



Commission on Labor

Agenda

South Berkeley Senior Center
2939 Ellis Street
Berkeley, CA 94703

Wednesday
January 16, 2019
7:00 p.m.

Preliminary Matters

1. Roll Call
2. Public Comments
The public may comment about any item not on the agenda. Public comments regarding agenda items will be heard while the Commission is discussing the item.
3. Approval of November 14, 2018 Meeting minutes (*Attachment 1*)
4. Introduction of new Commissioner, Alexander Sharenko, appointed by Lori Droste, District 8.

Action Items

The Commission may take action related to any subject listed on the Agenda. Public comments regarding agenda items will be heard while the Commission is discussing the item.

5. Status Updates:
 - 1) Council Referral: Development of a Homeless Youth Policy subcommittee report & discussion re: possibly further extending the expired subcommittee; review of draft recommendations (*Attachment 2*)
 - 2) Council Referral: May 15, 2018 to Establish Fair Workweek Requirements in Berkeley (also referred to the City Council's Paid Family Leave ad-hoc subcommittee, *Attachment 3*)
 - 3) Council Referral: Paid Family Leave- update regarding Council subcommittee & Commission on the Status of Women actions
 - 4) Minimum Wage Ordinance

Outcome of staff recommendations to Council at their November 27, 2018 meeting regarding the reinstatement of youth exemption
 - 5) UC Berkeley management anti-union stance regarding student labor solidarity
6. Officer Election Planning for March Meeting (*Attachment 4*)

Information

7. Local Mitigation Hazard Plan (LHMP): City Manager Memo (attachment 43) and request for feedback regarding the draft plan update, full document can be found at the following link: <http://www.cityofberkeley.info/mitigation>

Adjournment

Please refrain from wearing scented products to this meeting.

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 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the commission secretary for further information.

Written material may be viewed in advance of the meeting at the Housing & Community Services Department, 2180 Milvia, 2nd Floor, during regular business hours or at the Berkeley Public Library, Shattuck/Kittredge Streets, during regular library hours at the Reference Desk. The Commission Agenda and Minutes may be viewed on the City of Berkeley website: <http://www.cityofberkeley.info/commissions>.

Secretary:

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Commission on Labor
Delfina Geiken, Secretary
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Berkeley, CA 94704



Draft Minutes

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA

Wednesday
November 14, 2018
7:00 p.m.

Preliminary Matters

1. Roll Call

Meeting called to order @7:00pm

Present: P. Castelli; S. Frankel; M. Wilkinson; K. Schriener; L. Sayre.

Absent: M. Jones (arrived @ 7:05pm); N. McClintick (arrived @7:10pm);

J. Fillingim (arrived @7:25pm);

Leave of Absence: W. Bloom

Staff: D. Geiken, Commission Secretary

N. Dahl, Community Development Project Coordinator

Members of the Public: 2

2. Public Comments

The public may comment about any item not on the agenda. Public comments regarding agenda items will be heard while the Commission is discussing the item.

Chairperson L. Sayre reported the IWW (Industrial Workers of the World) have agreed with management of Berkeley Recycling on a two-year contract, which will be signed in the near future & pending ratification by the union. Wage increases are retroactive to July 1, 2018, contract expires June 30, 2020.

3. Approval of September 12, 2018 Meeting minutes (*Attachment 1*)

M/S/C (Wilkinson/Castelli) to approve minutes with correction to the IWW name, should be **Industrial** Workers of the World.

Ayes: P. Castelli; S. Frankel; M. Wilkinson; K. Schriener; L. Sayre.

Noes: none

Absent: M. Jones (arrived @ 7:05pm); N. McClintick (arrived @7:10pm);

J. Fillingim (arrived @7:25pm);

Leave of Absence: W. Bloom

Action Items

The Commission may take action related to any subject listed on the Agenda. Public comments regarding agenda items will be heard while the Commission is discussing the item.

4. Setting Meeting Schedule for 2019

PROPOSED DATES FOR 2019-3rd Wednesday of the month

DAY	DATE	MEETING START TIME	MEETING END TIME
Wednesday	1/16/19	7:00pm	9:00pm
Wednesday	3/20/19	7:00pm	9:00pm
Wednesday	5/15/19	7:00pm	9:00pm
Wednesday	7/17/19	7:00pm	9:00pm
Wednesday	9/18/19	7:00pm	9:00pm
Wednesday	11/20/19	7:00pm	9:00pm

M/S/C (Castelli/Schriner) to approve 2019 meeting calendar

Ayes: P. Castelli; S. Frankel; M. Wilkinson; K. Schriner; L. Sayre; M. Jones

Noes: none

Absent: N. McClintick (arrived @7:10pm); J. Fillingim (arrived @7:25pm);

5. Status Updates:

- 1) Development of a Homeless Youth Policy subcommittee report
M. Wilkinson provided an update on past subcommittee meetings; a draft recommendation is being prepared, may be ready for the January meeting.
- 2) Council Referral: May 15, 2018 to Establish Fair Workweek Requirements in Berkeley (also referred to the City Council's Paid Family Leave ad-hoc subcommittee) subcommittee report

Speaker: Molly Curley O'Brien provided insights on implementation of Emeryville ordinance.

Nate Dahl, the city's Community Development Project Coordinator, provided an overview of the CLASP (Center for Law and Social Policy) conference he attended this month, which covered Paid Sick Leave and Paid Family leave.

- 3) Paid Family Leave-subcommittee update
Speaker: Emmaline Campbell of the Commission on the Status of Women (COSOW) provided an overview of the current status of the COSOW recommendations, which are stalled.
- 4) Immigration & Customs Enforcement (ICE) and AB 540 discussion carried over from July 18, 2018)

No action at this time.

- 5) Minimum Wage Ordinance-Outcome of staff recommendations to Council at their November 13, 2018 meeting regarding the reinstatement of youth exemption

Staff reported that the item was carried over to the November 27, 2018 Council meeting. A counter report was submitted to council and will also be considered at the November 27, 2018 meeting.

6. Agenda Planning for January 2018 Meeting
 - Local Mitigation Hazard Plan
 - Development of a Homeless Youth Policy
 - Fair Work Week
 - Paid Family Leave
 - Minimum Wage Ordinance for Youth update
 - UC Berkeley management and anti-union stance

Information

7. 2018 Commission Attendance Report as submitted to City Clerk for Council report

Adjournment

Meeting adjourned @ 8:55PM

Minutes Approved on _____

Commission Secretary

Secretary:

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January 16, 2019
Attachment 2

To: Honorable Mayor and Members of the City Council
From: Ankit Hirpara (Homeless Commission), Jerry Fillingim (Labor Commission), & Affected Youth of Berkeley
Subject: Homeless Youth Policy

The Problem

The nation's staggering rate of youth and young adult (YYA) homelessness continues to rise. The most recent HUD Point-in-Time count found more than 36,000 YYA and nearly 10,000 parenting YYA homeless on a *single* night. Moreover, public schools report 95,000 unaccompanied homeless youth.

In Berkeley, the youth make up 19% of the general homeless population, and there are nearly 200 individuals who fall in the category of Unaccompanied Transitional Age Youth, with only 76% being sheltered. It is our responsibility to alleviate youth homelessness along with the criminal victimization, sexual exploitation, trauma, and health issues associated with such a dehumanizing state of living. This is a *public health emergency*.

Call To Action

We urge you to consider the following policies and programs that have been developed based on direct feedback from the affected youth. The recommendations target the critical areas of employability skills and job development, housing, and services.

Jobs Skills/Development

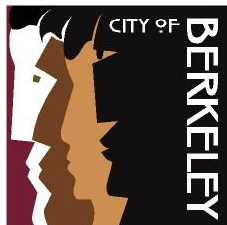
- Reinvigorate the Berkeley First model whereby local, unhoused youth are hired for construction and similar labor opportunities. The City should strive to reach an agreement with contractors to employ a certain percentage of affected youth in appropriate projects.
- Generate an RFP specifically for *job development programs* such as Inter-City Services. Providing more funding for such programs ensures the affected youth acquire the proper education and labor skills needed for successful employment.
- Generate an RFP for *job placement programs* like Youth Spirit Artworks and Berkeley Youth Alternatives that can utilize extra funding for full-time placement staffers.

Housing

- Adopt Oakland's DreamCatcher Youth Program in order to provide - specifically for youth - *day shelter*, case management services, recreational activities and access to resources such as laundry facilities and computers.
- Identify nearby land to efficiently implement the Tiny Homes model, which has already proven to be successful. There are not many modes of translational housing in Berkeley, and Tiny Homes provide a unique and cost-effective solution.

Services

- Initiate a hygiene program where affected youth can access basic hygiene products such as deodorant, tampons, toothpaste, etc. These items are *necessary* for successful job placement, social etiquette, and good health.
- Dedicate an office space for a peer program in which affected youth can congregate, voice their experiences and cooperatively generate solutions to deteriorating mental health, substance abuse problems, and a variety of other issues. Provide *peer-conflict resolution training*.
- Reduce police harassment via safety protocols for police, such as drive-by observations of sleeping youth on the street.



Kate Harrison
Councilmember District 4

REVISED AGENDA MATERIAL

Meeting Date: May 15, 2018

Item Number: 41

Item Description: Referral to Labor Commission to Establish Fair Workweek Requirements in Berkeley

Submitted by: Councilmember Harrison

Leaves to be determined what number of employees shall delineate small and large businesses, and clarifies which provisions should apply to the City and Rent Board,



Kate Harrison
Councilmember District 4

ACTION CALENDAR
May 15, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Referral to Labor Commission to Establish Fair Workweek Requirements in Berkeley

RECOMMENDATION

Refer to the Labor Commission to draft an Ordinance to establish regulations governing the scheduling and hiring practices of qualifying businesses in Berkeley.

BACKGROUND

Even with sick pay and strong minimum wage laws, workers in Berkeley, particularly shift workers, still face unfair and exploitative work practices. Since the passage of the Affordable Care Act, a frequent issue that has arisen is the practice of businesses keeping their employees below 30 hours a week to avoid having to provide them health care. Workers may be forced to take “clopening” shifts, where an employee covers the closing shift one day and the opening shift the next day, giving them little time for rest. Shift workers frequently have shifts added or removed hours before they are set to begin, making scheduling impossible and creating financial difficulties for those with children who need child care.

Multiple jurisdictions have introduced measures to address these inequitable conditions, including the cities of Emeryville, San Jose, San Francisco, and New York and the state of Oregon. The strongest so far has been Emeryville’s ordinance (attached). The ordinance drafted by Labor Commission should be based on that law, strengthened with the following principles:

- The right to refuse “clopening” shifts, the right to request a flexible work arrangement, and a prohibition on refusing hours to prevent the application of benefits should apply to all employers and employees.
- The right to at least two week notice of work schedule, to decline additional hours, and to “predictability pay” if changes are made to the schedule after the 2 two week deadline should apply to all businesses of at least 25 employees with above a given number of employees, consistent with other Berkeley labor provisions.

- The requirement that new shifts first be offered to all qualified existing employees until they have at least 35 hours of work per week on average should apply to all Retail, Hotel, and Restaurant firms with at least 25 employees with above a given number of employees, consistent with other Berkeley labor provisions, as well as the City of Berkeley and the Berkeley Rent Stabilization Board.
- ~~All requirements of the ordinance apply to the City of Berkeley and the Berkeley Rent Stabilization Board.~~

FISCAL IMPACTS OF RECOMMENDATION

Staff time to implement and enforce. Possible revenue from fines paid by noncompliant businesses.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

Attachments:

1: Emeryville Ordinance

3) Incompatible Public Offices

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices that are incompatible in terms of their duties and/or the likelihood of divided loyalties. However, in Berkeley, serving on two or more City boards or commissions, including quasi-judicial bodies, is permitted (BMC Chapter 3.80). A commissioner who already occupies an elected or appointed office other than a City board or commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

4) Incompatible Activities for Compensation

Government Code Section 1126 prohibits a public official from engaging in activities for compensation that are incompatible with his or her public office. A commissioner engaged in compensated activities that may be incompatible with his or her duties as a commissioner should consult the City Attorney.

5) State-Mandated Ethics Training

State law (AB 1234) requires certain local agency officials to receive training in ethics. In Berkeley, the officials identified for requirement are Mayor and City Council, City Auditor, Rent Stabilization Board Commissioners, Board of Library Trustees, and Police Review Commissioners.

These officials will receive a notice from the City Clerk advising them of the required training. The training may be completed on the FPPC website. The training must be completed within one year of the date of appointment and every two years thereafter. A certification of completion must be filed with the City Clerk. For more information, please contact the City Clerk Department.

F. COMMISSION ORGANIZATION**1) Election of Officers and Terms of Office**

Unless otherwise provided by ordinance,² the chair and vice-chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as chair for more than two consecutive years. There is no term limit for vice-chair.

Unless otherwise provided for in the enabling legislation, the annual election of commission officers should occur during the month of February. The election of officers must be listed as an item on the agenda.

Two meetings prior to the meeting at which officers will be elected, commissions are encouraged to list as an agenda item a discussion of the election, to inform all commissioners of the opportunity to seek nomination and election for the offices of chair and vice chair, to discuss and agree to the nomination process and timing for nominations (if no policy has been enacted by the commission), and to add clarity for commissioners and the

² Election of officers to the Police Review Commission, Board of Library Trustees, and Landmarks Preservation Commission are regulated by BMC Sections 3.32.050, 3.04.040, and 3.24.030, respectively.

public. In order to facilitate an orderly and fair nomination process, commissions may open nominations at the January meeting (or the meeting prior to the February meeting) and then hold the vote on officers at the February meeting. A Commission may enact a policy on officer elections in conformance with the requirements stated below, specifying the timing for nominations, the order in which nominations will be voted upon, and any other details that support a fair, orderly and transparent process for election of officers.

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

Additional regulations for officer elections:

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate himself or herself.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes (Resolution No. 60,531-N.S.).
- A commissioner may not be elected chair if he or she will not be able to finish the term due to the two-year limitation.

Terms of office for officers are determined by the date the election regularly occurs, not by the date it may have actually occurred. If there is a slight variation in the date of the election, the sitting chair may serve on an interim basis provided that they do not exceed the two-year limit.

Scenario:

The chair is elected in February 2016. The chair resigns in April 2016. A new chair is elected in May 2016. The newly elected chair will serve from May 2016 to February 2017, when the next regular election is held.

2) Mandatory Annual Training for Chairs and Vice-Chairs

Chairs and vice-chairs are required to complete mandatory annual training. Resolution No. 63,876-N.S. was adopted by the City Council to implement video training for commission officers to satisfy the requirements of Resolution No. 60,531-N.S.

The chair and vice-chair must view, in its entirety, a training video on commission procedures and legal requirements. Upon completion, the chair and vice-chair must file with the City Clerk an Affirmation of Completion.

This training video must be viewed and the Affirmation of Completion must be filed with the City Clerk no later than 60 calendar days from the date of election as chair or vice-chair. Failure to complete the video training and file the Affirmation of Completion within 60 days of election will result in the immediate forfeiture of the position of chair or vice-chair.

Commission officers must file an Affirmation of Completion within 60 days from the date of election or forfeit their seat as chair or vice-chair.

While not mandatory for commissioners other than the chair and vice-chair, completion of this training is encouraged for all commissioners.

The required training video may be viewed online through the city website - <https://www.cityofberkeley.info/commissions/> or a DVD may be obtained from the City Clerk Department at 2180 Milvia Street, 1st Floor. The City Clerk also offers a video terminal at its office for commissioners to view the training video.

3) **Duties of Officers**

The “presiding officer” (chair or, in his or her absence, the vice-chair), performs the following duties.

- Presides at all meetings of the commission and ensures that the work of the commission is accomplished. To this end, the chair must exert sufficient control of the meeting to eliminate irrelevant, repetitious, or otherwise unproductive discussion. At the same time, the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.
- Ensures that commission bylaws, if any, and procedures are followed. The chair cannot make rules related to the conduct of meetings; only the full commission may do so.
- Appoints commissioners to temporary subcommittees subject to the approval of the full commission.
- Approves the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the chair the authority to remove an item submitted by commissioners or staff if submitted by the established deadline.
- Signs correspondence on behalf of the commission.
- Represents the commission before the City Council. Other commissioners may be the representative with the formal approval of the commission by motion and vote.
- Approves commission reports to Council. The chair cannot modify content that was approved by the full commission.
- The chair or a quorum of the commission may call a special meeting.
- The chair and vice-chair have full rights to vote and to make or second motions.

4) **Transfer of Chair**

In the absence of the chair or his or her inability to act, the vice-chair presides in place of the chair, but does not assume the office of chair. In the event of the absence or the inability to act of both the chair and the vice-chair, the remaining commissioners elect one of their members to act as temporary chair.

If a chair is terminated from the commission for any reason, or resigns, the office is vacated, and a new election for chair must be held to fill the office. The vice-chair does not assume the office of chair, rather they preside over the meetings and execute the chair's duties as the vice-chair. If a vice-chair is terminated, the office is vacated, and a new election would be held to fill the office. If an officer is terminated and subsequently reappointed to the commission, he or she shall not resume the office and must be reelected to the office by the majority of the membership.

In the event a chair leaves the commission prior to the end of his or her term, the vice-chair performs the duties of chair but does not assume the office of chair. An election must be agendized and a new chair must be elected at a subsequent meeting. The vice-chair may be elected as chair, as may any other commissioner, but the commission must vote on the election.

5) **Temporary Subcommittees/Ad Hoc Subcommittees**

From time to time, the commission or the chair, with the confirmation of the commission, may appoint several of its members, but fewer than a quorum of the present body, to serve as a temporary subcommittee. Commissions are limited to the creation of ad hoc single purpose subcommittees. Ad hoc subcommittees are treated as if they are legislative bodies under City policy and, as such, are required to comply with the requirements in the Brown Act.

Ad hoc subcommittees are defined by all of the following characteristics.

- Composed of less than a quorum of the parent body.
- Composed of only members of the parent body (no members of other commissions or any other persons may be included).
- Have a finite purview established by the parent body.
- Have a set target date to report back to the parent body.
- Terminate within one year, unless the parent body reviews and extends the timeline.
- Have no regular meeting schedule set by the parent body (all subcommittee meetings are "special meetings").
- Have no alternate commissioner assigned to attend meetings, even as an observer, if his or her presence would create a quorum of the parent body.

Subcommittees are advisory only to their parent commission, not to Council. Subcommittees are tasked with the study of a specific issue and with making a recommendation to their parent commission. The parent commission has the opportunity for input when the subcommittee reports