

**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC  
DEVELOPMENT COMMITTEE  
REGULAR MEETING MINUTES**

**Thursday, May 6, 2021  
10:30 AM**

Committee Members:

Councilmembers Sophie Hahn, Lori Droste, and Rigel Robinson  
Alternate: Councilmember Ben Bartlett

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

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

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use <https://us02web.zoom.us/j/86006545447>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **860 0654 5447**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

## MINUTES

**Roll Call:** 10:33 am. Councilmembers Droste, Hahn, and Robinson present.

**Public Comment on Non-Agenda Matters:** 2 speakers.

### Minutes for Approval

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

- 1. Minutes - March 18, 2021 and April 26, 2021**  
**Action:** M/S/C (Droste/Hahn) to approve the March 18, 2021 and April 26, 2021 minutes.  
**Vote:** All Ayes.

### Committee Action Items

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

- 2. Disposition of Existing Agenda Items Pursuant to Appendix D of the City Council Rules of Procedure and Order Related to Temporary Rules for Policy Committees**  
**From: City Clerk**  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** 2 speakers. Discussion held. Item continued to a future meeting of the committee.
- 3. Small Business Listening Session**  
**Action:** 3 speakers. Discussion held.

## Committee Action Items

### 4. **Tenant Opportunity to Purchase Act, Adding BMC Chapter 13.89**

**From: Mayor Arreguin (Author)** *(Item contains revised material.)*

**Referred: February 24, 2020**

**Due: May 20, 2021**

**Recommendation:**

1. Adopt a first reading of an ordinance adding Berkeley Municipal Code Chapter 13.89, the Tenant Opportunity to Purchase Act (TOPA), that will take effect on final adoption with an implementation start upon completion of Administrative Regulations and funding of related program costs; and
2. Direct the City Manager to take all necessary steps to implement this chapter including, but not limited to:
  1. Developing Administrative Regulations;
  2. Preparing an implementation strategy;
  3. Identifying resources to align databases from Finance, Planning, and the Rent Board to accurately reflect the properties that would be subject to TOPA;
  4. Determining necessary staffing for program administration and hearing officers for adjudication;
  5. Timelines for project “roll-out”;
  6. Determining appropriate amount of funding needed to support the acquisition of TOPA properties and recommending possible funding sources;
  7. Quantifying an annual program budget and referring such program costs to the June 2020 Budget process.

**Financial Implications:** See report

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

**Action:** 48 speakers. Discussion held. Item continued to the next meeting of the policy committee.

## 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. Pursuant to Appendix D of the City Council Rules of Procedure and Order related to Temporary Rules for Policy Committees, the deadline to take action on some items on the Unscheduled list may be postponed.*

**5. Resolution Recognizing Housing as Human Right; Referring City Manager to Study Financial Feasibility of Municipal Housing Development Pilot Program with Cooperative, Nonprofit, and Public Ownership Models, Administered as Automatic Stabilizers to Guarantee Adequate Housing** *(Item contains revised material.)*

**From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (co-sponsor), Councilmember Hahn (Co-Sponsor)**

**Referred: February 8, 2021**

**Due: June 29, 2021**

**Recommendation:** Refer the City Manager's office to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators. Pilot program feasibility study shall include, but not be limited to:

1. Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;
2. Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.
3. Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development's Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.
4. State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.

**Financial Implications:** See report

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

## Unscheduled Items

6. **Affordable Housing Overlay** *(Item contains revised material)*

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

**Referred: February 22, 2021**

**Due: July 12, 2021**

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

1. Exceeding standards set forth in California Government Code Section 65915 with additional height and density incentives for qualifying 100% affordable projects deed-restricted for low- and moderate-income households, including:

a. An additional 33' local density bonus for qualifying projects with low- and moderate-income units deed-restricted for households earning up to 100% of Area Median Income, aiming to maximize total unit count restricted for Very Low and Extremely Low Income households;

b. Expanding waiver of density limits, including units per acre and floor area ratio, for transit-adjacent projects to include all parcels within one half mile of a commuter rail station, and within 1/4 mile of an AC Transit bus route with 7-day service in Fiscal Year 2019;

c. Reduced density limits for projects outside of transit proximity threshold with additional Transportation Demand Management (TDM) policies, including bike parking, paratransit and shared micro-mobility systems;

d. Ministerial approval of all qualifying projects meeting objective design criteria and union labor requirements;

e. Exempting parcels with Designated Historic Landmarks and maintaining demolition restrictions consistent with state law.

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

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

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

**Financial Implications:** See report

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

## Unscheduled Items

7. **Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**  
**From: Councilmember Harrison (Author)**  
**Referred: July 28, 2020**  
**Due: September 30, 2021**  
**Recommendation:** Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Unscheduled Items

### 8. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

**From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)**

**Referred: April 26, 2021**

**(Item placed on “Inactive” status by the Agenda & Rules Committee pursuant to Appendix D of the Rules of Procedure)**

**Due: February 14, 2022**

#### **Recommendation:**

1. Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.
2. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage: a. ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. b. Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: i. A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; ii. Plan requirements, worksheets, and projected timelines for each step of the process; and iii. Consolidated up-to-date state and local regulations that are easy to understand.
3. Recommend that the City Manager consider adoption of the following two best practices: a. Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect. b. ADU Ally. Consider dedicating existing Planning staff member(s) time to the role of an “ADU Ally.” The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

**Financial Implications:** See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

## Items for Future Agendas

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

Vice Mayor Droste absent 12:44 p.m. – 1:53 p.m.

### Adjournment

**Action:** M/S/C (Hahn/Robinson) to adjourn the meeting.

**Vote:** Ayes – Hahn, Robinson; Noes – None; Abstain – None; Absent – Droste.

Adjourned at 1:53 p.m.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on May 6, 2021.

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Sarah K. Bunting, 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, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*