

**BERKELEY CITY COUNCIL HEALTH, LIFE ENRICHMENT, EQUITY &  
COMMUNITY COMMITTEE  
REGULAR MEETING MINUTES**

**Monday, November 25, 2019  
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Councilmembers Rashi Kesarwani, Cheryl Davila, and Sophie Hahn

**Roll Call:** 10:07 a.m. Councilmember Kesarwani absent.

**Public Comment on Non-Agenda Matters** – 3 speakers

Councilmember Kesarwani present at 10:12 a.m.

**Minutes for Approval**

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

**1. Minutes - October 28, 2019**

**Action:** M/S/C (Kesarwani/Hahn) to approve the minutes of October 28, 2019.

**Vote:** Ayes – Kesarwani, Hahn; Noes – None; Abstain – Davila; Absent – None.

**Committee Action Items**

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.*

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

## Committee Action Items

### 2a. Recommendations Related to Code Enforcement Actions and Leonard Powell Fact Finding

**From: Housing Advisory Commission**

**Referred: June 11, 2019**

**Due: November 26, 2019**

**Recommendation:** On June 11, 2019, the City Council referred the two Commission items to the Health, Life Enrichment, Equity & Community Committee to create a policy that receivership should only be used when the property is a danger to the public, and as a last resort, and only upon approval of the Council.

The original recommendation from the Housing Advisory Commission is as follows: Establish policies that will provide housing stability for homeowners and tenants. The City Council should set in place clear, objective, and equitable standards for conducting code enforcement actions and ensure that due process rights of affected homeowners and/or tenants are preserved. Commission a formal fact-finding process to ascertain what occurred in the matter of Mr. Leonard Powell. It should also refer this matter to the City Auditor. The fact finding should, among other things, focus on any actions taken by the Receiver in the case of Mr. Powell and any communications that the City has had with the Receiver. The HAC recognizes that additional steps may be necessary in regard to this matter, and may forward additional recommendations to the City Council at a later date.

**Financial Implications:** Staff time

Contact: Mike Uberti, Acting Commission Secretary, HHCS (510) 981-5114

### 2b. Recommendation to Bring Justice to Mr. Leonard Powell and to Change Certain Policies to Ensure Housing Stability for Homeowners and Tenants

**From: Peace and Justice Commission**

**Referred: June 11, 2019**

**Due: November 26, 2019**

**Recommendation:** On June 11, 2019, the City Council referred the two Commission items to the Health, Life Enrichment, Equity & Community Committee to create a policy that receivership should only be used when the property is a danger to the public, and as a last resort, and only upon approval of the Council.

The original recommendation from the Peace and Justice Commission is as follows: The Peace and Justice (PJC) recommends that the Berkeley City Council take the following actions:

Send a letter to the Superior Court Judge overseeing Mr. Leonard Powell's receivership case thanking him for the fairness and justice of his decision to deny the Bay Area Receivership Group's ongoing requests to sell Mr. Powell's home, and allowing Mr. Powell and his friends and family time to make the necessary financial arrangements.

PJC also recommends to the Berkeley City Council that it set in place the following policies that would provide housing stability for homeowners. In particular, when

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legal action is being attempted by the City as a result of code enforcement violations, the following practices should be put into place:

1. Punitive actions such as eviction, substantial fines, or placing an individual into legal guardianship, or receivership that are likely to result in the permanent displacement of a homeowner or their low-income tenants presently occupying or renting their home is the very last resort that city staff should take. It should only be conducted if all other attempts to resolve the situation have been unsuccessful; and should only be a response to severe code enforcement violations that cause immediate danger to life safety or have been determined by a quasi-judicial body (e.g., Zoning Adjustments Board, City Council) to endanger the health and safety of the immediate neighbors.
2. The Mayor, and Councilmember representing the district of the address in question, and Housing Advisory Commission are notified of their constituent's name (if allowed by applicable privacy laws), address, the nature of the alleged code violations, and a report detailing the status of the matter and any past, ongoing, and anticipated future attempts to resolve the matter; and
3. The City shall explore the use of anti-displacement funds to assist low-income homeowners and/or tenants residing on the premises with legal matters of forced relocation, expenses, and/or other needs as applicable and appropriate.
4. Establish a policy that code enforcement should aim to improve the safety and security of the property for its current residents and their neighbors.
5. "Reimburse" Mr. Powell, Friends of Adeline and NAACP by placing an amount not to exceed \$68,000 raised privately to pay for Receivers legal and administrative fees. These parties may collectively determine how to best use these funds.

**Financial Implications:** See report

Contact: Bre Slimick, Commission Secretary, (510) 981-7000

### 2c. Draft Plan for Public Meeting on Receivership

**From: Councilmember Bartlett**

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**Action:** 11 speakers. Discussion held.

M/S/C (Kesarwani/Hahn) to accept Councilmember Kesarwani's submitted referral to the City Manager for an information session on the technical issues surrounding receivership.

**Vote:** Ayes – Kesarwani, Hahn; Noes – None; Abstain – Davila; Absent – None.

M/S/C (Hahn/Kesarwani) to send the item to Council with a positive recommendation that for purposes of understanding the issues and identifying potential changes to the City's codes, policies, and procedures the committee recommends the following:

- a. That the City Manager provide an information session to the City Council regarding the various ways in which code enforcement issues have been brought to the attention of the City over the last 5 years;

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- b. How various code enforcement issues at residential properties are currently handled;
- c. Timeframe and mechanisms for achieving code compliance at residential properties;
- d. Any existing assistance programs available to support property owners found to have code violations;
- e. Specific learnings/changes in City practices resulting from the Leonard Powell receivership case;
- f. Other information deemed relevant and appropriate to understand the City's current code enforcement practices for residential properties

Additionally, the Policy Committee requests that the Mayor call a special meeting of the City Council for purposes of a forum based on the recommendations provided by Councilmember Bartlett as the draft plan for a public meeting on receivership.

And third, the Committee requests from the City Manager a specific reply on creating a mechanism to provide legal and technical assistance by an independent third party for individuals who are facing City of Berkeley initiated receivership, and that the reply also include a process for the individual to pick legal and technical representatives of their choice. This response should also include a recommendation from the City Manager and a budget referral.

**Vote:** All Ayes.

### 3. **Healthy Checkout Ordinance**

**From: Councilmembers Harrison and Hahn**

**Referred: October 28, 2019**

**Due: April 6, 2019**

**Recommendation:** 1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.  
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.

**Financial Implications:** See report

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

Item continued to next meeting on December 9, 2019.

### 4. **Listening Session on general conditions at encampments and from the homeless population at large (30 minutes)**

**Action:** 3 speakers. Future agendas will include a 15 minute listening session on the same topic. No action on this item.

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5. **Establishing an Outdoor Emergency Shelter** *(Item contains revised materials)*  
**From: Councilmembers Harrison, Davila, Mayor Arreguin, and Councilmember Robinson**

**Referred: October 1, 2019**

**Due: March 10, 2020**

**Recommendation:** Adopt five referrals to the City Manager to begin the process of establishing a sanctioned homeless encampment in Berkeley:

1. Enter into a contract to purchase climate-controlled, wind-resistant durable tents.
2. Issue a Request for Proposals for an agency to manage and oversee the encampment.
3. Install a portable toilet and handwashing station at the encampment parcel.
4. Request that Lava Mae to service the encampment parcel once a week, thereby reinstating the City's twice weekly service standard.
5. Add the emergency shelter parcel to an existing garbage pickup route and provide safe needle disposal as part of trash services.

**Financial Implications:** See report

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

**Action:** 5 speakers. Discussion held. M/S/C (Davila/Hahn) to send the item to Council with a positive recommendation and the following additional amendments made by the author:

1. Refer to the November budget process the costs of \$615,000 associated with establishing the outdoor emergency shelter to be considered with other Measure P Panel of Experts recommendations;
2. Referral to the City Manager to begin the process of establishing an outdoor emergency shelter in Berkeley. This includes seeking an agency to manage and oversee the outdoor emergency shelter including amenities for trash pick-up, toilets, handwashing stations, showers services, and needle receptacles, as well as provide basic service levels including security, housing support services, and outreach coordinators.
3. Additionally, the committee recommends but does not require, that staff establish protocols based on existing application processes for eligibility allocation and that the eligibility criteria be less restrictive than the HUD criteria.

**Vote:** Ayes – Davila, Hahn; Noes – None; Abstain – Kesarwani; Absent – None.

## Unscheduled Items

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

- 6a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance**  
**From: Housing Advisory Commission**  
**Referred: October 29, 2019**  
**Due: April 7, 2020**  
**Recommendation:** Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:
1. Increase staffing to implement enforcement of the ordinance as part of the next budget;
  2. Improve signage related to the ordinance in residential buildings;
  3. Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge;
  4. Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
  5. Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.
- Financial Implications:** See report  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400
- 6b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance**  
**From: City Manager**  
**Referred: October 29, 2019**  
**Due: April 7, 2020**  
**Recommendation:** The City Manager appreciates the Housing Advisory Commission’s efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 7. Presentation on Vector Control**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## **Items for Future Agendas**

- **Discussion of items to be added to future agendas**
- **Discussion of future hearings and open forums**

## **Adjournment**

Adjourned at 12:55 p.m.

I hereby certify that this is a true and correct record of the Health, Life Enrichment, Equity & Community Committee meeting held on November 25, 2019.

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April Richardson, Assistant 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.*