rank NOTE: CM presentation no longer recommends using the Ranking Form	A & R makes determination if a proposal meets information in Guidelines prior to sending on to Committees - Author has right to appeal Committees plan a timeline for hearing over multiple meetings and identify stakeholders and experts to provide input. Committee meetings to discuss proposal should be taken in order of the required components of the Guidelines Staff agendized to engage in every discussion and provides budget resources needs for Launch and	Policy Committees send their recommendation and finalized Implementation report to A & R for scheduling at Council.	N/A	N/A	Committee Season: October 1 - March 1 A & R - October: will require special meetings. determines completeness based on Major Items Guidelines edits must be completed by 3rd Friday in October in order to move to Committees Committees determine order of hearings, create calendar, group like items together, understand staffing impacts, follow Enhanced Review Process	
	<b>Implementation Conference</b>	CM or designee, CAO, Department Head or designee Collaborate with author to detail fiscal and operational impacts. Implementation Conference outcomes to be incorporated into Concil Report (see detail in 4.26.21 proposal, p3)	Implementation Conference Worksheet recommended adjustments: -Reduce amount of redundant components and specify what impact means. -Include similar additions as Council Item Template. -See sample redlined template in the item	Timing for conference: Earlier timing, perhaps just after referred to policy committee, before the Committee takes it up.  Staff analysis: Former Auditor in her 2018 presentation talked about importance of Council needing a staff analysis, resource analysis and opportunity costs in their items. Councilmember noted incredible importance for Council to have this info before passing items. At the same time, don't want staff to spend too much time on an item that doesn't pass. Tension here.  Definitions: Council needs to be comfortable with them.	The Policy Committee would facilitate an Implementation Conference hearing(s) with City staff, the author, and Committee members in order to prepare an Implementation Report. This happens during the Policy Committee Review.	N/A	N/A	N/A	
	<b>Implementation Conference Deadline</b>	August 31	No calendar deadline		No calendar deadline	No calendar deadline. Rolling basis.	N/A	N/A	N/A
	<b>Initial Prioritization</b>	July 31. Policy Committees make recs Submitted to City Council	Sunset current RRV process Committee to "score" each proposal			Prioritized on rolling basis. Upon Council adoption, the budget aspect of the item would proceed to either the June or November budget process.	N/A	N/A	ONE TIME clearing of backlog on current list of projects
	<b>Council Approval and Final Prioritization</b>	October Council Calendar Council approval, prioritization, assign fiscal year for implementation, identify removal of items that new initiatives will replace If Council does not approve, item can be reintroduced the following year November 30 deadline for all major item actions	Sunset current RRV process Committee to "score" each proposal		Author revises proposal to include required changes/clarifications and resources required for Launch and Implementation	Council approves before item goes through budget process.	N/A	Council prioritizes all new legislative submittals through RRV process. Year 1 ONLY: Combine new legislative submittals and outstanding/incomplete items for prioritization through RRV process. Council and staff should determine what can be reasonably accomplished by staff based on RRV outcome and delete those projects that did not rise to top of priorities and cannot be accomplished. Year 2 and ongoing: Only new legislative submittals will be prioritized	Council Season: Feb 1 - April 30 CAO must confirm compliance with Ordinances  Prioritization: Council and Committee prioritize and send to Budget Committee

Systems Realignment Matrix - Updated 10-3-2023

Item Date	JM	LM	LM	JM	LM	LM	JM	JM
	City Manager's System's Realignment Proposal 4/26/2021	Droste Response 5/18/2021	Council Feedback from Work Session 5/18/2021	Hahn Proposal 6/15/2021	Harrison Proposal 6/15/2021	2021 Council Feedback 6/15/2021	Droste BERIPE Plan 3/14/2023	Hahn/City Clerk Proposal to A & R 10/10/2023
<b>Budget &amp; Strategic Planning</b>	December/January Staff to incorporate approved items into Budget/workplan ranked by priority <b>January - March</b> Council and Staff revise the budget based on department presentations to BC <b>May/June</b> Budget hearings, adjustments and adoption			Budget Implementation Conference: approves moving toward implementation or implementation is declined to proceed	Council approved items go through the next budget process.	N/A	(see note above) Budget referrals and allocations must be explicitly tied to previously established or approved policy program, planning/strategy document and/or external funding opportunity related to one of these.  No budget referral can directly fund a specific organization or event. Organizations receiving City funding must submit application that includes civic goals/purposes, previous funding history and quantitative/qualitative results/outcomes. Funding greater than \$20,000 must include data on number of persons served and other outcomes.	Budget Season: May 1 - June 30 Council prioritization to Budget committee not binding. Budget Committee makes recommendations to full Council Funded Council approved items move to Implementation Unfunded Council approved items rollover to future funding opportunities
<b>Implementation</b>						N/A		July (Month 1 of new fiscal year) Implementation Lead and Team assigned Meeting with Authors for clarity, timelines, challenges Implementation Team prepared Launch and Operational Plans
<b>Tools</b>	Council Item template outlining required information Major Item checklist Implementation Conference Worksheet Major Item Deadline: April 30	Major Item Determination Checklist	Policy Committee Ranking Form	Guidelines for Proposals/Council Items	Alternate Systems Alignment Proposal flowchart.	N/A		Major Items Guidelines Format Enhanced Review Process
<b>Consolidated Yearly Cycle</b>	<b>Implementation Conference</b> Deadline: August 31 <b>Council Prioritization</b> Deadline: July 31 <b>Council Approval Deadline:</b> November 30 <b>Budget Cycle:</b> January -	none addressed	N/A	none addressed	Rolling basis rather than yearly cycle.	N/A	Based on "to be established" deadline to align with RRV process	<b>Submittal Season:</b> Year round with August 1 deadline for next fiscal year consideration <b>Committee Season:</b> Sept 1 - January 30 <b>A &amp; R and council committee review</b> <b>Council Season:</b> Feb 1 - April 30 <b>Budget Season:</b> May 1 - June 30
<b>Consensus</b>	1 - Staff input in legislative drafting is important							
<b>Variable Differences</b>	1 - Different timelines for different types of items (some staggered, some ongoing)							
<b>Outstanding Questions</b>	1 - What impact does this have on the RPP process? What needs to change? What limits revisions to a systems redesign process?							



Office of the City Manager

## BACKGROUND MATERIAL

The following documents were previously submitted to the City Council for consideration, and are being provided with this item as background material.

The City Manager has removed staff's Systems Alignment Proposal from consideration. It is included in this attachment for reference and context.

Attachments:

### March 14, 2023 Council Meeting

1. Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)
  - a. Report – Submitted by Councilmember Droste

### June 15, 2021 Council Meeting

2. Systems Alignment Proposal
  - a. Supplemental Material – Submitted by Councilmember Hahn
  - b. Supplemental Material – Submitted by Councilmember Harrison
  - c. Report – Submitted by City Manager

### May 18, 2021 Council Meeting

3. Systems Alignment Proposal
  - a. Supplemental Material – Submitted by Councilmember Droste
  - b. Presentation – Submitted by City Manager
  - c. Report – Submitted by City Manager



Lori Droste  
Councilmember, District 8

Action Calendar  
March 14, 2023

**To:** Honorable Mayor Jesse Arreguín and Members of the City Council

**From:** Councilmember Lori Droste

**Subject:** Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)

### **Recommendation**

In order to ensure that the City focuses on high-priority issues, projects, and goals and affords them the resources and funding such civic efforts deserve, the City Council should consult with the City Manager's Office to develop and adopt a suite of revisions to the City Council Rules of Procedure and Order that would implement the following provisions:

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may **not** submit budget referrals which direct funds to a

specific organization or event. Organizations which receive City funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than \$20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

5. Ensuring that any exceptions to these provisions are designed to ensure flexibility in the face of an emergency, disaster, or urgent legal issue/liability and narrowly tailored to be consistent with the goals of enhanced efficiency, effectiveness, fairness, and focus.

### **Policy Committee Recommendation**

On February 14, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process. Vote: All Ayes.

### **Current Situation and Its Effects**

Over the past few years (excluding the COVID-19 state of emergency), City Council has grappled with potential options to reduce the legislative workload on the City of Berkeley staff. While a significant portion of this workload is generated from non-legislative matters and staffing vacancies, it is important to recognize that staff also continue to struggle to keep up with Council directives while still accomplishing the City's core mission or providing high quality public infrastructure and services.

### **Background and Rationale**

Berkeley faces an enormous staffing crisis due in part to workload concerns; as such, Council should take steps to hone its focus on legislative priorities. [November 2022's Public Works Off-Agenda Memo](#) offers a benchmark for problems faced by City departments. Public Works staff struggles to complete its top strategic plan projects, respond to audit findings, and provide basic services, in addition to fulfilling legislative priorities by Council. While the "Top Goals and Priorities" outlined by Public Works is tied to 130+ directives by the City Council, it is not reasonable to assume that all will be implemented.

The challenges faced by the Public Works department are not an anomaly. Other departments share the same challenges. In addition to needing to ensure that the City can adopt a compliant state-mandated Housing Element, process permits, secure new grant funding, mitigate seismic risks, and advance our Climate Action Plan, Planning Department staff have been tasked with addressing multiple policy proposals from the City Council. The sheer number of referrals also impacts the ability of staff in the City Attorney's office to vet all ordinances, protect the City's interests, participate in litigation, and address the City's other various legal needs.

### **Best Practices**

A number of nearby, similarly-sized cities were contacted to request information about how these cities approach Councilmember referrals and prioritizations processes. Cities contacted

included Richmond, Vallejo, Santa Clara, Concord, and Sunnyvale. Of these cities, Santa Clara, Concord, and Sunnyvale replied.

### **Santa Clara**

Overall, Santa Clara staff indicated that—similar to Berkeley—the Council referrals and prioritization process is not especially formalized, with additional referrals being made outside of the prioritization process.

Each year, the Council holds an annual priority setting session at which the Council examines and updates priorities from the previous year and considers what progress was made toward those priorities. The prioritization process takes place in February so that any priorities that rise to the top may be considered for funding ahead of the budget process. In any given year, some priorities may go unfunded and even holding those priorities over to a second year is not necessarily a guarantee of funding.

Despite conducting this annual prioritization exercise, Councilmembers in Santa Clara often still do bring forward additional referrals outside of this process. Part of this less restricted approach in Santa Clara's 030 ("zero thirty") policy, which allows members of the the City Council to add items to the Council agenda with sufficient notice and even allows members of the public to petition to have items added to a special section of the Council agenda.

Despite the overall looseness of Santa Clara's approach. Council members still rely upon staff to provide direction with respect to what priorities are or are not feasible based upon available funding and staff bandwidth.

### **Concord**

According to Concord City staff, although Concord—like Berkeley and Santa Clara—does have a process for Councilmembers to request items be added to Council agendas, Councilmembers generally agree not to add referrals outside of the formal priority-setting process.

Concord City staff only work on "new" items/policies that are mandated by law, recommended by the City Manager, and have been recommended for review/work of some kind by a majority (three of the five members) of the City Council.

In general, Councilmembers agree to not add work items outside of the Council's formal priority setting process. The Concord City Council has a once-a-year goal setting workshop each spring where the City plans its Tier 1 and Tier 2 priorities for the year (or sometimes for a 2-year cycle). Most Councilmembers abide by this process and refrain from bringing forward additional items. However any Councilmember may put forward a referral outside of the process and use the method outlined below.

Outside of the prioritization process, Councilmembers can request that their colleagues (under Council reports at any Council meeting) support placing an item on a future Council meeting agenda for a discussion. The Concord City Attorney has advised councilmembers that they can make a three sentence statement, e.g. "I would like my colleagues' support to agendize [insert item]" or "to send [insert item] to a Council standing committee for discussion." Followed by: "This is an important item to me or a timely item for the Council because [insert reasoning]. Do I have your support?" The other Councilmembers then cannot engage in any detailed discussion or follow up, but may only vote yes or no to agendizing the item.

If two of the Councilmember's colleagues (for a total of 3 out of 5) agree to the request to have the item agendaized for a more detailed discussion by Council, then the item will be added to a future agenda for fuller consideration. An additional referral outside the prioritization process is suggested perhaps once every month in Concord, but the Concord City Council usually does not provide the majority vote to agendaize these additional items.

### **Sunnyvale**

Of all the cities surveyed, Sunnyvale has the most structured approach for selecting, rating, and focusing on City Council priorities. "Study issues" require support from multiple councilmembers before being included in the annual priority setting, and then must go through a relatively rigorous process to rise to the top as Council priorities. And, perhaps most importantly, policy changes *must* go through the priority setting process to be considered. The Sunnyvale City Council's Policy 7.3.26 Study Issues reads, in part:

*Any substantive policy change (large or relatively small) is subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).*

*Policy related issues include such items as proposed ordinances, new or expanded service delivery programs, changes to existing Council policy, and/or amendments to the General Plan. Exceptions to this approach include emergency issues, and urgent policy issues that must be completed in the short term to avoid serious negative consequences to the City, subject to a majority vote of Council.*

If a study issue receives the support of at least two Councilmembers, the issue will go to staff for the preparation of a study issue paper. Council-generated study issues must be submitted to staff at least three weeks ahead of the priority-setting session, with an exception for study issues raised by the public and carried by at least two Councilmembers, if the study issues hearing takes place less than three weeks before the priority setting.

At the Annual Study Issues Workshop, the Council votes whether to rank, defer, or drop study issues. If a majority votes to drop the issue, it may not return the following year; if the issue is deferred, it returns at the following year's workshop; and if a majority votes to rank an issue, it proceeds to the ranking process. Sunnyvale's process uses "forced ranking" for "departments" with ten or fewer issues and "choice ranking" for departments with eleven or more issues. (The meaning of "departments" and the process for determining the number of issues per department are not elucidated within the policy.) Forced ranking involves assigning a ranking to every policy within a given subset, while choice ranking only assigns a ranking to a third of policies within a given subset, with the others going unranked.

After the Council determines which study issues will be moving forward for the year based on the rankings, the City Manager advises Council of staff's capacity for completing ranked issues. However, if the Council provides additional funding, the number of study issues addressed may be increased.

In 2022, Sunnyvale had 24 study issues (including 17 from previous years and only 7 new ones) and **zero** budget proposals. Although Sunnyvale does consider urgency items outside the prioritization process, this generally happens only 1 to 3 times per year and usually pertains to highly urgent items, such as gun violence.

### **Status Quo and Its Effects**

Council currently uses a reweighted range proportional representation voting method to determine which priorities represent both a) a consensus and b) district/neighborhood concerns. This process allows Council to coalesce around a particular common area of concern; but if there is a specific neighborhood or district issue that is not addressed by Council consensus, it also allows for that district's councilmember's top priority to be elevated in the ratings even without broad consensus, so long as there are not multiple items designated as that councilmember's "top" item. More information about this process can be found [here](#). This [system was established](#) in 2016 due to the sheer amount of referrals by Council and the lack of cohesive direction on which of the 100+ referrals the City Manager should act upon.

Subsequent to this effort, Council created a "short-term referral" pool which was intended to be light-lift referrals that could be accomplished in less than 90 days. However, that designation was always intended to be determined by the City Manager, not Council, with respect to what was operationally feasible in terms of the 90 day window. The challenge with Council determining what is a short-term referral is that it is not always realistic given other duties that the staff has to attend to and inappropriate determinations can stymie work on other long term priorities if staff have to drop everything they are doing to attend to an "short-term" or "emergency" referral.

An added challenge is that the City Auditor [reported in 2018](#) that the City of Berkeley's Code Enforcement Unit (CEU) had insufficient capacity to enforce various Municipal Code provisions. This was due to multiple factors, including understaffing—some of which have since improved. Nevertheless, the City Auditor wrote,

*"Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections."*

Subsequent to that report, [an update](#) was published in September of 2022. A staffing and resource analysis for Code Enforcement is still needed to ensure that the laws Council passes can be implemented.

### **Fiscal Impacts**

These reforms are likely to result in significant direct savings related to reduced staff time/overtime as well as potential decreases to costs associated with the recruitment/retention of staff.

### **Alternatives Considered**

Alternatives were considered using effectiveness and efficiency as the evaluative criteria for referrals. One missing criterion that will be necessary in developing this process will be operational considerations so the City of Berkeley can continue to deliver basic services in an efficient manner.

*All-Council determination*

Council could vote *as a body* on the top 10 legislative priorities. The drawback of this method is that it, by default, eliminates any remaining priorities that have been passed by Council. It also eliminates “minority” voices which may disproportionately impact neighborhood-specific concerns as the remainder of the Council may not value district-specific concerns outside of their council district.

*Councilmember parameters*

Councilmembers could select their top two legislative priorities (as a primary author) for the year and the Mayor could select four legislative priorities for the year for a total of 10 legislative priorities per year. These “legislative priorities” would not include resolutions of support, budget referrals for infrastructure or traffic mitigations or other non-substantive policy items.....

*Status Quo Sans Short-Term Referrals*

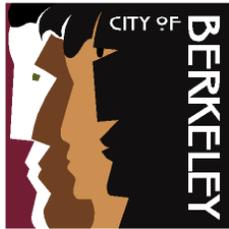
The status quo of rating referrals is the fairest and most equitable if Council wishes to continue to pass the same quantity of referrals; however, it does not address the overall volume and that certain legislative items skip the prioritization queue due to popularity or perceived community support. Council enacts ordinances that fall outside of the priority setting process and designates items as short-term referrals. This loophole has made this process a bit more challenging. One potential option is to continue the prioritization process but eliminate the short-term referral option unless it is undeniably and categorically an emergency or time-sensitive issue.

**Contact Person**

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**Attachments**

Update on Public Works’ Goals, Projects, Measures, and Challenges



Office of the City Manager

November 15, 2022

To: Honorable Mayor and Members of the City Council  
From: *Dee* Dee Williams-Ridley, City Manager  
Re: Update on Public Works' Goals, Projects, Measures, and Challenges

This memo shares an update on the department's *Performance Measures* and *FY 2023 Top Goals and Projects*, and identifies the department's highest priority challenge. I am proud of this department's work, its efforts to align its work with City Council's goals, and the department's dedication to improving project and program delivery.

#### *Performance Measures*

The department's performance measures were first placed on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>) in 2020. They are updated annually in April. Progress continues in preventing trash from reaching the Bay, reducing waste, increasing bike lane miles, reducing the City fleet's reliance on gas, increasing City-owned electric chargers, expanding acres treated by green infrastructure, and reducing the sidewalk repair backlog. Challenges remain with the City's street condition and safety.

#### *Top Goals and Projects*

Public Works' top goals and projects are also on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>). Department goals are developed annually. This year, after reviewing the 130+ directives from open City Council referrals, FY 2023 adopted budget referrals, audit findings, and strategic plan projects, staff matched existing resources with City Council's direction and the ability to deliver on this direction while ensuring continuity in baseline services.

The *FY 2023 Top Goals and Projects* is staff's projection of the work that the department has the capacity to advance this fiscal year. This list is intended to be both realistic and a stretch to achieve. More than three-quarters of the work on the *FY 2023 Top Goals and Projects* is tied to the existing 130+ directives from City Council referrals, budget referrals, audit findings, and strategic plan projects. The remainder are initiatives internal to the department aimed at increasing effectiveness and/or improving baseline services.

Public Works conducts quarterly monitoring of progress on the goals and projects, and status updates are shared on the department's website using a simple status reporting

procedure. Each goal or project is coded green, yellow, or red. A project coded green is either already completed or is on track and on budget. A project in yellow is at risk of being off track or over budget. A project in red either will not meet its milestone for this fiscal year or is significantly off track or off-budget. Where a project or goal has multiple sub-parts, an overall status is color-coded for the numbered goal and/or project, and exceptions within the subparts are identified by color-coding. Quarter 1's status update is [here](#). The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarter results will be posted at the same location.

### *Challenge*

Besides the volume of direction, the most significant challenge in delivering on City Council's directions is the department's high vacancy rate. The Public Works Department is responsible for staff retention and serves as the hiring manager in the recruitment and selection process. Both retention and hiring contribute to the department's vacancy rate, and the department collaborates closely with the Human Resources Department to reduce the rate. Over the last year, the vacancy rate has ranged from 12% to 18%, and some divisions, such as Equipment Maintenance (Fleet), Transportation,<sup>1</sup> and Engineering, have exceeded 20%. While the overall vacancy rate is lower than in Oakland and San Francisco, it is higher than in Public Works Departments in Alameda, Albany, Emeryville, and San Leandro.

The high vacancy rate obviously reduces the number of services and projects that staff can deliver. It leaves little room for new direction through the course of the fiscal year and can lead to delays and diminished quality. It also detracts from staff morale as existing staff are left to juggle multiple job responsibilities over long periods with little relief. The department's last two annual staff surveys show that employee morale is in the lowest quarter of comparable public agencies and the vacancy rate is a key driver of morale.

Attachment 1 offers an excerpted list of programs and projects that the department is unable to complete or address in this fiscal year due to the elevated vacancy rate and/or the volume of directives.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

cc: Paul Buddenhagen, Deputy City Manager  
LaTanya Bellow, Deputy City Manager  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager

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<sup>1</sup> Three of the City's five transportation planner positions will be vacant by December 3. Before January 1, 2023, the City Manager will share an off agenda memo that explains the impact of transportation-specific vacancies on existing projects and programs.

## **Attachment 1: Selected list of program, project, referral, and audit finding impacts**

### *Project and Program Impacts*

- Major infrastructure planning processes are 6+ months behind schedule, including comprehensive planning related to the City's Zero Waste goal, bicycle, stormwater/watershed, sewer, and streetlight infrastructure.
- Some flashing beacon installations have been delayed for more than 18 months, new traffic maintenance requests can take 2+ months to resolve, and the backlog of neighborhood traffic calming requests stretches to 2019.
- The City may lose its accreditation status by the American Public Works Association because of a lack of capacity to gain re-accreditation.
- Some regular inspections and enforcement of traffic control plans for the City's and others' work in the right of way are missed.
- Residents experience missed waste and compost pickups as drivers and workers cover unfamiliar routes and temporary assignments.
- Illegal dumping, ongoing encampment, and RV-related cleanups are sometimes missed or delayed.
- The backlog of parking citation appeals has increased.
- Invoice and contracting approvals can face months-long delays.
- The Janitorial Unit has reduced service levels and increased complaints.
- Maintenance of the City's fleet has declined, with preventative maintenance happening infrequently, longer repair response times, and key vehicles being unavailable during significant weather events.

### *Prior Direction Deferred or Delayed*

- Referral: Expansion of Paid Parking (DMND0003994)
- Referral: Long-Term Zero Waste Strategy (DMND0001282)
- Referral: Residential Permit Parking (PRJ0016358)
- Referral: Parking Benefits District at Marina (DMND0003997)
- Referral: Prioritizing pedestrians at intersections (DMND0002584)
- Referral: Parking Districts on Lorin and Gilman (DMND0003998)
- Budget Referral: Durant/Telegraph Plaza, 12/14/2021
- Referral: Traffic Calming Policy Revision (PRJ0012444)
- Referral: Public Realm Pedestrianization Opportunities (PRJ0019832)
- Referral: Long-Term Resurfacing Plan (PRJ0033877)
- Referral: Street Sweeping Improvement Plan (DMND0002583)
- Audit: Leases: Conflicting Directives Hinder Contract Oversight (2009)
- Audit: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal (2014)
- Audit: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity (2016)



**SOPHIE HAHN**

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## **SUPPLEMENTAL AGENDA MATERIAL**

### **for Supplemental Packet 2**

**Meeting Date:** June 15, 2021

**Item Number:** 3

**Item Description:** Systems Alignment Proposal

**Submitted by:** Councilmember Sophie Hahn

This Supplemental offers suggestions for a legislative process better aligned with the goal of creating and supporting meaningful and effective change. Our current system is strengthened by (1) supporting the completeness of Major Items as introduced by Authors by requiring adherence to the existing Guidelines, and (2) significantly strengthening the Committee process - to support robust analysis and community/stakeholder consultation and ensure items moving forward to Council include realistic estimates of resources required related to launch and implement new programs and policies.



**SOPHIE HAHN**

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CONSENT CALENDAR

June 15, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Sophie Hahn (Author)  
Subject: Systems Alignment Proposal

COMMENTS ON SYSTEMS REALIGNMENT

**My Frame for Systems Realignment: *Systems Aligned to Support Change***

We are in a time of rapid change both locally and globally. The impacts of climate change, globalization, and inequality; growing threats to democracy; and the rise of a new generation of leaders illustrate that change is both a fact and an imperative.

Berkeley has been and should continue to be on the cutting edge of that change, and our legislative processes as well as our City organization must be designed to do more than just manage the status quo, with change viewed as a threat, cost, or nuisance. *Our systems must be aligned to stimulate, support, and implement meaningful change across all sectors - quickly.*

With that framing in mind, I believe the legislative process in Berkeley should be designed to support Councilmembers and the Mayor in producing and passing legislation that addresses important local concerns as well as value-based issues with both local and broader impact. Some legislation may simply strengthen the City of Berkeley as an organization - improving the basic functions and services we provide to our community. Other legislation is designed to address city, community, regional, national, and sometimes global needs, values and priorities.

Because of the City's commitment to progressive and democratic principles and its role as a leader and innovator across many sectors, legislation will often push the envelope, which I believe requires a nimble, can-do City organization. While logistics, staffing, costs and other elements of feasibility and implementation are key to the ultimate success of any new policy or program, I view the exploration of these questions as a supporting rather than driving force for legislation; internal feasibility under the status quo should not be an end unto itself.

### **Systems Aligned to Support Excellence and Effectiveness in Change:**

While I believe change is an imperative and innovation should be core to our City systems, I also know that not every idea brought forward is ultimately optimal, relevant, or feasible. We are much more than an incubator for ideas and concepts - we serve a real community and must balance a wide variety of needs and viewpoints with every decision we make. I believe our systems must therefore be aligned to ensure new programs and policies are thoroughly researched, revised, and vetted for Berkeley - to meet the needs of our community without overwhelming the City organization. If the Council has priorities for which funds or capacity are not currently available, we must identify resources to build capacity.

To achieve these goals in this frame, I envision a process wherein major items of legislation that begin with the well-researched and articulated proposals of one or a few councilmember/mayor-authors are progressively reviewed and improved with input from stakeholders, members of the public, City staff and Council colleagues.

The end result should be high quality, relevant, thoughtfully tailored and right-sized programs and policies accompanied by realistic assessments of the resources required for successful launch and implementation. City staff, with their subject matter expertise and knowledge of operations play a uniquely important role in contributing to legislative success, and should actively partner throughout the process, *with progressively increased levels of input and participation as legislation is moved forward.*

The adoption of Guidelines for legislative items and the implementation of the Committee system provide a good foundation. By clarifying expectations and improving the value we derive from our existing processes we can avoid bogging things down with too many steps.

The following are my suggestions for a legislative process better aligned with the goal of creating and supporting meaningful and effective change. Our current system is strengthened by (1) supporting the completeness of Major Items as introduced by Authors by requiring adherence to the existing Guidelines, and (2) significantly strengthening the Committee process - to support robust analysis and community/stakeholder consultation and ensure items moving forward to Council include realistic estimates of resources required related to launch and implement new programs and policies.

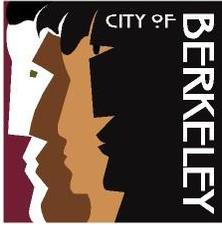
Proposed Systems Alignment Improvements for Major Items:

PROCESS ELEMENT	CONTENT	NOTES
<b>MAJOR ITEM SUBMISSION</b>	<b><i>Strongly encourage Authors to present Major Items in the full Guidelines format, which prompts for deep research, analysis and consultation</i></b>	
<b>Define Major Item</b>	Any law, program, or policy that represents a significant change or addition to existing law, program, or policy, and/or is likely to call for or elicit significant study, analysis, or input from the community, staff, or Council colleagues, and/or is likely to require significant new resources or staffing to implement .	Major items are, essentially, “Policy Committee Track” items (see Rules) that are routed to a Policy Committee because they are substantial. <i>The adoption of a definition for Major Items clarifies a practice that is already in place.</i>  Some items are not “Major” because they propose less significant changes or additions to existing law, programs or policies. In addition, some Major Items may be routed directly to the City Council due to urgency (“Time Critical Track”). <i>All of this is already reflected in the Rules governing Policy Committees.</i>
<b>Major Item Routing</b>	Major items may originate with Councilmembers, the City Manager (often as referral responses), or Commissions. Major Items generally should be routed to a Committee to be reviewed by Committee members and, if necessary, revised, with input from stakeholders, the public, and City staff.	Currently, only Councilmember/Mayor items are subject to review by Policy Committees. <i>The Rules should be amended to require all Major Items, regardless of where they originated, to be reviewed in Committee</i> unless they fall under the Time Critical Track or another exception.
<b>Make Guidelines Mandatory</b> for presentation of Major Items for review	Council/Mayor and Commission authors of Major Items should present their items in accordance with the Guidelines at Appendix B of the City Council Rules of Procedure and Order. Authors should make a good faith effort to undertake the research, analysis and consultation necessary to complete all sections in substance.	Need to specify format for “non-Major” items.
<b>Staff Consultation is encouraged, but not required</b> at the initial	Councilmembers and the Mayor are encouraged to consult with Staff before presenting Major Items, but may choose to engage with staff later, through the Committee process.	Staff should keep confidential and seek to support the positive development of ideas and initiatives of electeds who reach out for initial

<p>development of a legislative item.</p>		<p>input. Concerns, if any, should be addressed with a problem-solving lens.</p>
<p><b>City Attorney Consultation</b></p>	<p>Authors should submit Major Items for preliminary review by the City Attorney to determine if there are any legal implications - which may need to be addressed before the item is submitted or could be developed/addressed later. The author should state in the section on consultation that the City Attorney has been consulted.</p>	<p>Not all items have legal implications. The City Attorney's role at this juncture would be to identify whether there are legal considerations, or not. If there are, the Author can work with the City Attorney's office to determine if the issues can be avoided/addressed, or if the legislation may not be possible/advisable.</p>
<p><b>Agenda Committee makes an initial determination</b> of whether an Item is "Major" and will be referred to a Committee, with input from the Author(s).</p>	<p><i>This tracks the current practice</i> - except that with an adopted definition of a Major Item the determination to send an item to Committee will be made according to more clearly articulated, objective standards.</p>	<p>Per the existing rules, proclamations, sponsorships, ceremonial and similar items; Time Critical Items; and "Policy Track" items that are complete and have minimal impacts are currently <i>not</i> referred to Committees. <i>This practice will be unchanged.</i></p>
<p>The Agenda Committee may <b>require a Major Item not presented and/or fully rendered according to the Guidelines to be more amply developed</b> before being sent to Committee.</p>	<p>Authors of Major Items should do substantial research, analysis, and consultation before sending them to a Committee for further input and development.</p> <p>The Agenda Committee should be authorized to request that a major item not presented according to the Guidelines, or not substantially meeting the requirements, be further developed by the Author(s) before being sent to Committee.</p>	<p>Analysis should go beyond diagnosing the problem to be solved and focus on explaining and understanding the specific solutions/policies/programs being proposed, as well as alternatives considered.</p>
<p><b>Appeal/Override</b> of Agenda Committee recommendation to revise Major Item before submission to a Committee</p>	<p>Authors should be offered the opportunity to discuss an Agenda Committee recommendation to rework a Major Item at the time the recommendation is made. If, after discussion, the lead author disagrees with the Agenda Committee's request for further elaboration according to the Guidelines, the item may be referred to a Committee "as is" with a note that the Agenda Committee had requested the item be revised.</p>	<p>Authors should have a means to appeal a decision of the Agenda Committee to send an item back to the author for revision/expanded research, analysis or consultation and still move their items forward if they disagree with the request.</p>
<p><b>Major Items that are Complete</b> go to Committee (or items that are incomplete but subject to an override)</p>	<p><i>Per existing rules</i>, Major Items will be routed to a policy committee unless an exception applies.</p>	<p>Exceptions are already listed in the Rules.</p>

<b>MAJOR ITEM COMMITTEE REVIEW</b>	<b><i>Clarify and significantly improve process and substance of Major Item review @ Committee, including development of a preliminary launch and implementation plan and associated costs</i></b>	
<b>Committee hears Major Item more than once -</b> First hearing includes development of a plan for review	As a general matter, Committees should plan to schedule Major Items to be heard more than once. At the first hearing, the Committee should discuss the level of analysis and consultation envisioned, identify specific stakeholders and questions Committee members would like to explore, and sketch a process for moving the item forward over several Committee meetings.	Depending on how complex and significant the Major Item appears to be, the Committee can plan out its process of review and consultation.
<b>Committee reviews specific elements</b> of the proposed Major Item	The Guidelines require, under bullets 5-9, (5) full background on the problem/issue to be addressed, (6) the existing regulatory/legal framework, (7) potential alternative solutions to address the identified concern, (8) consultation with stakeholders, and (9) a rationale for the recommendation.  Each of these sections should be specifically agendized for discussion (can all be same day, but should be individually considered) to ensure robust consideration of the legislation as proposed.	By requiring the Committee to focus on each of these elements as a baseline review, Committee members are encouraged to do a deep dive into the basis, rationales and alternatives for the Major Item.
<b>Committee identifies and does specific outreach to Stakeholders and Experts</b>	The “public” is always welcome at Committee Meetings. In addition to general public notice, the Committee in its first meeting to review a Major Item should identify stakeholders and experts who may have valuable input. If needed, those individuals/groups should be invited by the Committee to share their perspectives.  Staff can support outreach to ensure identified stakeholders and experts are aware of the opportunity to comment.	Sectors/individuals that are supported or otherwise impacted by new policies and programs are well positioned to provide useful comments and input for the Committee. Subject matter experts may also be helpful to hear from.
<b>Staff input is agendized and includes preliminary review of Launch and Implementation</b>	Staff is encouraged to provide input and answer questions throughout the Committee process. Staff should be encouraged to volunteer comments and Committee Chairs should call on staff to ensure time is provided for their comments throughout the process. <i>In addition, a specific time for staff input should be agendized.</i>  The Staff presentation should include <i>preliminary review of staffing and budget/resource needs for both Launch and Implementation.</i>	Launching a new program or policy and running it are two different undertakings. Staff should specify what will need to be in place to LAUNCH (development of regulations, preparation of informational mailings, website updates, back-end systems, funding, etc. ) and to RUN/IMPLEMENT new programs and policies over the long run.

<p>Manage/reduce <b>Staffing of Committees</b></p>	<p>With a better articulated “plan” for Committee review of Major Items, staffing of meetings can be more closely managed to reduce waiting time for staff members/City Attorney when not needed for one or another matter.</p>	<p>Only need Clerk + Staff Lead - Chair can work with Staff Lead to bring other Staff into discussions on as-needed basis. The City Attorney may be able to be on standby for advice when presence is not required.</p>
<p>Major Item moves forward to Council (all recommendations)</p>	<p>Lead Author must revise/update item to include information about resources required for Launch and Implementation of the Major Item, and to reflect any other changes, before submission to City Council.</p>	
<p>Major Item gets <b>passed by Council</b></p>	<p>Goes to Budget Implementation Conference, or vote no and it's over</p>	



Kate Harrison  
Councilmember District 4

## REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** June 15, 2021

**Item Number:** 3

**Item Description:** Systems Alignment Proposal

**Submitted by:** Councilmember Harrison

The attached item includes Councilmember Harrison's comments about the proposed Systems Alignment Proposal as well as an alternative proposal.

It is in the public interest that the Council consider this alternative proposal as part of the Mayor's development of a revised proposal for discussion and adoption at a later date.



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
June 15, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Comments and Alternative Systems Alignment Proposal

COMMENTS AND ALTERNATIVE PROPOSAL

At the October 2019 Council retreat, the Council and the City Manager discussed various approaches to better align the legislative process to budget and implementation resources. These considerations are important and merit Council consideration and possible action. However, the proposed solution from the City Manager would also limit the voice of the public and the Council by restricting the time period for Council referrals to only four months per year.

At a Worksession on May 18, 2021 dedicated to the Systems Alignment proposal, the Council heard overwhelming public comment strongly opposed to such an approach.

A better solution lies in reexamining and modifying certain elements of the Policy Committee process as opposed to overhauling fundamental elements of Council duties.

This Supplemental discusses the shortcomings of the proposal in greater detail and advances an alternative and simpler approach to “Systems Alignment” achieving the original objective of the October 2019 retreat without sacrificing and abdicating fundamental values and responsibilities.

**A. The Proposed Systems Alignment Proposal Unduly Limits Council Duties and Responsibilities Under the City Charter**

The City Charter provides that the City Council is the “governing body of the municipality” and “shall exercise the corporate powers of the City, and... be vested with all powers of legislation in municipal affairs adequate to a complete system of local government.”

However, the proposal subjects “new significant legislation” to a labyrinth of new bureaucratic processes that will invariably and unduly limit the democratic organ of city government—the City Council—which is directly answerable to the will of the people.

The following list provides a non-comprehensive overview/discussion of the ways the current Systems Alignment Proposal could violate the letter and spirit of the Charter:

- The proposal limits Council from submitting “new significant legislation” to four months out of the year, effectively making the Council only responsive to the people’s “significant” needs on a part-time basis as any legislation that misses the deadline is inactive for the remainder of the year. Not only does this violate the necessity of providing the Council with “all powers of legislation in municipal affairs,” but it appears to contradict the voter’s will pursuant to Measure JJ, wherein they reaffirmed the scope and appropriate remuneration of Council’s myriad legislative and oversight responsibilities.
- The determination of which legislation will be subject to additional scrutiny and processes is based on *subjective* findings by the Agenda Committee in consultation with the City Manager. This is in contrast to alternative approaches, such as those adopted in other cities, which rely upon *objective* measures such as the consideration of a piece of legislation’s budgetary or staffing implications informed by thorough discussion and investigation by Policy Committees. Furthermore, pursuant to the Council’s historic rules of procedures, *subjective judgements* of legislation are appropriately the purview of the Council as a whole, not subcommittees. The current proposal adopts an inherently conservative and subjective framework that judges all legislation by whether it “represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff.” Legislation meeting that definition is then subjected to lengthy bureaucratic processes of more than a year.

In short, the proposed framework stands in contrast to the current Policy Committee system, whereby subcommittees are tasked with improving the quality, thoroughness and comprehension of legislation, as opposed to a subjective consideration and determination of whether a given policy change is merited largely within the narrow confines of considering limited budget and staff resources.

- Under the Charter, the Council is responsible for adopting a biannual budget. However, the proposal limits Council’s ability to adopt significant new legislation with budget implications at only one of the two primary budget processes per year.
- Legislative consultation with City staff is absolutely necessary. But the proposal encourages authors to “initially consult[] with the City Manager or city staff regarding their proposed Major Item and [note] the substance of those conversations, and initial staff input” before the item is even introduced. This system could potentially create an inappropriate layer of staff power over Council legislative prerogative, a division that the Charter is very clear about.
- The proposal requires that items align with Strategic Plan goals. While these goals are important and represent a snapshot of Council and City Staff’s vision for the city, they do not necessarily represent the totality of the people’s will as expressed

through their elected representatives at any given time.

- The Council is artificially constrained from acting upon legislation receiving an unfavorable review at the Policy Committee level. Council is reduced to a choice between proceeding through the next phase, or to vetoing a matter for the remainder of the legislative calendar if a policy committee forwards a negative recommendation. Currently, under the committee system, items not acted upon in committee within 120 days are forwarded to the Council. In this way, the proposal violates the Charter by imposing unreasonable hurdles to the exercise of “all powers of legislation in municipal affairs adequate to a complete system of local government.”
- The proposal states that all significant legislation must be submitted by April 30, and City Council Policy Committees must complete review of all Major Items assigned to them no later than June 30 of each year. This raises the question of what the Council is engaged in for the majority of the year?
- Implementation Conferences, while a good idea, are currently crafted in a way that they will delay items unnecessarily and remove discussion of budgetary impacts from the substantive discussion by policy committees. Furthermore, the proposal imposes an artificial limit with respect to holding Implementation Conferences to once per year, which will further constrain the Council’s legislative obligations.
- After the implementation conference, Policy Committees are required to provide an additional subjective consideration of major items through prioritization. This is late in the life of an item. Additionally, under this proposal, the Council is expected to once again rank significant items as part of the RRV process (behind closed doors), despite the items having already endured the lengthy Systems Alignment process and final Council approval.
- When an item fails to receive Council approval, the author is barred from resubmitting it until the following year.

## **B. Alternative Systems Alignment Proposal**

This item presents a simpler and less disruptive Systems Alignment proposal that conforms to the existing Council and Policy Committee processes and prioritizes research and investigation of items with significant budgetary and staff implications in order to better inform Council’s decision-making process as opposed to hard limits on legislation:

1. To address the backlog of outstanding items that may impact staff resources and availability to implement Council and other citywide priorities, the Council should immediately direct Policy Committees to review all such referrals and items in staff’s queue for which implementation work has not yet begun.

Upon this review, Policy Committees would be tasked with making a recommendation to the full Council to modify or reconsider certain items in the queue.

Next, the Council should schedule worksessions (outside of the RRV process) to consider Policy Committee recommendations in a public forum and prepare a Resolution potentially dispensing with and/or reprioritizing items in the queue.

In totality, this process would contribute to streamlining the existing queue, and facilitate staff resources for implementation and development of other new and existing legislative items. In sum, through revisiting the existing queue, Council can continue to conduct substantial legislative work throughout the year.

2. The Council should revise Policy Committee process with respect to the budget and legislative implementation.

Specifically, to address potential incongruity between Council items with significant budget implications, the Council should modify its Rules of Procedure to task Policy Committees (not the Agenda Committee) with making an initial and objective determination of whether a prospective item has significant budget and/or staffing impacts (**See Attachment 1** for a detailed flowchart of the Alternative Proposal):

- Upon an insignificant budget determination, the item and any related budget referral would proceed through the normal Policy Committee track process on a maximum 90-day timeline.
- Upon a significant determination, the item would be placed on a different Policy Committee track such that the Policy Committee would have a maximum of 120 days to research and investigate the budget and staffing implications of the item, any related budget referral, and policy implications, in order to *inform* Council's ultimate consideration. As part of the 120 day process, the Committee would facilitate an Implementation Conference hearing(s) with City staff, the author, and Committee members in order to prepare an Implementation Report.
- Once the Committee has made its policy recommendation and finalized its Implementation Report, the item would proceed to the Agenda Committee for scheduling at Council.
- Upon Council adoption of items with either significant or insignificant budget/staffing implications, the budget aspect of the item would proceed to either the June or November budget process pursuant to Council-established deadlines for consideration of budget items. For example, the

Comments and Alternative Systems Alignment Proposal

Council could establish deadlines of May and October for the respective budget processes. Therefore, the Budget Committee would only consider budget items that were passed ahead of the respective deadlines. Those that miss the deadline or are ultimately unfunded would be automatically carried over to the next budget process.

This alternative proposal would achieve the important goal of aligning Council items with significant budget and staff impacts with legislation in an objective way that is not detrimental to the Council's obligations under the Charter.

It is in the public interest that the Council consider this alternative proposal as part of the Mayor's development of a revised proposal for discussion and adoption at a later date.

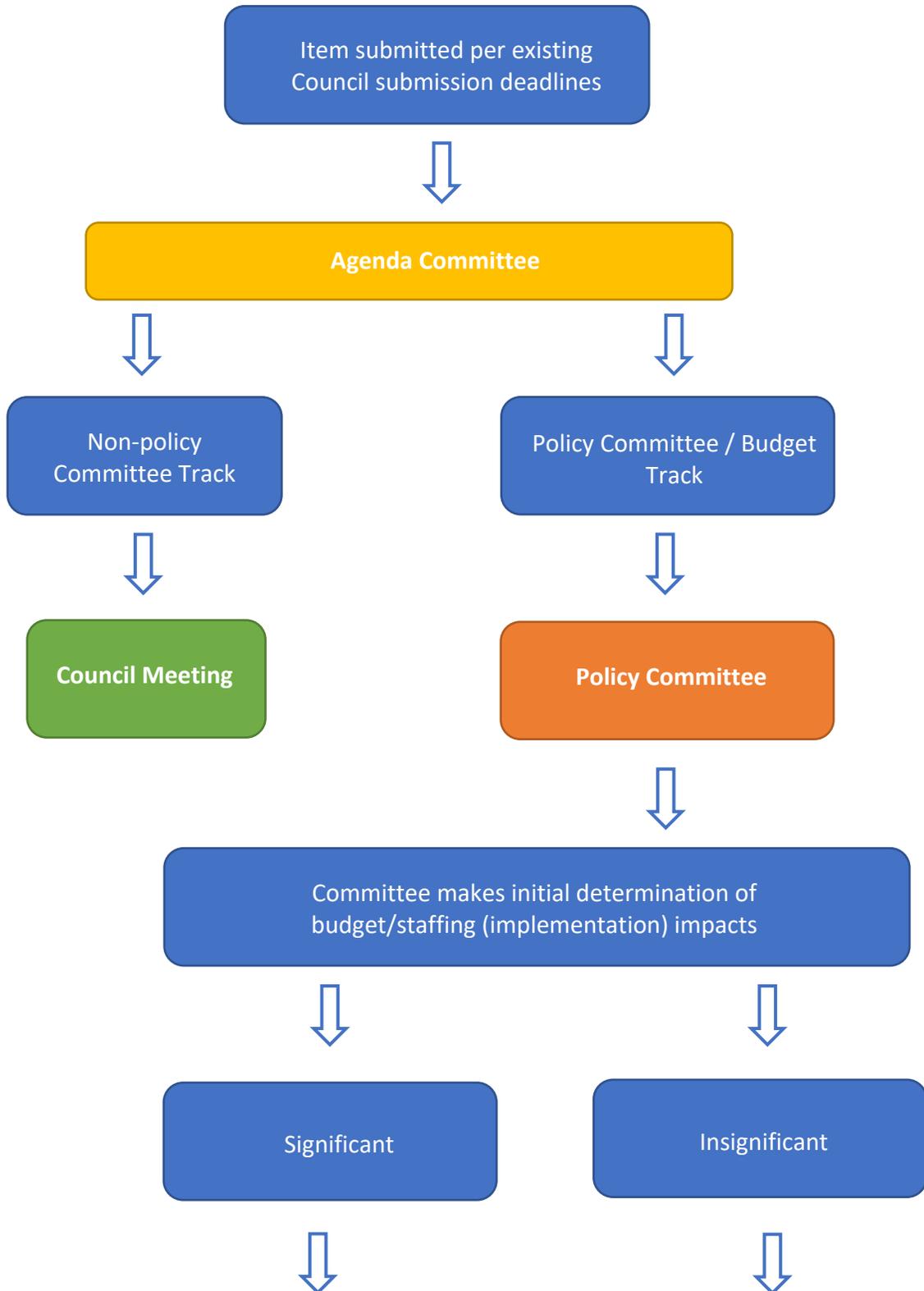
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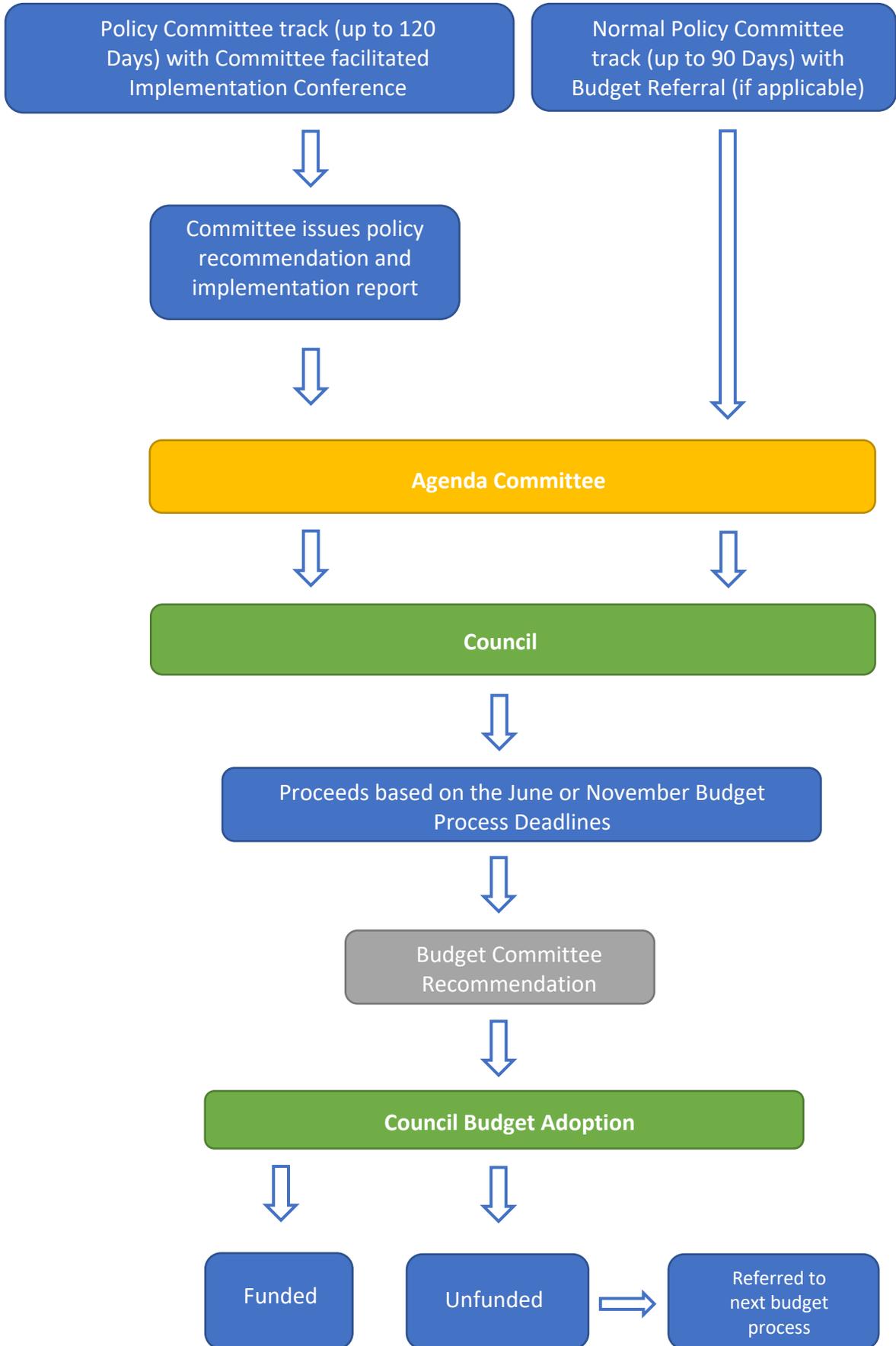
Councilmember Kate Harrison  
kharrison@cityofberkeley.info | 510-981-7140

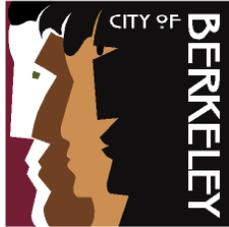
ATTACHMENTS:

1. Flowchart of Alternative Systems Alignment Proposal

### Alternative Systems Alignment Proposal







Office of the City Manager

CONSENT CALENDAR  
June 15, 2021  
(continued from May 18, 2021)

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: David White, Deputy City Manager  
Subject: Systems Alignment Proposal

RECOMMENDATION

Review the proposal for systems alignment and provide edits and suggestions in order to compile Council feedback for the purpose of drafting a revised proposal for adoption.

SUMMARY

The City Council discussed the Systems Alignment proposal at a Worksession on May 18, 2021. The item was continued to June 15 to allow Councilmembers to submit suggestions and changes to the original plan. The Mayor will consolidate the input from the Council and the public and return with a revised proposal for discussion and adoption at a later date.

FISCAL IMPACTS OF RECOMMENDATION

While the recommendation of this report would not entail fiscal impacts, if adopted, the proposal would have budgetary effects. Broadly speaking, the proposal is designed to better ensure adequate financial and staffing resources are identified and approved with any adopted significant legislation<sup>1</sup> (Major Item).

CURRENT SITUATION AND ITS EFFECTS

This report proposes 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. Ultimately, aligning systems will help ensure our community’s values as reflected in the policies of our City Council are implemented completely and efficiently, with increased fiscal prudence, while supporting more meaningful service delivery. In light of the economic and financial impacts of COVID-19 and resource constraints, it is imperative to improve

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<sup>1</sup> New significant legislation is defined, with some explicit exceptions, as “any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public”. See Council Rules of Procedure, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure.pdf).

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.

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. These changes support a clear and full realizing of City Council policies, programs, and vision. 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,
- Making the City Council Rules of Procedure Appendix B guidelines mandatory,
- 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.

Additionally, the proposed Systems Alignment would advance the City’s Strategic Plan goal to provide an efficient and financially-health City government.

**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 in Council Rules of Procedure***

Major Items are “new significant legislation” as defined in Appendix D of the [City Council Rules of Procedure](#):

Except as provided below, “new significant legislation” is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.

The exceptions to the definition of new significant legislation and process state:

New significant legislation originating from the Council, Commissions, or Staff related to the City’s COVID-19 response<sup>2</sup>, including but not limited to health and

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<sup>2</sup> If this proposal is adopted, “COVID-19” should be replaced with “declared emergency response” in the exception language.

economic impacts of the pandemic or recovery, or addressing other health and safety concerns, the City Budget process, or other essential or ongoing City processes or business will be allowed to move forward, as well as legislative items that are urgent, time sensitive, smaller, or less impactful.

The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item, using the Major Item Determination Checklist (see attachment 1). 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. Additionally, if any legislation it originally deemed not to be a Major Item, the author or City Manager may appeal to the Agenda and Rules Committee or to the full Council and present evidence to the contrary.

***Required Conformance and Consultation***

All Major Items must use the agenda guidelines in Appendix B of the Council Rules, which require more detailed background information and analysis. The Agenda and Rules Committee can send the item back to the author if it is not complete and/or does not include all of the information required in Appendix B. The author must make a good faith effort to ensure all the guideline prompts are completed in substance not just in form.

Major Items must include a section noting whether the author has initially consulted with the City Manager or city staff regarding their proposed Major Item and the substance of those conversations, and initial staff input.

***Required Submission Date***

A Major Item must be submitted in time to appear on the agenda of an 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.

**Step 2: Policy Committee Review**

A Major Item, once introduced and deemed complete and in conformance by the Agenda and Rules Committee, will be referred to one of City Council’s Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.), for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [\*Council Rules of Procedure\*](#),<sup>3</sup> the Policy

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<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf)

Committee will review the Major Item and the completed Major Item Determination Checklist to confirm Agenda & Rules initial determination that the Major Item is complete in accordance with Section III.B.2 and aligns with Strategic Plan goals. 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 June 30 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 the City Attorney or designee.

***Identifying Fiscal, Operational and Implementation Impacts***

The intended outcome of an Implementation Conference is a strong analysis containing all of the considerations and resources necessary to support implementation should Council choose to approve the Major Item.

The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager, City Attorney, and staff to better define the Major Item and identify more detailed fiscal and operational impacts, as well as implementation considerations. The information discussed during the Implementation Conference will be summarized in the Council Report as part of newly required sections (see attachment 2), in conformance with Appendix B:

- *Initial Consultation*, which
  - Lists internal and external stakeholders that were consulted, including whether item was concurrently submitted to a Commission for input,
  - Summarizes and confirms what was learned from consultation,
  - Confirms legal review addressing any legal or pre-emption issues, ensuring legal form,<sup>4</sup>
- *Implementation, Administration, and Enforcement*, which
  - Identifies internal and external benefits and impacts, and

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<sup>4</sup> While consultation with the City Attorney is mentioned in Appendix B, the legal review and “confirmations” recommended in this proposal is a more specific and robust requirement.

- Considers equity implications, launch/initiation of Major Item and its ongoing administration, and
- *Fiscal & Operational Impacts*, which
  - Summarizes any operational impacts,
  - Identifies necessary resources, including specific staff resources needed and costs.<sup>5</sup>

As part of the Implementation Conference, staff will provide a high level work plan, indicating major deliverables/milestones and dates. This information can be collected and recorded using the Implementation Conference Worksheet (see attachment 2).

Implementation Conferences will be date certain meetings held in July.

### ***Revising the Major Item***

After the Major Item's author revises the original Council Report based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process. If additional full time equivalent employee(s) (FTE) or fiscal resources are needed, the Major Item must include a referral to the budget process and identify the amount for implementation of the policy or program.

### **Step 4: Initial Prioritization**

At their first meetings in September, Policy Committees must complete the ranking of the Major Items which were referred to them and also completed the Implementation Conference. The Policy Committees will provide these rankings in the form of a recommendation to the City Council. The Policy Committees prioritization will use the Policy Committee Ranking Form (see attachment 3) to standardize consideration of Major Items across Policy Committees. 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 for a regular or special Council meeting in October for approval and inclusion in the RRV process.

---

<sup>5</sup> Appendix B does require a Fiscal Impacts section, but the inclusion of operational impacts and specific noting of required staff resources and costs recommended in this proposal is a more specific and robust requirement.

At the designated Council meeting in October, staff will provide the Council with a list of all approved Major Items, including the initial prioritization by Policy Committee. The Council will consider each Major Item for approval. All approved Major Items then will be added to the RRV process (i.e., with other items, referrals, etc) and ranked. The RRV ranking will begin in late October. These rankings will be adopted by Council and used to inform the development of the draft budget. Approved and ranked Major Items have multiple opportunities to be approved for funding, when the biennial budget or mid-cycle budget is adopted in June or when the Annual Appropriations Ordinances are adopted in May and November.

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 Major Items approval, and RRV process no later than the final meeting in December of each year.<sup>6</sup> This ensures that staff is able to develop the budget starting from and based on Council priorities.

#### **Step 6: Budget & Strategic Plan Process**

The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward that year and will be added to a list of unfunded proposals for the future budget process.

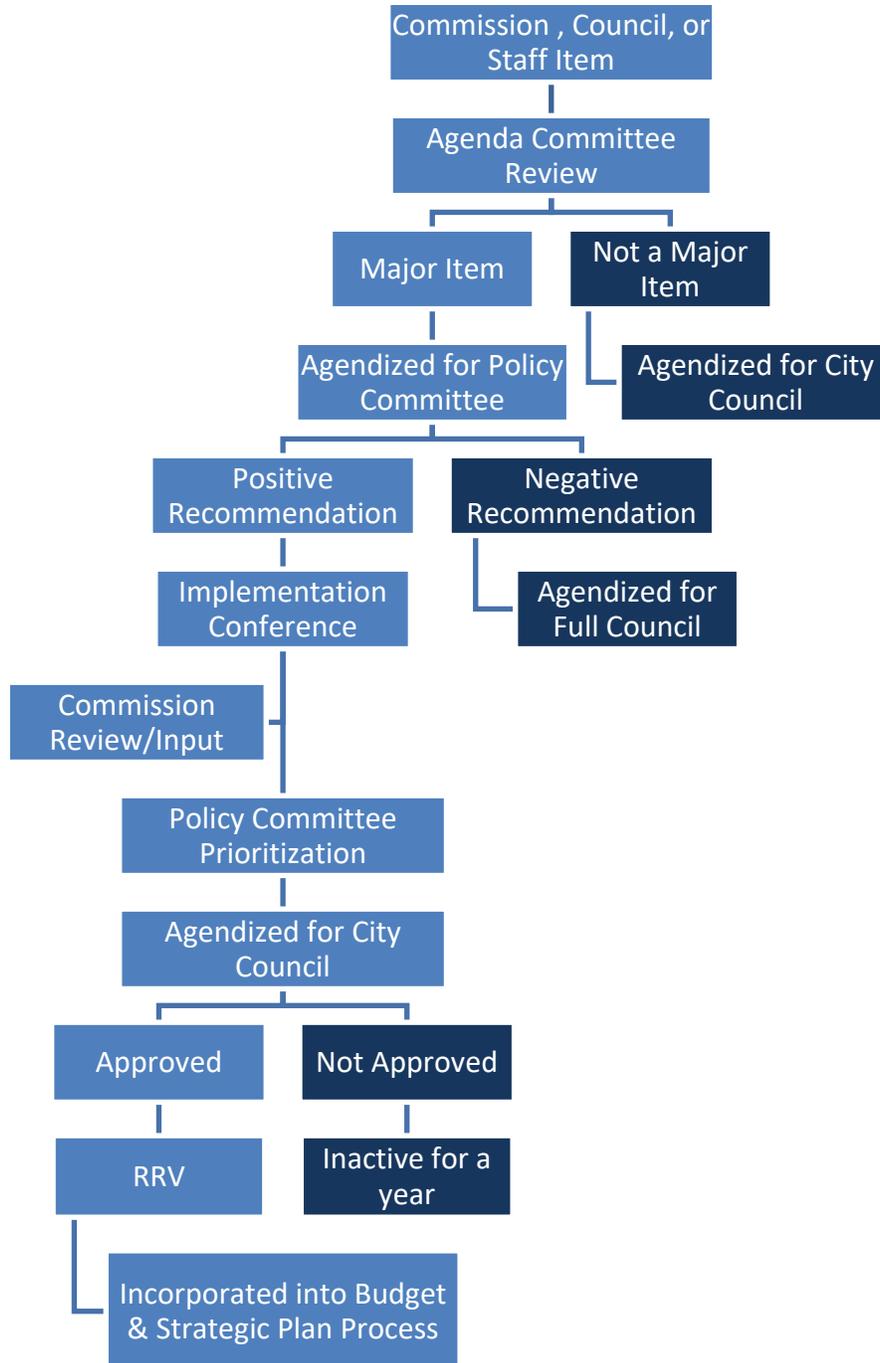
During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Items, Strategic Plan, and work plan development. In the late winter/early spring, the City Manager and Budget Office will present the draft budget to Council. This will be followed by 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 biennial. 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 and the proposed launch calendar in Figure 2.

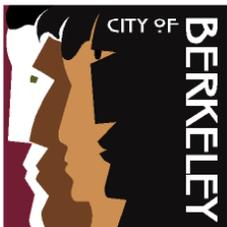
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<sup>6</sup> Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

Figure 1, Proposed Process<sup>7</sup>

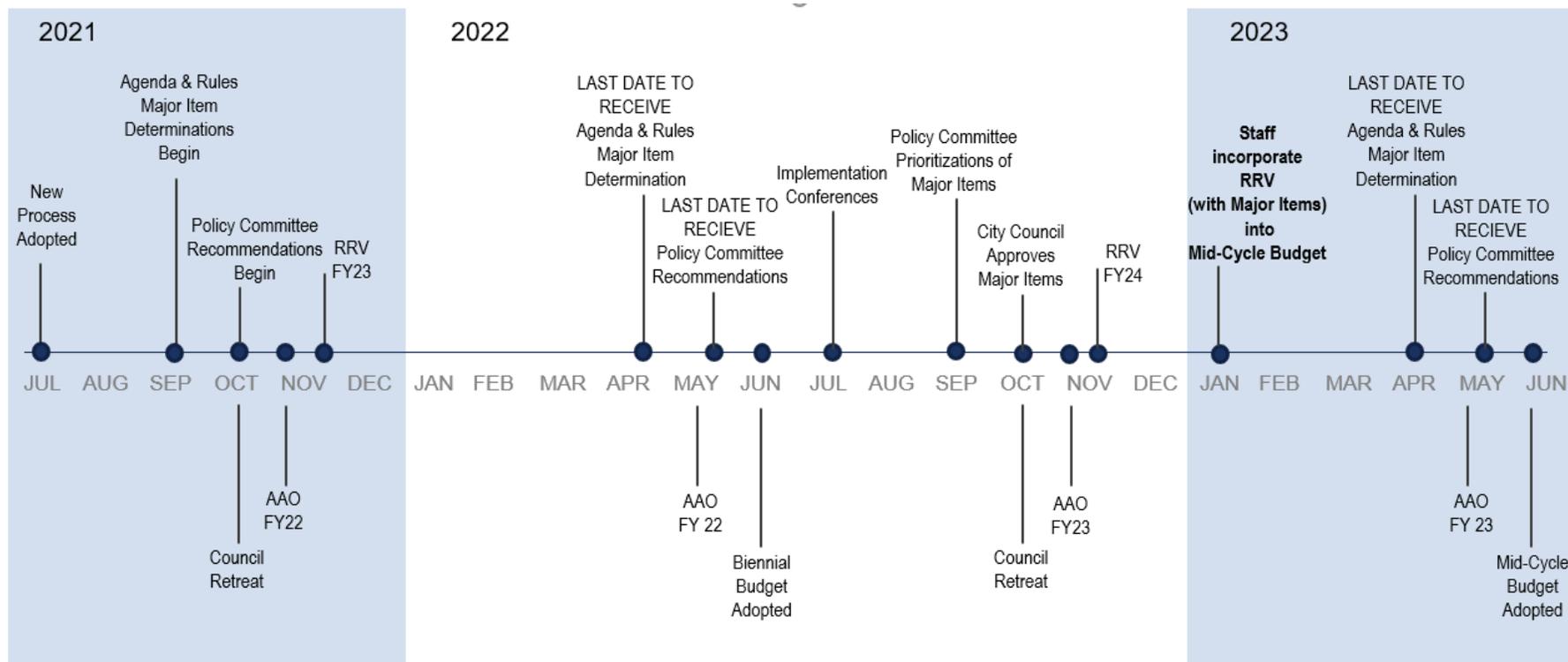


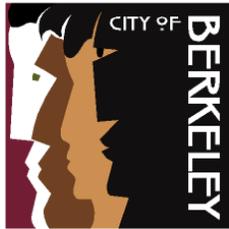
<sup>7</sup> Major Items that are ordinances will need to be examined on a case-by-case basis. Once adopted, ranked, and, if requiring resources, budgeted, the ordinance will need to be given an effective date and scheduled for first and second readings at Council.



Office of the City Manager

Figure 2, Proposed Launch





Office of the City Manager

### Next Steps

Staff will reach out to legislative aides for input and the City Manager will meet individually with Councilmembers to discuss this proposal. Staff will incorporate Council input from the worksession, and from subsequent input into a resolution and return to Council with a final Systems Alignment item for adoption by July 2021.

### Benefits

The addition of an Implementation Conference will ensure that Major Items considered by Council are properly resourced, improving our City's responsible management of fiscal resources. Analysis from the Implementation Conference will help Council to balance and consider each Major Item within the context of related programs and potential impacts (positive and negative). When considered holistically, new policy implementation can be supportive of existing work and service delivery.

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. 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.

BACKGROUND

In October 2019, City Council held a half-day worksession to discuss systems realignment and provide direction on potential changes to the city’s legislative process. The purpose of the meeting was to develop recommendations for how various systems (e.g., budget, Strategic Plan, RRV, etc) could better work together to ensure that the organization is able to focus on the priorities established by the City Council. The City Manager took direction from that meeting and worked with department directors and the Budget Office to create this proposal.

ENVIRONMENTAL SUSTAINABILITY

By improving efficiency, ensuring adequate resources, and strengthening implementation, this proposal would increase the speed and full adoption of new significant legislation, including sustainability work.

RATIONALE FOR RECOMMENDATION

The City of Berkeley is unique in comparison to many cities. It considers and approves many more policies, often at the cutting edge, than a typical city and especially for a city of its size. This proposal is a hybrid, incorporating city processes while mirroring State and Federal legislative processes which accommodate a larger number of policies and items in a given cycle. The disadvantage of this proposal is that it introduces additional steps, such as the implementation conference. The advantages of this proposal, are:

- Ensuring adopted legislation is adequately resourced, in terms of both staffing and budget;
- Providing adequate context for Council to balance and consider items in relation to potential positive and negative impacts; and
- Strengthening the effectiveness and efficiency of policy implementation.

ALTERNATIVE ACTIONS CONSIDERED

At the Council retreat in October 2019, a variety of approaches and ideas were discussed and considered. Additionally, the original version of this proposal was substantively revised through the Policy Committee process.

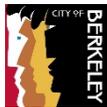
If the Council takes no action on this item, the existing process will continue to result in inadequately resourced adopted legislation and inefficient and complicated implementation.

CONTACT PERSON

David White, Deputy City Manager, (510) 981-7012

Attachments:

- 1: Major Item Determination Checklist
- 2: Council Report Template and Implementation Conference Worksheet
- 3: Policy Committee Ranking Form
- 4: Vice Mayor Droste Supplemental



# Major Item Determination Checklist

**Item Name:**

**Item Author:**

**Is this a Major Item?**

- |                          |                          |  |
|--------------------------|--------------------------|--|
| Yes                      | No                       |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant change to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant addition to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public |

**Is this eligible for an Exemption?**

- |                          |                          |   |
|--------------------------|--------------------------|---|
| Yes                      | No                       |   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related the City's COVID-19 response.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to the City Budget process.                         |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to essential or ongoing City processes or business. |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is urgent.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is time-sensitive.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is smaller.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is less impactful.   |

**Agenda Committee Determination:**

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

**Policy Committee Confirmation:**

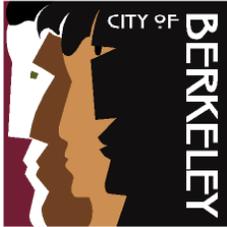
Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council

From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
or other recommendation....

FINANCIAL-FISCAL & OPERATIONAL IMPACTS IMPLICATIONS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

[Title of Report]

CALENDAR

Macrobutton NoMacro [Meeting Date (MM dd, yyyy)]

- 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.

BACKGROUND

INITIAL CONSULTATION

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

ENVIRONMENTAL SUSTAINABILITY

CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution

Exhibit A: [Title or Description of Exhibit]

Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

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

SHORT TITLE OF RESOLUTION HERE

WHEREAS, (Whereas' are necessary when an explanation or legislative history is required); and

WHEREAS, (Insert Additional 'Whereas Clauses' as needed); and

WHEREAS, enter text here; and

WHEREAS, enter text here; and

WHEREAS, (The last "Whereas" paragraph should contain a period (.) .

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that (Action to be taken) - ends in a period (.).

BE IT FURTHER RESOLVED that (for further action if needed; if not delete) - ends in a period (.).

Exhibits **[Delete if there are NO exhibits]**

A: Title of the Exhibit

B: Title of the Exhibit



## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

The author of the item may complete this section to help record required information for the report.

Descriptive title:
Is this for Consent, Action, or Information Calendar?
Recommendation:
Summary statement:
Background (history, circumstances and concerns to be addressed by the item):
Plans, programs, policies and/or laws were taken into consideration:
Actions/alternatives considered:
Internal stakeholders consulted:
Name/date of Commission(s) item submitted to for input:
List of external stakeholders consulted:

Summary of what was learned from consulting stakeholders:
Rationale for recommendation:
Internal Benefits of Implementation:
Internal Impacts of Implementation:
External Benefits of Implementation:
External Impacts of Implementation:
Equity Considerations:
Launch and Implementation Milestones (see staff section)
Environmental Impacts:
Operational Impacts:
Staff Resources Needed:  Number of FTE/hours: Type of staff resource needed:
Costs:  Amount(s): Funding Source:

**STAFF SECTION**

Staff may complete section to provide required information for the report.

<b>Estimated Launch/implementation Deliverables/Dates:</b>	
<i>Month/Year</i>	<i>Deliverable</i>
<b>Estimated Administration Deliverables/Dates:</b>	
<i>Month/Year</i>	<i>Deliverable</i>

**Legal Consultation:**

Confirmed

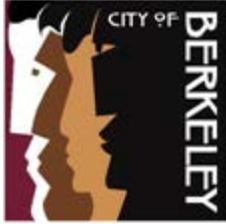
Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed

Name(s)/Date(s) \_\_\_\_\_





Lori Droste  
Vice Mayor District 8

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 3**

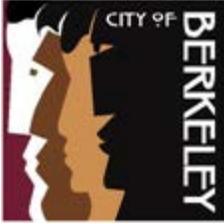
**Meeting Date:** May 18, 2021

**Item Number:** 2

**Item Description:** Systems Realignment

**Submitted by:** Vice Mayor Lori Droste

**Subject:** Comments on Systems Realignment



Lori Droste  
Vice Mayor District 8

To: Mayor and Council  
From: Vice Mayor Lori Droste  
Subject: Comments on the Systems Realignment

P. 13- what is “smaller” and “less impactful” and how is that determined?

P. 14- the council item template should include a problem definition and frontload the evidence (background, consultation, review) and include criteria considered. Strategic plan alignment, fiscal and operational impacts, environmental sustainability can be embedded under this heading. I would also argue that “Benefit” or “Effectiveness” should be included in Criteria Considered. Also, equity and administrative feasibility are separate criteria to be considered. Council is not involved in enforcement so I recommend that it be eliminated. Furthermore, as currently written the Current Situation and Its Effects describes the Strategic Plan goals and not the status quo situation.

General Template Outline:

- 1) Recommendation
- 2) Problem Statement
- 3) Background and Consultation
- 4) Current Situation and Its Effects
- 5) Criteria Considered (*new heading*)
  - a) Benefit or Effectiveness (*new*)
  - b) Fiscal Considerations
  - c) Strategic Plan Alignment (pick a goal)
  - d) Environmental Sustainability
  - e) Equity
  - f) Operational and Administrative Considerations (*moved operational considerations to a separate category*)
- 6) Rationale for Recommendation (*new*)

P. 15 Implementation Conference Worksheet

I recommend reducing the amount of redundant components in the implementation conference worksheet and specifying what “impact” means. Does it mean benefit? Does it mean tradeoff? In either case, I believe it is covered by other elements of this worksheet.

P. 19- There is no description of *how* policy committee members' rankings will be aggregated. Furthermore, the "ranking" is orthogonal and could be completely contradictory to the staffing, benefit, and costs. Scoring legislative items instead of ranking them will allow for easier prioritization. A cardinal voting system like this is more expressive, accurate and easier to understand. It also lessens vote splitting.

[CONSENT OR ACTION] CALENDAR [Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION Adopt a Resolution... or Support ... or write a letter to \_\_\_ in support of \_\_\_\_\_... or other recommendation....

### **PROBLEM STATEMENT**

**This section should identify the problem with specifics and enough context to explain why it merits public amelioration.**

*(Background and Evidence Should be Provided At the Beginning)*

BACKGROUND **AND** INITIAL CONSULTATION This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.

### **CURRENT SITUATION AND ITS EFFECTS**

*This section should explain the status quo and how it attempts to address the defined problem.*

### **CRITERIA CONSIDERED**

- FINANCIAL FISCAL & OPERATIONAL IMPACTS IMPLICATIONS This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.

~~IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented. Equity should be a standalone category separate from administrative feasibility. Rename this section Operational and Administrative Considerations~~

- ~~CURRENT SITUATION AND ITS EFFECTS~~ For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section: [Insert project name] is a Strategic Plan **Alignment** Priority Project, advancing our goal to [pick one:]
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  - create a resilient, safe, connected, and prepared city.
  - champion and demonstrate social and racial equity.

- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.
- 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.
- ENVIRONMENTAL SUSTAINABILITY

**RATIONALE FOR RECOMMENDATION**

This section should describe how the author landed on the recommendation using the criteria considered. This section can also describe other alternatives considered.

**CONTACT PERSON**

Councilmember [First Last Name] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution Exhibit A: [Title or Description of Exhibit] Exhibit B: [Title or Description of Exhibit]

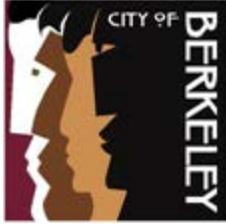
2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

Implementation Conference Worksheet

Descriptive Title
Consent Action or Information
Recommendation
<b><u>Problem Statement</u></b>
Background, etc
Plans, etc.
<b><u>Current Situation and Its Effects</u></b>
Actions/Alternatives Considered
<b><u>Stakeholders Consultation and Results</u></b>
Internal Stakeholders Consulted
Name/date of Commission(s) item submitted to for input
List of external stakeholders consulted
Summary of what was learned from consulting stakeholders
Rationale for Recommendation <i>should go at the end after evaluative criteria</i>
<b><u>Policy Benefit</u></b>
Internal Benefits of Implementation:
Internal Impacts of Implementation:
External Benefits of Implementation:
External Impacts of Implementation:
Equity Considerations
Environmental Considerations
Operational Impacts
<b><u>Strategic Plan Goal Alignment</u></b>
Staff Resources Needed (Number of FTE/hours, Type of staff resource needed):
Costs (Amount(s), Funding Source):
<b><u>Rationale for Recommendation</u></b> <i>(after analysis)</i>





Lori Droste  
Vice Mayor District 8

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 3**

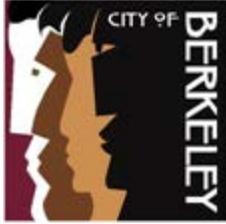
**Meeting Date:** May 18, 2021

**Item Number:** 2

**Item Description:** Systems Realignment

**Submitted by:** Vice Mayor Lori Droste

**Subject:** Comments on Systems Realignment



Lori Droste  
Vice Mayor District 8

To: Mayor and Council  
From: Vice Mayor Lori Droste  
Subject: Comments on the Systems Realignment

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To: Honorable Mayor and Members of the City Council From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

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**This section should identify the problem with specifics and enough context to explain why it merits public amelioration.**

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### **RATIONALE FOR RECOMMENDATION**

This section should describe how the author landed on the recommendation using the criteria considered. This section can also describe other alternatives considered.

### CONTACT PERSON

Councilmember [First Last Name] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

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Implementation Conference Worksheet

Descriptive Title
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Recommendation
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Plans, etc.
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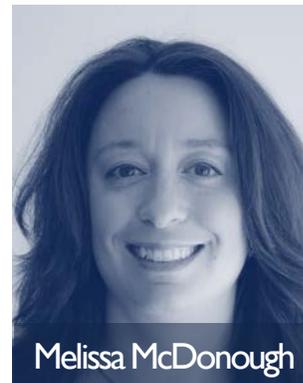


# SYSTEMS ALIGNMENT

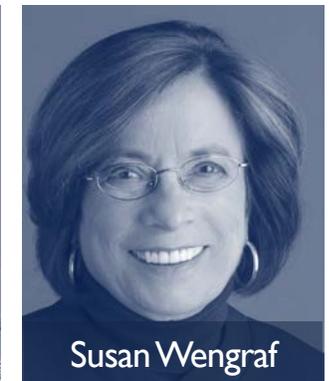
PROCESS PROPOSAL FOR VETTING & PRIORITIZING MAJOR ITEMS



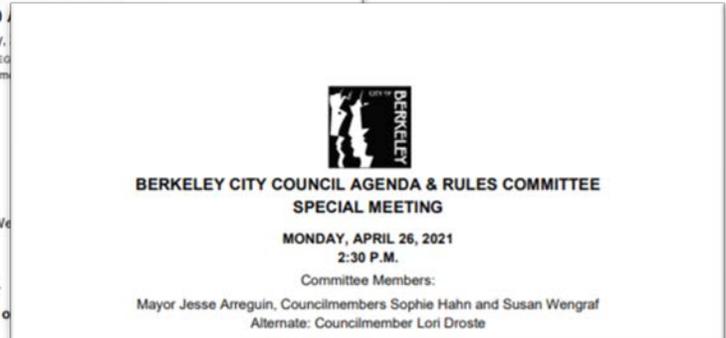
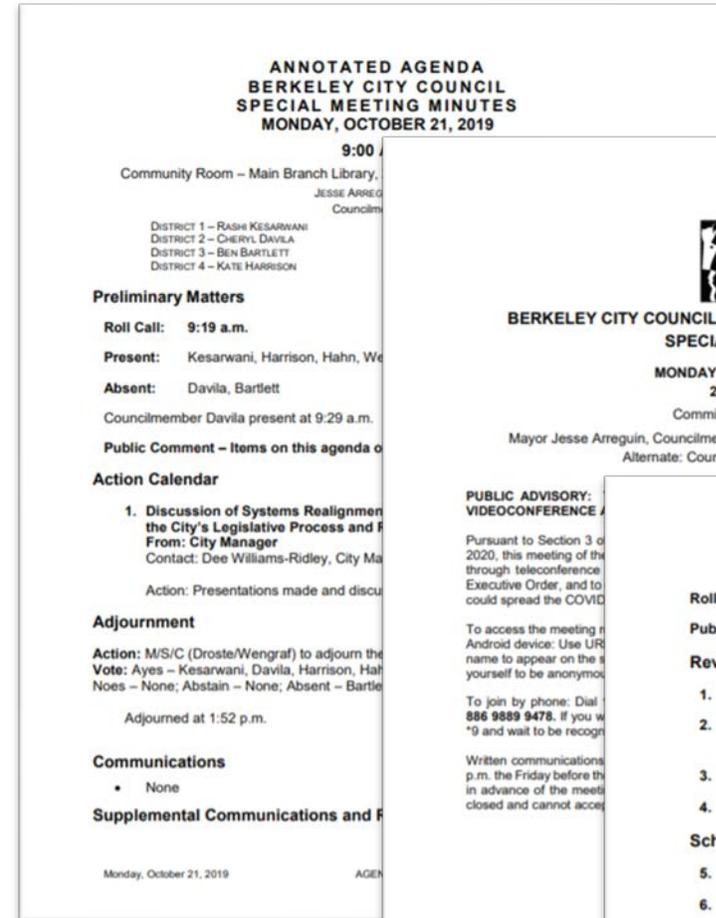
# THE TEAM



## AGENDA & RULES COMMITTEE



# BACKGROUND



**PUBLIC ADVISORY:  
VIDEOCONFERENCE /**

Pursuant to Section 3 of the City Charter, this meeting of the Berkeley City Council will be held through teleconference in accordance with Executive Order, and to ensure public access to the meeting, it could spread the COVID-19 virus.

To access the meeting on a mobile device: Use URL: <https://www.berkeleyca.gov/teleconference> and enter the meeting ID: 886 9889 9478. If you wish to appear on the meeting, please call yourself to be anonymous.

To join by phone: Dial 886 9889 9478. If you wish to appear on the meeting, please call yourself to be anonymous.

Written communications should be submitted in advance of the meeting. Written communications received after the meeting is closed and cannot accept

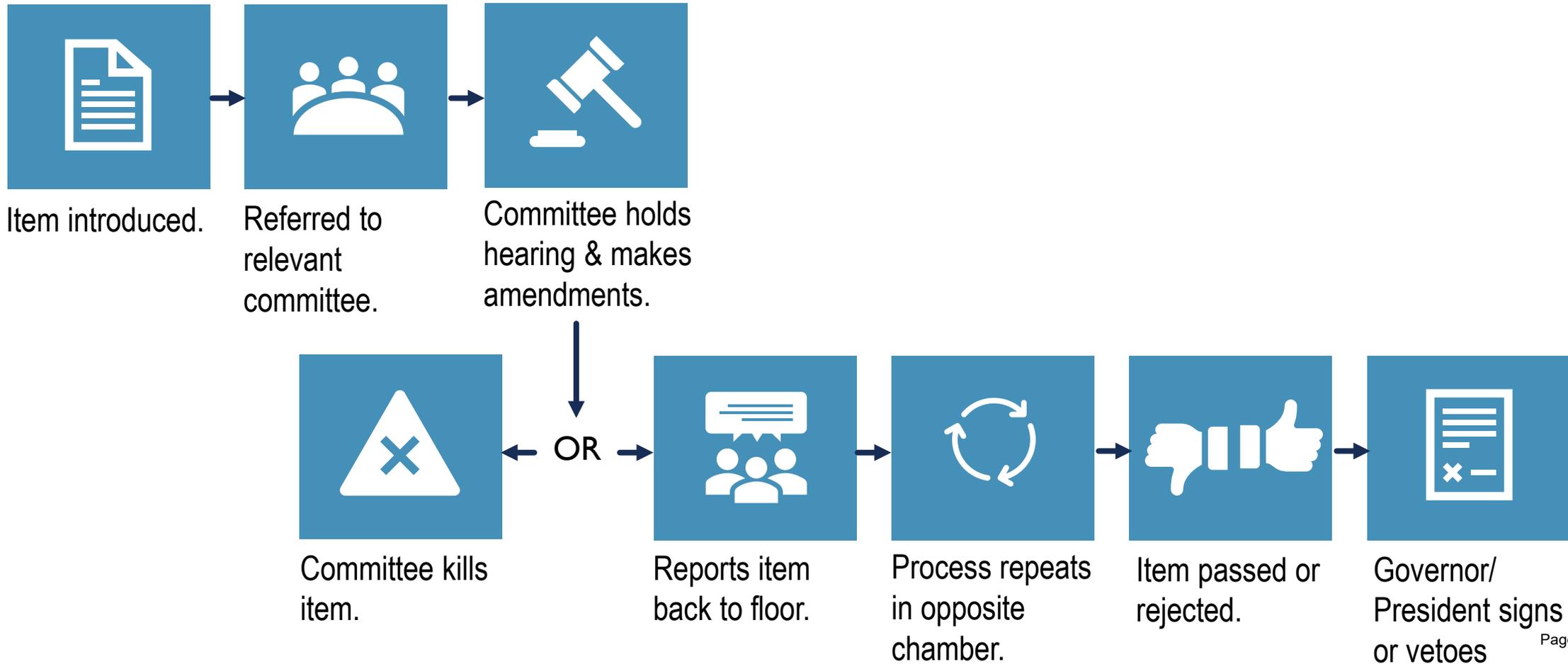
**AGENDA**

- Roll Call**
- Public Comment**
- Review of Agendas**
  - 1. **Approval of Minutes: April 12, 2021**
  - 2. **Review and Approve Draft Agenda:**
    - a. 5/11/21 – 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**

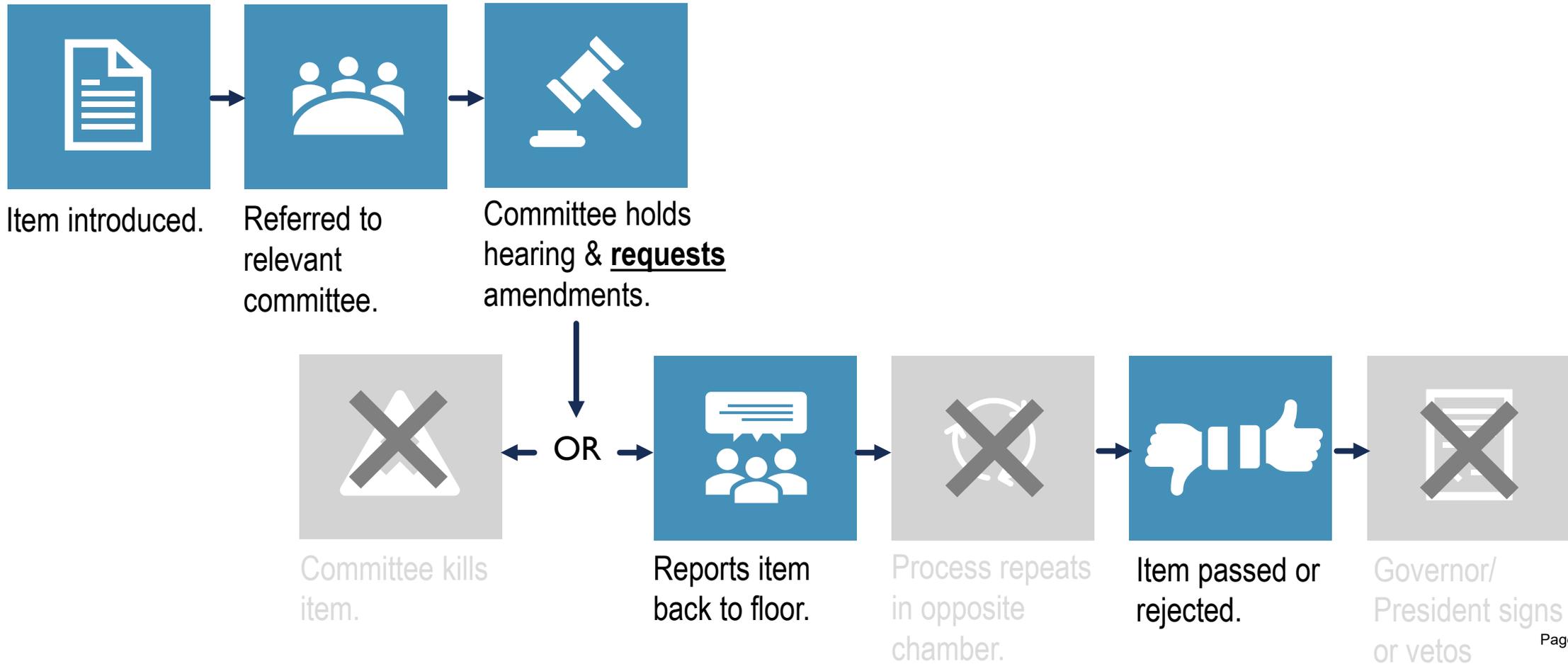
# OBJECTIVES

- Align timing of Council approval and resource (budget) allocation
- Communicate resource needs (and any tradeoffs) well
- Ensure Council priorities are resourced and implemented

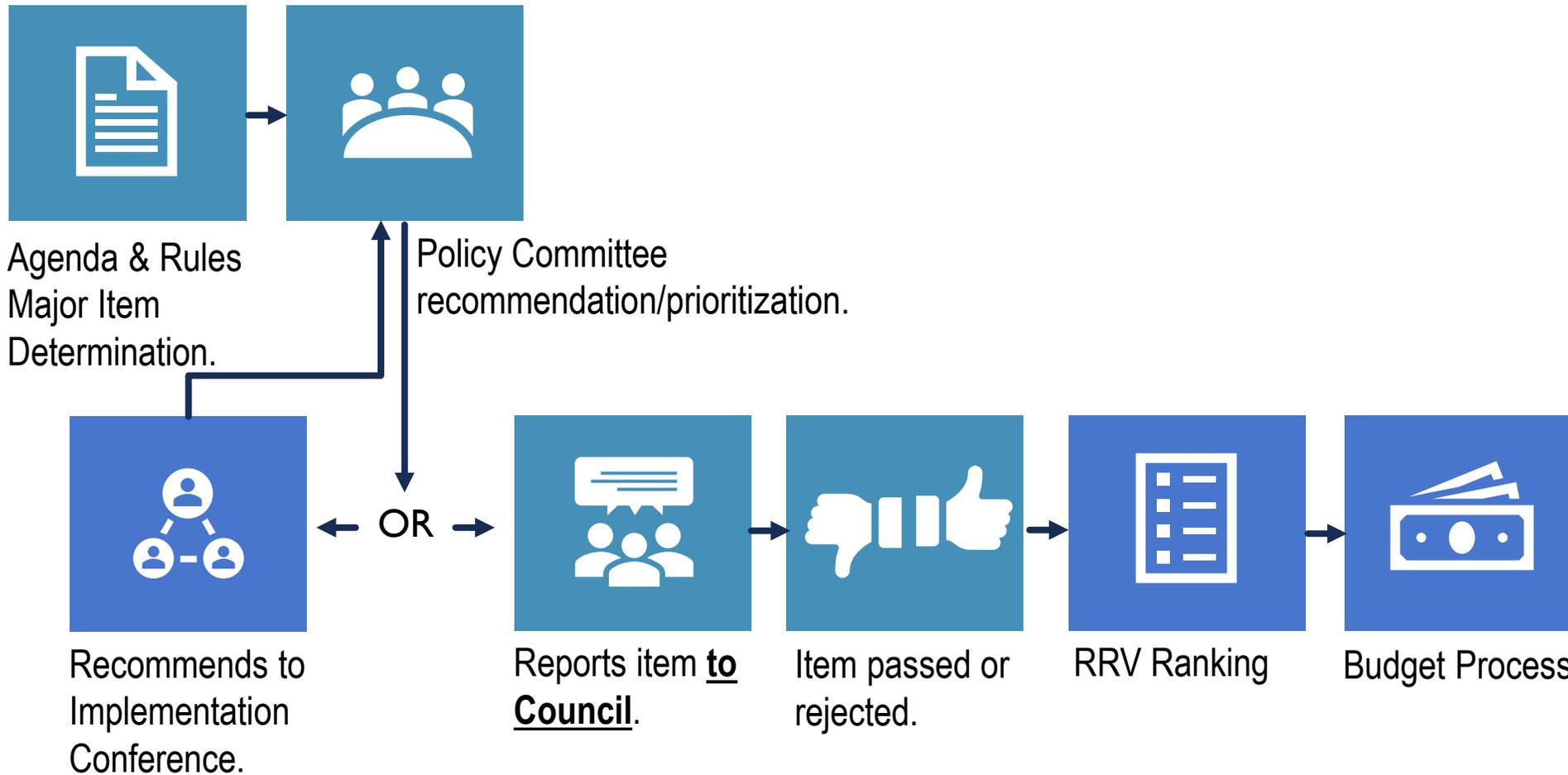
# STATE OR FEDERAL MODEL



# HYBRID MODEL



# PROPOSED MODEL



# IMPLEMENTATION CONFERENCE?

- What: Strong analysis and collaborative consultation
  - Identify costs\benefits
  - Identify resource needs
  - Outline high level work plan
- Who:
  - Commission Input (e.g, Chair or Vice Chair)
  - Staff & Legal
  - External Stakeholders
- How:
  - Ensure you've done your due diligence with the above
  - Meet with staff/legal



# VETTING IS TIME WELL SPENT!

## Cousin Janice

- Researched online, in magazines
- Talked to friends, designer, contractor
- Obtained supplies
- Contractor starts work
- Moved out for **weeks**
- **Loves** the result

## Friend Cathy

- Talked to contractor
- Contractor starts work
- Waited for supplies → Contractor stops work
- Supplies arrive → Contractor restarts work
- Moved out for **months**
- **Still refining** the result

# WHY PRIORITIZE AT POLICY COMMITTEE

**NOT RECOMMENDED**

- Agenda & Rules Committee

- Appointees:

- Jesse Arreguin, [Mayor](#)
- Sophie Hahn, [Councilmember, District 5](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Alternate: Lori Droste, [Councilmember, District 7](#)

- Budget & Finance Committee

- Appointees:

- Jesse Arreguin, [Mayor](#)
- Kate Harrison, [Councilmember, District 4](#)
- Rigel Robinson, [Councilmember, District 7](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Public Safety, Transportation, Environment & Sustainability Committee

- Appointees:

- Terry Taplin, [Councilmember, District 2](#)
- Kate Harrison, [Councilmember, District 4](#)
- Rigel Robinson, [Councilmember, District 7](#)

- Alternate: Sophie Hahn, [Councilmember, District 5](#)

- Government, Equity & Community Committee

- Appointees:

- Rashi Kesarwani, [Councilmember, District 1](#)
- Terry Taplin, [Councilmember, District 2](#)
- Ben Bartlett, [Councilmember, District 3](#)

- Alternate: Rigel Robinson, [Councilmember, District 7](#)

- Land Use, Housing & Economic Development Committee

- Appointees:

- Sophie Hahn, [Councilmember, District 5](#)
- Rigel Robinson, [Councilmember, District 7](#)
- Lori Droste, [Councilmember, District 8](#)

- Alternate: Ben Bartlett, [Councilmember, District 3](#)

- Public Safety Committee

- Appointees:

- Rashi Kesarwani, [Councilmember, District 1](#)
- Ben Bartlett, [Councilmember, District 3](#)
- Susan Wengraf, [Councilmember, District 6](#)

- Alternate: Terry Taplin, [Councilmember, District 2](#)

# A QUICK NOTE ON FORMS

- Major Item Determination Checklist
- Implementation Conference Worksheet
- Policy Committee Ranking Form
- Revised Report Template



### Major Item Determination Checklist

**Item Name:**

**Item Author:**

**Is this a Major Item?**

- |                          |                          |  |
|--------------------------|--------------------------|--|
| Yes                      | No                       |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant change to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant addition to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public |

**Is this eligible for an Exemption?**

- |                          |                          |   |
|--------------------------|--------------------------|---|
| Yes                      | No                       |   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related the City's COVID-19 response.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to the City Budget process.                         |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to essential or ongoing City processes or business. |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is urgent.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is time-sensitive.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is smaller.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is less impactful.   |

**Agenda Committee Determination:**

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

**Policy Committee Confirmation:**

Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

Use this section to help record required information

Descriptive title:
Is this for Consent, Action, or Information Calendar?
Recommendation:
Summary statement:
Background (history, circumstances and context)
Plans, programs, policies and/or laws were taken into account:
Actions/alternatives considered:
Internal stakeholders consulted:
Name/date of Commission(s) item submitted to:
List of external stakeholders consulted:

Summary of what was learned from consultation:

Rationale for recommendation:

Internal Benefits of Implementation:

Internal Impacts of Implementation:

External Benefits of Implementation:

External Impacts of Implementation:

Launch and Implementation Milestones (see Environmental Impacts):

Operational Impacts:

Staff Resources Needed:

### STAFF SECTION

Use this section to provide required information for the report.

Estimated Launch/implementation Deliverables/Dates:	
<i>Month/Year</i>	<i>Deliverable</i>
Estimated Administration Deliverables/Dates:	
<i>Month/Year</i>	<i>Deliverable</i>

**Legal Consultation:**

Confirmed

Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed





[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council  
From: [Councilmember (lastname)]  
Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
of other recommendation....

FISCAL IMPACTS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also describe the launch or initiation of the item, as well as its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental

[Title of Report]

CALENDAR

- attract and retain a talented and diverse City government workforce.

BACKGROUND

CONSULTATION OVERVIEW

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

ENVIRONMENTAL SUSTAINABILITY

CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

- 1: Resolution
  - Exhibit A: [Title or Description of Exhibit]
  - Exhibit B: [Title or Description of Exhibit]
- 2: [Title or Description of Attachment]
- 3: [Title or Description of Attachment]

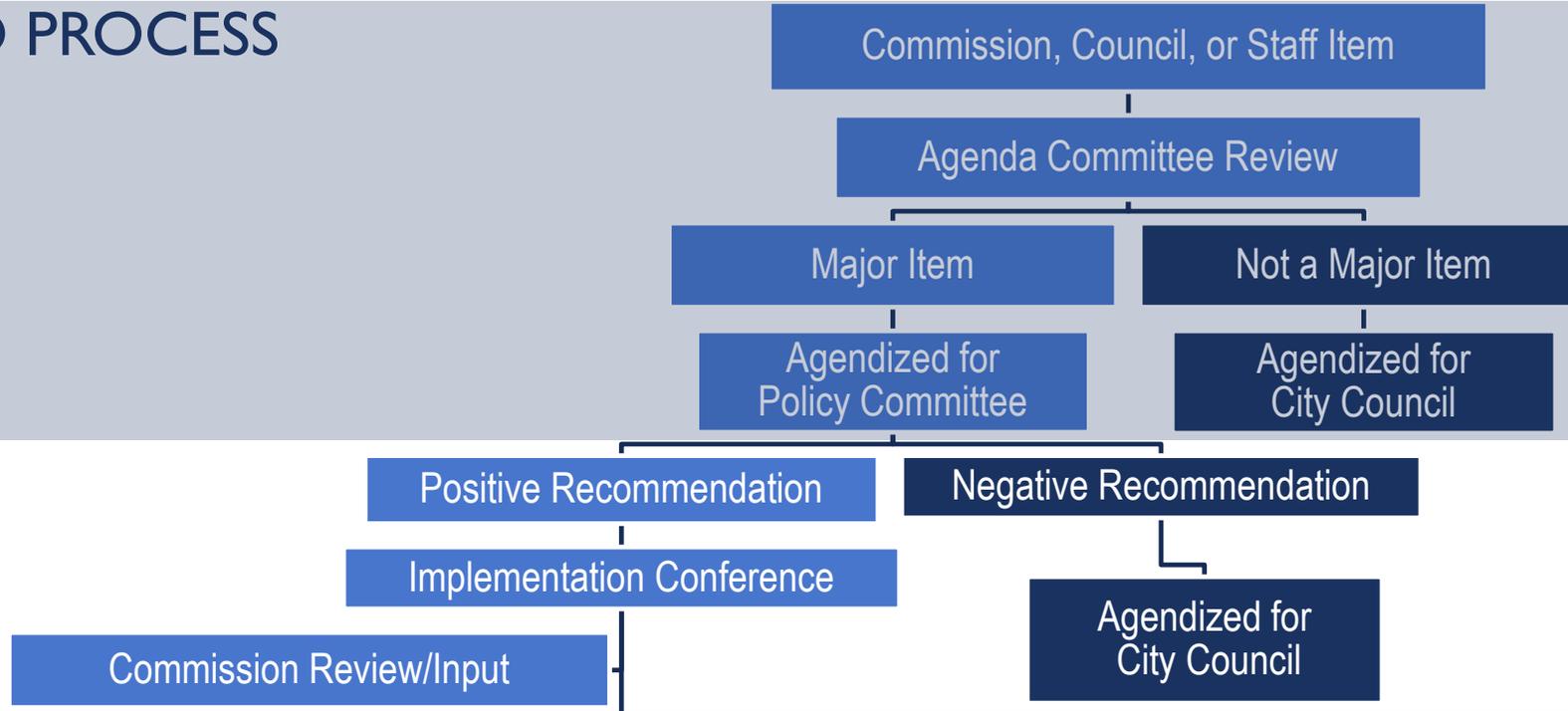
# PROPOSED PROCESS

FLOW CHART



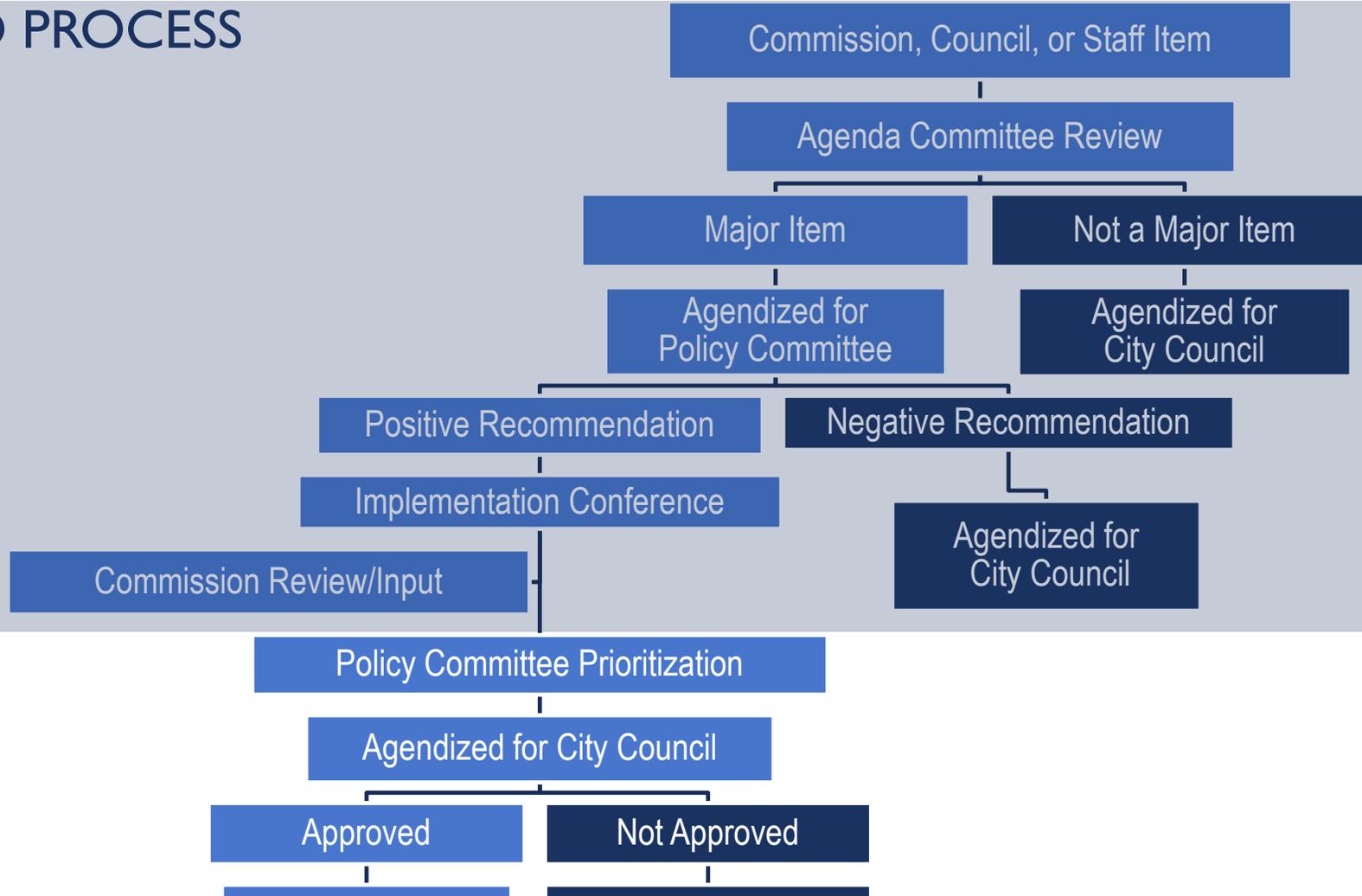
# PROPOSED PROCESS

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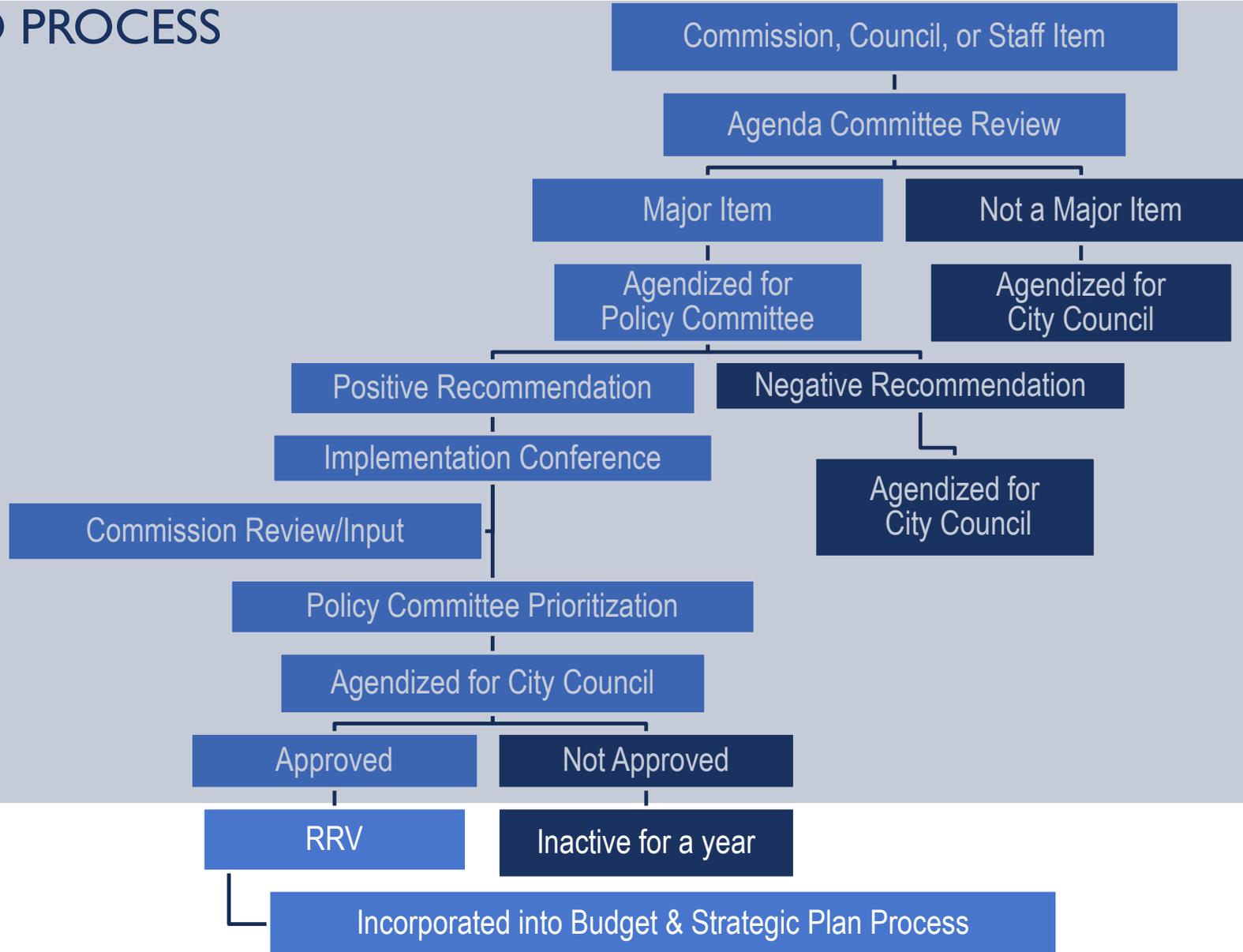
# PROPOSED PROCESS

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# PROPOSED PROCESS

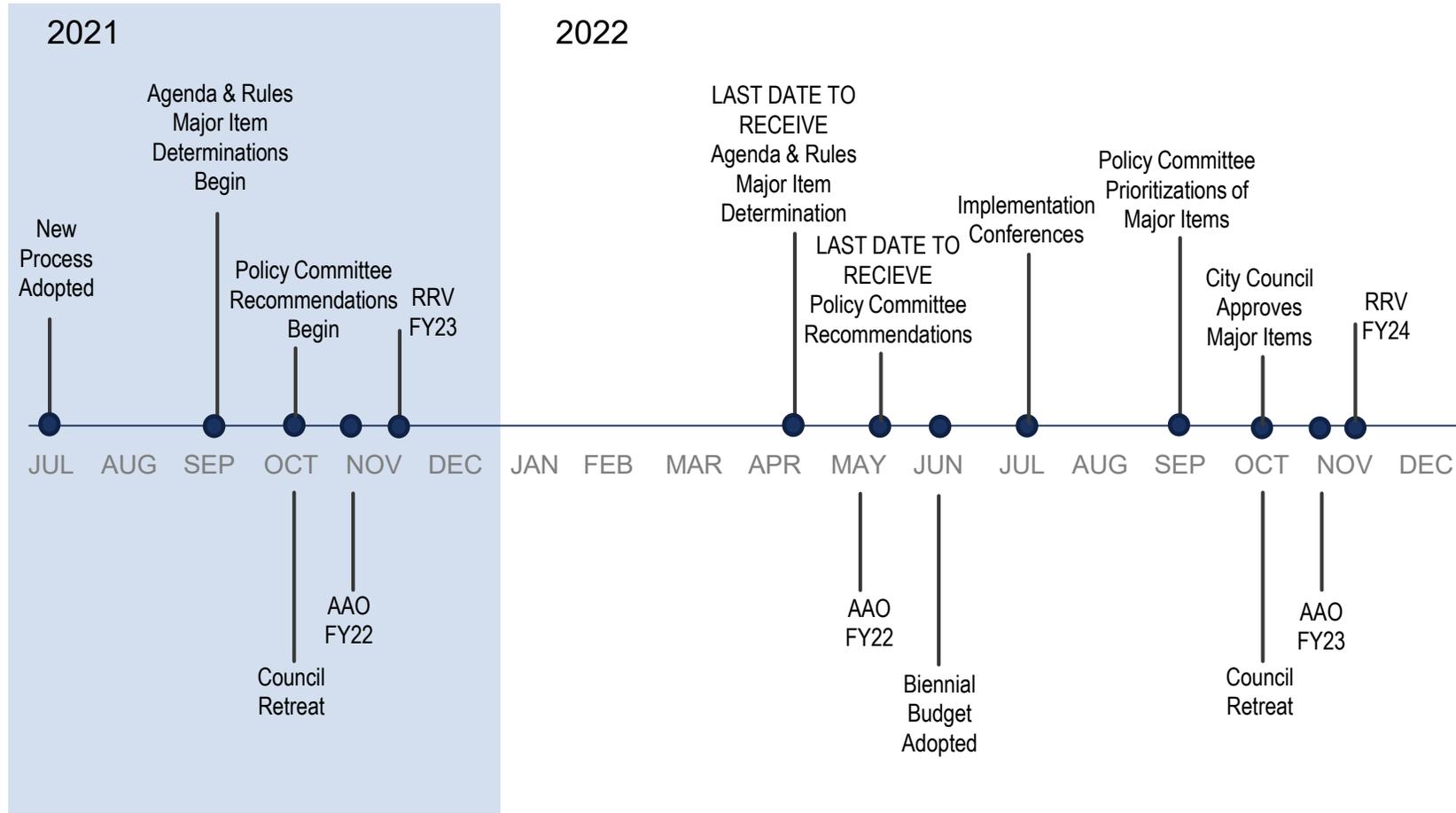
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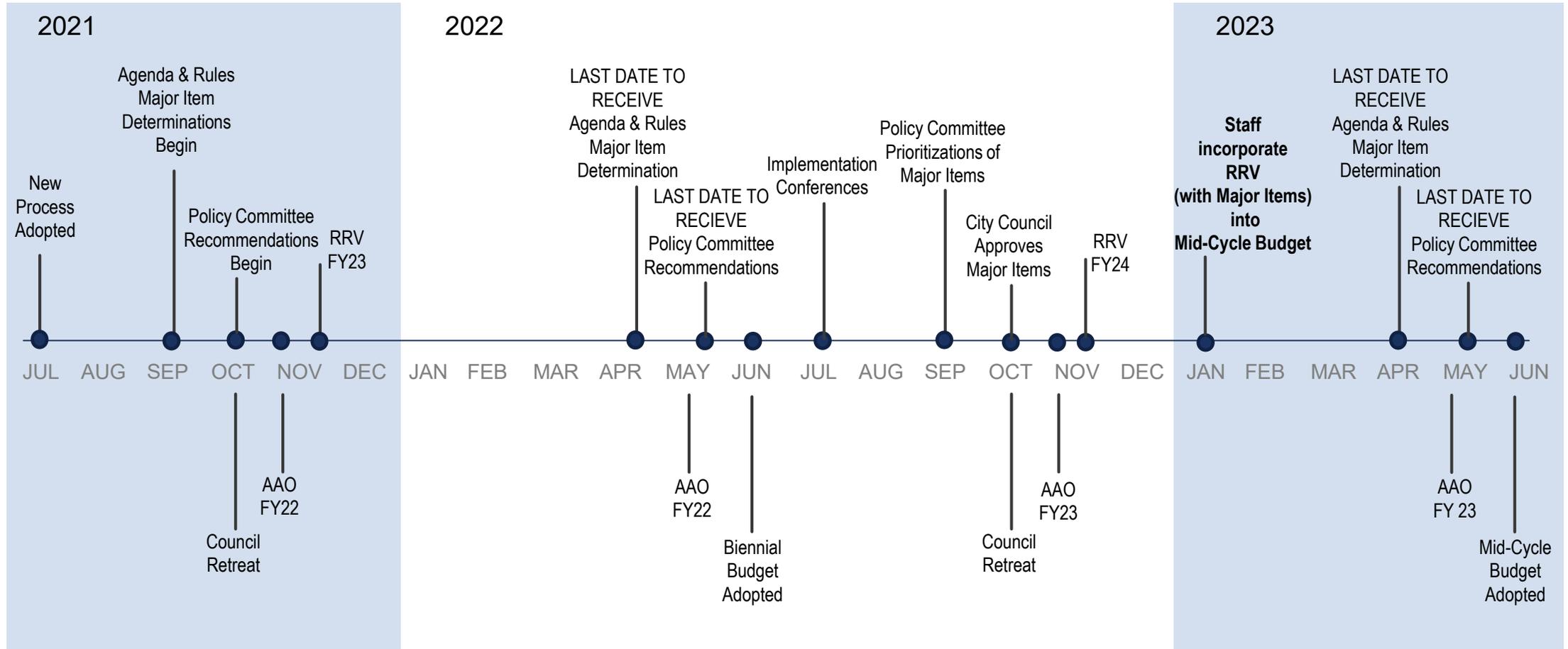
# PROPOSED IMPLEMENTATION

PHASE-IN OF SYSTEMS ALIGNMENT



# PROPOSED IMPLEMENTATION

## PHASE-IN OF SYSTEMS ALIGNMENT



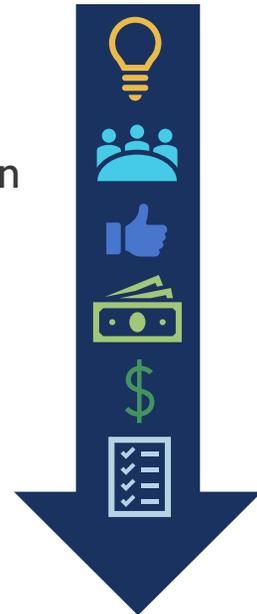
# PROPOSED IMPLEMENTATION

PHASE-IN OF SYSTEMS ALIGNMENT

# SEQUENCING & TIMING

## Existing

1. Idea
2. Committee Consideration
3. Council Approval
4. Costing
5. Budget development
6. RRV



Uncertain Timeline

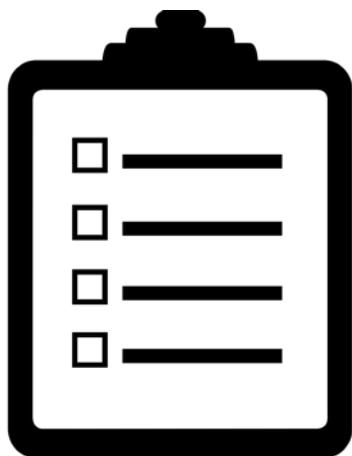
## Proposed

1. Idea
2. Committee Consideration
3. Vetting & Costing
4. Council Approval
5. RRV
6. Budget development



Certain Timeline

# WHAT'S DIFFERENT



Mandatory Guidelines

Implementation Conferences

Policy Committee Prioritization

Moving the RRV process

New required forms and processes

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide "additional analysis" if the item as submitted evidences a "significant lack of background or supporting information" or "significant grammatical or readability issues."

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## SO, HOW DO WE MAKE THIS HAPPEN?

- Adopting aligned timeline and new process
  - Incorporating vetting and costing (i.e., implementation conferences)
  - Prioritizing vetted Major Items (prioritize, assign fiscal year, identify projects to remove to accommodate new Major Items)
  - Revising City Council Rules of Procedure and Order
- Making Appendix B guidelines mandatory
- Addressing adopted, open referrals
- Addressing Council items under consideration

## BENEFITS



Ensures **continuous improvements**



Provides adequate context and impacts of items to **enhance Council decision-making**



Identifies appropriate and necessary resources so that **adopted items are adequately resourced**



Aligns processes to **ensure efficient implementation/realization of Council items**



**Increases collaboration** among and between stakeholders

## NEXT STEPS



Legislative aide roundtable

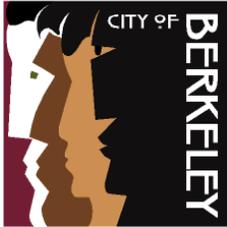


City Manager and Councilmember One-on-Ones



Revise and return item in July

THANK YOU.



Office of the City Manager

**01****Worksession Item**WORKSESSION

May 18, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David White, Deputy City Manager

Subject: Systems Alignment Proposal

RECOMMENDATION

Direct the City Manager to bring back a resolution for adoption of the Systems Alignment proposal as described in this document and incorporating direction and input received from City Council during the worksession.

SUMMARY

This report proposes 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. Ultimately, aligning systems will help ensure our community's values as reflected in the policies of our City Council are implemented completely and efficiently, with increased fiscal prudence, while supporting more meaningful service delivery. 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.

FISCAL IMPACTS OF RECOMMENDATION

While the recommendation of this report would not entail fiscal impacts, if adopted, the proposal would have budgetary effects. Broadly speaking, the proposal is designed to better ensure adequate financial and staffing resources are identified and approved with any adopted significant legislation<sup>1</sup> (Major Item).

CURRENT SITUATION AND ITS EFFECTS

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. These changes support a clear and

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<sup>1</sup> New significant legislation is defined, with some explicit exceptions, as "any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public". See Council Rules of Procedure, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure.pdf).

full realizing of City Council policies, programs, and vision. 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,
- Making the City Council Rules of Procedure Appendix B guidelines mandatory,
- 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.

Additionally, the proposed Systems Alignment would advance the City's Strategic Plan goal to provide an efficient and financially-health City government.

## **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 in Council Rules of Procedure***

Major Items are "new significant legislation" as defined in Appendix D of the [City Council Rules of Procedure](#):

Except as provided below, "new significant legislation" is defined as any law, program, or policy that represents a significant change or addition to existing law, program, or policy, or is likely to call for or elicit significant study, analysis, or input from staff, Councilmembers or members of the public.

The exceptions to the definition of new significant legislation and process state:

New significant legislation originating from the Council, Commissions, or Staff related to the City's COVID-19 response<sup>2</sup>, including but not limited to health and economic impacts of the pandemic or recovery, or addressing other health and safety concerns, the City Budget process, or other essential or ongoing City processes or business will be allowed to move forward, as well as legislative items that are urgent, time sensitive, smaller, or less impactful.

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<sup>2</sup> If this proposal is adopted, "COVID-19" should be replaced with "declared emergency response" in the exception language.

The Agenda & Rules Committee, in consultation with the City Manager, will make the initial determination of whether something is a Major Item, using the Major Item Determination Checklist (see attachment 1). 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. Additionally, if any legislation it originally deemed not to be a Major Item, the author or City Manager may appeal to the Agenda and Rules Committee or to the full Council and present evidence to the contrary.

### ***Required Conformance and Consultation***

All Major Items must use the agenda guidelines in Appendix B of the Council Rules, which require more detailed background information and analysis. The Agenda and Rules Committee can send the item back to the author if it is not complete and/or does not include all of the information required in Appendix B. The author must make a good faith effort to ensure all the guideline prompts are completed in substance not just in form.

Major Items must include a section noting whether the author has initially consulted with the City Manager or city staff regarding their proposed Major Item and the substance of those conversations, and initial staff input.

### ***Required Submission Date***

A Major Item must be submitted in time to appear on the agenda of an 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.

### **Step 2: Policy Committee Review**

A Major Item, once introduced and deemed complete and in conformance by the Agenda and Rules Committee, will be referred to one of City Council's Policy Committees (i.e., Health, Life Enrichment, Equity and Community, Public Safety, etc.), for review, recommendation, and high-level discussion of implementation (i.e., ideas, rough cost estimates, benefits, etc.). Per the [\*Council Rules of Procedure\*](#),<sup>3</sup> the Policy Committee will review the Major Item and the completed Major Item Determination Checklist to confirm Agenda & Rules initial determination that the Major Item is complete in accordance with Section III.B.2 and aligns with Strategic Plan goals. 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).

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<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/City%20Council%20Rules%20of%20Procedure%20-%20Feb%2011%202020%20-%20FINAL.pdf)

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 June 30 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 the City Attorney or designee.

#### ***Identifying Fiscal, Operational and Implementation Impacts***

The intended outcome of an Implementation Conference is a strong analysis containing all of the considerations and resources necessary to support implementation should Council choose to approve the Major Item.

The Implementation Conference is an informal meeting where the primary author can collaborate with the City Manager, City Attorney, and staff to better define the Major Item and identify more detailed fiscal and operational impacts, as well as implementation considerations. The information discussed during the Implementation Conference will be summarized in the Council Report as part of newly required sections (see attachment 2), in conformance with Appendix B:

- *Initial Consultation*, which
  - Lists internal and external stakeholders that were consulted, including whether item was concurrently submitted to a Commission for input,
  - Summarizes and confirms what was learned from consultation,
  - Confirms legal review addressing any legal or pre-emption issues, ensuring legal form,<sup>4</sup>
- *Implementation, Administration, and Enforcement*, which
  - Identifies internal and external benefits and impacts, and
  - Considers equity implications, launch/initiation of Major Item and its ongoing administration, and
- *Fiscal & Operational Impacts*, which
  - Summarizes any operational impacts,

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<sup>4</sup> While consultation with the City Attorney is mentioned in Appendix B, the legal review and "confirmations" recommended in this proposal is a more specific and robust requirement.

- Identifies necessary resources, including specific staff resources needed and costs.<sup>5</sup>

As part of the Implementation Conference, staff will provide a high level work plan, indicating major deliverables/milestones and dates. This information can be collected and recorded using the Implementation Conference Worksheet (see attachment 2).

Implementation Conferences will be date certain meetings held in July.

### ***Revising the Major Item***

After the Major Item's author revises the original Council Report based on information from the Implementation Conference, the Major Item will be submitted to the Council agenda process. If additional full time equivalent employee(s) (FTE) or fiscal resources are needed, the Major Item must include a referral to the budget process and identify the amount for implementation of the policy or program.

### **Step 4: Initial Prioritization**

At their first meetings in September, Policy Committees must complete the ranking of the Major Items which were referred to them and also completed the Implementation Conference. The Policy Committees will provide these rankings in the form of a recommendation to the City Council. The Policy Committees prioritization will use the Policy Committee Ranking Form (see attachment 3) to standardize consideration of Major Items across Policy Committees. 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 for a regular or special Council meeting in October for approval and inclusion in the RRV process.

At the designated Council meeting in October, staff will provide the Council with a list of all approved Major Items, including the initial prioritization by Policy Committee. The Council will consider each Major Item for approval. All approved Major Items then will be added to the RRV process (i.e., with other items, referrals, etc) and ranked. The RRV ranking will begin in late October. These rankings will be adopted by Council and

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<sup>5</sup> Appendix B does require a Fiscal Impacts section, but the inclusion of operational impacts and specific noting of required staff resources and costs recommended in this proposal is a more specific and robust requirement.

used to inform the development of the draft budget. Approved and ranked Major Items have multiple opportunities to be approved for funding, when the biennial budget or mid-cycle budget is adopted in June or when the Annual Appropriations Ordinances are adopted in May and November.

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 Major Items approval, and RRV process no later than the final meeting in December of each year.<sup>6</sup> This ensures that staff is able to develop the budget starting from and based on Council priorities.

### **Step 6: Budget & Strategic Plan Process**

The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward that year and will be added to a list of unfunded proposals for the future budget process.

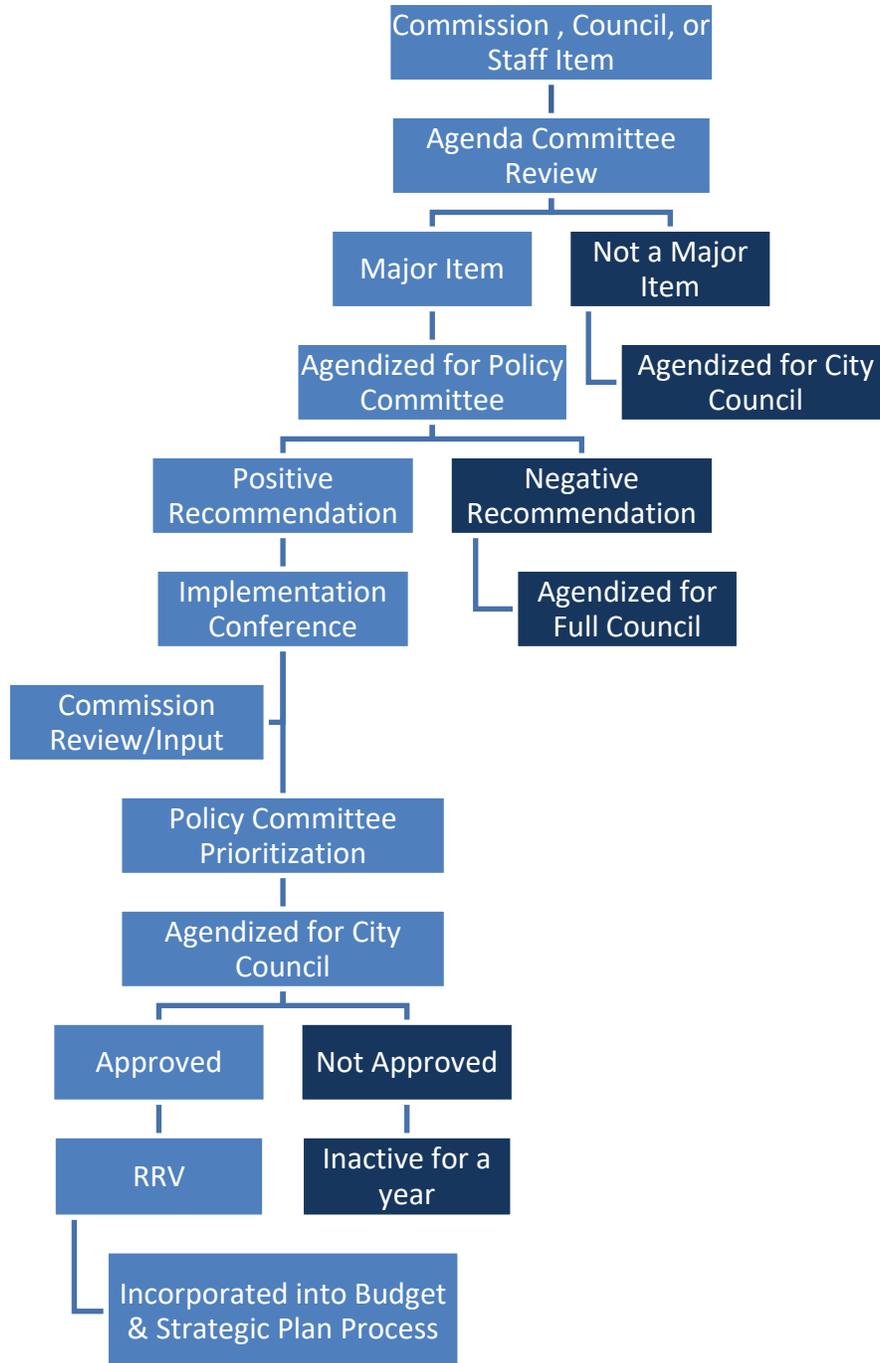
During December and January, city staff will prepare budget proposals that incorporate the ranked City Council Major Items, Strategic Plan, and work plan development. In the late winter/early spring, the City Manager and Budget Office will present the draft budget to Council. This will be followed by 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 biennial. 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 and the proposed launch calendar in Figure 2.

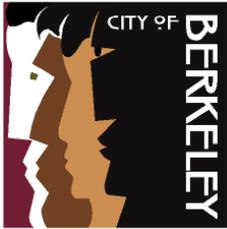
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<sup>6</sup> Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

Figure 1, Proposed Process<sup>7</sup>

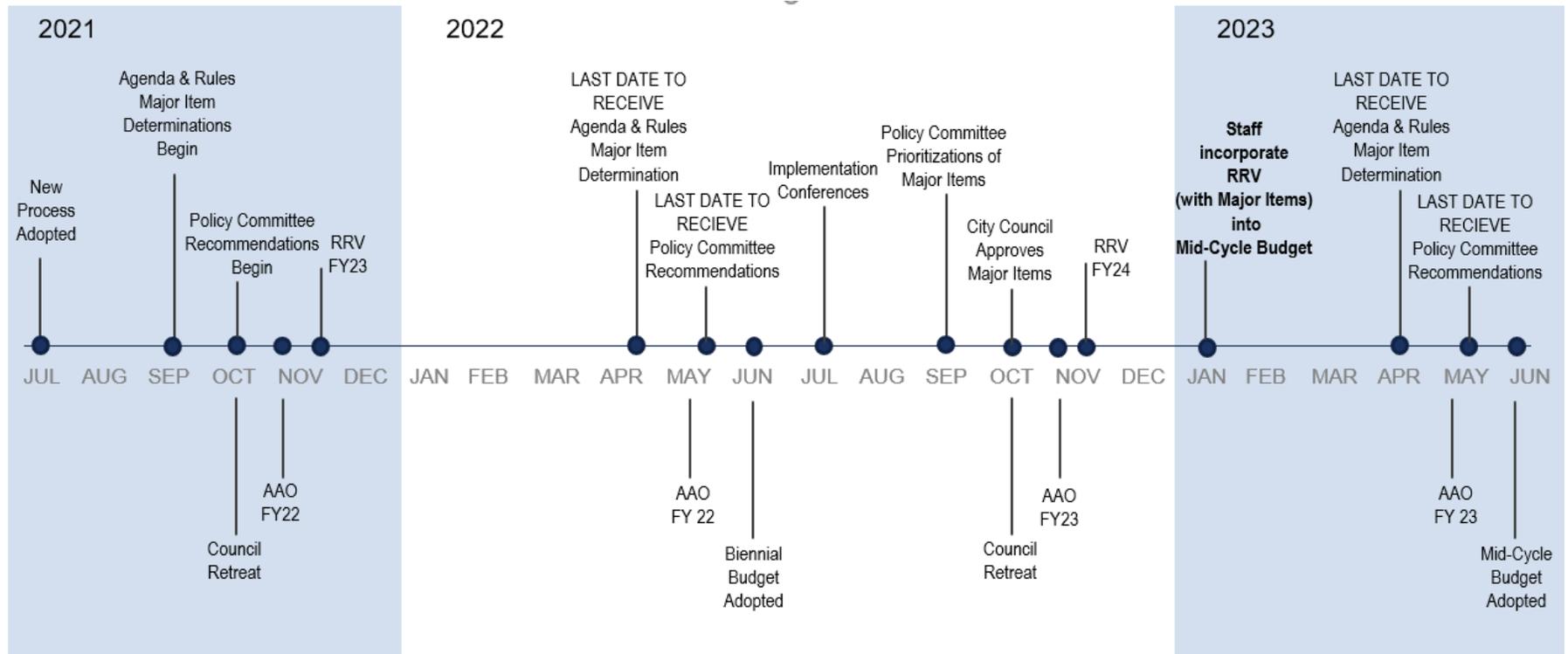


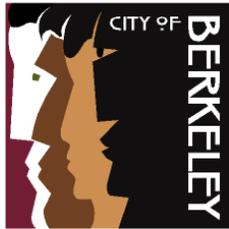
<sup>7</sup> Major Items that are ordinances will need to be examined on a case-by-case basis. Once adopted, ranked, and, if requiring resources, budgeted, the ordinance will need to be given an effective date and scheduled for first and second readings at Council.



Office of the City Manager

Figure 2, Proposed Launch





Office of the City Manager

### Next Steps

Staff will reach out to legislative aides for input and the City Manager will meet individually with Councilmembers to discuss this proposal. Staff will incorporate Council input from the worksession, and from subsequent input into a resolution and return to Council with a final Systems Alignment item for adoption by July 2021.

### Benefits

The addition of an Implementation Conference will ensure that Major Items considered by Council are properly resourced, improving our City's responsible management of fiscal resources. Analysis from the Implementation Conference will help Council to balance and consider each Major Item within the context of related programs and potential impacts (positive and negative). When considered holistically, new policy implementation can be supportive of existing work and service delivery.

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. 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.

### BACKGROUND

In October 2019, City Council held a half-day worksession to discuss systems realignment and provide direction on potential changes to the city's legislative process. The purpose of the meeting was to develop recommendations for how various systems (e.g., budget, Strategic Plan, RRV, etc) could better work together to ensure that the organization is able to focus on the priorities established by the City Council. The City Manager took direction from that meeting and worked with department directors and the Budget Office to create this proposal.

### ENVIRONMENTAL SUSTAINABILITY

By improving efficiency, ensuring adequate resources, and strengthening implementation, this proposal would increase the speed and full adoption of new significant legislation, including sustainability work.

### RATIONALE FOR RECOMMENDATION

The City of Berkeley is unique in comparison to many cities. It considers and approves many more policies, often at the cutting edge, than a typical city and especially for a city of its size. This proposal is a hybrid, incorporating city processes while mirroring State and Federal legislative processes which accommodate a larger number of policies and items in a given cycle. The disadvantage of this proposal is that it introduces additional steps, such as the implementation conference. The advantages of this proposal, are:

- Ensuring adopted legislation is adequately resourced, in terms of both staffing and budget;
- Providing adequate context for Council to balance and consider items in relation to potential positive and negative impacts; and
- Strengthening the effectiveness and efficiency of policy implementation.

### ALTERNATIVE ACTIONS CONSIDERED

At the Council retreat in October 2019, a variety of approaches and ideas were discussed and considered. Additionally, the original version of this proposal was substantively revised through the Policy Committee process.

If the Council takes no action on this item, the existing process will continue to result in inadequately resourced adopted legislation and inefficient and complicated implementation.

### CONTACT PERSON

David White, Deputy City Manager, 510-981-7012

Attachments:

- 1: Major Item Determination Checklist
- 2: Council Report Template and Implementation Conference Worksheet
- 3: Policy Committee Ranking Form



# Major Item Determination Checklist

Item Name:

Item Author:

### Is this a Major Item?

- |                          |                          |  |
|--------------------------|--------------------------|--|
| Yes                      | No                       |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant change to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item represents a significant addition to existing law, program, or policy.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is likely to call for or elicit significant study, analysis or input from staff, Councilmembers, or members of the public |

### Is this eligible for an Exemption?

- |                          |                          |   |
|--------------------------|--------------------------|---|
| Yes                      | No                       |   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related the City's COVID-19 response.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to the City Budget process.                         |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is related to essential or ongoing City processes or business. |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is urgent.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is time-sensitive.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is smaller.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Item is less impactful.   |

### Agenda Committee Determination:

Major Item  Exempted

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

### Policy Committee Confirmation:

Determination Confirmed  Sent back to be agendized for full Council consideration

Indicate name and date below.

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_

Per Committee Member \_\_\_\_\_



[First Lastname]  
Councilmember District [District No.]

[CONSENT OR ACTION]  
CALENDAR  
[Meeting Date (MM dd, yyyy)]

To: Honorable Mayor and Members of the City Council

From: [Councilmember (lastname)]

Subject: [Brief Report Title (No underline and not all caps.)]

RECOMMENDATION

Adopt a Resolution...  
or Support ...  
or write a letter to \_\_\_ in support of \_\_\_\_\_...  
or other recommendation....

FINANCIAL-FISCAL & OPERATIONAL IMPACTS IMPLICATIONS

*This section must include operational impacts, identify any staff resources (full time exempt employee/FTE) required, and financial costs.*

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

*This section must describe benefits and impacts to both internal and external stakeholders. It should also consider equity; the launch or initiation of the item; and its ongoing administration once implemented.*

CURRENT SITUATION AND ITS EFFECTS

*For items that relate to one of the Strategic Plan goals, include a standard sentence in the Current Situation and Effects or Background section:*

[Insert project name] is a Strategic Plan Priority Project, advancing our goal to [pick one:]

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- foster a dynamic, sustainable, and locally-based economy.
- create affordable housing and housing support service for our most vulnerable community members.
- create a resilient, safe, connected, and prepared city.
- champion and demonstrate social and racial equity.
- be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

[Title of Report]

CALENDAR

Macrobutton NoMacro [Meeting Date (MM dd, yyyy)]

- 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.

## BACKGROUND

### INITIAL CONSULTATION

*This section should list the external and internal stakeholders, indicate whether the item was submitted to a commission for input, and summarize what was learned from consulting with stakeholders.*

## ENVIRONMENTAL SUSTAINABILITY

### CONTACT PERSON

Councilmember [First Lastname] Council District [District No.] 510-981-[XXXX]

Attachments: [Delete if there are NO Attachments]

1: Resolution

Exhibit A: [Title or Description of Exhibit]

Exhibit B: [Title or Description of Exhibit]

2: [Title or Description of Attachment]

3: [Title or Description of Attachment]

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

SHORT TITLE OF RESOLUTION HERE

WHEREAS, (Whereas' are necessary when an explanation or legislative history is required); and

WHEREAS, (Insert Additional 'Whereas Clauses' as needed); and

WHEREAS, enter text here; and

WHEREAS, enter text here; and

WHEREAS, (The last "Whereas" paragraph should contain a period (.).

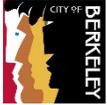
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that (Action to be taken) - ends in a period (.).

BE IT FURTHER RESOLVED that (for further action if needed; if not delete) - ends in a period (.).

Exhibits **[Delete if there are NO exhibits]**

A: Title of the Exhibit

B: Title of the Exhibit



## Implementation Conference Worksheet

**Item Name:**

**Item Author:**

### AUTHOR SECTION

The author of the item may complete this section to help record required information for the report.

Descriptive title:
Is this for Consent, Action, or Information Calendar?
Recommendation:
Summary statement:
Background (history, circumstances and concerns to be addressed by the item):
Plans, programs, policies and/or laws were taken into consideration:
Actions/alternatives considered:
Internal stakeholders consulted:
Name/date of Commission(s) item submitted to for input:
List of external stakeholders consulted:

Summary of what was learned from consulting stakeholders:
Rationale for recommendation:
Internal Benefits of Implementation:
Internal Impacts of Implementation:
External Benefits of Implementation:
External Impacts of Implementation:
Equity Considerations:
Launch and Implementation Milestones (see staff section)
Environmental Impacts:
Operational Impacts:
Staff Resources Needed:  Number of FTE/hours: Type of staff resource needed:
Costs:  Amount(s): Funding Source:

**STAFF SECTION**

Staff may complete section to provide required information for the report.

Estimated Launch/implementation Deliverables/Dates:	
<i>Month/Year</i>	<i>Deliverable</i>
Estimated Administration Deliverables/Dates:	
<i>Month/Year</i>	<i>Deliverable</i>

**Legal Consultation:**

Confirmed

Name/Date \_\_\_\_\_

**Staff Consultation:**

Confirmed

Name(s)/Date(s) \_\_\_\_\_



