BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING

MONDAY, AUGUST 26, 2024
2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf
Alternate: Councilmember Terry Taplin

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/1607301824. 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: 160 730 1824**. 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.

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 $250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $250 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: July 15, 2024**
2. **Review and Approve Draft Agenda:**
   a. 9/10/24 – 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 and Possible Action on City Council Rules of Decorum, Procedural Rules, and Public Comment Processes**

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

Unscheduled Items

10. **Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
11. **Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
12. **Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**
13. **Consideration of Changes to Supplemental Material Timelines (referred by Council at the May 7, 2024 meeting)**

Items for Future Agendas

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

Adjournment – Next Meeting Monday, September 9, 2024

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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 prior to the meeting.

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 (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, August 22, 2024.

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.

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

MONDAY, JULY 15, 2024
2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf
Alternate: Councilmember Terry Taplin

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - https://cityofberkeley-info.zoomgov.com/j/1619029161. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 902 9161**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.

To submit a written communication for the Committee's consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Agenda & Rules 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.

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Roll Call: 2:40 p.m. All present.

Public Comment – 5 speakers

Review of Agendas

1. **Approval of Minutes: July 8, 2024**
   Action: M/S/C (Hahn/Wengraf) to approve the minutes of 7/8/24.
   Vote: All Ayes.

2. **Review and Approve Draft Agenda:**
   a. 7/30/24 – Regular City Council Meeting
   Action: M/S/C (Hahn/Arreguin) to approve the agenda of 7/30/24 with the changes noted below.

   - *Item Added: Support HR 1511 and SB 2606 (Lunaparra) – Mayor Arreguin and Councilmember Hahn added as co-sponsors*
   - *Item Added: Berkeley Student Cooperative (Lunaparra) – Mayor Arreguin and Councilmember Hahn added as co-sponsors*
   - *Item 15 Audit Report (Auditor) – moved to Action Calendar*
   - *Item 17 COPA/TOPA (Harrison) – scheduled for the 9/10/24 agenda*
   - *Item 18 Ashby BART EIFD (Arreguin) – Councilmember Bartlett added as a co-sponsor; moved to Consent Calendar*

   Order of Action Items
   Item 15 Audit Report
   Item 16 ZAB Appeal
   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** – received and filed

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: 1 speaker. No action taken.

Referred Items for Review

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

Action: 2 speakers. M/S/C (Hahn/Arreguin) to refer the changes discussed at the meeting to the City Clerk to incorporate in the next draft of the document and submit the revised Rules of Procedure on the draft agenda for the September 10, 2024 City Council meeting.
Vote: All Ayes.

Unscheduled Items

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

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

12. Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal

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

Items for Future Agendas

- **None**

Adjournment

Action: M/S/C (Arreguin/Hahn) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 4:12 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on July 15, 2024.

_____
Mark Numainville, City Clerk

Communications

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DRAFT AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, September 10, 2024
6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
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. 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.*

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.*

1. Pledge of Allegiance

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: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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 attending the meeting in-person and 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. 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. 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. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. 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.

Recess Items

1. **Grant Application: Local Transportation Climate Adaptation Program (LTCAP) for the Interstate 80 Aquatic Park Tidetube Culvert Renovation and Habitat Resiliency Project**
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to the state Local Transportation Climate Adaptation Program (LTCAP) for the Aquatic Park Tidetube Culvert Renovation and Habitat Resiliency Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.
   Financial Implications: $3.2 million in grant revenue.
   Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

2. **Grant Application: U.S. DOT – Charging and Fueling Infrastructure Discretionary Grant – South Cove West Parking Lot Renovation and EV Charging Project**
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to the U.S. DOT Charging and Fueling Infrastructure (CFI) Discretionary Grant program for the South Cove West Parking Lot Renovation and EV Charging Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.
   Financial Implications: See report
   Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

3. Lot Line Adjustments at 1401 Carleton Street and 1423 Ward Street
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,932-N.S. authorizing the City Manager to execute lot line adjustments with 1401 Carleton Street and 1423 Ward Street to resolve main dwelling encroachments at the City's Santa Fe Trackbed to Park Conversion Project Site.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

4. Lease Agreement: Youth Musical Theater Company for the Live Oak Theater at 1301 Shattuck Ave
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,933-N.S. authorizing the City Manager to execute a lease agreement with Youth Musical Theater Company (YMTC) for the use and management of the City's Live Oak Theater at 1301 Shattuck Avenue for a term of three years, anticipated to begin September 1, 2024 and ending August 31, 2027, with one five-year option.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

5. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of July 8, 2024 (special), July 9, 2024 (special and regular), July 22, 2024 (special), July 23 2024 (specials and regular), July 29, 2024 (special), July 30, 2024 (special and regular) August 5, 2024 (special).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

6. Contract: FileTrail, Inc. for Records Management Software System
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with FileTrail, Inc. for $178,653.47 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed $178,653.47 and for the term from September 26, 2024 to September 26, 2029.
Financial Implications: General Fund - $178,653.47
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2024
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: Various Funds - $5,960,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

8. Mental Health Services Act Fiscal Year 2025 Annual Update
From: City Manager
Recommendation: Adopt a Resolution approving the Mental Health Services Act (MHSA) Fiscal Year 2025 Annual Update, which identifies uses of funds for mental health programming, and forwarding the Annual Update to appropriate State officials.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

9. 2024 Local Housing Trust Fund Application
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California's Local Housing Trust Fund program, in an amount not to exceed $5,000,000, and to apply such funds to the City's existing funding reservations for two projects at the North Berkeley BART (NBB) site: NBB East Bay Asian Local Development Corporation (EBALDC) Project and NBB BRIDGE Insight Permanent Supportive Housing (PSH) Project via the City's Housing Trust Fund program.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

10. Contract No. 32300112 Amendment: Harold Dichoso for COVID-19 Outreach and Education
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 32300112 with Harold Dichoso, to extend the contract end date through June 30, 2025 and increase the not-to-exceed amount (NTE) by $63,928 utilizing one-time grant funds. The amendment will increase the NTE amount from $144,950 to $208,878.
Financial Implications: One-Time Fund - $63,928
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

11. Contract No. 32200135 Second Amendment: Multicultural Institute for COVID-19 Outreach and Education
From: City Manager
Recommendation: Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2025, and increase the not-to-exceed amount (NTE) by $45,136 utilizing one-time grant funds. The amendment will increase the NTE amount from $186,000 to $231,136.
Financial Implications: One-Time Fund - $45,136
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

12. Contract No. 32500020 Amendment: ACAPMO for Technology PMO Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32500020 with company ACAPMO for Technology Program/Project Management Office (PMO) services, to allow for additional services and support for a total not to exceed $249,999 from August 1, 2024 to December 31, 2025.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

13. Contract No. 31900187 (Fund$ 10734) Amendment: ISP.NET (formerly LV.NET) for Secondary Internet for Redundancy and Load Balancing
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 31900187 (Fund$ 10734) with ISP.NET (formerly LV.NET) for redundant secondary internet services, increasing the contract amount by $84,000 for a total not-to-exceed amount of $362,000 from October 3, 2017 to June 30, 2026.
Financial Implications: Communications Services Fund - $84,000
Contact: Kevin Fong, Information Technology, (510) 981-6500

14. Contract No. 32100185 Amendment: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the contract by $1,037,372 for an increased total not to exceed amount of $2,033,489, from May 14, 2021 to June 30, 2027.
Financial Implications: IT Cost Allocation Fund - $1,037,372
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

15. Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Computer Aided Dispatch (CAD) Software
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for an extension of the maintenance and support of Computer Aided Dispatch (CAD) software, increasing the amount by $645,173 for a total contract value not-to-exceed $2,934,123, and extending the term of the contract through June 30, 2026.
Financial Implications: General Fund - $645,173
Contact: Kevin Fong, Information Technology, (510) 981-6500

16. Contract: Roundstone Solutions Inc., a Distributor of Carahsoft Technology Corporation: Using General Services Administration (GSA) Schedule for hardware, software, and services related to the Server Infrastructure Upgrade and Azure Disaster Recovery
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Contract with Roundstone Solutions Inc., a Distributor of Carahsoft Technology Corporation, for the purchase of server hardware, software, and related services for a server infrastructure upgrade and disaster recovery enhancements, utilizing pricing established by the General Services Administration (GSA), for a total amount not to exceed of $1,395,000 for the term August 1, 2024 through July 31, 2027.
Financial Implications: IT Cost Allocation Fund - $1,395,000
Contact: Kevin Fong, Information Technology, (510) 981-6500

17. Contract No. 32000223 Amendment: Gray Quarter, Inc. for Accela Professional Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000223 with Gray Quarter, Inc. for professional services, increasing the amount by $50,000, for a total not-to-exceed amount of $299,500 through July 31, 2025.
Financial Implications: IT Cost Allocation - $50,000
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

18. Dell Computers, Inc.: Contract # 319002070-Using County of Riverside Amendment No. 1 to the Licensing Solution Provider Agreement with Dell Marketing L.P. for Computer Hardware and Software Purchases
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase spending authority with Dell Computers, Inc. for the purchase of computer and server hardware, software, and related services, utilizing pricing and contracts, amendments, and extensions from the County of Riverside Amendment No. 1 to the Licensing Solution Provider for the period beginning November 1, 2019 through October 31, 2025 for an additional amount of $1,704,438 in Fiscal Year 2025 with a total Not-To-Exceed (NTE) contract amount of $5,411,676.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

19. Contract No. 099471-1 Amendment: Integrated Business Consultants of GA to Extend Term, Maintenance & Support for the PacSoft Marina Management System
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 099471-1 with Integrated Business Consultants of GA ("Reseller") for: (1) additional software maintenance and (2) twenty (20) additional support hours, in an amount not to exceed $16,906.61 for a new not to exceed contract amount of $100,359.61, and extending the contract term through June 30, 2027.
Financial Implications: Marina Operations Fund - $16,906.61
Contact: Kevin Fong, Information Technology, (510) 981-6500

20. Contract No. 32400029 Amendment: Baldoni Construction Services, Inc. for Echo Lake Camp Accessibility Upgrades
From: City Manager
Recommendation: Adopt a Resolution increasing the amount for Contract No. 32400029 with Baldoni Construction Service, Inc. for the Echo Lake Camp Accessibility Upgrades Project by $120,000 for a total not to exceed amount of $556,954.
Financial Implications: General Fund - $120,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

21. Donation: Memorial Bench at the Berkeley Waterfront Pathway in memory of Ying Xiang Liu
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of $3,400 for a memorial bench to be placed at the Berkeley Waterfront Pathway in memory of Ying Xiang Liu.
Financial Implications: $3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

22. Donation: Memorial Bench at the Berkeley Waterfront in memory of Obaidulla Khan
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of $3,400 for a memorial bench to be placed at the Berkeley Waterfront in memory of Obaidulla Khan.
Financial Implications: $3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

23. Mills Act Contract – 1401 Le Roy Avenue
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Michael Greenwald and Ronna Bach for the City Landmark property at 1401 Le Roy Avenue.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

24. Mills Act Contract – 60 Panoramic Way
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Jordan Kanarek and Gabrielle Goldstein for the City Structure of Merit property at 60 Panoramic Way.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

25. Mills Act Contract – 7 Greenwood Common
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Anne and Michael Ray for the City Landmark property at 7 Greenwood Common.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

26. Donation: Fusako Castro Estate to the Berkeley Police Department
From: City Manager
Recommendation: Adopt a Resolution accepting a donation in the amount of $1,125.42 from the Fusako Castro Estate to the Berkeley Police Department.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Consent Calendar

27. Contract: All-Star Talent for Recruiting, Advertising, and Marketing Strategy for the Berkeley Police and Fire Departments
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with All-Star Talent for public safety recruiting and retention services from June 1, 2024 through May 30, 2028 and a not to exceed $1,313,482 with an option to extend for two additional two-year periods.
Financial Implications: Various Funds - $1,313,482
Contact: Jennifer Louis, Police, (510) 981-5900, David Sprague, Fire, (510) 981-3473

28. Revenue Grant: California Office of Traffic Safety (OTS) for the 2025 "Selective Traffic Enforcement Program (STEP) Grant
From: City Manager
Recommendation: Adopt a Resolution authorizing the Chief of Police to accept the "Selective Traffic Enforcement Program (STEP)" grant and enter into the resultant grant agreement and any amendments, with the California Office of Traffic Safety. This OTS grant is for $255,000 for the period of October 1, 2024 through September 30, 2025, which is Federal Fiscal Year 2025.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

29. Request for One Additional Meeting in 2024 due to Special Meeting to Address Insight Housing Allocation
From: Homeless Services Panel of Experts
Recommendation: That Council recommend to refer to the City Manager that one additional meeting be granted to the Homeless Services Panel of Experts (HSPE) in 2024.
Financial Implications: See report
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400

30. Official Naming of the Concrete Planter at the Southeast Corner of Adeline St and Alcatraz Ave as the "Ms. Richie and Friends of Adeline Native Garden"
From: Parks, Recreation and Waterfront Commission
Recommendation: Officially name the concrete planter at the southeast corner of Adeline St and Alcatraz Ave as the "Ms. Richie and Friends of Adeline Native Garden".
Financial Implications: None
Contact: Roger Miller, Commission Secretary, (510) 981-6700

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 one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

Action Calendar

A member of the public may only speak at one of the two public comment periods for any single Action 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. Up to ten (10) speakers 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.

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. 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 the appellant and 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.

Up to ten (10) speakers 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.

31. Ambulance Transport Fee Increase
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective July 1, 2024, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 71,063–N.S.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Action Calendar – New Business

32. Voting Delegates – League of California Cities Annual Conference
From: City Manager
Recommendation: Designate, by motion, a voting delegate and alternate for the General Assembly of the Annual League of California Cities conference to be held on Friday, October 18, 2024, in Long Beach.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900

33. City Council Rules of Procedure and Order Revisions
From: City Manager
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.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

34. Re-Adoption of the Berkeley Building Codes, including Local Amendments to the 2022 California Building Standards Code *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*
From: City Manager
Recommendation: On May 7, 2024, the City Council referred the NOx provisions of this item to the Health, Life Enrichment, Equity & Community Committee for review and a recommendation to Council.
Policy Committee Recommendation: Send the item to Council with a qualified positive recommendation that the Committee express preference for the Zero NOx CALGREEN Reach Code in our Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes, with consideration that Council further review legal risk, consider a commercial kitchen exemption for the Zero NOx CALGREEN reach code, and consider as an alternative, a single margin energy code.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

35a. Recommendation Regarding Panoramic Hill Secondary Evacuation *(Reviewed by the Public Safety Committee)*
From: Disaster and Fire Safety Commission
Recommendation: Adopt a Resolution approving the development of a plan that includes a feasibility study and identification of funding sources for the construction of an emergency secondary egress road on Panoramic Hill. Such a plan could include discussions between the City of Berkeley, the City of Oakland, UC Berkeley, East Bay Regional Parks District and Alameda County and should also provide for continued contact with the Disaster and Fire Safety Commission (DFSC) as well as other related Berkeley Commissions as the Council determines.
Policy Committee Recommendation: To send the Commission item and the City Manager Companion Report to Council, and giving a positive recommendation to the City Manager Companion Report for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood.
Financial Implications: See report
Contact: Keith May, Commission Secretary, (510) 981-3473

35b. Companion Report: Recommendation Regarding Panoramic Hill Secondary Evacuation *(Reviewed by the Public Safety Committee)*
From: City Manager
Recommendation: Adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood. The results of the study should then be shared with the Public Safety Policy Committee.
Policy Committee Recommendation: To send the Commission item and the City Manager Companion Report to Council, and giving a positive recommendation to the City Manager Companion Report for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Council Action Items

36. Adopt Berkeley Municipal Code Chapter 13.89: Community/Tenant Opportunity to Purchase Act *(Reviewed by the Land Use, Housing, & Economic Development Committee) (Item contains revised material)*
From: Councilmember Harrison (Author)
Recommendation: Adopt Berkeley Municipal Code Chapter 13.89: The Community/Tenant Opportunity to Purchase Act (COPA/TOPA).
Policy Committee Recommendation: To forward the item to the City Council with a negative recommendation.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action Calendar – Policy Committee Track Items

37. Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code
From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a resolution affirming that the City of Berkeley will continue to offer interim housing (i.e., a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach and best practices guidance from the federal government. In order to account for nuanced health and safety situations, the resolution allows for six specific exceptions to this practice, based on City staff experience.
Offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness. It will continue to be the City's practice to make shelter offers whenever practicable and to invest in more shelter options. However, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:
-The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, Berkeley Municipal Code (BMC) Chapter 19.48; or
-The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or
-The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
-The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
-The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
-The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

Action Calendar – Policy Committee Track Items

The City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e) ; or citation and arrest, even if a shelter offer cannot be made.
Adopt revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy.
Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.
Financial Implications: None
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

38. Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions
From: Councilmember Wengraf (Author)
Recommendation: Adopt the first reading of an Ordinance to amend Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.
Financial Implications: To be deteremined.
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Information Reports

39. 2024-25 Housing Advisory Commission Work Plan
From: Housing Advisory Commission
Contact: Mike Uberti, Commission Secretary, (510) 981-7400

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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Communications to the City Council 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 the City Council, 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 to the City Clerk Department at 2180 Milvia Street. 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 City Clerk Department for further information.

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 as well as posted on the City's website at https://berkeleyca.gov/.

Agendas and agenda reports may be accessed via the Internet at:
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and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: 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

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 (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.

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.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

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Homeless Services Panel of Experts

CONSENT CALENDAR
September 10, 2024

To: Honorable Mayor and Members of the City Council

From: Homeless Services Panel of Experts

Submitted by: Carole Marasovic, Chair, Homeless Services Panel of Experts

Subject: Request for One Additional Meeting in 2024 due to Special Meeting to Address Insight Housing Allocation

RECOMMENDATION

That Council recommend to refer to the City Manager that one additional meeting be granted to the Homeless Services Panel of Experts (HSPE) in 2024.

FISCAL IMPACTS OF RECOMMENDATION

Fiscal impacts of one additional HSPE meeting are minimal. An additional meeting requires a room at the North Berkeley Senior Center and staff secretary time as well as a commissioner stipend.

CURRENT SITUATION AND ITS EFFECTS

Generally, City commissions are permitted 10 regularly scheduled meetings a year. However, Council may approve additional meetings.

BACKGROUND

On July 10, 2024, the Homeless Services Panel of Experts (HSPE) held their regularly scheduled meeting.

On the agenda was a staff request for a recommendation transferring $549,785 previously allocated for the acquisition of Insight Housing's Russell House to Insight Housing's Dwight Way Shelter for rehab funds.

However, there was no staff report, supporting the staff recommendation, ready for the HSPE commissioners to review. The HSPE commissioners were uncomfortable making a recommendation without full information as they believed that they would not be compliant with fulfilling their statutorily mandated duties.

Thus, as a consensus, they agreed that the Chair should call a special meeting. They further agreed that meeting be scheduled on July 22, 2024 so that there would be time to receive the staff report, review it and communicate their recommendation to Council on July 23, 2024 when the issue of the transfer of these funds was on the Council agenda.

The Chair subsequently presented to Council the Homeless Services Panel of Experts' recommendation at the July 23, 2024 Council meeting recommending the transfer of these funds.

On July 22, 2024, the Homeless Services Panel of Experts voted as follows:

Action: M/S/C Segal/Meany move to approve the report to City Council to compensate for July 22, 2024 Special meeting so that HSPE can hold regular meetings in September, October, and November, 2024 subject to the edits discussed by the panel to be submitted by the chair.

Vote: *Ayes:* Marasovic, Segal, Meany, and Bookstein.

Noes: None. *Abstain*: None. *Absent*: Palmatier (LoA), Kealoha-Blake, and Jones.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects.

RATIONALE FOR RECOMMENDATION
The HSPE commissioners believed that in order to fulfill their statutorily mandated duties, they need to be fully informed to make recommendations. The staff report making a recommendation to Council is critical for commissioners to review before making a recommendation.

Thus, the HSPE commissioners believed that it was necessary for the Chair to call a special meeting.

During the balance of the year from August, 2024-December, 2024, there are only 3 remaining scheduled meetings, September, October and November. Particularly given the many evolving issues related to homelessness as well as homeless funding issues that may arise, the Homeless Services Panel of Experts believes that they need to hold these regularly scheduled 3 meetings during the balance of 2024. That requires reinstating the 1 additional meaning.

ALTERNATIVE ACTIONS CONSIDERED
No other alternatives were considered.

CITY MANAGER
The City Manager takes no position on the recommendations of the Commission’s Report.

CONTACT PERSON
Josh Jacobs, Homeless Services Coordinator, (510) 225-8035

02.30

Parks, Recreation and Waterfront Commission

CONSENT CALENDAR
September 10, 2024

To: Honorable Mayor and Members of the City Council

From: Parks, Recreation and Waterfront Commission

Submitted by: Claudia Kawczynska, Chairperson

Subject: Official Naming of the Concrete Planter at the Southeast Corner of Adeline St and Alcatraz Ave as the “Ms. Richie and Friends of Adeline Native Garden”

RECOMMENDATION
Officially name the concrete planter at the southeast corner of Adeline St and Alcatraz Ave as the “Ms. Richie and Friends of Adeline Native Garden”.

FINANCIAL IMPLICATIONS
None

CURRENT SITUATION AND ITS EFFECTS
Over 12 years ago, BART construction damaged the water line and irrigation system in the area around the concrete planter at the southeast corner of Adeline St and Alcatraz Ave. In 2024, the City restored the water line and irrigation system, which would not have been possible without the significant community leadership provided over several years by Ms. Richie. The City also installed soil, plants, wrought-iron protective fencing, an irrigation system, and new signage at the planter. On Saturday, 14, 2024, the City will hold a dedication ceremony to celebrate the renovation of the planter, at which time Ms. Richie will be recognized for her significant community leadership efforts.

BACKGROUND
Ms. Richie, a long-time Berkeley resident, Berkeley High School Class of ‘53, and founding Friends of Adeline Member and Berkeley Community Leader, has worked tirelessly to maintain and uplift the South Berkeley streets, neighborhoods and communities. Ms. Richie Brook-Cole Smith relocated from Oklahoma to South Berkeley during the Great Migration in 1949 and graduated from Berkeley High School in 1953. She later became an educator at Head Start, where she significantly impacted the lives of young children through her guidance and care.

Ms. Richie has been a dedicated community leader. In 2004, she co-founded "Take a Stand Against Elder Abuse" and is currently an active member of Iota Phi Lambda Sorority, Beta Mu Chapter in Oakland, Echoes Down the Corridor, Friends of Adeline, the Homeless Encampment Support Group of South Berkeley, the Berkeley NAACP,

the South Berkeley and North Oakland Senior Center, and the African-American Holistic Resource Center steering committee. Moreover, she served with distinction on Berkeley's Commission on Aging from 2005 to 2013, holding the position of Vice Chair from 2006 to 2007.

Among her numerous accolades, Ms. Richie was honored by the Commission on the Status of Women at the 17th Annual Ceremony recognizing outstanding women in Berkeley. In 2009, she was named a California Senior Leader by UC Berkeley's School of Public Health and is prominently featured in the "Music on Our Minds" mural, painted in 2009 by Edythe Boone in collaboration with Youth Spirit Artworks, which celebrates her many contributions as the unofficial "mayor" of South Berkeley's Adeline Corridor.

Ms. Richie's unwavering commitment to the betterment of our city is evident through her involvement in various civic affairs, including advocating for affordable housing, regularly attending city council meetings, and daily street clean-ups in her neighborhood. Her tireless dedication to the Berkeley community and her numerous accomplishments deserve our recognition and gratitude.

On October 31st, 2017, Ms. Richie was honored with a proclamation by City of Berkeley Mayor Jesse Arreguin in recognition of her service as a Berkeley Activist and volunteer. Over many years, she has dedicated her time to the maintenance and beautification of South Berkeley, which has involved countless hours picking up trash, reporting neighborhood issues, welcoming the influence of officers providing a traffic-calming presence, and overall embodying the community spirit of South Berkeley.

CITY MANAGER

The City Manager concurs with the recommendation contained in this report.

COMMISION

At a regular meeting on July 10, 2024, the Parks, Recreation and Waterfront Commission M/S/C to recommend that Council officially name the planter bed at the Adeline Alcatraz Plaza in honor of Richie Brook-Cole Smith ("Ms. Richie"). Ayes: Abshez; Diehm; Hurtado; Ranuzzi; Wozniak; Noes: none; Absent: Cox; Kawczynska.

ENVIRONMENTAL SUSTAINABILITY

No negative environmental impacts were identified as a result of this recommendation.

RATIONAL FOR RECOMMENDATION

See body of report.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Claudia Kawczynska, Chairperson, Parks, Recreation and Waterfront Commission
Roger Miller, Secretary, Parks, Recreation and Waterfront Commission, 510-981-6704

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

OFFICIALLY NAME THE CONCRETE PLANTER BED AT ADELINE ST AND ALCATRAZ AVE THE “MS. RICHIE AND FRIENDS OF ADELINE NATIVE GARDEN”

WHEREAS, in July of 2024, the City completed the renovation of the longtime damaged irrigation line at the planter at Adeline Street and Alcatraz Ave in South Berkeley; and

WHEREAS, this work would not have been possible without the significant community leadership of Ms. Richie over several years; and

WHEREAS, Ms. Richie has been a significant community leader and has mobilize many efforts to improve the community in South Berkeley for over five decades; and

WHEREAS, on October 31st, 2017, Ms. Richie was honored with a proclamation by City of Berkeley Mayor Jesse Arreguin in recognition of her service as a Berkeley activist and volunteer; and

WHEREAS, at a regular meeting on July 10, 2024, the Parks, Recreation and Waterfront Commission M/S/C to recommend that Council officially name the planter bed at the Adeline Alcatraz Plaza in honor of Richie Brook-Cole Smith (“Ms. Richie”). Ayes: Abshez; Diehm; Hurtado; Ranuzzi; Wozniak; Noes: none; Absent: Cox; Kawczynska; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the concrete planter at the southeast corner of Adeline St and Alcatraz Ave is officially named the “Ms. Richie and Friends of Adeline Native Garden”.

02a.35a

Disaster and Fire Safety Commission

ACTION CALENDAR
September 10, 2024

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Weldon Bradstreet, Chairperson, Disaster and Fire Safety Commission

Subject: Recommendation Regarding Panoramic Hill Secondary Evacuation

RECOMMENDATION

Adopt a Resolution approving the development of a plan that includes a feasibility study and identification of funding sources for the construction of an emergency secondary egress road on Panoramic Hill. Such a plan could include discussions between the City of Berkeley, the City of Oakland, UC Berkeley, East Bay Regional Parks District and Alameda County and should also provide for continued contact with the Disaster and Fire Safety Commission (DFSC) as well as other related Berkeley Commissions as the Council determines.

POLICY COMMITTEE RECOMMENDATION

On July 15, 2024, the Public Safety Committee adopted the following action: M/S/C (Taplin/Bartlett) to send the Commission item and the City Manager Companion Report to Council, and giving a positive recommendation to the City Manager Companion Report for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

The full fiscal impacts of constructing a secondary access/egress route are yet unknown and will need to be researched following the completion of a feasibility study. The Fire Chief has indicated that Berkeley's portion of a feasibility study should be able to be funded through existing Department funds.

CURRENT SITUATION AND ITS EFFECTS

The difficulty of providing both fire/emergency services to Panoramic Hill and evacuation of residents has been well known for more than 70 years. In 1959, an emergency secondary access road was constructed which allowed only emergency vehicle access into the area, but not emergency secondary egress for residents to evacuate. In the meantime, development in Berkeley and Oakland has continued and

the situation for residents has become increasingly serious. The neighborhood is surrounded by wildlands on three sites and by recent Southside upzoning and Memorial Stadium (capacity 63,000) and the Hayward Earthquake Fault at its base. The Panoramic Hill neighborhood is zoned ES – R (Environmental Safety – Residential) the only area in Berkeley so designated. Information regarding the ES – R zone can be found in the Berkeley Municipal Code, Title 23, section 23.202.070. The stated General Purpose of the ES-R District is as follows:

> Because of its substandard vehicular access, steep slopes, inadequate water pressure and proximity to the Hayward Fault and vegetated wildlands, the Panoramic Hill area is exceptionally vulnerable to severe damage or destruction from fire and earthquake hazards. Panoramic Hill also includes one of Berkeley's most architecturally significant residential districts, which is listed in the National Register of Historic Places because of its association with the Arts and Crafts movement of the Bay Area Tradition

BACKGROUND

This is an urgent matter as all current information indicates that wildfires have become more frequent and intense than in previous years. Additionally, we also are hearing that the likelihood of a major earthquake along the Hayward Fault is long overdue. The ES-R zoning of Panoramic Hill officially recognizes the area as having residential development with only one way in and one way out. While the city has recognized this for years, the area's evacuation problems have not been addressed. Today, Berkeley is the second most dense city on a list of 51 largest cities in the State of California. Berkeley is exceeded only by San Francisco. We are denser than Los Angeles and San Diego, and further we are uniquely bisected by a major earthquake fault, and have numerous officially designated landside areas and liquefaction zones within a tiny 10 square mile area.

Commission Vote: Vote: Ayes – Katz, Wilson, Kinosian, Dean, Murphy, Bradstreet; Noes – None; Abstain – None

RATIONALE FOR RECOMMENDATION

There is no public transportation, nor is there likely to be any in the future of Panoramic Hill. The problem of evacuation has been recognized in part by enacting street parking restrictions in the area. However, street parking enforcement has always been a problem and enacting further restrictions is not the answer as buildings have been constructed over the years without on-site parking and street parking restrictions have already been enacted. Recently, in response to comments from the State Department of Community Development, new regulations have been approved which allow construction of both an ADU and JADU on each parcel in all High Severity Fire Areas which includes Panoramic Hill. This may change when an evacuation study is completed sometime next year, but if it does, it cannot be undone by retroactively requiring that existing buildings install on-site parking. Consideration of adding more

street parking restrictions currently simply ignores the serious problems that already exist.

While an emergency apparatus *only* access road (the Jordon Trail) was constructed many years ago, it is past time to also recognize that no secondary emergency egress road for residents to evacuate the area when needed is a matter of basic public safety. Such an escape road does not need to be paved with asphalt and have sidewalks and curbs like a city street, Construction of a secondary emergency egress road that saves lives by providing an escape route combined with the existing secondary access road for emergency vehicles benefits not only residents of Panoramic Way, but also all residents of the city by slowing the expansion of potentially catastrophic events and saving lives. For the sake of public safety, we must take action now.

ALTERNATIVE ACTIONS CONSIDERED
No alternative actions were considered.

CITY MANAGER
See Companion Report

CONTACT PERSON
Weldon Bradstreet, Chairperson, Disaster and Fire Safety Commission

Attachments:

1: Resolution

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

RECOMMENDATION REGARDING PANAROMIC HILL SECONDARY EVACUATION

WHEREAS, because of its substandard vehicular access, steep slopes, inadequate water pressure and proximity to the Hayward Fault and vegetated wildlands, the Panoramic Hill area is exceptionally vulnerable to severe damage or destruction from fire and earthquake, and

WHEREAS, Panoramic Hill also includes one of Berkeley's most architecturally significant residential districts, which is listed in the National Register of Historic Places because of its association with the Arts and Crafts movement of the Bay Area Tradition, and

WHEREAS, the difficulty of providing both fire/emergency services to Panoramic Hill and evacuation of residents has been well known for more than 70 years. In 1959, an emergency secondary access road was constructed which allowed only emergency vehicle access into the area, but not emergency secondary egress for residents to evacuate.

WHEREAS, the ES-R zoning of Panoramic Hill officially recognizes the area as having residential development with only one way in and one way out. While the city has recognized this for years, the area's evacuation problems have not been addressed. Today, Berkeley is the second most dense city on a list of 51 largest cities in the State of California. Berkeley is exceeded only by San Francisco. We are denser than Los Angeles and San Diego, and further we are uniquely bisected by a major earthquake fault, and have numerous officially designated landside areas and liquefaction zones within a tiny 10 square mile area.; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that approves the development of a plan that includes a feasibility study and identification of funding sources for the construction of an emergency secondary egress road on Panoramic Hill. Such a plan could include discussions between the City of Berkeley, the City of Oakland, UC Berkeley, East Bay Regional Parks District and Alameda County and should also provide for continued contact with the Disaster and Fire Safety Commission (DFSC) as well as other related Berkeley Commissions as the Council determines.

02a.36

Kate Harrison
Councilmember District 4

REVISED AGENDA MATERIAL

Meeting Date: **December 4, 2023**

Item Number: **TBD**

Item Description: **Adopt Berkeley Municipal Code Chapter 13.89: Community/Tenant Opportunity to Purchase Act**

Submitted by: **Councilmember Harrison**

The revised ordinance includes more specific criteria to define “Owner-Occupied” residences. The revised material packet also includes a chart that compares Berkeley’s TOPA legislation that was proposed in 2022 with the current iteration of the policy to provide more clarity on the proposed changes.

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ORDINANCE NO. -N.S.

ADDING CHAPTER 13.89 TO THE BERKELEY MUNICIPAL CODE
COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

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

Section 1. Chapter 13.89 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.89

COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

13.89.010 Title and Purpose
13.89.020 Findings
13.89.030 Definitions
13.89.040 Applicability
13.89.050 Sale Defined
13.89.060 Exemptions
13.89.070 Qualified Nonprofits
13.89.080 Supportive Partners
13.89.090 Notice of Intent to Sell; Statement of Interest
13.89.100 Right of First Offer
13.89.110 Right of First Refusal
13.89.120 Contract Negotiation
13.89.130 Incentive to Accept Offer from Qualified Organization
13.89.140 Confidential Information Protected
13.89.150 Prohibited Conduct
13.89.160 Complying Anew with the Right of First Offer
13.89.170 Financial Assistance
13.89.180 Price Stabilization; Tenant Protections
13.89.190 Anti-Speculation Penalty
13.89.200 Implementation
13.89.210 Enforcement
13.89.220 Severability
13.89.230 Effective Date

13.89.010 Title and Purpose.

A. This Chapter shall be referred to as the “Berkeley Community/Tenant Opportunity to Purchase Act.”

B. The purpose of this Chapter is to confer upon Tenants of Rental Properties as defined herein a right of first offer and a right of first refusal upon the transfer or sale of Rental Property, and to create an incentive for Owners of Rental Properties to offer their property for sale to Tenants residing there.

13.89.020 Findings.

A. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise which leads to displacement of low-income residents.

B. The current need for affordable housing units in Alameda County is 51,732 units (California Housing Partnership). Approximately 20% of residents in Berkeley are living in poverty.

C. The lack of affordable housing for Berkeley’s low-income communities is resulting in Berkeley residents having no option but to leave the City entirely or risk becoming homeless. Currently, there are an estimated 2,000 people who experience homelessness in Berkeley each year, and in December 2019 the Council extended its declaration of a homeless shelter crisis to January 2022.

D. The nine-county Bay Area has been losing an annual average of 32,000 unsubsidized affordable homes occupied by low-income households since 2012. Unsubsidized affordable housing is the most common form of low-income housing, and at the same time is the most at risk of loss through rent increases, evictions, condo conversions, demolition and more. And, overall preservation is cost-effective compared to new production, at 50-70% of the cost of new affordable housing production (Enterprise Community Partners).

E. Affordable housing preservation and anti-displacement strategies will help keep low-income tenants in their homes and is codified in the Berkeley General Plan Housing Element. Furthermore, production and maintaining affordable housing, at all income levels, is a stated priority of the City Council in its Housing Action Plan.

F. The City Council finds that in the interest of preventing the displacement of lower-income tenants and preserving affordable housing, it is necessary and appropriate to require that the owners of rental properties in the City offer tenants and qualified nonprofit organizations the opportunity to purchase the property before it may be sold on the market to a third-party purchaser.

13.89.030 Definitions.

A. “Dwelling Unit,” “Accessory Dwelling Unit,” “Single-Family Dwelling,” “Multi-Family

Dwelling," and "Group Living Accommodations" are defined in Section 23.502.020.

B. "Designated as the Owner's Primary Residence" means any unit that the Owner has validly claimed as their principal residence for purposes of either the homeowners' property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans' exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

C. "Offer for Sale" means an offer to sell a Rental Property that includes all material and commercially reasonable terms.

D. "Qualified Nonprofit" means a nonprofit, which is either exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation, that has the capacity to acquire, provide, and manage affordable housing for moderate, low, very low, and extremely low-income households, and is certified by the City Manager pursuant to Section 13.89.070.A.

E. "Qualified Organization" means either a Tenant Organization or a Qualified Nonprofit.

F. "Owner" means any person, corporation, partnership, limited liability company, trustee, or any other entity, who is the owner of record of a Rental Property. Each Owner shall be jointly and severally responsible for compliance with the requirements of this Chapter.

G. "Rental Property" means any residential property containing one or more Rental Units and located in the City of Berkeley

H. "Rental Unit" means any Dwelling Unit or Group Living Accommodations sleeping quarters occupied by one or more Tenants in the City of Berkeley, consistent with the records of the City of Berkeley Rent Stabilization Board, and subject to the exemptions set forth in Section 13.89.060

I. "Sale," "sell," or "transfer" is defined in Section 13.89.050.

J. "Supportive Partner" means any person or organization certified by the City Manager pursuant to Section 13.89.080.A to provide Tenant counseling and technical support services on first-time homeownership, obtaining financing for the purchase of Real Properties, assisting in the process of closing on property transactions, the formation and governance of legal and collective ownership structures, and supporting Tenants in the exercise of their rights pursuant to this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents.

K. "Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of

such Rental Unit.

L. "Tenant Organization" means any legal entity or unincorporated and/or informal association that is authorized to act on behalf of a majority of Tenants of a Rental Property. A Tenant Organization must adopt a Governing Document and Governing Principles and may appoint officers and any other authorized agents specifically designated to execute contracts on its behalf. If only one Tenant of a Rental Property seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter. For purposes of this Paragraph only, any and all lessees of a Dwelling Unit or Group Living Accommodations sleeping quarters are collectively considered to be one Tenant, and such lessees of a Group Living Accommodation or Dwelling Unit must consent to representation by the Tenant Organization, as furthered defined in Administrative Regulations.

M. "Third-Party Purchaser" means any prospective purchaser of a Rental Property other than a Qualified Organization as defined in Paragraph D.

N. "The City" shall mean the City of Berkeley, including any departments within the City that are assigned any responsibilities under this Chapter.

O. "City Manager" means the City Manager or their designee.

P. "Governing Document" means a constitution, articles, bylaws, operating agreement, or other writings that governs the purpose and operation of a Tenant Organization and the rights and obligations of its members, which shall include provisions on the Tenant Organization's decision-making processes and appointing officers and other authorized agents to act on its behalf.

Q. "Governing Principles" means the governance and management principles stated in a Tenant Organization's Governing Documents.

R. "Majority" means an affirmative vote of more than fifty percent (50%) required for decision-making under this Chapter.

13.89.040 Applicability.

This Chapter shall apply to the sale or transfer of all Rental Property in the City of Berkeley, unless otherwise exempted herein.

13.89.050 Sale Defined.

A. "Sale," "sell," or "transfer" is defined as the following:

1. The transfer, in exchange for money or any other thing of economic value, of a present interest in the Rental Property, including beneficial use, where the value of the present interest is the fee interest in the Rental Property, or substantially equal to the

value of that fee interest.

2. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c).

3. Multiple transfers of minority interests in the Rental Property which, in effect, result in a transfer of the Rental Property.

13.89.060 Exemptions.

A. Residential Property Types Exempted. The following Rental Properties are not subject to the requirements of this Chapter.

1. Any Rental Property comprised entirely of owner-occupied Rental Units, including any owner-occupied Single-Family Dwelling. For a residence to qualify as owner-occupied, the property owner must have lived in the property for one year or longer.

2. Any Rental Property that has no more than one Single Family Dwelling and is vacant at the time of sale.

3. A Rental Property containing a Dwelling Unit that is Designated as the Owner's Primary Residence, if and only if the Owner has lived in the Rental Property for one year or longer and one of the following applies:

a. The Rental Property has no more than one Single-Family Dwelling, and either the Single-Family Dwelling or an Accessory Dwelling Unit (inclusive of any junior Accessory Dwelling Unit) on the same parcel as the Single-Family Dwelling is Designated as the Owner's Primary Residence.

b. The Rental Property has no more than one Duplex, and (1) one of the units in the Duplex is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

c. The Rental Property has no more than one Multi-Family Dwelling that contains no more than four Dwelling Units, and (1) one of the units is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

4. Rental Properties owned by the local, state, or federal government.

5. Rental Properties owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

6. Group Living Accommodations subject to monitoring by a Monitoring Organization, as defined in Section 13.42.020.E.

7. Properties owned by housing cooperatives, if the cooperative entity is owned and controlled by a majority of residents. This definition includes non-profit mutual housing associations and limited equity housing cooperatives.

8. Properties defined as “assisted housing developments” pursuant to California Government Code Section 65863.10(a)(3) so long as the provisions of California Government Code Section 65863.10, 65863.11, and 65863.13 apply.

B. Transfers Exempted. The following transfers of Rental Properties are not subject to the requirements of this Chapter.

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren.

2. A transfer for consideration by a decedent’s estate if the consideration arising from the transfer will pass from the decedent’s estate to, or solely for the benefit of, charity.

3. A transfer of legal title or an interest in an entity holding legal title to a Rental Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Tenants or Qualified Nonprofits under the California Civil Code Sections 2924f-h, 2924m-n, or 2929.3.

4. A transfer of bare legal title into or out of a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.

5. A transfer by devise, descent, or operation of the law upon the death of a natural person.

6. A transfer pursuant to court order or court-approved settlement.

7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.

8. A transfer of a fractional interest in a Rental Property that is less than 50% of an undivided interest in the Rental Property, unless Section 13.89.050.A30 applies.

9. Any transfer in which the transferee receives a low-income housing credit under 28 U.S.C. § 42.

10. A transfer of a Rental Property that is the Owner’s sole Rental Property and has no more than five Rental Units made for the purpose of paying for imminently necessary health care expenses of an Owner of the Rental Property, or any such health care expenses incurred by a spouse, domestic partner, or child of any Owner (“Eligible Persons”), where requiring the Owner to comply with the requirements of this Chapter

would result in medical financial hardship to an Eligible Person. For purposes of this subparagraph only, "Owner" shall be limited to a natural person having an undivided interest in the Rental Property of at least 50%. The process and requirements for determining eligibility of this exemption shall be defined in Administrative Regulations implementing this Chapter.

C. Exemption Procedures and Burden of Proof.

1. Burden of Proof. The burden of proof to establish that a property or transfer is exempt from the requirements of this Chapter shall be on the Owner.

2. The Owner of a property exempt from the requirements of this chapter or claiming an exemption pursuant to this Section must provide written notice to all Tenants of the Rental Property at time of listing or marketing property for sale. The notice shall inform the Tenants of the Owners intent to sell the Rental Property and must state whether the property is exempt from the requirements of this Chapter and specify the specific exemption claimed.

3. An Owner who believes that they should be granted an exemption under this Section shall comply with procedures that the City shall create for claiming an exemption in its Administrative Regulations.

13.89.070 Qualified Nonprofits.

A. Certification, Term, and Renewal. The City Manager shall certify Qualified Nonprofits that meet the requirements of this Chapter. The Qualified Nonprofit shall be a nonprofit organization exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation that is committed to furthering permanent affordability, democratic residential control, and tenant ownership, as further defined in Administrative Regulations, and shall have demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property and to provide affordable housing for very low and/or low-income households. The City Manager may prescribe additional requirements necessary to effectuate the purpose of this Chapter by Administrative Regulation. A nonprofit organization's certification as a Qualified Nonprofit shall be valid for four years. The City Manager shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification. A list of Qualifying Nonprofits shall be published on the City's website and made available by the City Manager upon request.

B. Conflicts of Interest; Disqualification of Qualified Nonprofits. A Qualifying Nonprofit may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. A Qualifying Nonprofit may not act as a Supportive Partner if it exercises its right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110. The City Manager shall promptly investigate any complaint alleging that a Qualified Nonprofit has a conflict of interest or has failed to comply with the

requirements of this Chapter. If after providing the Qualified Nonprofit with notice and opportunity to be heard, the City Manager determines that an organization listed as a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Qualified Nonprofit.

C. A Qualified Nonprofit is conferred a right of first offer and right of first refusal as a Qualified Organization under this Chapter only if a Tenant Organization qualified to act on behalf of Tenants of a Rental Property (1) assigns in writing the Tenants' rights under this Chapter to the Qualified Nonprofit within the Notice Period;(2) executes a written waiver of the Tenants' rights under this Chapter within the Notice Period; or (3) no Tenant submits a statement of interest pursuant to Section 13.89.090.C. Subsequently, Qualified Nonprofits shall have the same amount of time conferred to Tenants to perform under this Chapter, except that Qualified Nonprofits shall only have the remaining time conferred to Tenants to perform within the Notice Period, and any extensions thereof, or a minimum of 5 days, whichever is greater. If no Tenant Organization has been formed to act on behalf of Tenants of a Rental Property, an assignment or written waiver of rights pursuant to this Paragraph shall be valid if signed by the majority of Tenants.

13.89.080 Supportive Partners.

A. Certification of Supportive Partners. The City Manager shall establish criteria for the identification and selection of persons or organizations who may serve as Supportive Partners under this Chapter. Supportive Partners shall be selected based on their expertise and ability to counsel Tenants on first-time homeownership, obtaining financing for the purchase of Rental Properties, and the formation and governance of collective ownership structures, and to otherwise provide support for Tenants who seek to exercise their rights under this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents. The certification as a Supportive Partner shall be valid for four years. The City Manager shall solicit new applications for Supportive Partner status at least once each calendar year, at which time existing Supportive Partners shall be eligible to apply for renewed certification. A list of Supportive Partners shall be published on the City's website and made available by the City Manager upon request.

B. Requirement to Select Supportive Partner. A Tenant Organization seeking to exercise a right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110 must select a Supportive Partner and disclose the Supportive Partner to the City and Owner of the Rental Property within the time set forth in the Notice Period and/or the Offer Period and any extensions thereof. The requirement to select a Supportive Partner shall not apply if there are no certified Supportive Partners on the list maintained by the City Manager pursuant to Paragraph A.

C. Conflicts of Interest; Disqualification of Supportive Partners. A Supportive Partner may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. The City Manager shall promptly investigate any complaint alleging that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Supportive Partner with notice and opportunity to be heard, the City Manager determines that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Supportive Partner.

13.89.090 Notice of Intent to Sell; Statement of Interest.

A. Notice of Intent to Sell. An Owner of a Rental Property shall provide all Tenants (if any) notice of their intent to sell prior to listing or otherwise marketing a Rental Property for sale ("Notice of Intent to Sell"). The Notice of Intent to Sell shall be provided at least 45 days before marketing a Rental Property with two or more Rental Units, or at least 20 days before marketing a Rental Property with one Rental Unit ("Notice Period"). The Notice of Intent to Sell shall be sent to each Tenant address via certified mail and posted at conspicuous locations at the Rental Property and shall include the following:

1. A statement that the Owner intends to sell the Rental Property.

2. A statement describing the rights of Tenants under this Chapter and stating the deadlines for exercising those rights.

3. A list of units by address and the rent due for each unit, if occupied, and any available contact information for each occupant.

4. An itemized list of annual income and expenses for each of the two preceding calendar years, including but not limited to rent and other income collected and costs of management, insurance, utilities, and maintenance.

5. Instructions for submitting a Statement of Interest pursuant to Paragraph C.

B. Notice to Qualified Nonprofits. On the same date as notice is provided to any Tenants pursuant to Paragraph A, or if there are no Tenants, on the date on which such notice would have been provided pursuant to Paragraph A, the Owner shall provide a copy of the Notice of Intent to Sell the Rental Property via email to each Qualified Nonprofit certified by the City Manager. The City Manager shall maintain a list of email addresses for distribution of the Notice of Intent to Sell and shall make that list available on the City's website and upon request.

C. Statement of Interest. Prior to the expiration of the Notice Period set forth in Paragraph A, the majority of Tenants may deliver a statement of interest to the Owner of the Rental Property ("Statement of Interest"), unless the Tenants execute a written waiver of rights or assign rights to a Qualified Nonprofit pursuant to Section 13.89.060.C. The Statement of Interest shall notify the Owner of the Tenants' or Qualified Nonprofit's interest in exercising their rights under this Chapter. In the event that the majority of

Tenants submit a Statement of Interest in response to a Notice of Intent to Sell, the right of first offer conferred by Section 13.89.090 may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.J.; provided, however, nothing in this Paragraph shall prohibit a Tenant Organization from assigning the Tenants' right of first offer or right of first refusal to a Qualified Nonprofit prior to the expiration of the Notice Period. In the event that there are no Tenants in the Rental Property at the time the Owner's Notice of Intent to Sell is provided, and the Rental Property otherwise contains Rental Units that have not been lawfully withdrawn from the rental market, any Qualified Nonprofit that received a copy of the Notice of Intent to Sell pursuant to Paragraph B may submit a Statement of Interest to exercise its rights under this Chapter.

D. Formation of Tenant Organization; Selection of Supportive Partner. If the majority of Tenants submit a Statement of Interest, the Tenants of the Rental Property must identify or form a Tenant Organization as defined in Section 13.89.030.K and select a Supportive Partner, subject to Section 13.89.080.B. If there is only one Tenant of a Rental Property who seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter but shall not be exempt from the requirement to select a Supportive Partner. A Tenant Organization identified or formed pursuant to this Paragraph shall be entitled to exercise the rights of a Qualified Organization set forth in Sections 13.89.100 and 13.89.110.

E. **Effect of Statement of Interest. Receipt of a timely Statement of Interest shall** trigger an Offer Period of 30 days. For Rental Properties having two to nine Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted an additional 30-day extension of the Offer Period. For Rental Properties having ten or more Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted a total of two additional 30-day extensions of the Offer Period.

F. Prohibition on Marketing Property to Third-Party Purchasers During Notice Period and/or Offer Period. Prior to the expiration of the Notice Period and/or Offer Period, the Owner of a Rental Property shall be prohibited from listing or marketing the Rental Property for sale or entering into any agreement for the sale or transfer of the Rental Property to Third-Party Purchasers.

13.89.100 Right of First Offer.

A. Right of First Offer. A Tenant or Qualified Nonprofit that submits a Statement of Interest shall have the right to make an offer to purchase a Rental Property prior to the sale of the Rental Property to a Third-Party Purchaser; provided, however, that in the event that any Tenant submits a Statement of Interest pursuant to Section 13.89.090.C, the right of first offer conferred by this Section may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.K unless an assignment or waiver of rights have been executed pursuant to Section 13.89.070.C.

B. The Qualified Organization may deliver to the Owner of the Rental Property an offer to purchase the property, together with disclosure of its selected Supportive Partner,

at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Qualified Organization.

C. Acceptance of Offer of Purchase. Upon acceptance of any offer to purchase a Rental Property made pursuant to Paragraph A, the Owner and Qualified Organization shall make reasonable and good faith efforts to close the transaction. The Qualified Organization shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 60 days to close the transaction for the sale of property having two to nine Rental Units; and 90 days to close the transaction for the sale of property having ten or more Rental Units. The deadline to close a transaction for the sale of Rental Property having one Rental Unit shall be extended for an additional 60 days from the date of acceptance of the offer if the Qualified Organization provides written documentation that its lender will require a commercial loan for the purchase of the Rental Property. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or diligently pursing the completion of other requirements to close the transaction. Nothing in this Paragraph shall prevent the Owner and the Qualified Organization for agreeing to further extend the deadline to close the transaction.

D. **Termination of Right of First Offer. Upon (1) rejection of all offers to purchase made within the Offer Period, (2) the expiration of the Offer Period, or (3) the failure to close the transaction within the time period set forth in Paragraph B, the Owner may list and market for sale the Rental Property and may solicit and conditionally accept offers from a** Third-Party Purchaser, subject to the requirements of Section 13.89.110. The requirements of Section 13.89.110 shall not apply if no Qualified Organization submits an offer to purchase the Rental Property under this Section.

13.89.110 Right of First Refusal.

A. Disclosure of Offer of Sale. The Owner shall disclose any Offer of Sale received from a Third-Party Purchaser to any Qualified Organization that exercised a valid right of first offer under Section 13.89.100, and shall provide said Qualified Organization a right of first refusal pursuant to the requirements of this Chapter. The Owner shall disclose to each Qualified Organization eligible to exercise a right of first refusal under this Section all material terms of any Offer of Sale of the Rental Property, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser. Any written offer received by the Owner shall be provided to said Qualified Organizations; provided, however, that any confidential information not necessary to comply with the requirements of this Paragraph may be redacted from such offers.

B. Right of First Refusal. Any Qualified Organization that exercised a valid right of first offer under Section 13.89.100 may exercise a right of first refusal and accept the Offer for Sale of the Rental Property within the time period set forth in Paragraph C. To exercise its right of first refusal, the Qualified Organization must accept all material terms of the Offer for Sale; provided, however, the financing of the Qualified Organization's purchase shall not be considered a material term of the Offer for Sale so long as it does

not affect the net value of the Sale to the Owner. Specific obligations of material terms of sale are sale price, timeline to close, and contingencies.

C. Time to Exercise Right of First Refusal. The Owner shall provide any Qualified Organization eligible to exercise a right of first refusal under this Section at least 10 days to accept the Offer of Sale of a Rental Property having one Rental Unit, or at least 30 days to accept the Offer of Sale of Rental Property having two or more Rental Units. The acceptance of an Offer of Sale by any Qualified Nonprofit extinguishes any right of first refusal of other eligible Qualified Nonprofits.

D. Time to Close. Upon acceptance of the Offer of Sale, the Qualified Organization must agree to the material terms of the third-party offer. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction.

E. Rejection of Offer or Failure to Close. If each Qualified Organization entitled to receive an Offer of Sale rejects or fails to accept such offer of sale within the time set forth in Paragraph C or if a Qualified Organization that accepts an Offer for Sale fails to close the transaction within the time set forth in Paragraph D, the Owner may immediately proceed with the sale or transfer of the Rental Property to a Third-Party Purchaser.

F. Notwithstanding any other provision of this Section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement is subject to the contingency that no Qualified Organization exercises a right of first refusal conferred by this Chapter.

13.89.120 Contract Negotiation.

A. Bargaining in good faith. The Owner and any Tenant, Tenant Organization, and/or Qualified Organization shall bargain in good faith regarding the terms of any Offer for Sale. Any one of the following constitutes prima facie evidence of bargaining without good faith:

1. The failure of an Owner to offer a Tenant, Tenant Organization, or Qualified Organization a price and other material terms at least as favorable as that offered to a Third-Party Purchaser.

2. Any requirement by an Owner that a Tenant, Tenant Organization, or Qualified Organization waive any right under this Chapter.

3. The intentional failure of an Owner, Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter.

B. Termination of rights. The intentional failure of any Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter shall result in the termination of their rights under this Chapter.

13.89.130 Incentive to Accept Offer from Qualified Organization.

A. Transfer Tax Refund. An Owner that accepts an offer to purchase Rental Property from a Qualified Organization submitted pursuant to Section 13.89.100 and transfers title to a Rental Property to said Qualified Organization shall be entitled to reimbursement of half of any real property transfer tax imposed under Section 7.52.040.A. Said reimbursement shall not include the amount of any voter-approved transfer tax assessed pursuant to Section 7.52.040.B-C.

B. Exempt Properties. An Owner of a Rental Property that is exempt from this Chapter may comply with the requirements of this Section, and shall be entitled to reimbursement of real property transfer tax pursuant to Paragraph A upon sale of the Rental Property to a Qualified Organization.

13.89.140 Confidential Information Protected.

Any information exchanged between an Owner, Tenants, or Qualified Organizations under this Chapter shall be kept confidential to the greatest extent permitted by law. This Section shall not prohibit disclosure of information necessary to effectuate the purpose of this Chapter to any Owner, Tenant, or Qualified Organization, or to the City of Berkeley or its agents or contractors, nor shall this Chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

13.89.150 Prohibited Conduct.

A. The sale or transfer of any Rental Property subject to this Chapter and not exempt pursuant to Section 13.89.060 is prohibited unless the Owner complies with Sections 13.89.100 and 13.89.110.

B. A Tenant or Qualified Organization shall not buy or sell any right afforded to them under this Chapter or sell a waiver of any such right, nor shall any Tenant or Qualified Organization assign or otherwise transfer any such right except as authorized to do so under this Chapter.

C. An Owner shall not (1) coerce a Tenant or Tenant Organization to waive their rights under this Chapter; (2) retaliate against or harass a Tenant seeking to exercise their rights under this Chapter; or (3) engage in conduct intended to prevent a Tenant from exercising their rights under this Chapter.

D. Any agreement to shorten the time periods provided for exercise of any right afforded under this Chapter. Nothing in this Paragraph shall prohibit an agreement to extend the deadlines set forth herein.

13.89.160 Complying Anew with the Right of First Offer.

An Owner shall comply anew with the Right of First Offer if one of the following occur:

A. The Owner decides not to sell the Rental Property after providing the Notice of Intent to Sell, and then proceeds to undertake a Sale again as defined in Section 13.89.050; or the Owner cancels a contract of sale entered into with Tenant or Qualified Organization after escrow has opened.

B. 365 days have elapsed since a Tenant or Qualified Organization cancelled a contract of sale entered into with the Owner after escrow has opened, and the Owner has not sold the Rental Property to a Third-Party Purchaser.

C. 90 days have elapsed from the date of an Owner's rejection of an offer from a Tenant or Qualified Organization pursuant to Section 13.89.100.B and the Owner has not provided an Offer of Sale to the Tenant or Qualified Organization pursuant to Section 13.89.110.A; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

D. 180 days have elapsed since the expiration of an Offer Period and any extensions thereof and no Tenant or Qualified Organization submitted a Statement of Interest or offer and the Owner has not sold the Rental Property to a Third-Party Purchaser; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

13.89.170 Financial Assistance.

The City Manager shall develop guidelines for providing financial assistance to allow for the acquisition of Rental Properties pursuant to this Chapter. Financial assistance may be provided to Tenants, Tenant Organizations, or Qualified Nonprofits. Nothing in this provision commits the City Council to providing a specified level of funding for the acquisition of Rental Property under this Chapter.

13.89.180 Price Stabilization; Tenant Protections.

A. Affordability Restriction. Except as otherwise provided herein, any Rental Unit acquired pursuant to this Chapter shall be subject to a recorded affordability restriction that ensures that each Rental Unit acquired is available to very low-, low-, or moderate-income renters or buyers in perpetuity. The City Manager shall set standards for the provisions of affordable units by Administrative Regulation and for the enforcement of the requirements of this Section.

B. Exemptions from Affordability Restriction.

1. Any Rental Property purchased by a Tenant Organization that exercises its rights under this Chapter is exempt from the requirements of Paragraph A unless any Tenant or the Tenant Organization receives financial assistance pursuant to the

guidelines established under Section 13.89.170.

2. A limited equity housing cooperative that meets the requirements of Civil Code Sections 817 and 817.1 is exempt from the requirements of Paragraph A.

C. The sale of a Rental Property pursuant to this Chapter shall not impair the rights of any Tenant under Chapter 13.76 or any other applicable state law or local ordinance. Further, any Tenant who resides in any Rental Unit at the time of the sale of a Rental Property under this Chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).

D. Rental Properties acquired pursuant to this Chapter and converted to condominiums or stock cooperatives (including limited equity housing cooperatives that meet the requirements of Civil Code Sections 817 and 817.1) subject to a recorded affordability restriction under this Section shall be exempt from the requirements of Section 21.28.070 (“Affordable housing mitigation fee”).

E. Non-Purchasing Tenants, Life Lease. Any Tenant that does not join a Tenant Organization that acquires a Rental Property pursuant to this Chapter must be offered a life lease for their Rental Unit so long as the Rental Unit remains their principal residence.

13.89.190 Anti-Speculation Penalty.

A. Purpose. Tenants, Tenant Organizations, and Qualified Nonprofits acknowledge the displacement prevention, affordable housing preservation, and neighborhood stability purposes of this Chapter, and as a condition for the rights and benefits conferred to them under this Chapter, agree not use any purchased Rental Property for speculative purposes. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must be conditioned on the terms described herein. The City Manager is authorized to impose a lien on said Rental Property to enforce the requirements of this Section.

B. Minimum Term and Owner-Occupancy Requirement. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must not resell the Rental Property, or any separate ownership interests in the Rental Property, within 36 months of acquiring it. From the date of the initial purchase of the Rental Property up until 36 months, the Tenant must submit an annual owner-occupancy certification to the City demonstrating the use of the acquired Rental Property as their primary residence. The requirements of this Section shall materialize as a restrictive covenant placed on the recorded title deed to the purchased Rental Property that runs with the land and is enforceable by the City against the Tenant or Tenant Organization. The failure to submit an annual owner-occupancy certification to the City is a violation of this Chapter that shall be subject to the civil penalties described in Section 13.89.210 (Enforcement). The City may create Administrative Regulations for further guidelines concerning any exemptions from the requirements of this Section only in the event of an exigent circumstance.

C. Penalty. The City shall impose a penalty on any profits gained from the transfer of the purchased Rental Property, or any separate ownership interests in the Rental Property, prior to the expiration of the 36-month term described herein. The City shall create Administrative Regulations concerning the procedures for imposing such a penalty, which shall include notice to the alleged violator and the opportunity to contest the penalty at a hearing. The City shall establish such penalty as follows:

1. When the transfer occurs less than 12 months from the initial purchase date, 20 percent of the profits gained from the resale of the Rental Property or the separate ownership interest in the Rental Property;

2. When the transfer occurs more than or equal to 12 months but less than 24 months from the initial purchase date, 15 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property; or

3. When the transfer occurs more than or equal to 24 months but less than 36 months from the initial purchase date, 10 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property.

D. Required recordings and filings.

1. All covenants created in accordance with this Section shall be recorded before or simultaneously with the close of escrow in the office of the county recorder where the purchased Rental Property is located and shall contain a legal description of the purchased property, indexed to the name of the Tenant or Tenant Organization who purchased the Rental Property as grantee.

2. The City may engage a third-party monitoring agent to monitor the compliance of the annual owner occupancy certification.

13.89.200 Implementation.

A. The City Manager shall adopt Administrative Regulations necessary to implement the requirements of this Chapter, and may adopt additional rules and regulations for purposes of administering this Chapter, including but not limited to rules and regulations governing the reporting of information regarding transactions subject to the requirements of this Chapter.

B. This ordinance shall take effect 90 days after the City Manager adopts Administrative Regulations pursuant to Paragraph A.

C. Supportive partners shall report annually on the implementation of this Chapter to the City Council or to such City Council Committee as the City Council may designate. Supportive partners shall collect and analyze data in partnership with tenants or tenant organizations to evaluate the number and types of sales of tenant-occupied properties including whether purchased by a Qualified Organization or Third-Party Purchaser; the number of Qualified Organizations that purchase Real Property pursuant to this Chapter; the number and types of units covered by this Chapter; and other data and information relevant to evaluating the effectiveness of this Chapter in creating and preserving affordable housing for residents in the City of Berkeley and in preventing displacement of City of Berkeley tenants.

D. The City Manager or their designee shall provide counseling and technical assistance to Owners regarding the requirements of this Chapter to assist in achieving compliance.

13.89.210 Enforcement.

A. Any violation of this Chapter or the Administrative Regulations promulgated under Section 13.89.200.A shall be subject to administrative citation under Chapter 1.28.

B. The City Attorney, any Tenant of a Rental Property subject to this Chapter, or a Qualified Organization eligible to purchase Rental Property under this Chapter may bring a civil action to enforce this Chapter, and shall be entitled to the remedies set forth in this Section to the greatest extent permitted by law.

C. Any violation of the requirements of this Chapter shall be subject to a civil penalty not to exceed $1,000 per day of violation. Each failure to provide the required notice or disclosure under this Chapter shall be considered a separate violation for each Rental Unit on a Rental Property.

D. A prevailing plaintiff in any action to enforce this Chapter shall be entitled to damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may order that an Owner of Rental Property comply with the requirements of this Chapter.

13.89.220 Severability

If any word, phrase, clause, sentence, subsection, section, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason by a decision of a court of competent jurisdiction, then such word, phrase, clause, sentence, subsection, section, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words had been declared invalid or unconstitutional.

13.89.230 Effective Date.

A. Section 13.89.100 shall take effect January 1, 2024.

B. Properties with five or more housing units will be subject to Section 13.89.110 on January 1, 2024.

C. Properties with four or fewer housing units, pending analysis findings, shall be subject to section 13.89.110 on January 1, 2027.

D. All other provisions in this ordinance are effective January 1, 2024.

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.

COMPARISON OF COPA/TOPA DRAFT – 2022 AND 2023

	2022	2023
Applicability	Applied to all vacant properties; exempted all non-investor SFHs	**Exempts vacant or principal residence SFHs**
	Exempted owner-occupied duplexes if owner's only Berkeley rental Applied to all 3- and 4-unit properties	**Exempts duplexes, triplexes and quadraplexes** if one is owner's principal residence and **only Berkeley residential property**
Displacement Protections	Lacked life leases for tenants who want to remain at the property	Requires offering **life leases** to tenants who want **to remain** at the property
	No anti-speculation language	**Anti-speculation language** to ensure good faith property purchase
Effective Date	**Notice of sale provision effective 30 days after adoption; all other provisions effective with administrative regulations**	**30 days after adoption; ROFR for properties with four or fewer units considered after three years**

COMPARISON OF COPA/TOPA DRAFT – 2022 AND 2023

	2022	2023
Timelines	**Right of First Offer**	
	Offer period: o 1-9 units: 60 days o 10+: may ask for 90 days o 20+: may ask for 120 days ***Closing:*** o 1 unit: 30 days (commercial: 60 days) o 2: 90 days o 3+: 120 days	***Offer period:*** o **1 unit: 30 days** o 2-9: 60 days o **10+: 90 days** ***Closing:*** o 1 unit: same o **2-9: 60 days** o **10+ units 90 days**
	Right of First Refusal	
	Buyer accepts price/terms: o 1-2 units: 10 days o 3+: 30 days ***Closing:*** o 1 unit: 30 days to close o 2 units: 90 days to close o 3 or more units: 120 days to close (One 30-day extension on time to close may be granted)	***Buyer accepts price/terms:*** o 1 unit: 10 days o **2+: 30 days** ***Closing:*** **No specified period. Buyers to match closing timeline from third-party offer**

Kate Harrison
Councilmember, District 4

ACTION CALENDAR
September 10, 2024

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Adopt Berkeley Municipal Code Chapter 13.89: Community/Tenant Opportunity to Purchase Act

RECOMMENDATION
Adopt Berkeley Municipal Code Chapter 13.89: The Community/Tenant Opportunity to Purchase Act (COPA/TOPA).

POLICY COMMITTEE RECOMMENDATION
On July 1, 2024, the Land Use, Housing, & Economic Development Committee adopted the following action: M/S/C (Humbert/Wengraf) to send the item to the full Council with a negative recommendation that the City Council not approve the item. Vote: Ayes – Wengraf, Humbert; Noes – Lunaparra; Abstain – None; Absent – None.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION
The City of Berkeley continues to grapple with enduring housing affordability and displacement crises, leaving increasingly limited prospects for property ownership and wealth accumulation amongst residents. In Berkeley, 58% of residents are renters. Berkeley residents who have been historically and institutionally marginalized based on race, income, and immigration status face the most barriers to wealth accumulation and property ownership. Discriminatory practices, often supported and/or facilitated by financial institutions and government policy, such as redlining, inequitable use of eminent domain, and ongoing demolition of affordable housing has led to disproportionate rates of displacement, housing injustice, and poverty among Black, Brown, Indigenous, and immigrant communities.

The preservation of affordable housing is key to reaching the housing and equity goals codified in Berkeley's recently adopted 2023-2031 Housing Element and strategic plan. Properly designed, the Community/Tenant Opportunity to Purchase Act (COPA/TOPA) can be an effective strategy to help break the cycle of displacement from multi-family housing by converting naturally affordable housing into permanently affordable units. Unfortunately, our City is losing affordable housing according to data from a *Berkeleyside* study. The number of one bedroom rent controlled units have decreased

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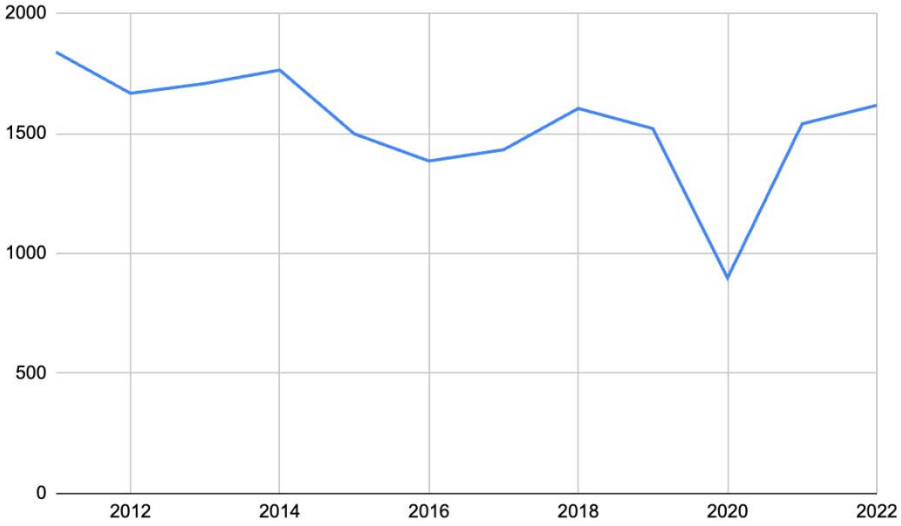
over the last 11 years by approximately 220 units, one of the reasons why renting in Berkeley has become increasingly more burdensome.



# of 1 bedroom rent controlled units in Berkeley

COPA/TOPA not only serves to stabilize housing for existing tenants and safeguard affordable housing units in Berkeley, it can also open avenues for tenants to embark on first-time homeownership through land trusts that convert rental property to ownership units. It is imperative to underscore that nothing about COPA/TOPA prevents property owners from seeking fair market value for their properties. In fact, it can benefit property owners by offering various cost-saving benefits through tax refunds and reduced relocation fees.

Attachment D provides a flowchart depicting the proposed process. In summary, the proposed legislation:

- **Excludes buildings with four-units or less that are owner-occupied** except for the financial incentive, which gives any property owner who sells to existing tenants a transfer tax refund.
- **Requires property owners to notify existing tenants (with the exception of four-unit and smaller owner-occupied buildings) of their intent to sell** between 20 and 45 days (depending on property size) in advance of putting the property on the market.
- **Allows existing tenants to express interest in purchasing the property** within the 20 or 45 days of notice.
- Requires tenants to create a tenant organization and select a supportive partner, or, alternatively, formally transfer their rights to a qualified nonprofit, and **make a formal offer, depending on property size, within another 30, 60 or 90** days starting from the date the statement of interest is submitted.

- **Allows property owners to reject the offer** within a time frame suggested by California State standards,[1] however, this time frame is ultimately decided through buyer/seller negotiation. If the property owner rejects the offer or if the offer period expires, **the property owner may take the property to market.**
- **In buildings of more than four-units, COPA/TOPA requires the property owner to notify tenants or qualified nonprofits that issued a first offer of the market offer.** Expanding this requirement to smaller buildings will be assessed in year 4.
- **Requires qualified organizations to match the substantive terms of the market offer within 10 or 30 days** (depending on property size).[2]
- **Gives the property owner discretion to decide whether to accept the offer from the tenants or the qualified nonprofit**. The property owner is not compelled to sell their property to existing tenants or a qualified nonprofit, nor are they discouraged from selling it at market price.
- **Provides a financial incentive to property owners to sell to existing tenants or qualified nonprofits by refunding 50% of the city's base transfer tax,** excluding the additional share voted on in Measure P.[3]
- **Supports tenant organizations by providing technical guidance and educational resources.** Financial assistance may be offered upon the development of guidelines by the City Manager. Nothing in the ordinance commits the City Council to providing a specified level of funding for acquiring properties.

BACKGROUND

COPA/TOPA was first introduced to Council in 2020 by Mayor Arreguin and referred to the Land Use, Housing, and Economic Development Policy Committee. After significant public input, Council Committee members recommended revisions to the legislation and planned to review it January of 2021, addressing budgetary, administrative, and outreach recommendations. However, due to the COVID-19 pandemic and subsequent lockdown, Council priorities shifted and, while agendized once in March and once in April of 2021, action was not taken by Committee members until May of 2021. At that time, COPA/TOPA passed through Committee with a 2-1 vote with a positive recommendation on the condition of additional revisions. On January 27, 2022, the Mayor conducted an informational work session regarding COPA/TOPA to provide a

[1] California Department of Real Estate, "Chapter 20: Basic Contract Provisions and Disclosures in a Residential Real Estate Transaction," *California Real Estate Reference Book*, https://dre.ca.gov/files/pdf/refbook/ref20.pdf (accessed November 1, 2023).

[2] Substantive terms include purchase price, time to close, and contingencies.

[3] 50% of the City's total base transfer tax refund is .75% of the sale price. For a house sold at $1.8 million, the amount of the base transfer tax would be $27,000, of which 50% is $13,500. "Property Transfer Tax," City of Berkeley, https://berkeleyca.gov/city-services/report-pay/property-transfer-tax (accessed October 9, 2023).

forum for the public, Council, and staff to convey their thoughts about the proposed policy. COPA/TOPA has not yet been put to a vote.

Councilmember Harrison's Office has since conducted significant outreach in collaboration with the NAACP, faith groups, senior centers, housing justice organizations, law centers, property owners, and tenant advocacy groups. Councilmember Harrison has also worked with the City Attorney's office to develop a revised version of COPA/TOPA based on the concerns and recommendations of our diverse community.

A factor that became apparent during our outreach is that, in addition to providing property owners full discretion choosing to whom they sell their properties, COPA/TOPA can also provide extensive cost saving benefits to property owners. On top of providing a transfer tax refund explained below, when a property owner sells to existing tenants, they are no longer obligated to cover relocation costs. In the case of owner move-in evictions, landlords must pay $18,011 to any tenant household that has lived in the residence for one year or more. Moreover, the landlord may also have to pay an additional $6,000 to any tenant household that is low-income, disabled, elderly, includes children, or tenancies that began prior to 1999.[4] Under COPA/TOPA, property owners can save on legal, real estate and renovation expenses.

Overview of Policy Differences Between the Proposed 2022 and 2023 COPA/TOPA

To respond to salient community concerns shared by tenants, property owners, and nonprofit partners alike, the proposed ordinance includes the following revisions and additions:

1. Expanded exemptions for owner-occupied properties;
2. Changed Right-of-First-Refusal to only be applicable to properties of more than four-units; smaller properties to be considered after assessment of the initial program;
3. Altered requirements for smaller properties;
4. Revised timelines for notice, offer, and close period for all properties;
5. Added a lifelong lease provision;
6. Clarified that properties with one-unit may only be purchased/sold under TOPA to sitting tenants with or without the assistance of a tenant organization;
7. Added provisions for anti-speculation.

Exemptions for Owner-Occupied Properties

[4] City of Berkeley, "Tenant Relocation and Repairs," City of Berkeley, https://berkeleyca.gov/doing-business/operating-berkeley/landlords/tenant-relocation-repairs (accessed November 1, 2023).

One of the most significant concerns that emerged during earlier hearings was the potential issues for owner-occupied properties. It is important to acknowledge that many Black, Brown, Indigenous and low-income people are small property owners who live in their property in Berkeley and that these small properties may be one of their only sources of generational wealth accumulation.

The policy as redrafted intends to foster a more equitable housing environment for communities that have endured significant discrimination by exempting bona fide owner-occupied triplexes and quadruplexes (in addition to owner-occupied duplexes and single-family homes as called for in the original legislation).

Smaller Properties

To address concerns raised by smaller property owners who may not have the immediate resources to implement this policy, the following section excludes implementation of Section 13.89.110, Right of First Refusal, for smaller units (four or fewer units) and only adds that requirement to those properties upon a showing of results from application of COPA/TOPA to larger properties. The Right of First Refusal provision for will take effect for larger properties on January 1, 2024 and only come into effect for properties or four or fewer units on January 1, 2027 pending analysis and findings mandated by chapter 13.89.200. In the interim, non-owner-occupied smaller properties (four or fewer units) will be subject to the Right of First Offer. The limitation of right of first refusal to larger properties is intended to balance the rights of existing tenants with the needs of smaller property owners, who may not have the resources to afford the ongoing process necessary to fairly administer COPA/TOPA, and to give the City and qualified tenant organizations needed experience with administering COPA/TOPA.

The policy that was proposed in 2022 granted full exemption to single-family homes under TOPA, regardless of whether they were currently occupied by a tenant. In the current policy, tenant-occupied single-family homes are now included within TOPA's scope, while continuing to exempt owner-occupied and vacant single-family homes or single-family homes that are a person’s primary residence. This exemption mechanism aims to balance the interests of owners and of existing tenants.

Revised Timeline for Notice, Offer, and Close Periods

Councilmember Harrison’s office also considered the impact longer timelines may have on smaller property owners. For many smaller property owners, time is money, and to wait between six months and a year to close on their property, is not a feasible financial option. In the revised ordinance, the timelines for each step of the TOPA process have shifted based on the concerns of many smaller property owners, shortening many of them and clarifying that instead of a dictated timeline for close of properties, tenant purchasers must match the substantive terms of the third-party market offer including

price, timeline to close, and contingencies.

	2022 Policy	2023 Policy
Offer Period	• 90 days for two-unit property • 120 days for three+ unit properties	• 30 days for one-unit property • 60 days for two – four-unit properties • 90 days for five+ unit properties
Close Period	• 60 days for two-unit property • 120 days for three+ unit properties	• 30 days for one-unit property • 60 days for two – four-unit properties • 90 days for five+ unit properties
Right of First Refusal – Accept Offer	• 10 days for two-unit properties • 30 days for three+ unit properties	• 10 days for one-unit property • 30 days for two+ unit properties
Right of First Refusal - Close	• 90 days for two-unit properties • 120 for three+ unit properties	• Must match terms of third-party offer including price, timeline to close, and contingencies.

Lifelong Lease Provision

The Lifelong Lease Provision intends to maintain tenant protections for tenants who are not interested in purchasing their current residence, but want to still live there. The lifelong lease ensures that if another tenant/s or qualified nonprofit purchase the property, the tenant/s who want to remain there, are protected in doing so.

Provisions for Anti-Speculation

To prevent speculation, under which tenants purchase a property with the intention of selling it in the very short term for profit, the ordinance includes an Anti-Speculation penalty aimed at furthering the intention of COPA/TOPA as an anti-displacement and homelessness prevention mechanism. These provisions apply to properties not subject to an affordability covenant with the City of Berkeley (because those will remain affordable even on sale). Section 13.89.190 lays out these provisions; in brief, the ordinance includes language to prohibit and penalize this behavior, including:

- An affirmative agreement by tenant-owners to not engage in speculation.

- Placing a temporary restrictive covenant on the title to ensure the city is notified of property resales. The covenant will expire after the three-year anti-speculation period ends.
- Requiring an annual owner-occupancy certification to prove residency for the first three years, and
- Application of a 10-20% penalty on any profits for properties sold in less than three years, depending on the transaction date.

The combined strategy that penalizes wrongful behavior and mandates reporting, encourages accountability and transparency while creating a financial deterrent for those who may leverage the policy in bad faith. The anti-speculation section protects property owners, qualified nonprofits, and tenants who are operating in accordance with the principles of this policy.

FISCAL IMPACTS OF RECOMMENDATION

This policy requires funding for administration, implementation, and enforcement. Councilmember Harrison's office submitted a budget referral that was delayed to the AAO1, which will be considered in December 2023.[5] The budget referral includes funding for:

- One Health, Housing, and Community Services (HHCS) Coordinator to develop education and outreach materials, assist and direct qualified organizations through the COPA/TOPA process, complete monitoring and data analysis to improve the policy and acquisition capacity needs.
- A portion of a Deputy City Attorney II position to manage any potential disputes or violations and support Tenant Organizations when necessary.
- Qualified organization capacity support for up to two projects a year, to assist tenants as they engage in the COPA/TOPA process.

Community Development Project Coordination for acquisition capacity, outreach, and administrative needs (HHCS)	1 FTE - $220,676*[6] *Includes $4,500 to support office, technology, and training needs

[5] City of Berkeley, "City Council Meeting Agenda - Item 26 - Referring $579,000 to the June 2023 Ballot," April 11, 2023, https://berkeleyca.gov/sites/default/files/documents/2023-04-11%20Item%2026%20Referring%20579,000%20to%20the%20June%202023.pdf (accessed October 31, 2023).

[6] An additional 1 FTE for a Community Development Project Coordinator was included in the original budget referral for programmatic capacity needs, namely, for identifying vacant or mostly vacant properties so that the City could more effectively partner with nonprofit housing providers to increase affordable housing stock. The funding request for the 1 FTE in the HHCS department will be delayed until fiscal year 2025, to allow COPA/TOPA programming to stabilize capacity and processes. Once COPA/TOPA is fully functioning, an additional HHCS FTE will be needed; funding has been requested in the budget process.

Deputy City Attorney II	0.35 FTE - $101,884
Qualified organization capacity support for two additional projects per year (in addition to existing allocation of $100,000 to the Bay Area Community Land Trust)	$50,000

The initial direct fiscal impact is estimated at $373,000 per year. With a considerable nexus with housing equity and the City's Small Sites Program, the City may also be able to leverage funds from the Measure U1 tax, the Housing Trust Fund, Measure O, and Measure M Empty Homes (Vacancy) Tax.

In addition, to the extent that properties are refunded one-half of the base transfer tax, or 0.75% of the property value, for each project valued at a price of $2 million, the amount of transfer tax foregone by the City would be $15,000. To illustrate the scope of the figures, the associated foregone transfer tax for a $1.8 million single-family residence would be $13,500. For a 21-unit building, which is the largest building that has sold in Berkeley within the two years (November 2021 – November 2023), the amount of foregone property tax if sold under TOPA would be $40,000.[7]

ENVIRONMENTAL SUSTAINABILITY

This budget referral has no effect on environmental sustainability.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

ATTACHMENTS

A. Revised BMC Chapter 13.89: Community/Tenant Opportunity to Purchase Act
B. Comparison of Revised BMC Chapter 13.89 with 2022 Version
C. 2022 Budget Referral: "Referring $579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multifamily Housing"
D. COPA/TOPA Timeline Chart

[7] MLS Listings, "Property Listing 1," https://www.mlslistings.com/Search/Result/ec6ddea7-ee1b-4620-9c3a-25190c068d1f/1 (accessed November 1, 2023); Redfin, "Property Listing 2," https://www.redfin.com/CA/Berkeley/1626-Dwight-Way-94703/home/95473170 (accessed November 1, 2023).

ORDINANCE NO. -N.S.

ADDING CHAPTER 13.89 TO THE BERKELEY MUNICIPAL CODE
COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

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

Section 1. Chapter 13.89 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.89

COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

13.89.010 Title and Purpose
13.89.020 Findings
13.89.030 Definitions
13.89.040 Applicability
13.89.050 Sale Defined
13.89.060 Exemptions
13.89.070 Qualified Nonprofits
13.89.080 Supportive Partners
13.89.090 Notice of Intent to Sell; Statement of Interest
13.89.100 Right of First Offer
13.89.110 Right of First Refusal
13.89.120 Contract Negotiation
13.89.130 Incentive to Accept Offer from Qualified Organization
13.89.140 Confidential Information Protected
13.89.150 Prohibited Conduct
13.89.160 Complying Anew with the Right of First Offer
13.89.170 Financial Assistance
13.89.180 Price Stabilization; Tenant Protections
13.89.190 Anti-Speculation Penalty
13.89.200 Implementation
13.89.210 Enforcement
13.89.220 Severability
13.89.230 Effective Date

13.89.010 Title and Purpose.

A. This Chapter shall be referred to as the “Berkeley Community/Tenant Opportunity to Purchase Act.”

B. The purpose of this Chapter is to confer upon Tenants of Rental Properties as defined herein a right of first offer and a right of first refusal upon the transfer or sale of Rental Property, and to create an incentive for Owners of Rental Properties to offer their property for sale to Tenants residing there.

13.89.020 Findings.

A. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise which leads to displacement of low-income residents.

B. The current need for affordable housing units in Alameda County is 51,732 units (California Housing Partnership). Approximately 20% of residents in Berkeley are living in poverty.

C. The lack of affordable housing for Berkeley’s low-income communities is resulting in Berkeley residents having no option but to leave the City entirely or risk becoming homeless. Currently, there are an estimated 2,000 people who experience homelessness in Berkeley each year, and in December 2019 the Council extended its declaration of a homeless shelter crisis to January 2022.

D. The nine-county Bay Area has been losing an annual average of 32,000 unsubsidized affordable homes occupied by low-income households since 2012. Unsubsidized affordable housing is the most common form of low-income housing, and at the same time is the most at risk of loss through rent increases, evictions, condo conversions, demolition and more. And, overall preservation is cost-effective compared to new production, at 50-70% of the cost of new affordable housing production (Enterprise Community Partners).

E. Affordable housing preservation and anti-displacement strategies will help keep low-income tenants in their homes and is codified in the Berkeley General Plan Housing Element. Furthermore, production and maintaining affordable housing, at all income levels, is a stated priority of the City Council in its Housing Action Plan.

F. The City Council finds that in the interest of preventing the displacement of lower-income tenants and preserving affordable housing, it is necessary and appropriate to require that the owners of rental properties in the City offer tenants and qualified nonprofit organizations the opportunity to purchase the property before it may be sold on the market to a third-party purchaser.

13.89.030 Definitions.

A. “Dwelling Unit,” “Accessory Dwelling Unit,” “Single-Family Dwelling,” “Multi-Family

Dwelling," and "Group Living Accommodations" are defined in Section 23.502.020.

B. "Designated as the Owner's Primary Residence" means any unit that the Owner has validly claimed as their principal residence for purposes of either the homeowners' property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans' exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

C. "Offer for Sale" means an offer to sell a Rental Property that includes all material and commercially reasonable terms.

D. "Qualified Nonprofit" means a nonprofit, which is either exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation, that has the capacity to acquire, provide, and manage affordable housing for moderate, low, very low, and extremely low-income households, and is certified by the City Manager pursuant to Section 13.89.070.A.

E. "Qualified Organization" means either a Tenant Organization or a Qualified Nonprofit.

F. "Owner" means any person, corporation, partnership, limited liability company, trustee, or any other entity, who is the owner of record of a Rental Property. Each Owner shall be jointly and severally responsible for compliance with the requirements of this Chapter.

G. "Rental Property" means any residential property containing one or more Rental Units and located in the City of Berkeley

H. "Rental Unit" means any Dwelling Unit or Group Living Accommodations sleeping quarters occupied by one or more Tenants in the City of Berkeley, consistent with the records of the City of Berkeley Rent Stabilization Board, and subject to the exemptions set forth in Section 13.89.060

I. "Sale," "sell," or "transfer" is defined in Section 13.89.050.

J. "Supportive Partner" means any person or organization certified by the City Manager pursuant to Section 13.89.080.A to provide Tenant counseling and technical support services on first-time homeownership, obtaining financing for the purchase of Real Properties, assisting in the process of closing on property transactions, the formation and governance of legal and collective ownership structures, and supporting Tenants in the exercise of their rights pursuant to this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents.

K. "Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of

such Rental Unit.

L. “Tenant Organization” means any legal entity or unincorporated and/or informal association that is authorized to act on behalf of a majority of Tenants of a Rental Property. A Tenant Organization must adopt a Governing Document and Governing Principles and may appoint officers and any other authorized agents specifically designated to execute contracts on its behalf. If only one Tenant of a Rental Property seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter. For purposes of this Paragraph only, any and all lessees of a Dwelling Unit or Group Living Accommodations sleeping quarters are collectively considered to be one Tenant, and such lessees of a Group Living Accommodation or Dwelling Unit must consent to representation by the Tenant Organization, as furthered defined in Administrative Regulations.

M. “Third-Party Purchaser” means any prospective purchaser of a Rental Property other than a Qualified Organization as defined in Paragraph D.

N. “The City” shall mean the City of Berkeley, including any departments within the City that are assigned any responsibilities under this Chapter.

O. “City Manager” means the City Manager or their designee.

P. “Governing Document” means a constitution, articles, bylaws, operating agreement, or other writings that governs the purpose and operation of a Tenant Organization and the rights and obligations of its members, which shall include provisions on the Tenant Organization’s decision-making processes and appointing officers and other authorized agents to act on its behalf.

Q. “Governing Principles” means the governance and management principles stated in a Tenant Organization’s Governing Documents.

R. “Majority” means an affirmative vote of more than fifty percent (50%) required for decision-making under this Chapter.

13.89.040 Applicability.

This Chapter shall apply to the sale or transfer of all Rental Property in the City of Berkeley, unless otherwise exempted herein.

13.89.050 Sale Defined.

A. “Sale,” “sell,” or “transfer” is defined as the following:

1. The transfer, in exchange for money or any other thing of economic value, of a present interest in the Rental Property, including beneficial use, where the value of the present interest is the fee interest in the Rental Property, or substantially equal to the

value of that fee interest.

2. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c).

3. Multiple transfers of minority interests in the Rental Property which, in effect, result in a transfer of the Rental Property.

13.89.060 Exemptions.

A. Residential Property Types Exempted. The following Rental Properties are not subject to the requirements of this Chapter.

1. Any Rental Property comprised entirely of owner-occupied Rental Units, including any owner-occupied Single-Family Dwelling.

2. Any Rental Property that has no more than one Single-Family Dwelling and is vacant at the time of sale.

3. A Rental Property containing a Dwelling Unit that is Designated as the Owner's Primary Residence, if and only if one of the following applies:

a. The Rental Property has no more than one Single-Family Dwelling, and either the Single-Family Dwelling or an Accessory Dwelling Unit (inclusive of any junior Accessory Dwelling Unit) on the same parcel as the Single-Family Dwelling is Designated as the Owner's Primary Residence.

b. The Rental Property has no more than one Duplex, and (1) one of the units in the Duplex is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

c. The Rental Property has no more than one Multi-Family Dwelling that contains no more than four Dwelling Units, and (1) one of the units is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

4. Rental Properties owned by the local, state, or federal government.

5. Rental Properties owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

6. Group Living Accommodations subject to monitoring by a Monitoring Organization, as defined in Section 13.42.020.E.

7. Properties owned by housing cooperatives, if the cooperative entity is owned and controlled by a majority of residents. This definition includes non-profit mutual

housing associations and limited equity housing cooperatives.

8. Properties defined as “assisted housing developments” pursuant to California Government Code Section 65863.10(a)(3) so long as the provisions of California Government Code Section 65863.10, 65863.11, and 65863.13 apply.

B. Transfers Exempted. The following transfers of Rental Properties are not subject to the requirements of this Chapter.

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren.

2. A transfer for consideration by a decedent’s estate if the consideration arising from the transfer will pass from the decedent’s estate to, or solely for the benefit of, charity.

3. A transfer of legal title or an interest in an entity holding legal title to a Rental Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Tenants or Qualified Nonprofits under the California Civil Code Sections 2924f-h, 2924m-n, or 2929.3.

4. A transfer of bare legal title into or out of a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.

5. A transfer by devise, descent, or operation of the law upon the death of a natural person.

6. A transfer pursuant to court order or court-approved settlement.

7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.

8. A transfer of a fractional interest in a Rental Property that is less than 50% of an undivided interest in the Rental Property, unless Section 13.89.050.A30 applies.

9. Any transfer in which the transferee receives a low-income housing credit under 28 U.S.C. § 42.

10. A transfer of a Rental Property that is the Owner’s sole Rental Property and has no more than five Rental Units made for the purpose of paying for imminently necessary health care expenses of an Owner of the Rental Property, or any such health care expenses incurred by a spouse, domestic partner, or child of any Owner (“Eligible Persons”), where requiring the Owner to comply with the requirements of this Chapter would result in medical financial hardship to an Eligible Person. For purposes of this subparagraph only, “Owner” shall be limited to a natural person having an undivided

interest in the Rental Property of at least 50%. The process and requirements for determining eligibility of this exemption shall be defined in Administrative Regulations implementing this Chapter.

C. Exemption Procedures and Burden of Proof.

1. Burden of Proof. The burden of proof to establish that a property or transfer is exempt from the requirements of this Chapter shall be on the Owner.

2. The Owner of a property exempt from the requirements of this chapter or claiming an exemption pursuant to this Section must provide written notice to all Tenants of the Rental Property at time of listing or marketing property for sale. The notice shall inform the Tenants of the Owners intent to sell the Rental Property and must state whether the property is exempt from the requirements of this Chapter and specify the specific exemption claimed.

3. An Owner who believes that they should be granted an exemption under this Section shall comply with procedures that the City shall create for claiming an exemption in its Administrative Regulations.

13.89.070 Qualified Nonprofits.

A. Certification, Term, and Renewal. The City Manager shall certify Qualified Nonprofits that meet the requirements of this Chapter. The Qualified Nonprofit shall be a nonprofit organization exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation that is committed to furthering permanent affordability, democratic residential control, and tenant ownership, as further defined in Administrative Regulations, and shall have demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property and to provide affordable housing for very low and/or low-income households. The City Manager may prescribe additional requirements necessary to effectuate the purpose of this Chapter by Administrative Regulation. A nonprofit organization's certification as a Qualified Nonprofit shall be valid for four years. The City Manager shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification. A list of Qualifying Nonprofits shall be published on the City's website and made available by the City Manager upon request.

B. Conflicts of Interest; Disqualification of Qualified Nonprofits. A Qualifying Nonprofit may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. A Qualifying Nonprofit may not act as a Supportive Partner if it exercises its right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110. The City Manager shall promptly investigate any complaint alleging that a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Qualified Nonprofit with notice and opportunity to be heard, the City Manager determines that an organization listed as a

Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Qualified Nonprofit.

C. A Qualified Nonprofit is conferred a right of first offer and right of first refusal as a Qualified Organization under this Chapter only if a Tenant Organization qualified to act on behalf of Tenants of a Rental Property (1) assigns in writing the Tenants' rights under this Chapter to the Qualified Nonprofit within the Notice Period;(2) executes a written waiver of the Tenants' rights under this Chapter within the Notice Period; or (3) no Tenant submits a statement of interest pursuant to Section 13.89.090.C. Subsequently, Qualified Nonprofits shall have the same amount of time conferred to Tenants to perform under this Chapter, except that Qualified Nonprofits shall only have the remaining time conferred to Tenants to perform within the Notice Period, and any extensions thereof, or a minimum of 5 days, whichever is greater. If no Tenant Organization has been formed to act on behalf of Tenants of a Rental Property, an assignment or written waiver of rights pursuant to this Paragraph shall be valid if signed by the majority of Tenants.

13.89.080 Supportive Partners.

A. Certification of Supportive Partners. The City Manager shall establish criteria for the identification and selection of persons or organizations who may serve as Supportive Partners under this Chapter. Supportive Partners shall be selected based on their expertise and ability to counsel Tenants on first-time homeownership, obtaining financing for the purchase of Rental Properties, and the formation and governance of collective ownership structures, and to otherwise provide support for Tenants who seek to exercise their rights under this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents. The certification as a Supportive Partner shall be valid for four years. The City Manager shall solicit new applications for Supportive Partner status at least once each calendar year, at which time existing Supportive Partners shall be eligible to apply for renewed certification. A list of Supportive Partners shall be published on the City's website and made available by the City Manager upon request.

B. Requirement to Select Supportive Partner. A Tenant Organization seeking to exercise a right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110 must select a Supportive Partner and disclose the Supportive Partner to the City and Owner of the Rental Property within the time set forth in the Notice Period and/or the Offer Period and any extensions thereof. The requirement to select a Supportive Partner shall not apply if there are no certified Supportive Partners on the list maintained by the City Manager pursuant to Paragraph A.

C. Conflicts of Interest; Disqualification of Supportive Partners. A Supportive Partner may not act in a manner that is adverse to the interests of Tenants occupying a Rental

Property that is subject to this Chapter. The City Manager shall promptly investigate any complaint alleging that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Supportive Partner with notice and opportunity to be heard, the City Manager determines that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Supportive Partner.

13.89.090 Notice of Intent to Sell; Statement of Interest.

A. Notice of Intent to Sell. An Owner of a Rental Property shall provide all Tenants (if any) notice of their intent to sell prior to listing or otherwise marketing a Rental Property for sale ("Notice of Intent to Sell"). The Notice of Intent to Sell shall be provided at least 45 days before marketing a Rental Property with two or more Rental Units, or at least 20 days before marketing a Rental Property with one Rental Unit ("Notice Period"). The Notice of Intent to Sell shall be sent to each Tenant address via certified mail and posted at conspicuous locations at the Rental Property and shall include the following:

1. A statement that the Owner intends to sell the Rental Property.

2. A statement describing the rights of Tenants under this Chapter and stating the deadlines for exercising those rights.

3. A list of units by address and the rent due for each unit, if occupied, and any available contact information for each occupant.

4. An itemized list of annual income and expenses for each of the two preceding calendar years, including but not limited to rent and other income collected and costs of management, insurance, utilities, and maintenance.

5. Instructions for submitting a Statement of Interest pursuant to Paragraph C.

B. Notice to Qualified Nonprofits. On the same date as notice is provided to any Tenants pursuant to Paragraph A, or if there are no Tenants, on the date on which such notice would have been provided pursuant to Paragraph A, the Owner shall provide a copy of the Notice of Intent to Sell the Rental Property via email to each Qualified Nonprofit certified by the City Manager. The City Manager shall maintain a list of email addresses for distribution of the Notice of Intent to Sell and shall make that list available on the City's website and upon request.

C. Statement of Interest. Prior to the expiration of the Notice Period set forth in Paragraph A, the majority of Tenants may deliver a statement of interest to the Owner of the Rental Property ("Statement of Interest"), unless the Tenants execute a written waiver of rights or assign rights to a Qualified Nonprofit pursuant to Section 13.89.060.C. The Statement of Interest shall notify the Owner of the Tenants' or Qualified Nonprofit's interest in exercising their rights under this Chapter. In the event that the majority of Tenants submit a Statement of Interest in response to a Notice of Intent to Sell, the right of first offer conferred by Section 13.89.090 may be exercised solely by a Tenant

Organization that satisfies the requirements of Section 13.89.030.J.; provided, however, nothing in this Paragraph shall prohibit a Tenant Organization from assigning the Tenants' right of first offer or right of first refusal to a Qualified Nonprofit prior to the expiration of the Notice Period. In the event that there are no Tenants in the Rental Property at the time the Owner's Notice of Intent to Sell is provided, and the Rental Property otherwise contains Rental Units that have not been lawfully withdrawn from the rental market, any Qualified Nonprofit that received a copy of the Notice of Intent to Sell pursuant to Paragraph B may submit a Statement of Interest to exercise its rights under this Chapter.

D. Formation of Tenant Organization; Selection of Supportive Partner. If the majority of Tenants submit a Statement of Interest, the Tenants of the Rental Property must identify or form a Tenant Organization as defined in Section 13.89.030.K and select a Supportive Partner, subject to Section 13.89.080.B. If there is only one Tenant of a Rental Property who seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter but shall not be exempt from the requirement to select a Supportive Partner. A Tenant Organization identified or formed pursuant to this Paragraph shall be entitled to exercise the rights of a Qualified Organization set forth in Sections 13.89.100 and 13.89.110.

E. Effect of Statement of Interest. Receipt of a timely Statement of Interest shall trigger an Offer Period of 30 days. For Rental Properties having two to nine Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted an additional 30-day extension of the Offer Period. For Rental Properties having ten or more Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted a total of two additional 30-day extensions of the Offer Period.

F. Prohibition on Marketing Property to Third-Party Purchasers During Notice Period and/or Offer Period. Prior to the expiration of the Notice Period and/or Offer Period, the Owner of a Rental Property shall be prohibited from listing or marketing the Rental Property for sale or entering into any agreement for the sale or transfer of the Rental Property to Third-Party Purchasers.

13.89.100 Right of First Offer.

A. Right of First Offer. A Tenant or Qualified Nonprofit that submits a Statement of Interest shall have the right to make an offer to purchase a Rental Property prior to the sale of the Rental Property to a Third-Party Purchaser; provided, however, that in the event that any Tenant submits a Statement of Interest pursuant to Section 13.89.090.C, the right of first offer conferred by this Section may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.K unless an assignment or waiver of rights have been executed pursuant to Section 13.89.070.C.

B. The Qualified Organization may deliver to the Owner of the Rental Property an offer to purchase the property, together with disclosure of its selected Supportive Partner, at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Qualified Organization.

C. Acceptance of Offer of Purchase. Upon acceptance of any offer to purchase a Rental Property made pursuant to Paragraph A, the Owner and Qualified Organization shall make reasonable and good faith efforts to close the transaction. The Qualified Organization shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 60 days to close the transaction for the sale of property having two to nine Rental Units; and 90 days to close the transaction for the sale of property having ten or more Rental Units. The deadline to close a transaction for the sale of Rental Property having one Rental Unit shall be extended for an additional 60 days from the date of acceptance of the offer if the Qualified Organization provides written documentation that its lender will require a commercial loan for the purchase of the Rental Property. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or diligently pursing the completion of other requirements to close the transaction. Nothing in this Paragraph shall prevent the Owner and the Qualified Organization for agreeing to further extend the deadline to close the transaction.

D. Termination of Right of First Offer. Upon (1) rejection of all offers to purchase made within the Offer Period, (2) the expiration of the Offer Period, or (3) the failure to close the transaction within the time period set forth in Paragraph B, the Owner may list and market for sale the Rental Property and may solicit and conditionally accept offers from a Third-Party Purchaser, subject to the requirements of Section 13.89.110. The requirements of Section 13.89.110 shall not apply if no Qualified Organization submits an offer to purchase the Rental Property under this Section.

13.89.110 Right of First Refusal.

A. Disclosure of Offer of Sale. The Owner shall disclose any Offer of Sale received from a Third-Party Purchaser to any Qualified Organization that exercised a valid right of first offer under Section 13.89.100, and shall provide said Qualified Organization a right of first refusal pursuant to the requirements of this Chapter. The Owner shall disclose to each Qualified Organization eligible to exercise a right of first refusal under this Section all material terms of any Offer of Sale of the Rental Property, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser. Any written offer received by the Owner shall be provided to said Qualified Organizations; provided, however, that any confidential information not necessary to comply with the requirements of this Paragraph may be redacted from such offers.

B. Right of First Refusal. Any Qualified Organization that exercised a valid right of first offer under Section 13.89.100 may exercise a right of first refusal and accept the Offer for Sale of the Rental Property within the time period set forth in Paragraph C. To exercise its right of first refusal, the Qualified Organization must accept all material terms of the Offer for Sale; provided, however, the financing of the Qualified Organization's purchase shall not be considered a material term of the Offer for Sale so long as it does not affect the net value of the Sale to the Owner. Specific obligations of material terms of sale are sale price, timeline to close, and contingencies.

C. Time to Exercise Right of First Refusal. The Owner shall provide any Qualified Organization eligible to exercise a right of first refusal under this Section at least 10 days to accept the Offer of Sale of a Rental Property having one Rental Unit, or at least 30 days to accept the Offer of Sale of Rental Property having two or more Rental Units. The acceptance of an Offer of Sale by any Qualified Nonprofit extinguishes any right of first refusal of other eligible Qualified Nonprofits.

D. Time to Close. Upon acceptance of the Offer of Sale, the Qualified Organization must agree to the material terms of the third-party offer. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction.

E. Rejection of Offer or Failure to Close. If each Qualified Organization entitled to receive an Offer of Sale rejects or fails to accept such offer of sale within the time set forth in Paragraph C or if a Qualified Organization that accepts an Offer for Sale fails to close the transaction within the time set forth in Paragraph D, the Owner may immediately proceed with the sale or transfer of the Rental Property to a Third-Party Purchaser.

F. Notwithstanding any other provision of this Section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement is subject to the contingency that no Qualified Organization exercises a right of first refusal conferred by this Chapter.

13.89.120 Contract Negotiation.

A. Bargaining in good faith. The Owner and any Tenant, Tenant Organization, and/or Qualified Organization shall bargain in good faith regarding the terms of any Offer for Sale. Any one of the following constitutes prima facie evidence of bargaining without good faith:

1. The failure of an Owner to offer a Tenant, Tenant Organization, or Qualified Organization a price and other material terms at least as favorable as that offered to a Third-Party Purchaser.

2. Any requirement by an Owner that a Tenant, Tenant Organization, or Qualified Organization waive any right under this Chapter.

3. The intentional failure of an Owner, Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter.

B. Termination of rights. The intentional failure of any Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter shall result in the termination of their rights under this Chapter.

13.89.130 Incentive to Accept Offer from Qualified Organization.

A. Transfer Tax Refund. An Owner that accepts an offer to purchase Rental Property from a Qualified Organization submitted pursuant to Section 13.89.100 and transfers title to a Rental Property to said Qualified Organization shall be entitled to reimbursement of half of any real property transfer tax imposed under Section 7.52.040.A. Said reimbursement shall not include the amount of any voter-approved transfer tax assessed pursuant to Section 7.52.040.B-C.

B. Exempt Properties. An Owner of a Rental Property that is exempt from this Chapter may comply with the requirements of this Section, and shall be entitled to reimbursement of real property transfer tax pursuant to Paragraph A upon sale of the Rental Property to a Qualified Organization.

13.89.140 Confidential Information Protected.

Any information exchanged between an Owner, Tenants, or Qualified Organizations under this Chapter shall be kept confidential to the greatest extent permitted by law. This Section shall not prohibit disclosure of information necessary to effectuate the purpose of this Chapter to any Owner, Tenant, or Qualified Organization, or to the City of Berkeley or its agents or contractors, nor shall this Chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

13.89.150 Prohibited Conduct.

A. The sale or transfer of any Rental Property subject to this Chapter and not exempt pursuant to Section 13.89.060 is prohibited unless the Owner complies with Sections 13.89.100 and 13.89.110.

B. A Tenant or Qualified Organization shall not buy or sell any right afforded to them under this Chapter or sell a waiver of any such right, nor shall any Tenant or Qualified Organization assign or otherwise transfer any such right except as authorized to do so under this Chapter.

C. An Owner shall not (1) coerce a Tenant or Tenant Organization to waive their rights under this Chapter; (2) retaliate against or harass a Tenant seeking to exercise their rights under this Chapter; or (3) engage in conduct intended to prevent a Tenant from exercising their rights under this Chapter.

D. Any agreement to shorten the time periods provided for exercise of any right afforded under this Chapter. Nothing in this Paragraph shall prohibit an agreement to extend the deadlines set forth herein.

13.89.160 Complying Anew with the Right of First Offer.

An Owner shall comply anew with the Right of First Offer if one of the following occur:

A. The Owner decides not to sell the Rental Property after providing the Notice of Intent to Sell, and then proceeds to undertake a Sale again as defined in Section 13.89.050; or the Owner cancels a contract of sale entered into with Tenant or Qualified Organization after escrow has opened.

B. 365 days have elapsed since a Tenant or Qualified Organization cancelled a contract of sale entered into with the Owner after escrow has opened, and the Owner has not sold the Rental Property to a Third-Party Purchaser.

C. 90 days have elapsed from the date of an Owner's rejection of an offer from a Tenant or Qualified Organization pursuant to Section 13.89.100.B and the Owner has not provided an Offer of Sale to the Tenant or Qualified Organization pursuant to Section 13.89.110.A; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

D. 180 days have elapsed since the expiration of an Offer Period and any extensions thereof and no Tenant or Qualified Organization submitted a Statement of Interest or offer and the Owner has not sold the Rental Property to a Third-Party Purchaser; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.

13.89.170 Financial Assistance.

The City Manager shall develop guidelines for providing financial assistance to allow for the acquisition of Rental Properties pursuant to this Chapter. Financial assistance may be provided to Tenants, Tenant Organizations, or Qualified Nonprofits. Nothing in this provision commits the City Council to providing a specified level of funding for the acquisition of Rental Property under this Chapter.

13.89.180 Price Stabilization; Tenant Protections.

A. Affordability Restriction. Except as otherwise provided herein, any Rental Unit acquired pursuant to this Chapter shall be subject to a recorded affordability restriction that ensures that each Rental Unit acquired is available to very low-, low-, or moderate-income renters or buyers in perpetuity. The City Manager shall set standards for the provisions of affordable units by Administrative Regulation and for the enforcement of the requirements of this Section.

B. Exemptions from Affordability Restriction.

1. Any Rental Property purchased by a Tenant Organization that exercises its rights under this Chapter is exempt from the requirements of Paragraph A unless any Tenant or the Tenant Organization receives financial assistance pursuant to the guidelines established under Section 13.89.170.

2. A limited equity housing cooperative that meets the requirements of Civil Code Sections 817 and 817.1 is exempt from the requirements of Paragraph A.

C. The sale of a Rental Property pursuant to this Chapter shall not impair the rights of any Tenant under Chapter 13.76 or any other applicable state law or local ordinance. Further, any Tenant who resides in any Rental Unit at the time of the sale of a Rental Property under this Chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).

D. Rental Properties acquired pursuant to this Chapter and converted to condominiums or stock cooperatives (including limited equity housing cooperatives that meet the requirements of Civil Code Sections 817 and 817.1) subject to a recorded affordability restriction under this Section shall be exempt from the requirements of Section 21.28.070 (“Affordable housing mitigation fee”).

E. Non-Purchasing Tenants, Life Lease. Any Tenant that does not join a Tenant Organization that acquires a Rental Property pursuant to this Chapter must be offered a life lease for their Rental Unit so long as the Rental Unit remains their principal residence.

13.89.190 Anti-Speculation Penalty.

A. Purpose. Tenants, Tenant Organizations, and Qualified Nonprofits acknowledge the displacement prevention, affordable housing preservation, and neighborhood stability purposes of this Chapter, and as a condition for the rights and benefits conferred to them under this Chapter, agree not use any purchased Rental Property for speculative purposes. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must be conditioned on the terms described herein. The City Manager is authorized to impose a lien on said Rental Property to enforce the requirements of this Section.

B. Minimum Term and Owner-Occupancy Requirement. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant

Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must not resell the Rental Property, or any separate ownership interests in the Rental Property, within 36 months of acquiring it. From the date of the initial purchase of the Rental Property up until 36 months, the Tenant must submit an annual owner-occupancy certification to the City demonstrating the use of the acquired Rental Property as their primary residence. The requirements of this Section shall materialize as a restrictive covenant placed on the recorded title deed to the purchased Rental Property that runs with the land and is enforceable by the City against the Tenant or Tenant Organization. The failure to submit an annual owner-occupancy certification to the City is a violation of this Chapter that shall be subject to the civil penalties described in Section 13.89.210 (Enforcement). The City may create Administrative Regulations for further guidelines concerning any exemptions from the requirements of this Section only in the event of an exigent circumstance.

C. Penalty. The City shall impose a penalty on any profits gained from the transfer of the purchased Rental Property, or any separate ownership interests in the Rental Property, prior to the expiration of the 36-month term described herein. The City shall create Administrative Regulations concerning the procedures for imposing such a penalty, which shall include notice to the alleged violator and the opportunity to contest the penalty at a hearing. The City shall establish such penalty as follows:

1. When the transfer occurs less than 12 months from the initial purchase date, 20 percent of the profits gained from the resale of the Rental Property or the separate ownership interest in the Rental Property;

2. When the transfer occurs more than or equal to 12 months but less than 24 months from the initial purchase date, 15 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property; or

3. When the transfer occurs more than or equal to 24 months but less than 36 months from the initial purchase date, 10 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property.

D. Required recordings and filings.

1. All covenants created in accordance with this Section shall be recorded before or simultaneously with the close of escrow in the office of the county recorder where the purchased Rental Property is located and shall contain a legal description of the purchased property, indexed to the name of the Tenant or Tenant Organization who purchased the Rental Property as grantee.

2. The City may engage a third-party monitoring agent to monitor the compliance of the annual owner occupancy certification.

13.89.200 Implementation.

A. The City Manager shall adopt Administrative Regulations necessary to implement the requirements of this Chapter, and may adopt additional rules and regulations for purposes of administering this Chapter, including but not limited to rules and regulations governing the reporting of information regarding transactions subject to the requirements of this Chapter.

B. This ordinance shall take effect 90 days after the City Manager adopts Administrative Regulations pursuant to Paragraph A.

C. Supportive partners shall report annually on the implementation of this Chapter to the City Council or to such City Council Committee as the City Council may designate. Supportive partners shall collect and analyze data in partnership with tenants or tenant organizations to evaluate the number and types of sales of tenant-occupied properties including whether purchased by a Qualified Organization or Third-Party Purchaser; the number of Qualified Organizations that purchase Real Property pursuant to this Chapter; the number and types of units covered by this Chapter; and other data and information relevant to evaluating the effectiveness of this Chapter in creating and preserving affordable housing for residents in the City of Berkeley and in preventing displacement of City of Berkeley tenants.

D. The City Manager or their designee shall provide counseling and technical assistance to Owners regarding the requirements of this Chapter to assist in achieving compliance.

13.89.210 Enforcement.

A. Any violation of this Chapter or the Administrative Regulations promulgated under Section 13.89.200.A shall be subject to administrative citation under Chapter 1.28.

B. The City Attorney, any Tenant of a Rental Property subject to this Chapter, or a Qualified Organization eligible to purchase Rental Property under this Chapter may bring a civil action to enforce this Chapter, and shall be entitled to the remedies set forth in this Section to the greatest extent permitted by law.

C. Any violation of the requirements of this Chapter shall be subject to a civil penalty not to exceed $1,000 per day of violation. Each failure to provide the required notice or disclosure under this Chapter shall be considered a separate violation for each Rental Unit on a Rental Property.

D. A prevailing plaintiff in any action to enforce this Chapter shall be entitled to damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may order that an Owner of Rental Property comply with the requirements of this Chapter.

13.89.220 Severability

If any word, phrase, clause, sentence, subsection, section, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void,

unconstitutional, or invalid for any reason by a decision of a court of competent jurisdiction, then such word, phrase, clause, sentence, subsection, section, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words had been declared invalid or unconstitutional.

13.89.230 Effective Date.

A. Section 13.89.100 shall take effect January 1, 2024.

B. Properties with five or more housing units will be subject to Section 13.89.110 on January 1, 2024.

C. Properties with four or fewer housing units, pending analysis findings, shall be subject to section 13.89.110 on January 1, 2027.

D. All other provisions in this ordinance are effective January 1, 2024.

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 NO. -N.S.

ADOPTINGADDING CHAPTER 13.89 OFTO THE BERKELEY MUNICIPAL CODE

COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

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

Section 1. Chapter 13.89 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.89

COMMUNITY/TENANT OPPORTUNITY TO PURCHASE ACT

13.89.010 Title and Purpose
13.89.020 Findings
13.89.030 Definitions
13.89.040 Applicability
13.89.050 Sale Defined
13.89.060 Exemptions
13.89.070 Qualified Nonprofits
13.89.080 Supportive Partners
13.89.090 Notice of Intent to Sell; Statement of Interest
13.89.100 Right of First Offer
13.89.110 Right of First Refusal
13.89.120 Contract Negotiation
13.89.130 Incentive to Accept Offer from Qualified Organization
13.89.140 Confidential Information Protected
13.89.150 Prohibited Conduct
13.89.160 Complying Anew with the Right of First Offer
13.89.170 Financial Assistance
13.89.180 Price Stabilization; Tenant Protections
13.89.190 Anti-Speculation Penalty
13.89.200 Implementation
13.89.200210 Enforcement
13.89.210220 Severability
13.89.230 Effective Date

13.89.010 Title and Purpose.

A. This Chapter shall be referred to as the "Berkeley Community/Tenant Opportunity to Purchase Act." ~~.~~

~~B.~~ The purpose of this Chapter is to confer upon Tenants of Rental Properties as ~~1~~

B. defined herein a right of first offer and a right of first refusal upon the transfer or sale of Rental Property, and to create an incentive for Owners of Rental Properties to offer their property for sale to Tenants residing there.

13.89.020 Findings.

A. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise which leads to displacement of ~~lowincome~~low-income residents.

B. The current need for affordable housing units in Alameda County is 51,732 units (California Housing Partnership). Approximately 20% of residents in Berkeley are living in poverty.

C. The lack of affordable housing for Berkeley's low-income communities is resulting in Berkeley residents having no option but to leave the City entirely or risk becoming homeless. Currently, there are an estimated 2,000 people who experience homelessness in Berkeley each year, and in December 2019 the Council extended its declaration of a homeless shelter crisis to January 2022.

D. The nine-county Bay Area has been losing an annual average of 32,000 unsubsidized affordable homes occupied by low-income households since 2012. Unsubsidized affordable housing is the most common form of low-income housing, and at the same time is the most at risk of loss through rent increases, evictions, condo conversions, demolition and more. And, overall preservation is cost-effective compared to new production, at 50-70% of the cost of new affordable housing production (Enterprise Community Partners).

E. Affordable housing preservation and anti-displacement strategies will help keep low-income tenants in their homes and is codified in the Berkeley General Plan Housing Element. Furthermore, production and maintaining affordable housing, at all income levels, is a stated priority of the City Council in its Housing Action Plan.

F. The City Council finds that in the interest of preventing the displacement of ~~lowerincome~~lower-income tenants and preserving affordable housing, it is necessary and appropriate to require that the owners of rental properties in the City offer tenants and qualified nonprofit organizations the opportunity to purchase the property before it may be sold on the market to a third-party purchaser.

13.89.030 Definitions.

A. "Dwelling Unit," "Accessory Dwelling Unit," "Single-Family Dwelling," "Multi-Family Dwelling," and "Group Living Accommodations" are defined in Section 23F.04.01023.502.020.

B. "Designated as the Owner's Primary Residence" means any unit that the Owner has validly claimed as their principal residence for purposes of either the homeowners' property tax exemption under Section 218 of the California Revenue and Taxation Code or the disabled veterans' exemption under Section 205.5 of that Code, as those sections may be amended from time to time.

A.C. "Offer for Sale" means an offer to sell a Rental Property that includes all material and commercially reasonable terms.

B. "Qualified Nonprofit" means a nonprofit, which is either exempt from federal 2

B.D. income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation, that has the capacity to acquire, provide, and manage affordable housing for moderate, low, very low, and extremely low-income households, and is certified by the City Manager pursuant to Section 13.89.070.A.

C.E. "Qualified Organization" means either a Tenant Organization or a Qualified Nonprofit.

D.F. "Owner" means any person, corporation, partnership, limited liability company, trustee, or any other entity, who is the owner of record of a Rental Property. Each Owner shall be jointly and severally responsible for compliance with the requirements of this Chapter.

E.G. "Rental Property" means any residential property containing one or more Rental Units and located in the City of Berkeley.

F.H. "Rental Unit" means any Dwelling Unit or Group Living Accommodations sleeping quarters occupied by one or more Tenants in the City of Berkeley. H., consistent with the records of the City of Berkeley Rent Stabilization Board, and subject to the exemptions set forth in Section 13.89.060"Sale," "sell," or "transfer" is defined in Section 13.89.050.

I. "Sale," "sell," or "transfer" is defined in Section 13.89.050. H.I.

J. "Supportive Partner" means any person or organization certified by the City Manager pursuant to Section 13.89.080.A to provide Tenant counseling and technical support services on first-time homeownership, obtaining financing for the purchase of Real Properties, assisting in the process of closing on property transactions, the formation and governance of legal and collective ownership structures, and supporting Tenants in

the exercise of their rights pursuant to this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents.

K. ~~I.J.~~ "Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a Rental Unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any Rental Unit, or any other person entitled to the use or occupancy of such Rental Unit.

L. ~~J.K.~~ "Tenant Organization" means any legal entity or unincorporated and/or informal association that is authorized to act on behalf of a majority of Tenants of a Rental Property. A Tenant Organization must adopt a Governing Document and Governing Principles and may appoint officers and any other authorized agents specifically designated to execute contracts on its behalf. If only one Tenant of a Rental Property seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter. For purposes of this Paragraph only, any and all lessees of a Dwelling Unit or Group Living Accommodations sleeping quarters are collectively considered to be one Tenant, and such lessees of a Group Living Accommodation or Dwelling Unit must consent to representation by the Tenant Organization, as furthered defined in Administrative Regulations.

~~Organization, as furthered defined in Administrative Regulations.~~

M. ~~K.L.~~ "Third-Party Purchaser" means any prospective purchaser of a Rental Property other than a Qualified Organization as defined in Paragraph D.

N. ~~L.M.~~ "The City" shall mean the City of Berkeley, including any departments within the City that are assigned any responsibilities under this Chapter.

O. ~~M.N.~~ "City Manager" means the City Manager or their designee.

P. ~~N.O.~~ "Governing Document" means a constitution, articles, bylaws, operating agreement, or other writings that governs the purpose and operation of a Tenant Organization and the rights and obligations of its members, which shall include provisions on the Tenant Organization's decision-making processes and appointing officers and other authorized agents to act on its behalf.
~~O.P.~~
Q. "Governing Principles" means the governance and management principles stated in a Tenant Organization's Governing Documents.

R. ~~P.Q.~~ "Majority" means an affirmative vote of more than fifty percent (50%) required for decision-making under this Chapter.

13.89.040 Applicability.

This Chapter shall apply to the sale or transfer of all Rental Property in the City of Berkeley, unless otherwise exempted herein.

13.89.050 Sale Defined.

A. "Sale," "sell," or "transfer" is defined as the following:

1. The transfer, in exchange for money or any other thing of economic value, of a present interest in the Rental Property, including beneficial use, where the value of the present interest is the fee interest in the Rental Property, or substantially equal to the value of that fee interest.

2. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c).

3. Multiple transfers of minority interests in the Rental Property which, in effect, result in a transfer of the Rental Property.

13.89.060 Exemptions.

A. Residential Property Types Exempted. The following Rental Properties are not subject to the requirements of this Chapter.

1. Any Rental Property comprised entirely of owner-occupied Rental Units, including any owner-occupied Single-Family Dwelling.

2. Any Rental Property that has no more than one Single Family Dwelling and is vacant at the time of sale.

3. A Rental Property containing a Dwelling Unit that is Designated as the Owner's Primary Residence, if and only if one of the following applies:

a. The Rental Property has no more than one Single-Family Dwelling and either the Single-Family Dwelling or an Accessory Dwelling Unit (inclusive of any junior Accessory Dwelling Unit) on the same parcel as the Single-Family Dwelling is Designated as the Owner's Primary Residence.

b. The Rental Property has no more than one Duplex

~~residence~~, and (1) one of the units ~~and such~~ in the Duplex is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the ~~Owners~~Owner's only Rental Property in the City of Berkeley. _

c. ~~3.~~5. The Rental Property has no more than one Multi-Family Dwelling that contains no more than four Dwelling Units, and (1) one of the units is Designated as the Owner's Primary Residence; and (2) the Rental Property in question is the Owner's only Rental Property in the City of Berkeley.

4. Rental Properties owned by the local, state, or federal government.

5. ~~4.~~6. Rental Properties owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

6. ~~5.~~7. Group Living Accommodations subject to monitoring by a Monitoring Organization, as defined in Section 13.42.020.E.

7. ~~6.~~8. Properties owned by housing cooperatives, if the cooperative entity is owned and controlled by a majority of residents. This definition includes non-profit mutual housing associations and limited equity housing cooperatives.

8. ~~7.~~9. Properties defined as "assisted housing developments" pursuant to California Government Code Section 65863.10(a)(3) so long as the provisions of California Government Code Section 65863.10, 65863.11, and 65863.13 apply.

B. Transfers Exempted. The following transfers of Rental Properties are not subject to the requirements of this Chapter.

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren.

2. A transfer for consideration by a decedent's estate if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity.

~~3.~~ A transfer of legal title or an interest in an entity holding legal title to

a Rental ~~5~~

3. Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Tenants or Qualified Nonprofits under the California Civil Code Sections 2924f-h,

2924m-n, or 2929.3.

4. A transfer of bare legal title into or out of a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.

5. A transfer by devise, descent, or operation of the law upon the death of a natural person.

6. A transfer pursuant to court order or court-approved settlement.

7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.

8. A transfer of a fractional interest in a Rental Property that is less than 50% of an undivided interest in the Rental Property, unless Section 13.89.050.A30 applies.

9. Any transfer in which the transferee receives a low-income housing credit under 28 U.S.C. § 42.

10. A transfer of a Rental Property that is the Owner's sole Rental Property and has no more than five Rental Units made for the purpose of paying for imminently necessary health care expenses of an Owner of the Rental Property, or any such health care expenses incurred by a spouse, domestic partner, or child of any Owner ("Eligible Persons"), where requiring the Owner to comply with the requirements of this Chapter would result in medical financial hardship to an Eligible Person. For purposes of this subparagraph only, "Owner" shall be limited to a natural person having an undivided interest in the Rental Property of at least 50%. The process and requirements for determining eligibility of this exemption shall be defined in Administrative Regulations implementing this Chapter.

C. Exemption Procedures and Burden of Proof.

C.

1. Burden of Proof. The burden of proof to establish that a property or transfer is exempt from the requirements of this Chapter shall be on the Owner.

2. The Owner of a property exempt from the requirements of this chapter or claiming an exemption pursuant to this Section must provide written notice to all Tenants of the Rental Property at time of listing or marketing property for sale. The notice shall inform the Tenants of the Owners intent to sell the Rental Property and must state whether the property is exempt from the requirements of this Chapter and specify the specific exemption claimed.

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3. An Owner who believes that they should be granted an exemption under this Section shall comply with procedures that the City shall create for claiming an exemption in its Administrative Regulations.

13.89.070 **Qualified Nonprofits.**

A. Certification, Term, and Renewal. The City Manager shall certify Qualified Nonprofits that meet the requirements of this Chapter. The Qualified Nonprofit shall be a nonprofit organization exempt from federal income tax under 26 U.S.C. § 501(c)(3) or a California cooperative corporation that is committed to furthering permanent affordability, democratic residential control, and tenant ownership, as further defined in Administrative Regulations, and shall have demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property and to provide affordable housing for very low and/or low-income households. The City Manager may prescribe additional requirements necessary to effectuate the purpose of this Chapter by Administrative Regulation. A nonprofit organization's certification as a Qualified Nonprofit shall be valid for four years. The City Manager shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification. A list of Qualifying Nonprofits shall be published on the City's website and made available by the City Manager upon request.

B. Conflicts of Interest; Disqualification of Qualified Nonprofits. A Qualifying Nonprofit may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. A Qualifying Nonprofit may not act as a Supportive Partner if it exercises its right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110. The City Manager shall promptly investigate any complaint alleging that a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Qualified Nonprofit with notice and opportunity to be heard, the City Manager determines that an organization listed as a Qualified Nonprofit has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Qualified Nonprofit.

C. A Qualified Nonprofit is conferred a right of first offer and right of first refusal as a Qualified Organization under this Chapter only if a Tenant Organization qualified to act on behalf of Tenants of a Rental Property (1) assigns in writing the Tenants' rights under this Chapter to the Qualified Nonprofit within the Notice Period;(2) executes a written waiver of the Tenants' rights under this Chapter within the Notice Period; or (3) no Tenant submits a statement of interest pursuant to Section 13.89.090.C. Subsequently, Qualified Nonprofits shall have the same amount of time conferred to Tenants to perform under this Chapter, except that Qualified Nonprofits shall only have the remaining time conferred to Tenants to perform within the Notice Period, and any extensions thereof, or a minimum of 5 days, whichever is greater. If no Tenant Organization has been formed to act on behalf of Tenants of a Rental Property, an assignment or written waiver of rights pursuant to this Paragraph shall be valid if signed by the majority of Tenants.

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13.89.080 Supportive Partners.

~~A.~~ Certification of Supportive Partners. The City Manager shall establish criteria for the identification and selection of persons or organizations who may serve as Supportive Partners under this Chapter. Supportive Partners shall be selected based on their expertise and ability to counsel Tenants on first-time homeownership, obtaining financing for the purchase of Rental Properties, and the formation and governance of collective ownership structures, and to otherwise provide support for Tenants who seek to exercise their rights under this Chapter. Supportive Partners may include but are not limited to Tenant Organizations, Qualified Nonprofits, consultants with expertise in non-profit housing acquisition and formation of cooperative ownership models, attorneys with real estate and contract experience, and real estate agents. The certification as a Supportive Partner shall be valid for four years. The City Manager shall solicit new applications for Supportive Partner status at least once each calendar year, at which time existing

A. Supportive Partners shall be eligible to apply for renewed certification. A list of Supportive Partners shall be published on the City's website and made available by the City Manager upon request.

B. Requirement to Select Supportive Partner. A Tenant Organization seeking to exercise a right of first offer under Section 13.89.100 or right of first refusal under Section 13.89.110 must select a Supportive Partner and disclose the Supportive Partner to the City and Owner of the Rental Property within the time set forth in the Notice Period and/or the Offer Period and any extensions thereof. The requirement to select a Supportive Partner shall not apply if there are no certified Supportive Partners on the list maintained by the City Manager pursuant to Paragraph A.

C. Conflicts of Interest; Disqualification of Supportive Partners. A Supportive Partner may not act in a manner that is adverse to the interests of Tenants occupying a Rental Property that is subject to this Chapter. The City Manager shall promptly investigate any complaint alleging that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter. If after providing the Supportive Partner with notice and opportunity to be heard, the City Manager determines that a Supportive Partner has a conflict of interest or has failed to comply with the requirements of this Chapter, the City Manager may limit, suspend, or revoke that organization's certification as a Supportive Partner.

13.89.0~~9~~**0** Notice of Intent to Sell; Statement of Interest.

~~A.~~ Notice of Intent to Sell. An Owner of a Rental Property shall provide all Tenants (if any) notice of their intent to sell prior to listing or otherwise marketing a Rental Property for sale ("Notice of Intent to Sell"). The Notice of Intent to Sell shall be provided at least 45 days before marketing a Rental Property with ~~three~~two or more Rental Units, or at least 20 days before marketing a Rental Property with ~~two or fewer~~one Rental ~~Units~~Unit ("Notice Period"). The Notice of Intent to Sell shall be sent to each Tenant address via certified mail and posted at conspicuous locations at the Rental Property and shall include the

A. following:

1. A statement that the Owner intends to sell the Rental Property.

2. A statement describing the rights of Tenants under this Chapter and stating the deadlines for exercising those rights.

3. A list of units by address and the rent due for each unit, if occupied, and any available contact information for each occupant.

4. An itemized list of annual income and expenses for each of the two preceding calendar years, including but not limited to rent and other income collected and costs of management, insurance, utilities, and maintenance.

5. Instructions for submitting a Statement of Interest pursuant to Paragraph C.

B. Notice to Qualified Nonprofits. On the same date as notice is provided to any Tenants pursuant to Paragraph A, or if there are no Tenants, on the date on which such notice would have been provided pursuant to Paragraph A, the Owner shall provide a copy of the Notice of Intent to Sell the Rental Property via email to each Qualified Nonprofit certified by the City Manager. The City Manager shall maintain a list of email addresses for distribution of the Notice of Intent to Sell and shall make that list available on the City's website and upon request.

C. Statement of Interest. Prior to the expiration of the Notice Period set forth in Paragraph A, the majority of Tenants may deliver a statement of interest to the Owner of the Rental Property ("Statement of Interest"), unless the Tenants execute a written waiver of rights or assign rights to a Qualified Nonprofit pursuant to Section 13.89.060.C. The Statement of Interest shall notify the Owner of the Tenants' or Qualified Nonprofit's interest in exercising their rights under this Chapter. In the event that the majority of Tenants submit a Statement of Interest in response to a Notice of Intent to Sell, the right of first offer conferred by Section 13.89.090 may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.J.; provided, however, nothing in this Paragraph shall prohibit a Tenant Organization from assigning the Tenants' right of first offer or right of first refusal to a Qualified Nonprofit prior to the expiration of the Notice Period. In the event that there are no Tenants in the Rental Property at the time the Owner's Notice of Intent to Sell is provided, and the Rental Property otherwise contains Rental Units that have not been lawfully withdrawn from the rental market, any Qualified Nonprofit that received a copy of the Notice of Intent to Sell pursuant to Paragraph B may submit a Statement of Interest to exercise its rights under this Chapter.

D. Formation of Tenant Organization; Selection of Supportive Partner. If the majority of Tenants submit a Statement of Interest, the Tenants of the Rental Property must identify or form a Tenant Organization as defined in Section 13.89.030.K and select a Supportive Partner, subject to Section 13.89.080.B. If there is only one Tenant of a Rental Property who seeks to exercise the right of first offer conferred by Section 13.89.100, subject to the majority consent of any other existing Tenants, the one Tenant may exercise the rights of a Tenant Organization under this Chapter but shall not be exempt from the requirement to select a Supportive Partner. A Tenant

Organization identified or formed pursuant to this Paragraph shall be entitled to exercise the rights of a Qualified Organization set forth in Sections 13.89.100 and 13.89.110.

~~E.~~ Effect of Statement of Interest. Receipt of a timely Statement of Interest shall ~~9~~

E. ~~extend the Notice~~trigger an Offer Period ~~for 60~~of 30 days. For Rental Properties having ~~10 or more~~two to nine Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted an additional 30-day extension of the ~~Notice~~Offer Period ~~upon timely written request.~~. For Rental Properties having ~~20~~ten or more Rental Units, any Tenant or Qualified Nonprofit that submits a valid Statement of Interest shall be granted a total of two additional 30-day extensions of the ~~Notice~~Offer Period ~~upon timely written request~~.

F. Prohibition on Marketing Property to Third-Party Purchasers During Notice Period~~.~~ and/or Offer Period. Prior to the expiration of the Notice Period and/or Offer Period, the Owner of a Rental Property shall be prohibited from listing or marketing the Rental Property for sale or entering into any agreement for the sale or transfer of the Rental Property to Third-Party Purchasers.

13.89.1~~0~~00 Right of First Offer.

A. Right of First Offer. A Tenant or Qualified Nonprofit that submits a Statement of Interest shall have the right to make an offer to purchase a Rental Property prior to the sale of the Rental Property to a Third-Party Purchaser; provided, however, that in the event that any Tenant submits a Statement of Interest pursuant to Section 13.89.090.C, the right of first offer conferred by this Section may be exercised solely by a Tenant Organization that satisfies the requirements of Section 13.89.030.K unless an assignment or waiver of rights have been executed pursuant to Section 13.89.070.C.

B. ~~A.~~B. The Qualified Organization may deliver to the Owner of the Rental Property an offer to purchase the property, together with disclosure of its selected Supportive Partner, at any time prior to the expiration of the ~~Notice~~Offer Period. The Owner may accept or reject any offer to purchase received from a Qualified Organization.

C. ~~B.~~C. Acceptance of Offer of Purchase. Upon acceptance of any offer to purchase a Rental Property made pursuant to Paragraph A, the Owner and Qualified Organization shall make reasonable and good faith efforts to close the transaction. The Qualified Organization shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 60 days to close the transaction for the sale of property having two to nine Rental Units; and 90 days to close the transaction for the sale of property having ~~two Rental Units; and 120 days to close the transaction for the sale of property having three~~ten or more Rental Units. The deadline to close a transaction for the sale of Rental Property having one Rental Unit shall be extended for an additional 60 days from the date of acceptance of the offer if the Qualified Organization provides written documentation that its lender will require a commercial loan for the purchase of the Rental Property. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or diligently pursing the completion of other requirements to close the transaction. Nothing in this Paragraph shall prevent the Owner and the Qualified Organization for agreeing to further extend the deadline to close the transaction.

~~C.~~D. ~~T~~termination of Right of First Offer. Upon (1) rejection of all offers to purchase made within the ~~Notice~~Offer Period, (2) the expiration of the ~~Notice~~Offer Period, or (3) the failure to close the transaction within the time period set forth in Paragraph B, the Owner may list and market for sale the Rental Property and may solicit and conditionally accept offers from a

D. Third-Party Purchaser, subject to the requirements of Section 13.89.110. The requirements of Section 13.89.110 shall not apply if no Qualified Organization submits an offer to purchase the Rental Property under this Section.

13.89.110 **Right of First Refusal.**

A. Disclosure of Offer of Sale. The Owner shall disclose any Offer of Sale received from a Third-Party Purchaser to any Qualified Organization that exercised a valid right of first offer under Section 13.89.100, and shall provide said Qualified Organization a right of first refusal pursuant to the requirements of this Chapter. The Owner shall disclose to each Qualified Organization eligible to exercise a right of first refusal under this Section all material terms of any Offer of Sale of the Rental Property, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser. Any written offer received by the Owner shall be provided to said Qualified Organizations; provided, however, that any confidential information not necessary to comply with the requirements of this Paragraph may be redacted from such offers.

B. Right of First Refusal. Any Qualified Organization that exercised a valid right of first offer under Section 13.89.100 may exercise a right of first refusal and accept the Offer for Sale of the Rental Property within the time period set forth in Paragraph C. To exercise its right of first refusal, the Qualified Organization must accept all material terms of the Offer for Sale; provided, however, the financing of the Qualified Organization's purchase shall not be considered a material term of the Offer for Sale so long as it does not affect the net value of the Sale to the Owner. Specific obligations of material terms of sale are sale price, timeline to close, and contingencies.

C. Time to Exercise Right of First Refusal. The Owner shall provide any Qualified Organization eligible to exercise a right of first refusal under this Section at least 10 days to accept the Offer of Sale of a Rental Property having ~~**no more than two**~~one Rental ~~**Units**~~Unit, or at least 30 days to accept the Offer of Sale of Rental Property having ~~**three**~~two or more Rental Units. The acceptance of an Offer of Sale by any Qualified Nonprofit extinguishes any right of first refusal of other eligible Qualified Nonprofits.

D. Time to Close. Upon acceptance of the Offer of Sale, the Qualified Organization ~~**shall have at least 30 days to close the transaction for the sale of a property having one Rental Unit; 90 days to close the transaction for the sale of property having two Rental Units; and 120 days to close the transaction for the sale of property having three or more Rental Units.**~~must agree to the material terms of the third-party offer. The Qualified Organization shall be entitled to reasonable extensions of the time to close not to exceed 30 days upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction.

E. Rejection of Offer or Failure to Close. If each Qualified Organization entitled to receive an Offer of Sale rejects or fails to accept such offer of sale within the time set forth in Paragraph C or if a Qualified Organization that accepts an Offer for Sale fails to close the transaction within the time set forth in Paragraph D, the Owner may immediately proceed with the sale or transfer of the Rental Property to a Third-Party Purchaser.

F. Notwithstanding any other provision of this Section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement is subject to the contingency that no Qualified Organization exercises a right of first refusal conferred by this Chapter.

13.89.120 Contract Negotiation.

A. Bargaining in good faith. The Owner and any Tenant, Tenant Organization, and/or Qualified Organization shall bargain in good faith regarding the terms of any Offer for Sale. Any one of the following constitutes prima facie evidence of bargaining without good faith:

1. The failure of an Owner to offer a Tenant, Tenant Organization, or Qualified Organization a price and other material terms at least as favorable as that offered to a Third-Party Purchaser.

2. Any requirement by an Owner that a Tenant, Tenant Organization, or Qualified Organization waive any right under this Chapter.

3. The intentional failure of an Owner, Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter.

~~B.~~ B. Termination of rights. The intentional failure of any Tenant, Tenant Organization, or Qualified Organization to comply with the provisions of this Chapter shall result in the termination of their rights under this Chapter.

13.89.130 Incentive to Accept Offer from Qualified Organization.

A. Transfer Tax Refund. An Owner that accepts an offer to purchase Rental Property from a Qualified Organization submitted pursuant to Section 13.89.100 and transfers title to a Rental Property to said Qualified Organization shall be entitled to reimbursement of half of any real property transfer tax imposed under Section 7.52.040.A. Said reimbursement shall not include the amount of any voter-approved transfer tax assessed pursuant to Section 7.52.040.B-C.

B. Exempt Properties. An Owner of a Rental Property that is exempt from this Chapter may comply with the requirements of this Section, and shall be entitled to reimbursement of real property transfer tax pursuant to Paragraph A upon sale of the Rental Property to a Qualified Organization.

13.89.140 Confidential Information Protected.

Any information exchanged between an Owner, Tenants, or Qualified Organizations under this Chapter shall be kept confidential to the greatest extent permitted by law. This Section shall not prohibit disclosure of information necessary to effectuate the purpose of this Chapter to any Owner, Tenant, or Qualified Organization, or to the City of Berkeley

or its agents or contractors, nor shall this Chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

13.89.150 Prohibited Conduct.

A. The sale or transfer of any Rental Property subject to this Chapter and not exempt pursuant to Section 13.89.060 is prohibited unless the Owner complies with Sections 13.89.100 and 13.89.110.

B. A Tenant or Qualified Organization shall not buy or sell any right afforded to them under this Chapter or sell a waiver of any such right, nor shall any Tenant or Qualified Organization assign or otherwise transfer any such right except as authorized to do so under this Chapter.

C. An Owner shall not (1) coerce a Tenant or Tenant Organization to waive their rights under this Chapter; (2) retaliate against or harass a Tenant seeking to exercise their rights under this Chapter; or (3) engage in conduct intended to prevent a Tenant from exercising their rights under this Chapter.

D. Any agreement to shorten the time periods provided for exercise of any right afforded under this Chapter. Nothing in this Paragraph shall prohibit an agreement to extend the deadlines set forth herein.

13.89.160 Complying Anew with the Right of First Offer.

An Owner shall comply anew with the Right of First Offer if one of the following occur:

A. The Owner decides not to sell the Rental Property after providing the Notice of Intent to Sell, and then proceeds to undertake a Sale again as defined in Section 13.89.050; or the Owner cancels a contract of sale entered into with Tenant or Qualified Organization after escrow has opened.

B. 365 days have elapsed since a Tenant or Qualified Organization cancelled a contract of sale entered into with the Owner after escrow has opened, and the Owner has not sold the Rental Property to a Third-Party Purchaser.

C. 90 days have elapsed from the date of an Owner's rejection of an offer from a Tenant or Qualified Organization pursuant to Section 13.89.100.B and the Owner has not provided an Offer of Sale to the Tenant or Qualified Organization pursuant to Section

13.89.110.A; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a ThirdPartyThird-Party Purchaser.

D. 180 days have elapsed since the expiration of a Noticean Offer Period and any extensions thereof and no Tenant or Qualified Organization submitted a Statement of Interest or offer and the Owner has not sold the Rental Property to a Third-Party Purchaser; however, the Owner may submit a notarized statement to the City to extend this time period if the Owner is still actively seeking to sell the Rental Property to a Third-Party Purchaser.
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13.89.170 **Financial Assistance.**

The City Manager shall develop guidelines for providing financial assistance to allow for the acquisition of Rental Properties pursuant to this Chapter. Financial assistance may be provided to Tenants, Tenant Organizations, or Qualified Nonprofits. Nothing in this provision commits the City Council to providing a specified level of funding for the acquisition of Rental Property under this Chapter.

13.89.180 Price Stabilization; Tenant Protections.

A. Affordability Restriction. Except as otherwise provided herein, any Rental Unit acquired pursuant to this Chapter shall be subject to a recorded affordability restriction that ensures that each Rental Unit acquired is available to very low-, low-, or moderate-income renters or buyers in perpetuity. The City Manager shall set standards for the provisions of affordable units by Administrative Regulation and for the enforcement of the requirements of this Section.

B. Exemptions from Affordability Restriction.

1. Any Rental Property purchased by a Tenant Organization that exercises its rights under this Chapter is exempt from the requirements of Paragraph A unless any Tenant or the Tenant Organization receives financial assistance pursuant to the guidelines established under Section 13.89.170.

2. A limited equity housing cooperative that meetmeets the requirements of Civil Code Sections 817 and 817.1 is exempt from the requirements of Paragraph A.

A. The sale of a Rental Property pursuant to this Chapter shall not impair the rights of any Tenant under Chapter 13.76 or any other applicable state law or local ordinance. Further, any Tenant who resides in any Rental Unit at the time of the sale of a Rental Property under this Chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental

Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual

C. adjustment be less than zero (0%) or greater than seven percent (7%).

D. Rental Properties acquired pursuant to this Chapter and converted to condominiums or stock cooperatives (including limited equity housing cooperatives that meet the requirements of Civil Code Sections 817 and 817.1) subject to a recorded affordability restriction under this Section shall be exempt from the requirements of Section 21.28.070 ("Affordable housing mitigation fee").

E. Non-Purchasing Tenants, Life Lease. Any Tenant that does not join a Tenant Organization that acquires a Rental Property pursuant to this Chapter must be offered a life lease for their Rental Unit so long as the Rental Unit remains their principal residence.

13.89.190 Anti-Speculation Penalty.

A. Purpose. Tenants, Tenant Organizations, and Qualified Nonprofits acknowledge the displacement prevention, affordable housing preservation, and neighborhood stability purposes of this Chapter, and as a condition for the rights and benefits conferred to them under this Chapter, agree not use any purchased Rental Property for speculative purposes. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must be conditioned on the terms described herein. The City Manager is authorized to impose a lien on said Rental Property to enforce the requirements of this Section.

B. Minimum Term and Owner-Occupancy Requirement. Any Tenant who acquires an interest in a Rental Property pursuant to this Chapter (either directly or through a Tenant Organization) that is not subject to the recorded affordability restrictions described in Section 13.89.180A must not resell the Rental Property, or any separate ownership interests in the Rental Property, within 36 months of acquiring it. From the date of the initial purchase of the Rental Property up until 36 months, the Tenant must submit an annual owner-occupancy certification to the City demonstrating the use of the acquired

Rental Property as their primary residence. The requirements of this Section shall materialize as a restrictive covenant placed on the recorded title deed to the purchased Rental Property that runs with the land and is enforceable by the City against the Tenant or Tenant Organization. The failure to submit an annual owner-occupancy certification to the City is a violation of this Chapter that shall be subject to the civil penalties described in Section 13.89.210 (Enforcement). The City may create Administrative Regulations for further guidelines concerning any exemptions from the requirements of this Section only in the event of an exigent circumstance.

C. Penalty. The City shall impose a penalty on any profits gained from the transfer of the purchased Rental Property, or any separate ownership interests in the Rental Property, prior to the expiration of the 36-month term described herein. The City shall create Administrative Regulations concerning the procedures for imposing such a penalty, which shall include notice to the alleged violator and the opportunity to contest the penalty at a hearing. The City shall establish such penalty as follows:

1. When the transfer occurs less than 12 months from the initial purchase date, 20 percent of the profits gained from the resale of the Rental Property or the separate ownership interest in the Rental Property;

2. When the transfer occurs more than or equal to 12 months but less than 24 months from the initial purchase date, 15 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property; or

3. When the transfer occurs more than or equal to 24 months but less than 36 months from the initial purchase date, 10 percent of the profits gained from the transfer of the Rental Property or the separate ownership interest in the Rental Property.

D. Required recordings and filings.

1. All covenants created in accordance with this Section shall be recorded before or simultaneously with the close of escrow in the office of the county recorder where the purchased Rental Property is located and shall contain a legal description of the purchased property, indexed to the name of the Tenant or Tenant Organization who purchased the Rental Property as grantee.

2. The City may engage a third-party monitoring agent to monitor the compliance of the annual owner occupancy certification.

13.89.200 Implementation.

A. The City Manager shall adopt Administrative Regulations necessary to implement the requirements of this Chapter, and may adopt additional rules and regulations for purposes of administering this Chapter, including but not limited to rules and regulations governing the reporting of information regarding transactions subject to the requirements of this Chapter.

B. This ordinance shall take effect 90 days after the City Manager adopts Administrative Regulations pursuant to Paragraph A.

~~C.~~ ~~The City Manager~~C. Supportive partners shall report annually on the implementation of this Chapter to the City Council or to such City Council Committee as the City Council may designate. ~~The City Manager's report shall include~~Supportive partners shall collect and analyze data in partnership with tenants or tenant organizations to evaluate the number and types of sales of tenant-occupied properties including whether purchased by a Qualified Organization or Third-Party Purchaser; the number of Qualified Organizations that purchase Real Property pursuant to this Chapter; the number and types of units covered by this Chapter; and other data and information relevant to evaluating the effectiveness of this Chapter in creating and preserving affordable housing for residents in the City of Berkeley and in preventing displacement of City of Berkeley tenants.

~~C.~~D. The City Manager or their designee shall provide counseling and technical assistance to Owners regarding the requirements of this Chapter to assist in achieving compliance.

13.89.~~200~~210 Enforcement.

A. Any violation of this Chapter or the Administrative Regulations promulgated under Section 13.89.~~190~~200.A shall be subject to administrative citation under Chapter 1.28.

B. The City Attorney, any Tenant of a Rental Property subject to this Chapter, or a Qualified Organization eligible to purchase Rental Property under this Chapter may bring a civil action to enforce this Chapter, and shall be entitled to the remedies set forth in this Section to the greatest extent permitted by law.

C. Any violation of the requirements of this Chapter shall be subject to a civil penalty not to exceed $1,000 per day of violation. Each failure to provide the required notice or disclosure under this Chapter shall be considered a separate violation for each Rental Unit on a Rental Property.

D. A prevailing plaintiff in any action to enforce this Chapter shall be entitled to damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may order that an Owner of Rental Property comply with the requirements of this Chapter.

13.89.~~210~~220 Severability

If any word, phrase, clause, sentence, subsection, section, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason by a decision of a court of competent jurisdiction, then such word, phrase, clause, sentence, subsection, section, or other portion, or the prescribed application thereof, shall be severable, and the remaining

provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words had been declared invalid or unconstitutional.

13.89.230 Effective Date.

A. Section 13.89.100 shall take effect January 1, 2024.

B. Properties with five or more housing units will be subject to Section 13.89.110 on January 1, 2024.

C. Properties with four or fewer housing units, pending analysis findings, shall be subject to section 13.89.110 on January 1, 2027.

D. All other provisions in this ordinance are effective January 1, 2024.

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.

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Kate Harrison
Councilmember, District 4

CONSENT CALENDAR
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Referring $579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

RECOMMENDATION

Refer $579,000 to the June 2023 Budget Process for annual City staffing costs and for allied non-profits to implement and administer programs associated with acquisition and prevention of displacement from multi-family housing including the Small Sites Program, investments related to the Empty Homes Tax, and administrative implementation of the proposed Berkeley Community and Tenant and Opportunity to Purchase Act (COPA/TOPA):

Community Development Project Coordination for acquisition capacity of 3-6 additional projects per year (HHCS)	1.5 FTE (1 FTE for the Empty Homes Tax and 0.5 FTE for COPA/TOPA) - $318,915* *Includes $4,500 to support office, technology, and training needs
Community Development Project Coordination for COPA/TOPA (HHCS)	0.5 FTE - $108,088
Deputy City Attorney II	0.35 FTE - $101,884
Qualified Organization Capacity Support for two additional projects per year (in addition to existing allocation of $100,000 to the Bay Area Community Land Trust)	$50,000

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City of Berkeley is experiencing a historic housing and displacement crisis. Between 2005 and 2019 gross median rent increased by over 50%. This has been

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particularly burdensome in a city where 58% of residents are renters.[1] While in recent years Berkeley has met its RHNA goals for those earning above 120% Area Median Income (AMI), it has failed to build or acquire sufficient housing for everyone else. Further, housing at the >120% AMI category has not significantly improved affordability for lower income residents and has increased displacement in low-income neighborhoods.[2] Unfortunately, Alameda County's housing remains unaffordable for many of its residents, and this burden does not fall evenly across income and racial groups. While 47% of renters in Alameda County are rent burdened, the rate is 58% for Black renters and 87% for extremely low-income renters.[3]

As documented by the Rent Board-sponsored Anti-eviction Mapping Project Report, the crisis has contributed to extreme displacement, with the City losing "49.2% of its Black population between 1990 and 2020," and "only 30% of households below 80% of Area Median Income (AMI) occupy[ing] units that are [ ] affordable to them."[4]

The extraordinary gap between the housing needs of residents and the availability of housing can only be bridged through the use of numerous policy interventions including enhancing the resources of the Small Sites Program to support acquisitions under the Empty Homes Tax and COPA/TOPA, and staffing to implement and administer the COPA/TOPA. The market will not do this on its own. Acquiring and preserving affordable housing is key to reaching the housing and equity goals codified in Berkeley's recently adopted 2023-2031 Housing Element and strategic plan because this is a cost-effective way to ensure the city does not lose the affordable homes it already has while it invests in producing more affordable homes overall.[5] The City of Berkeley is pursuing a number of strategies to acquire properties and make them permanently affordable but is forced to do so without adequate resources for City staff, its non-profit partners and for acquisition of properties.

Before the 2008 financial crisis, Berkeley had a robust housing department. The department was downsized and merged with the health department to form Health, Housing, and Community Services (HHCS). Despite limited housing staff, the Department has excelled in face of unprecedent Council demand for housing and acquisition. In contrast to other housing strategies, acquiring existing properties does

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[1] Anti-Eviction Mapping Project: Densifying Berkeley: Potential Impacts on Displacement and Equity, 2022, https://www.berkeleyside.org/wp-content/uploads/2022/04/AEMP-UpzoningReport-Draft4-3.pdf.

[2] Id.

[3] California Housing Partnership Housing Needs Dashboard, 2019, https://chpc.net/housingneeds/?view=37.405074,-119.26758,5&county=California,Alameda&group=housingneed&chart=shortfall|current,cost-burden|current,cost-burden-re|current,homelessness,historical-rents,vacancy,asking-rents|2022,budgets|2021,funding|current,state-funding,lihtc|2010:2021:historical,rhna-progress,multifamily-production.

[4] "Anti-Eviction Mapping Project: Densifying Berkeley: Potential Impacts on Displacement and Equity," 2022.

[5] *City of Berkeley Housing Trust Fund and Small Sites Program Guidelines*. https://berkeleyca.gov/sites/default/files/2022-04/Housing-Trust-Fund-Guidelines.pdf.

not result in carbon-intensive demolition and it maximizes continuity and price security, minimizing displacement of long-term and low-income residents. However, to meet this demand in the face of the City's new Housing Element and other policies, it is critical to bolster staffing in the housing division.

BACKGROUND

The Small Sites program, which acquires and renovates occupied, multifamily rental properties and converts into permanently affordable units or non-equity housing cooperatives, has successfully purchased properties, most recently 13 units of affordable housing on Solano Avenue and eight units in South Berkeley on a church property.[6] The program has been a critical piece of Berkeley's affordable housing strategy through the acquisition and rehabilitation of rental units. The sites guarantee below market rate rents.

On November 8, 2022 nearly two thirds of Berkeley voters approved Measure M, the Empty Homes Vacancy Tax, intended to incentivize owners of housing property to bring units back on the market and discourage speculation. The law will go into effect beginning January 1, 2024 and is expected to identify thousands of vacant units that could be candidates for acquisition, while also generating millions of dollars in revenue for housing acquisition and production. In addition to the staff needed to simply administer the tax, the City needs additional staff to help vet potential candidate properties identified as vacant and possibly available for acquisition. As a general tax, funds from the Empty Homes Tax will be placed into the General Fund. However, the voters in passing Measure M approved the non-binding intention of using the revenue in ways consistent with the Housing Trust Fund as well as other municipal purposes at the discretion of the Council.[7]

In addition, on March 10, 2020, COPA/TOPA was first presented to the Berkeley City Council's Land Use, Housing and Economic Development Policy Committee. The ordinance was heard again in March and May of 2021 before passing out of Committee on May 20, 2021 with a qualified positive recommendation. The Mayor held an informational work session on COPA/TOPA on January 27, 2022.[8] The ordinance would create legal rights for tenants to make the first offer or match any final offer to buy their home whenever the owner chooses to put it up for sale. Alternatively, tenants could assign these rights to an affordable housing developer so that it can prevent the displacement of the tenants by acquiring the property and preserving its affordability. COPA/TOPA would also provide technical assistance, education, and financing to help make these purchases possible.

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[6] Savidge, Nico. "To Boost Affordable Housing, Berkeley Looks to Buy, Not Just Build." *Berkeleyside*, 19 Sept. 2022, https://www.berkeleyside.org/2022/06/05/berkeleys-affordable-housing-acquisition-rehabilitation-small-sites.

[7] As discussed in the August 2022 Council report that accompanied the Empty Homes Tax and the tax ordinance.

[8] Mayor Jesse Arreguín, "Tenant Opportunity to Purchase Act, Adding B.M.C. Chapter 13.89," January 27, 2022, https://berkeleyca.gov/sites/default/files/2022-04/2022-01-27%20Item%2001%20Tenant%20Opportunity%20to%20Purchase%20Act.pdf

Thus, COPA/TOPA provides pathways to stabilize existing housing for tenants and preserve affordable housing, allows tenants to become first-time homeowners, and facilitates opportunities for democratic ownership of residential property. To be effective, COPA/TOPA requires a well-funded staffing infrastructure to administer and enforce it. Education, legal and technical assistance to tenants is also needed during implementation to ensure the rights that COPA/TOPA provides can be meaningfully exercised.

FUNDING DETAILS

HHCS' housing services are currently provided by two units; one unit, the Housing Development Unit, is dedicated to affordable housing development through the City's Housing Trust Fund, including the Small Sites Program. The unit has a total of 3.5 FTE. None of the staff are dedicated specifically to Small Sites. Instead, this program has been absorbed into the workload of the unit alongside other housing development projects.

The Department reports that at peak times ahead of multi-year predevelopment or development processes, each Small Sites Program project demands up to 0.5 FTE. The additional 1.5 FTE contemplated in this item could assist HHCS with expanding the capacity of the program and using data from the Empty Homes Tax to identify properties for acquisition and rehabilitation by the City or its partners, including the Land Trust, non-profit developers and the Berkeley Housing Authority.

Current Small Sites Program duties include, but are not limited to:

- Managing projects funded through the Small Sites Program, including acquisition, rehabilitation or new construction by other organizations (typically nonprofit developers);
- Coordinating the disposition of City-owned property for development as affordable housing as needed;
- Developing competitive solicitations (NOFAs, RFPs, RFQs) for development funding as well as consultant services;
- Providing technical assistance, reviewing funding applications, underwriting projects, and making funding recommendations;
- Preparing housing loan or grant agreements using boilerplate documents and negotiate revisions with borrowers. Researching and drafting other types of agreements as needed;
- Monitoring projects during predevelopment and construction. Reviewing and approving draw requests and work with the Department's fiscal unit to disburse funds;
- Preparing reports and presentations for the City Council and Housing Advisory Commission.

In addition, this budget referral includes the approximately .5 FTE as proposed by the Department in order to implement additional part-time support from HHCS to coordinate the acquisition of properties in connection with COPA/TOPA.

The .5 FTE Community Development Project Coordinator duties will include:

- Program Design and Development, including coordinating with CAO to develop process, procedures, forms, etc.
- Developing and maintaining a webpage with certified Qualified Organizations (QO) and Supportive Partners (SP), active seller notices to tenants, and tenant/QO statements of interest
- Certifying and renewing QOs and SPs monitor and evaluate them on an ongoing basis
- Advising tenants and QOs on applying for SSP funding
- Developing targeted materials and provide ongoing education for landlords and tenants.
- Organizing trainings, meetings and webinars, and act as liaison to professional and civic groups, community organizations, and individuals

The City Attorney's Office also indicates it will need additional resources to implement COPA/TOPA, as follows:

Deputy City Attorney II* **		
Task	**% FTE**	**Ordinance Reference**
Adjudicate policy exemptions, such as definition of principal residence, family in family transfer, and medical hardship waivers	5%	13.89.050
Adjudicate non-compliance with ROFR (verifies bona fide offers when dispute reported)	5%	13.89.100
Landlord/tenant mediation	5%	13.89.170
Legal Analysis of potential violations	5%	13.89.170
Remedies/Civil Action for violations	10%	13.89.170
Support advising of tenants and QOs	5%	
	35%	

***This is strictly related to ordinance implementation and does not reflect any staffing required for legal challenges to the ordinance

Finally, this request also includes an additional $50,000 per year to assist Qualified Organizations with staff support to acquire up two projects per year. The $25,000 per project line item is included to build sufficient project management capacity for partners with the City. HHCS already acquires approximately two projects per year through the Small Sites Program and provides $100,000 in capacity support to the Bay Area Community Land Trust. Berkeley will need to support additional start-up capacity and allow for ongoing support through pre-development funds related to specific small sites and/or COPA/TOPA projects.

Thanks to the foresight of Berkeley voters, the Council and staff, the Council has a wide variety of General Fund, Special Tax, and fee revenue that can be to acquire housing and maintain it as affordable for current residents and future generations. The Measure U1 tax, the Housing Trust Fund, Measure O, and Measure M Vacancy Tax all have a strong nexus to property acquisition.

It is in the public interest to consider funding staff and non-profit support for acquisition of housing to remain perpetually affordable as part of the June, 2023 budget process.

FISCAL IMPACTS OF RECOMMENDATION
$579,000 per year in staffing costs to enhance the Small Sites Program, fund programmatic and investment of Empty Homes Tax proceeds, and implement and administer COPA/TOPA.

ENVIRONMENTAL SUSTAINABILITY
Acquiring and rehabilitating existing housing stock can be a lower carbon alternative to demolition and building new affordable housing.

CONTACT PERSON
Councilmember Kate Harrison, (510) 981-7140

TOPA Timelines

Right of First Offer:

Total time to close:

The maximum time required for a TOPA sale will depend on the size of the property and the phase of the process in which the owner accepts an offer.

Step 1

Seller gives tenants and Qualified Nonprofits (QNP) **notice of intent to sell**.

Tenants or QNPs deliver **Statement of Interest** to Owner. If they do not, TOPA process ends; seller free to list on market/sell to 3rd party buyers.

Time to submit **statement of interest**:
1 unit: 20 days | 2+ units: 45 days

Step 2

Tenants/QNP who submitted a **statement of interest**, can submit an **offer**. Seller free to accept, counter, or reject offer. If tenants/QNP submits no offer, TOPA process ends.

Time to submit **offer**: 1 unit: 30 days | 2-9 units: 60 days
10+ units: 90 days

Step 3

If seller accepts offer, then parties execute contract, triggering the **closing** phase (seller eligible for transfer tax break). If offer rejected, seller is free to get 3rd party offer (subject to Right of First Refusal).

Time to **close**: 1 unit: 30 days | 2-9 units: 60 days
10+ units: 90 days (for commercial loans: additional 30 days)

1 unit: 80 days

2-9 units: 165 days

10+ units: 255 days

Right of First Refusal:*

If seller wants to accept a **3rd party offer**, seller of building* must provide tenants/QNP (whoever made the initial offer in **Step 2**) with opportunity to meet price and terms of 3rd party offer. If no tenant/QNP made offer in Step 2, then this obligation does not apply.

Time for buyer to **accept** price/terms: 1 unit: 10 days
2+ units: 30 days

1 unit: 60 days

2-9 units: 135 days

10+ units: 165 days

+ time on market and time to close

** Applies only to buildings with 5 or more units in first 3 years of policy*

02a.37

Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
September 10, 2024

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Councilmember Susan Wengraf (Co-Sponsor)

SUBJECT: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code

RECOMMENDATION

Adopt a resolution affirming that the City of Berkeley will continue to offer interim housing (i.e., a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach[1] and best practices guidance from the federal government. In order to account for nuanced health and safety situations, the resolution allows for six specific exceptions to this practice, based on City staff experience.

Offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness.[2] It will continue to be the City's practice to make shelter offers whenever practicable and to invest in more shelter options. However, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:

- The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, Berkeley Municipal Code (BMC) Chapter 19.48; or
- The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or

[1] Arreguin, Jesse, Joining the House America Initiative that adopts a Housing First approach in accordance with the federal government, July 12, 2022, Consent Calendar Council item, unanimously approved, https://berkeleyca.gov/sites/default/files/documents/2022-07-12%20Item%2013%20Joining%20the%20House%20America%20Initiative.pdf

[2] United States Interagency Council on Addressing Homelessness: 7 Principles for Addressing Encampments, June 17, 2022: https://www.usich.gov/sites/default/files/document/Principles_for_Addressing_Encampments_1.pdf

- The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
- The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
- The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
- The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

The City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e)[3]; or citation and arrest, even if a shelter offer cannot be made.

Adopt revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.

CURRENT SITUATION AND ITS EFFECTS

Federal Ninth Circuit Court of Appeals Legal Decision in Martin v. City of Boise (2018) Has Guided City's Encampment Approach to Always Offer Shelter In All Circumstances Prior to Encampment Closure. In 2018, the Ninth Circuit Court of Appeals, with jurisdiction over California, ruled that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."[4] In practice, the *Martin* decision meant that the City of Berkeley was prevented from closing encampments—even when deemed a health and safety hazard—without offers of shelter, constituting an Eighth Amendment violation against cruel and unusual punishment. Due to limited shelter options and movement among unsheltered individuals, certain encampments have persisted, such as the encampments along the Harrison Corridor (between Ninth and Seventh streets and north of Harrison on Eighth Street), and the encampments in the Cedar and Second Street area (Second Street

[3] Penal Code Section 647(e) states: "Except as provided in paragraph (5) of subdivision (b) and subdivision (k), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: (e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it."

[4] *Martin v. City of Boise*, 920 F .3d 584 (9th Cir. 2019): https://cdn.ca9.uscourts.gov/datastore/opinions/2019/04/01/15-35845.pdf, p. 3

between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth).

Supreme Court Decision in Grants Pass v. Johnson (2024) Removes Shelter Offer Requirement, And Further Allows Local Jurisdictions to Ban Camping in Public Spaces. On June 28, 2024, the Supreme Court overruled the Ninth Circuit's *Martin v. Boise* ruling in their 6-3 decision in *Grants Pass v. Johnson*. In this decision, the Court ruled that applying anti-camping ordinances to homeless individuals, as had been done in the town of Grants Pass, Oregon, was not a violation of the Eighth Amendment's prohibition of cruel and unusual punishment. The Court removed the requirement to offer shelter before closing an encampment.[5] The ruling gives cities like Berkeley greater authority to set encampment policy for nuanced health and safety situations.

***Significantly, the Supreme Court Decision in Grants Pass Does Not Impact the City's Requirements Related to the Fourth, Fifth and Fourteenth Amendments*.** The City must still abide by the Fourth Amendment protecting individuals against unreasonable search and seizure, the Fifth Amendment guaranteeing due process and the Fourteenth Amendment guaranteeing equal protection under the law. The City's administrative regulations pertaining to regulating temporary non-commercial objects on the sidewalks (AR 10.1) and the temporary storage of unattended property (AR 10.2) ensure compliance with these Constitutional law requirements.

BACKGROUND

Housing First Is a Best Practice, With City of Berkeley Opening Hope Center, Two Homekey Sites, and Two Transitional Housing Motels Within the Last Three Years . . . Housing First is an approach to serving people experiencing homelessness that recognizes a homeless person must first be able to access a decent, safe place to live before stabilizing, improving health, reducing harmful behaviors, or increasing income, according to the California Department of Housing and Community Development (HCD).[6] In 2018, Berkeley voters approved an increase to the real estate transfer tax for the top third of real estate transactions to augment General Fund resources available for homeless services, known as Measure P. These funds, along with state encampment resolution funds, have supported the leasing of two motels:

- **The Berkeley Inn operated by Dorothy Day House provides 25 rooms**, as well as meals, supportive services, and housing navigation services;
- **Campus Hotel (formerly Super 8) operated by Insight Housing provides 23 rooms**, as well as meals, supportive services, and housing navigation services with homeless individuals at the Harrison Corridor encampment granted first priority for these rooms;
- **The Hope Center (2012 Berkeley Way) operated by Insight Housing provides a congregate emergency shelter with 32 beds and 12 transitional**

[5] *Grants Pass,* 144 S.Ct at 2211: https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf
[6] Housing First, California Department of Housing and Community Development, https://www.hcd.ca.gov/grants-funding/active-funding/docs/housing-first-fact-sheet.pdf

housing beds for veterans. The Hope Center was funded by various local[7], state, and federal sources.

The offer of motel rooms has dramatically increased the City's shelter acceptance rate—from 43 percent to 79 percent—among unsheltered people living in encampments.[8]

Measure P funds have also been used as local match funding for two permanent supportive housing sites that have received state funding via the Homekey program, the statewide program to expand and fund housing opportunities for people experiencing homelessness.[9]

- **The Rodeway Inn operated by Housing Consortium of the East Bay provides 42 permanent supportive housing units funded in part by the state Homekey program**, including meals and supportive services;
- **Golden Bear Homes operated by Bay Area Community Services provides 43 permanent supportive housing units funded in part by the state Homekey program**, including on-site property management, case management, and supportive services.
- **The Hope Center, funded by various local[10], state, and federal sources, is operated by Insight Housing and provides 53 permanent supportive housing units**, as well as meals, physical and mental health care, and case management.

The City is poised to add an additional 39 units of permanent supportive housing in the near future via the Step-Up Housing site currently in construction at 1367 University Avenue to be operated by Building Opportunities for Self Sufficiency (BOSS). Further, a $53 million local funding reservation from the Measure O affordable housing bond has been made for the North Berkeley and Ashby developments, with the first 100 percent affordable building at the North Berkeley site likely to break ground next year. The City Council has also acted to place Measure W on the November 2024 ballot to authorize a renewal and graduated increase in the Measure P real estate transfer tax for voter consideration to continue to ensure resources are available for future investments in permanent housing, interim housing, and homelessness prevention.

. . . Permanent and Interim Housing Placements Have Coincided with a Dramatic 45 Percent Reduction in the Count of Unsheltered Individuals, according to the 2024 Point-In-Time Homeless Count. Between 2022 and 2024, the City saw a 45 percent reduction in street homelessness corresponding with a 54 percent increase in sheltered homelessness. Overall, the City of Berkeley experienced a 21 percent

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[7] The Hope Center was not funded by Measure P proceeds.

[8] City Manager Off Agenda Memo, May 16, 2024: As shelter and permanent housing investments have increased, Berkeley's homelessness has declined, https://berkeleyca.gov/sites/default/files/documents/2024-05-16%20As%20shelter%20and%20permanent%20housing%20investments%20have%20increased%2C%20Berkeley%E2%80%99s%20homelessness%20has%20declined.pdf

[9] Homekey, California Department of Housing and Community Development, https://www.hcd.ca.gov/grants-and-funding/homekey

[10] The Hope Center was funded locally by Measure O affordable housing bond funds, Housing Trust Fund proceeds, and measure U1 funds that increased gross receipts tax on owners of five or more rental units.

reduction in homelessness, compared to just a 3 percent reduction in Alameda County.[11] From 2015 through 2019, prior to enhanced local investment associated with Measure P, the City's homeless count increased by 33 percent, as shown in Figure 1 (834 individuals in 2015 compared to 1,108 individuals in 2019). In 2024, with the addition of transitional motels, Homekey permanent supportive housing sites, and the Hope Center, the City of Berkeley experienced a dramatic 21 percent reduction in overall homelessness—far higher than the 3 percent reduction experienced by Alameda County overall.

Figure 1: Berkeley Homeless Point-In-Time Counts Increased from 2017 to 2019 Before Decreasing in 2022 and 2024, Coinciding with Shelter and Permanent Housing Investments

Year	Sheltered Count	Unsheltered Count	Total Homeless Population	% Increase/ Decrease from last PIT count
2015	266	568	834	Not available
2017	308	664	972	16.5% increase
2019	295	813	1,108	14% increase
2022	254	803	1,057	5% decrease
2024	339	445	844	21% decrease

Sources: 2015 Homeless Point-In-Time Count, Jan. 26, 2016 (https://newspack-berkeleyside-cityside.s3.amazonaws.com/wp-content/uploads/2016/06/2016-01-26-Item-21-Berkeley-2015-Homeless.pdf); 2017, 2019, 2022 Point-In-Time Counts (https://everyonehome.org/wp-content/uploads/2022/05/Berkeley-PIT-2022-Infographic-Report.pdf); and 2024 Point-In-Time Count (https://everyonehome.org/main/continuum-of-care/point-in-time-count-2024/)

The West Berkeley Encampments at (1) the Harrison Corridor (Between Ninth and Seventh Streets, Including Eighth Street north of Harrison), and (2) the Second and Cedar Area (Second between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth)[12] are the Most Persistent and Hazardous in the City, With Documented Impacts Since 2019. Despite significant reductions in the number of people who are homeless in Berkeley, a total of about 445 individuals continue to experience unsheltered homelessness, according to the 2024 point-in-time count. These individuals are largely in West Berkeley, with significant health and safety impacts in the Harrison Corridor, including dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products, according to an August 2023 off-agenda memo from the City Manager.[13] Additionally, a large accumulation of bulky objects and sheltering structures completely block the sidewalk in several areas and extend into the roadway, creating numerous fire and traffic safety hazards. Since the Homelessness Response Team was established in 2021, City staff have documented 16 environmental

[11] Alameda County Health Department May 15, 2024 press release: Alameda County Homelessness County Shows Improvements As More Unhoused Residents Access Shelter and Housing: https://everyonehome.org/wp-content/uploads/2024/05/2024-PIT-Count-Press-Release_FINAL_v3.pdf

[12] See Second St, Page St, Jones St, Cedar St encampment map, attached

[13] City Manager Dee Williams-Ridly's Aug. 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, pp. 7, 8 (attached)

health abatements city-wide, with nine of those abatements occurring in the Harrison encampment and Cedar/Second Street area encampments.

Calls for Service and Fire-Related Incidents Associated with the Harrison Corridor are Elevated Compared to a Similar Area South of Gilman, Averaging One Police Call Every 1.5 Days and One Fire Service Call Every 4.5 Days. Call data underscores the intensive level of emergency response resources associated with the Harrison Corridor encampments. On average, BPD is called for service every day-and-a-half and Fire is called every four-and-a-half days. For the one-year period from August 2023 through July 2024, a total of 252 calls for police service were received by dispatch from the Harrison Corridor area. Of those calls, 45 percent were deemed high priority (either priority one or two on a nine-point scale, with one reflecting the highest level of urgency and nine reflecting the least). Berkeley's Fire Department received a total of 78 calls for service during the same one-year timeframe; of those, 60 calls were for fire-related incidents, and 18 were for emergency medical services. For comparison, the same-sized area just south of Gilman Street (bounded by Seventh and Ninth Streets and Gilman to Camelia) had 152 calls for service over the same time period (100 fewer calls), and the percentage of high priority calls (levels one and two) was also less (32 percent versus 45 percent for the Harrison Corridor).[14] Like the Harrison Corridor, the area south of Gilman is zoned Mixed Use Light Industrial and has significant numbers of RVs and other vehicles being used for habitation on the streets; however, the area does not have encampments similar to those in the Harrison Corridor.

Figure 2: Calls for Service Related for Harrison Corridor Encampments (12 months, Aug. 1, 2023 - July 31, 2024)

Berkeley Police Department Calls for Service	Total: 252	High priority calls[15]: 45%
Berkeley Fire Department Calls for Service	Total: 78	Types of calls: 60 fire-related responses; 18 emergency medical services responses

Sources: Berkeley Police Department (BPD) calls for service taken from the Berkeley Police Transparency Hub Calls for Service, https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats. Berkeley Fire Department (BFD) calls for service data provided by BFD Fire Prevention Inspector.
Note: Calls are associated with the Harrison Corridor based on where the incident in question takes place.

Similar Health and Safety Concerns Persist at Second and Cedar Area. The encampments in the area of Second and Cedar (Second between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth) have been equally challenging, staff intensive, unhealthy, and unsafe. From December 2021 through January 2024, the City's operations at these encampments have included six deep cleaning efforts entailing:

- Removal of large accumulations of debris and trash from the public right-of-way;

[14] Information gathered from City of Berkeley's Police Transparency Hub, Calls for Service: https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats
[15] This percentage reflects priority level 1 and 2 calls, indicating a high level of urgency. BPD categorizes calls from 1 being the most urgent to 9 being the least.

- Removal of hazardous materials including syringes, human waste, rotting food, and soiled clothing and bedding;
- Removal of unsafe unpermitted structures;
- Treatment of rat harborages;
- Decontamination of City's stormwater drainage system.[16]

Calls for Service and Fire-Related Incidents for Second and Cedar Street Area are Comparable to Harrison Corridor, Averaging One Police Call Every 1.5 Days and One Fire Service Call Every 4.5 Days. In 2023, calls for service to both BPD and Berkeley Fire were as high, and in some cases higher, in the Cedar and Second Street area compared to the Harrison Corridor. In a document prepared for the state's Encampment Resolution Fund-3 grant application, BPD noted: In 2023, calls for service jumped to 247 from 169 (+46 percent) from the previous year, and reported crimes rose to 69 from 60 (+15 percent). Commercial burglary was the most prevalent crime type, with 27 incidents reported. The data suggest a worsening safety situation, particularly around the Second Street encampments.[17] Conditions in this area continue to deteriorate to this day. In the seven-month period from January 2024 through July 2024, there were a total of 234 police service calls, just shy of the 247 calls made for the entire 2023 calendar year. The total of 234 calls over a seven-month period is slightly more than one call per day, exceeding calls for service for the Harrison Corridor. Berkeley Fire noted at least 20 fires associated with the Cedar and Second encampment area in 2023 with one becoming a two-alarm fire requiring mutual aid. A total of seven different fire code violations have been associated with these encampments and include code violations related to outdoor storage of combustible materials, insufficient clearance from ignition sources, deliberate and/or negligent burning of combustible materials, unwanted fire ignitions, obstructed access to and insufficient clearance of fire hydrants.[18]

Figure 3: Calls for Service for Second and Cedar Street Area Encampments (12 months, Aug 1. 2023 - July 31, 2024)

Berkeley Police Department Calls for Service	Total: 369	High Priority[19]: 33.1%
Berkeley Fire Department Calls for Service	Total: 81	Types of Calls: 38 fire related responses; 43 emergency medical services responses

Source: BPD calls for service taken from the Berkeley Police Transparency Hub Calls for Service: https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats. BFD calls for service data collected and provided by BFD Fire Prevention Inspector.
Note: Calls are associated with the Second and Cedar Street area based on where the incident in question takes place.

[16] City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, p. 4, attached.
[17] City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, p. 1, attached.
[18] City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, pp 20 - 29, attached
[19] This percentage reflects priority level 1 and 2 calls, indicating a high level of urgency. BPD categorizes calls from 1 being the most urgent to 9 being the least.

City Has Made Significant Investment to Offer Shelter and Abate Hazards at Harrison Corridor Encampments . . . The City has a long history of providing a wide range of services for the residents of the Harrison Corridor encampments, including 107 shelter offers, with a 53 percent uptake rate. In February 2022, Alameda County Winter Shelter 28-day motel vouchers were provided to all individuals and included an 83 percent uptake rate, and three other partial closures for deep cleaning have occurred since that time. City staff conducted the following activities through August 31, 2023:

- **Case Management and Engagement**. Weekly by-name case conferences hosted by the Homeless Response Team and attended by relevant city and county agencies[20]; three community meetings (in May and July 2023) among City staff, residents, and advocates of the encampment to discuss resources and safety."[21]
- **Abating Rodent Harborage Conditions**. Major nuisance abatement of rodent harborage conditions in October 2022 and subsequent multiple targeted treatments of the extensive network of rodent burrows by the City's Environmental Health Division of the Health, Housing and Community Services Department; provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions;
- **Deep Cleanings and Trash Removal**. Nine deep cleanings removing a total of 124.9 tons (249,800 pounds) of debris; placement of a dumpster on Eighth Street in April 2022 with service four times weekly, addition of a second dumpster on Seventh and Harrison in August 2023 also serviced four times weekly, and weekly illegal dumping removal service by the City's Public Works Department;
- **Basic Sanitation, including Portapotties, Handwashing Station, Weekly Showers and Laundry Services**. Placement of two portapotties with wash station located at the corner of Eighth and Harrison Streets, serviced regularly; weekly free mobile shower and laundry service since June 2022.

City Offered All 23 Rooms at Campus Hotel (formerly Super 8) to Homeless Individuals Residing in the Harrison Corridor . . . In June 2023, the City of Berkeley was awarded $4.9M from the state's Encampment Resolution Fund-2 grant program, which is currently being used to master lease the Campus Hotel (formerly Super 8) located at 1619 University Avenue. The transitional housing site is operated by Insight Housing, and includes meals, supportive services, and housing navigation services. Unsheltered individuals residing in the Harrison Corridor were given priority for this site, with 34 people accessing the site to date and 18 individuals remaining from the Harrison Corridor, according to City staff.

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[20] Agencies include: Alameda County Healthcare for the Homeless; Berkeley's Health, Housing and Community Services Department; Homeless Action Center; Bay Area Community Services (BACS); LifeLong Medical Care; East Bay Community Law Center; Options Recovery Services; Berkeley Mental Health; and Building Opportunities for Self-Sufficiency (BOSS). Alameda County's Street Medicine Teams also had an intensive presence at the encampments accompanied by multiple other service providers including the homeless advocacy group Where Do We Go Berkeley; Consider the Homeless, which provides meals; and Berkeley Needle Exchange, which provides clean needles and substance use services.

[21] City Manager Dee Williams-Ridly's August 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, attached

. . . But Hazardous Harrison Corridor Encampments Continue to Persist. In a City Manager Feb. 20, 2024 off-agenda memo, staff wrote: "Despite having non-congregate shelter beds dedicated to this encampment, nearly every effort that the City has made to resolve portions of the encampment have been met with significant opposition and/or legal challenges."[22] Between August 2023 through December 2023, the City tried on four separate occasions to resolve encampments in the Harrison corridor in accordance with pending construction and maintenance projects and formally declaring the area as an imminent hazard resulting in an order for a summary abatement on the basis of public health and safety hazards but legal entanglements kept this from happening. During each of these efforts, offers of non-congregate shelter at the Campus Hotel and other available transitional housing at hotel sites preceded attempts to close and clean the encampment areas. In November 2023, the City installed temporary fencing designating the area a pending construction zone to repair and maintain City infrastructure, including sidewalks and street trees, but the fencing was soon breached and the area was re-encamped quickly.

To address the encampments in the Cedar and Second Street area, this past spring the City applied for another state Encampment Resolution Funds grant with the intent to master lease another motel for conversion to transitional housing for homeless individuals. As in the past, the City committed to matching any incoming dollars using Measure P funds. This potential new site would provide housing for another 26 individuals, have on-site services, meals, and housing navigation services. All of the rooms are intended to be prioritized for those living in the encampments in the Cedar and Second Street area.

Presence Of Encampments Yielding a High Rate of Police and Fire Calls for Service Impacts Safety of Nearby Residents, Workers, and Visitors and Is Detrimental to Business Operations. For many years, the District 1 Council office has received e-mail complaints about the hazardous street conditions in the Harrison Corridor and the Cedar and Second Street encampments areas. The Harrison Corridor is home to an electric range of businesses and organizations, including Fieldwork Brewing, Boichick Bagels bakery and storefront, Urban Adamah (a Jewish urban farm with programming for children and families), Harrison Skate Park and sports fields, Berkeley Repertory Theater Administrative Offices, Wilderness Travel Tour Agency, The Tile Shop, Blue Willow Teaspot, East Bay Tow Company, The Plant Library, United States Federal Detached Del Unit Post Office, Covenant Winery, Makers Workspace, Griffin Motorwerke and other automotive businesses, and several architecture and landscaping offices. The Cedar and Second Street area is home to manufacturing companies creating in-ground and above ground traffic detection systems, energy gels for endurance athletes, and AI-powered robotics. Industrial businesses in that area include construction companies, large equipment rentals, paper shredding, computer technology, glass installation, cutlery sharpening services, and automotive businesses. Other businesses, such as landscaping, automotive companies and an active travel tour

[22] City Manager Dee Williams-Ridly's August 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, attached

company are also located in this area as are single family-homes and residences, starting on Fourth Street. Communications from residents, visitors, and workers in these two areas describe hazards and concerning interactions and behaviors, such as:

- **Traffic and Pedestrian Safety**. Tents and bulky structures protruding into lanes of traffic; and complete blockage of sidewalks on both sides of the street.
- **Pest Control Issues**. In July 2022, an organization in close proximity to the Harrison encampment reported rats in their buildings, and a considerable amount of resources expended in addressing pest control issues. The rats also climb into the parked cars and chew on the wiring causing thousands of dollars of damage to people's cars.
- **Fire-Related Concerns**. In July 2024, a constituent reported a big dumpster fire that "spewed all kinds of toxic chemicals into the air," settling onto their property where the operators were conducting outdoor summer programs. In May 2024, two fires in the Cedar and Second Street areas were classified as arson, according to Fire Chief David Sprague.[23]

Anecdotal Reports Describe Assaults and Other Dangerous Conditions. Residents and employees near the Harrison Corridor and Second and Cedar Street encampments report being chased, yelled at and threatened by encampment residents. One local business, right at the northeast corner of Ninth and Harrison, is familiar with all of the encampment residents due its location. One employee shared in 2022 that their security camera caught on film instances of vandalism: the same individual, an encampment resident at the time, was seen kicking side mirrors off nearby parked cars repeatedly over several days. One employee going to her 4 a.m. shift was robbed at gunpoint when coming to work (2020) while a business owner relayed how a customer was attacked by two people when driving down Eighth just north of Harrison: one stood in front of the car to block it while the other attempted to pull the woman out of her vehicle (2022). In 2021 the office received an email from a Berkeley based business outside of the Gilman District trying to make a delivery to a business at Ninth and Harrison:

> "Yesterday, my driver told me that the guy threw a bottle of urine on our truck, then threw rocks, and lumber trying to break our windows of the truck. Only after my driver had to show some force and not back down (along with another homeless person helping my driver), did the occupant of the pictured tent leave and allow my driver to do his job."

More recently neighbors in the Cedar and Second Street encampment area wrote with a list of troubling behaviors they had recently witnessed:

- *"Barely clothed woman, clearly impaired by drugs, exiting an RV on Cedar between railroad tracks and 4th street.*
- *Human feces just about anywhere you dare to look.*
- *Needles on sidewalks and in grass and bushes.*
- *Drug dealing.*
- *Infighting among the un-housed people, many times resulting in retaliatory arson.*
- *Trespassing*
- *A stabbing."*

[23] District 1 e-mail communication with Fire Chief Sprague, May 2024.

The above examples represent a small fraction of the myriad stories shared with the District 1 Council office. For years, stakeholders in these two areas of West Berkeley have lived and worked alongside a host of dangerous public health and safety hazards.

FISCAL IMPACT

It is expected that implementation of this encampment policy will result in no net change in staff time.

CONTACT

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

Attachments:

1) Amendments to Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks
2) Administration Regulation 10.1 Temporary Storage of Unattended Property
3) Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120
4) City Manager Dee Williams-Ridley's August 31, 2023 Off-Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts
5) 2nd and Cedar Street, Jones and Page Street encampment map
6) CoB Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration
7) City Manager's September 30, 2021 After Action Report: Harrison Street Corridor RV Operation
8) Second Street Deep Cleaning - After Action Reports: December 2, 2021
9) Second Street Deep Cleaning - After Action Report April 19, 2022
10) Second Street and Page Encampment Closure - After Action Report November 30, 2022
11) East Side of Page at Second Partial Closure, and Second Street Deep Cleaning Between Cedar and Page - After Action Report March 22, 2023;
12) Second Street Between Page and Cedar, and on Page Street East of Second Street Deep Cleaning - After Action Report May 9, 2023

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

Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods

WHEREAS, offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness; and

WHEREAS, the City of Berkeley expresses its continued commitment to a Housing First approach, in which we recognize that people experiencing homelessness must first be able to access a decent, safe place to live before stabilizing, improving health, reducing harmful behaviors, or increasing income; and

WHEREAS, in 2018, Berkeley voters approved an increase in the real estate transfer tax for the top third of real estate transactions to augment General Fund resources available for homeless services, known as Measure P, which has helped to fund transitional housing motels Berkeley Inn and Campus Hotel (formerly Super 8) and permanent supportive housing sites Golden Bear Homes, The Rodeway Inn, and Step-Up Housing (under construction), and will be considered by the voters for extension in November 2024 as Measure W; and

WHEREAS, from 2022 to 2024, the City saw a dramatic 45 percent reduction in street homelessness corresponding with a 54 percent increase in sheltered homelessness, and an overall 21 percent reduction in homelessness, illustrating that the provision of transitional and permanent supportive housing can successfully reduce overall homelessness; and

WHEREAS, in 2018, the Ninth Circuit Court of Appeals ruled in *Martin v. City of Boise* that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property," which required the City of Berkeley to make a shelter offer in all circumstances; and

WHEREAS, the recent Supreme Court decision in *Grants Pass v. Johnson* overturns the *Martin* standard, thus giving cities like Berkeley the authority to set a more nuanced encampment policy that considers exigent circumstances of fire, health, and nuisance abatement pursuant to the Berkeley Municipal Code; and

WHEREAS, certain encampments have persisted, such as the encampments in the Harrison Corridor (between Ninth and Seventh Streets and Eighth Street north of Harrison), and the Second and Cedar Area (Cedar between Eastshore and Fourth, and Second between Page and Cedar and on Page and Jones west of Fourth), despite documented fire, environmental health, and nuisance hazards as defined in the Berkeley Municipal Code and ongoing exhaustive City staff efforts to offer shelter when available and abate hazards; and

WHEREAS, City staff have provided extensive services for individuals sheltering in the Harrison Corridor area, including reserving the 23 rooms at the Campus Hotel (formerly Super 8) for residents of the Harrison corridor. City staff have also provided case management and engagement, abatement of rodent harborage conditions, deep cleaning

and trash removal four times per week, and basic sanitation services including portapotties, a handwashing station, weekly showers, and laundry services; and

WHEREAS, calls for Berkeley Police and Fire service are exceedingly high at both encampment areas with Berkeley Police calls for service at the Harrison encampment during 12 months (August 1, 2023 - July 31, 2024) totaling 252 and at Cedar and Second Streets encampment totaling 369—on average one call every day to day-and-a-half—and calls for Berkeley Fire service totaling 78 and 81, for each encampment respectively, during that same timeframe, with safety impacts for nearby residents, workers, and visitors and detrimental impacts on business operations.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley will continue to offer interim housing (generally a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach and best practices guidance from the federal government;

BE IT FURTHER RESOLVED, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:

- The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, BMC Chapter 19.48; or
- The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or
- The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
- The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
- The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
- The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

BE IT FURTHER RESOLVED, the City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e); or citation and arrest, even if a shelter offer cannot be made.

BE IT FURTHER RESOLVED, that the City Council determines that the Harrison Corridor (Harrison Street between Ninth and Seventh Streets, including Eighth Street north of Harrison) and the Second and Cedar area (Second Street between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth) meet all six health and safety exceptions as proscribed by the above-stated policy and should therefore be prioritized for enforcement.

Chapter 14.48
MISCELLANEOUS USE OF STREETS AND SIDEWALKS

Sections:

14.48.010 **One-way streets.**
14.48.020 **Obstructions on streets and sidewalks.**
14.48.030 **Objects in transit.**
14.48.040 **Construction materials and barricades.**
14.48.050 **Trees and shrubs.**
14.48.060 **Poles, hydrants, signs, etc.**
14.48.070 **Bicycle racks.**
14.48.080 **Bus benches and bus shelters.**
14.48.090 **Mail boxes and armed forces recruiting signs.**
14.48.100 **Newspaper racks and newspapers.**
14.48.110 **Authorized retail displays.**
14.48.120 **Temporary Noncommercial Objects.**
14.48.130 **Decorative noncommercial installations.**
14.48.140 **Public telephones.**
14.48.150 **Sidewalk seating, benches and planters.**
14.48.160 **Removal of obstructions on streets and sidewalks.**
14.48.170 **Use of streets and sidewalks by vendors.**
14.48.180 **Trap doors in sidewalks.**
14.48.190 **Parklets.**

14.48.010 One-way streets.

The City Traffic Engineer is authorized and directed to suitably indicate by appropriate signs those streets or portion of streets designated by resolution of the Council as one-way streets.

14.48.020 Obstructions on streets and sidewalks.

It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager ~~and adopted by the City Council~~.

For purposes of this Chapter, Sidewalk is defined as provided in BMC Section 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians. Parklet is defined as provided in BMC Section 14.48.190(B)(4).

14.48.030 Objects in transit.

Goods, wares, merchandise, containers, furniture, suitcases and other similar objects in the immediate custody and control of individuals readily able to move or remove such objects may be allowed on the outer one-third of the sidewalk for up to one hour while in the actual course of receipt, delivery, transport, transit or removal.

14.48.040 Construction materials and barricades.

Materials used in the construction or repair of any building or structure, together with the necessary pedestrian walkways, barricades and warning signs, when required permits have been obtained from the City.

14.48.050 Trees and shrubs.

Trees, shrubs and flowers with the necessary barricades when planted or maintained by the City, or by private parties when expressly allowed by Council action or by the City Manager.

14.48.060 Poles, hydrants, signs, etc.

Poles, fire and police boxes, lamp posts, parking, street directional or warning signs, parking meters, drinking fountains, poster kiosks, hydrants, flag poles or standards, decorations for public events, sidewalk clocks, refuse cans, book return receptacles, barriers and any other similar installation; provided, however, that any such installation belongs to the City or is authorized by Council action.

14.48.070 Bicycle racks.

Bicycle racks of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.080 Bus benches and bus shelters.

Bus benches and bus shelters at such locations and in accordance with such rules and regulations as may be prescribed by the City Manager.

14.48.090 Mail boxes and armed forces recruiting signs.

Mail boxes and armed forces recruiting signs that are placed in such locations that they do not interfere with the normal use of the sidewalk by pedestrians.

14.48.100 Newspaper racks and newspapers.

Newspaper racks which are installed and maintained in accordance with Chapter 16.40 or Chapter 16.44 of the Berkeley Municipal Code.

14.48.110 Authorized retail displays.

Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

14.48.120 Temporary Noncommercial Objects.

A. Temporary Noncommercial Objects ("TNC Objects") are personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;

2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;

3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.

4. *Not furniture.* Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 Objects in Transit.

The City Manager may adopt regulations specifying what TNC Objects may be permitted under this Section and where such TNC Objects may be permitted, as well as procedures and limitations to implement this Section. Any such regulation shall contain provisions and shall be applied in such a manner as to ensure that it does not deprive any person of rights protected by the state or federal constitutions, including freedom of expression, and any size limitation contained therein shall not apply to dogs, or to limited cushioning material being used to sit on such as, but not limited to, blankets, cushions or mats. ~~Regulations adopted by the City Manager under this Section shall not take effect until they have been presented to the City Council for approval at a regularly scheduled meeting.~~

B. ~~After approval by the City Council, t~~The City Manager shall ensure that regulations adopted pursuant to this Section are publicized in a manner substantially equivalent to the manner in which ordinances are published, and that materials summarizing such regulations are available for dissemination in Commercial and Manufacturing zones. The City may also post fixed signage in Commercial and Manufacturing zones informing the public of such regulations.

C. No person may be cited for a violation of this Section or the regulations adopted pursuant to it unless that person has first been warned that their conduct is in violation hereof, is allowed a reasonable opportunity to comply but refuses to do so.

D. Violations of this Section or City Manager regulations adopted pursuant to this Section shall be charged as infractions, and not as misdemeanors.

14.48.130 Decorative noncommercial installations.

Decorative noncommercial installations subject to the following regulations and requirements:

A. At least six feet of improved sidewalk area measured at right angles to the curb shall be kept open and unobstructed.

B. Such decorative noncommercial installations shall be placed and maintained in the portion of the sidewalk area farthest from the curb; provided, however, that subject to all other conditions herein specified, such installations may be placed and maintained in the portion of

the sidewalk area adjacent to the curb if such installations will not interfere with access to or from any parked vehicle and are:

1. Not closer than twenty-five feet to any curb return or fire hydrant;

2. Not located adjacent to any commercial or passenger loading zone;

3. Not closer to the curb than eighteen inches;

4. Not affixed to any City or utility company-owned poles or appurtenances;

5. Not mounted in or affixed to the sidewalk;

6. Not inconsistent with safety, development in the area, or other decorative noncommercial installations.

C. No decorative noncommercial installation shall be placed or maintained in the sidewalk area without a permit therefor. Application for such permit shall be made to the office of the City Manager, who may require as part of the application such information as may be deemed necessary to determine compliance with this Section and other applicable laws and regulations, including but not limited to a scaled site plan, signature of the fronting property owner and permittee, and agreement to indemnify the City as specified in Subsection D. The application shall be referred to the Public Works Department and the Civic Art Commission for review to determine that it is in the public interest to grant the permit, and that the granting thereof will not be detrimental to the public health, safety or general welfare. The permit shall not be granted without the approval of both the Public Works Department and the Civic Art Commission. If such approval is given and the City Manager concurs, the permit shall be granted subject to the conditions hereinabove set forth, and such additional conditions as may reasonably be imposed. Such permit shall be subject to revocation by the City Manager without cause; the decorative noncommercial installation for which the permit has been given shall be removed within ten days after notice.

D. Anyone granted a permit for a decorative noncommercial installation shall agree to indemnify and hold harmless the City, its officers and employees of and from any and all claims, damages or suits that may arise or in any way be occasioned by the granting of the permit or the maintenance of the decorative noncommercial installation permitted thereby.

1. The permittee shall carry liability insurance in the amount of $500,000.

E. For purposes of this Chapter, "Decorative Noncommercial Installations" shall include but are not limited to artwork, planters, and other objects that are placed within the public right-of-way by a private party for the purpose of decoration in a residential, commercial, or industrial district, not for the purpose of advertising, commerce or other economic benefit.

F. Decorative Noncommercial Installations that are not permitted under this Section are prohibited encroachments under 16.18 and shall constitute a public nuisance subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish fees for the implementation and administration of this Section.

14.48.140 Public telephones.

Telephones for public use of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.150 Sidewalk seating, benches and planters.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Sidewalk Seating, Benches and/or Planters on sidewalks, parking lanes, street areas, and other public right of way locations as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any sidewalk area in front of a single parcel if there are any current violations of this Chapter in that sidewalk area.

2. A permit for Sidewalk Seating, Benches and/or Planters may not be issued unless the business for which the Sidewalk Seating, Benches and/or Planters is/are proposed is in full compliance with Title 23 and any Permit issued thereunder.

3. Sidewalk Seating and Outdoor Commerce shall require a Sidewalk Seating engineering permit, renewed annually.

4. Businesses conducting Outdoor Commerce in a parking lane shall additionally pay an annual Outdoor Commerce Use Fee in exchange for using public parking spaces for business operations.

5. Sidewalk Seating shall be permitted in any area of the public right-of-way if City Staff makes a finding that the use of the right-of-way for Sidewalk Seating purposes does not create a dangerous condition for customers, pedestrians, or bicycle or motor vehicle traffic. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

6. Upon termination of any declared City emergency, any Sidewalk Seating present in the public right-of-way and not on the sidewalk shall within (365) days of date of termination either obtain a valid Sidewalk Seating Engineering Permit and pay the Outdoor Commerce Use Fee or be removed from the public right-of-way.

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Block Face" means one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

3. "Bus Bench" means a bench installed and maintained under an agreement between the City, A.C. Transit and Lamar Transit Advertising or another public or semi-public transit provider.

4. "Commercial Establishment" means, but is not limited to, a place where Business Activity is established. Business activity is defined as any activity subject to BMC Chapter 9.04 and any economic activity which generates receipts but is exempt from BMC Chapter 9.04 by state or federal law.

5. "District-wide Sidewalk Bench/Planter Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for benches, planters and/or plant material, and establishes general regulations for the placement of benches and planters in the public right-of-way, for the designated district.

6. "District-wide Sidewalk Seating Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for sidewalk seating, and establishes general regulations for the placement of sidewalk seating in the public right-of-way, for the designated district.

7. "Food Service Establishment" has the same meaning as set forth in BMC Chapter 23F.04.

8. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of sidewalk, parking lanes, street area, and other public right of way spaces.

9. "Outdoor Commerce" means Sidewalk Seating in the public right of way.

10. "Outdoor Commerce Use Fee" means an annual fee for the use of the parking lane for Sidewalk Seating.

11. "Planter" means a container that is designed or used for growing plants.

12. "Parking Lane" and "Street Area" are considered to be part of the Public right-of-way (PROW), known as, "any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City and any privately-owned area within City's jurisdiction which is not yet, but is designated as a proposed public place on a tentative subdivision map approved by City." as defined in BMC 23F.04.010.

13. "Sidewalk" has the same meaning as set forth in BMC 1.04.010(18).

14. "Sidewalk Seating" means tables and/or chairs (including benches) and, umbrellas and other associated furniture with lawfully operating Food Service Establishments or other commercial establishments, in or on the sidewalk. "Sidewalk Seating" includes seating and associated furniture in the public right-of-way or resting on, or projecting into, the sidewalk, parking lane, or street area, or any combination thereof which are not physically or structurally attached to a building, retaining wall or fence.

15. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

16. "Window Box Planter" means a box, designed to hold soil for growing plants, attached at or on a windowsill.

C. Sidewalk Seating, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum horizontal clear space of six feet for ADA-compliant path of travel, (or reduce to 5 feet at a single point of contact) or such greater (or smaller) amount of clear space as the Engineering Division finds necessary to protect and enhance pedestrian and vehicle traffic for public use in the sidewalk area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the public ROW/sidewalk, pedestrian safety, access to public or private parking, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, Sidewalk Seating, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshal as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

3. All sidewalk seating shall be subject to the following additional standards and requirements:

(a) All Sidewalk Seating configurations shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

(b) All Sidewalk Seating components shall be stored in a secure location when not in use.

(c) The permittee shall regularly inspect and clean the Sidewalk Seating and that portion of the public sidewalk adjacent to the establishment. A waste receptacle shall be provided.

4. All benches and planters shall be subject to the following additional standards and requirements:

(a) All proposals shall comply to the greatest extent possible with any design requirements adopted by the City for benches, planters and/or plant material.

D. All permits issued under this Section shall be subject to the following conditions:

1. The permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the curb, parking lane, or street area.

2. The permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, and ensure compliance with all applicable laws, and the number of tables and chairs shall not be increased without prior approval of the Public Works or Public Health Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any

existing or proposed City design plans, those objects shall, upon written demand of the City Manager or their designee, be removed or relocated in such a way as to eliminate the conflict. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section shall be posted in plain view within the commercial establishment for which the permit has been issued along with any other relevant permits that support health and safety of patrons and the general public.

5. By accepting a permit under this Section, the permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance or removal of Sidewalk Seating, Furniture, Benches and/or Planters.

6. Prior to permit approval, the permittee shall demonstrate possession of liability insurance in the amount of $1,000,000 for Benches and Planters, and related Sidewalk Seating furniture. Said insurance shall name the City of Berkeley as additionally insured and shall be in a form acceptable to the City Attorney.

7. The permittee shall monitor and control the use of the Sidewalk Seating so as to prevent disturbance of the surrounding neighborhood.

8. A food service establishment that proposes to serve alcoholic beverages within an outdoor dining area shall comply with the standards established by the State of California Department of Alcoholic Beverage Control. The dining area shall be:

(a) Physically defined and clearly part of the commercial establishment it serves; and

(b) Supervised by a commercial establishment employee to ensure compliance with laws regarding the on-site consumption of alcoholic beverages.

E. Permits under this Section are not transferable, and must be renewed annually.

F. Sidewalk Seating, Benches, Furniture, and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish or waive fees for the implementation and administration of this Section. Outdoor Commerce Use Fees shall be equivalent to the expected block face parking revenue from the parking spaces used by the permittee, and shall be treated as Parking Meter Fund revenue.

14.48.160 Removal of obstructions on streets and sidewalks.

Anything placed or permitted to remain upon any sidewalk or roadway in violation of this Chapter, is declared to constitute a nuisance and the City is authorized and empowered to abate such nuisance by removing the same to the custodian of lost property in the Police Department or the Corporation Yard of the City, or other location designated by the City.

14.48.170 Use of streets and sidewalks by vendors.

Any properly licensed vendor may use the public streets of the City in commercial or industrial zones for the sale of goods, wares, merchandise, or food when conducted under the conditions stated in this section.

A. Sidewalk vending is permitted as regulated by Chapter 9.48 of the Berkeley Municipal Code.

B. Other street vending is permitted from vehicles which are lawfully parked upon streets which are not regulated by parking meters or other posted parking time limits.

C. It is unlawful for any person to vend in violation of this section.

14.48.180 Trap doors in sidewalks.

A. Trap doors in sidewalks used to cover an opening for an elevator, stairway or chute must be kept in such a condition that they will not endanger persons or property, and it is unlawful for any person owning or being in charge or control of any such doors in sidewalks used for covering entrances to elevators, stairways or chutes, or other openings in the sidewalk leading to the basement, to allow said doors to remain open, except when such elevator, stairway or chute is being used and monitored for pedestrian safety while loading or unloading or transferring of merchandise or material.

B. The requirements of this section shall be in addition to and not in lieu of any other ordinance of the City having to do with doors or other openings in sidewalks.

14.48.190 Parklets.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Parklets, Benches and/or Planters in the public right of way (excluding Sidewalks alone, which are subject to and governed by Section 14.48.200) as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any right-of-way area in front of a single parcel if there are any current violations of this Chapter in that right-of-way area.

2. A permit for a Parklet may not be issued unless the parklet Host is in full compliance with all applicable requirements of Title 23 and any Permit issued thereunder.

3. A permit for a Parklet may only be issued adjacent to parcels in the following zoning districts: all Commercial (C-prefixed districts), Mixed-Use Light Industrial (MU-LI), Mixed-Use Residential (MU-R), and Mixed Manufacturing (MM).

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Bike Parking" means a location with bike racks intended for the secure parking of bicycles.

3. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of public space.

4. "Parklet" means a platform or similar level surface extending into the public right of way with amenities such as but not limited to tables and/or chairs (including Benches), Bike Parking, and umbrellas, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence. Platforms that meet this definition but have received a Sidewalk Seating Permit pursuant to BMC Section 14.48.150 shall not be considered Parklets.

5. "Planter" means a container that is designed or used for growing plants.

6. "Sidewalk" has the same meaning as set forth in Section 1.04.010(18).

7. "Sponsoring Business", "Host", "Permit Holder" or "Permittee" means, and is limited to, any establishment engaged in insuring and caring for the Parklet as set forth in the Parklet maintenance agreement.

8. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

C. Parklets, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum of clear space as the Engineering Division finds necessary to protect and enhance pedestrian or vehicle traffic for public use in and around the Parklet area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Parklets shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

3. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the right-of-way, including the Sidewalk, pedestrian safety, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

(f) The width of the Parklet must not extend beyond six feet from the curb line, except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a Parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

4. All Parklets shall be subject to the following additional standards and requirements:

(a) Parklets must remain publicly accessible and must include signage posted on site to this effect;

(b) Parklet construction materials must be of high quality, durable, and suitable for public use;

(c) A visible edge to the Parklet is required, which may consist of Planters, railing, or cabling. The edges should be visually permeable;

(d) The Permittee shall regularly inspect and clean the Parklet and that portion of the public sidewalk adjacent to the Parklet;

(e) Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet;

(f) Safe hit posts and wheel stops, or approved equivalents, may be required. If Bike Parking is provided, the bike racks can be at street grade;

5. All Benches, Furniture, and Planters within the Parklet shall be subject to the following additional standards and requirements:

(a) All proposals shall comply with any design requirements adopted by the City for Benches, Planters and/or plant material;

(b) All non-secured Parklet components shall be stored in a secure location on private property when not in use;

(c) Any unsecured Furniture must be clearly different from the Furniture used by a Parklet Host in order to emphasize that the Parklet is public space, as determined by City staff;

D. All permits issued under this Section shall be subject to the following conditions:

1. The Permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the right-of-way, including the Parklet area.

2. The Permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, ensure compliance with all applicable laws, and the number and configuration of Benches, Furniture and Planters and overall square footage of the Parklet shall not be modified without prior approval of the Public Works Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or his or her designee, be removed or relocated in such a way as to eliminate the conflict, at the sole expense of the Permittee. Should the Permittee fail to comply with said

written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the Permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section, when under review prior to issuance shall be posted in plain view within the sponsoring establishment(s) for which the permit has been issued. Public notice, permitting, and appeal for Parklets are set forth in BMC Section 16.18.060 (Permit procedure for minor encroachment) of the Berkeley Municipal Code. Section D(4) is not applicable in cases of declared local emergency due to disease outbreak. Upon termination of a declared local emergency due to disease outbreak within 365 days, a permittee must:

(a) pay the permit fee for a minor encroachment and comply with all the requirements of this Section and Section 16.18.060, except that public notice requirements shall not be required; or

(b) apply for a Sidewalk Seating Permit pursuant to BMC Section 14.48.150, and pay initial annual outdoor commerce use fee (the application permit fee for transitioning permits will be waived); or

(c) remove the Parklet from the public right-of-way.

5. By accepting a permit under this Section, the Permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the Permittee's installation, operation, maintenance or removal of the Parklet, Benches and/or Planters.

6. Prior to permit approval, the Permittee shall demonstrate possession of liability insurance, in the amount not less than $1,000,000, for the Parklet including any associated Benches, Planters and Furniture. Said insurance shall name the City of Berkeley as an additional insured and shall be in a form acceptable to the City Attorney.

7. The City Manager or their designee may require a performance bond to ensure Parklet removal in the event of a permit cancellation.

8. The Permittee shall monitor and control the use of the Parklet to prevent disturbance of the surrounding neighborhood.

9. A Sponsoring Business or other business is not permitted to perform table service at a Parklet or otherwise incorporate a Parklet into its business operations. Section D(9) is not applicable in cases of declared local emergency due to disease outbreak.

10. Commercial signage, smoking, and advertising are prohibited at Parklets.

E. Parklets, Benches and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

F. The City Council may by resolution establish or waive fees and guidelines for the implementation and administration of this Section.

A.R. NUMBER:	**10.1**
ORIGINAL DATE:	6/5/17
POSTED DATE:	6/5/17
PAGE 1 OF 8	PAGES

CITY OF BERKELEY
ADMINISTRATIVE REGULATIONS
SUBJECT: Temporary Storage of Unattended Property

PURPOSE

The purpose of this Administrative Regulation is to outline the policy and procedures for properly securing Unattended Property, in order to support the health and safety of our community, in compliance with all legal requirements.

POLICY

Unattended Property is defined as tangible personal property that has been left on City property or the public right of way ("Public Space") with no person claiming or asserting ownership, or that needs to be stored as the result of a law enforcement action or a medical situation.

Property includes but is not limited to:

- Identification
- Photos / photo albums
- Tents, sleeping bags, bedding (which is deemed to be in serviceable condition)
- Luggage, backpacks, purses
- Clothing
- Documents (together in a packet bound or secured in some way)
- Jewelry
- Medication
- Eyewear
- Electronic equipment
- Tools
- Bicycles and other non-motorized methods of transportation which are in working order

Unattended Property that is removed by City staff shall be held in safe-keeping for 14 days, unless it appears from visual observation to have a resale value of $100 or more, in which case it shall be held for 90 days. Items that are usable for shelter, such as tents, tarps and sleeping bags, shall be retained for a minimum of 45 days regardless of apparent value. Unattended Property that is clearly refuse or garbage may be disposed of immediately. Items shall be secured in a locked, covered, storage container located at the Corporation Yard at 1326 Allston Way. The storage container shall be accessible by City Staff only.

PROCEDURE

1. Berkeley Police Department (981-5911) shall respond to calls from City Staff to provide assistance to City Staff who need law enforcement support when picking up and transporting Unattended Property.

2. City staff shall remove Unattended Property from Public Space as found as part of routine duties, in response to complaints, or as directed by the Berkeley Police Department. Occupied/attended encampments will be given a reasonable time to remove their property, as determined by the Berkeley Police Department.

3. City Staff shall photograph Unattended Property before it is removed, regardless of whether it is going to be disposed of or stored.

When removing property from Public Space, City Staff shall utilize a *Property Inventory Form (Inventory Form)* to record the date the Unattended Property was removed and the location from which it was removed. The Unattended Property shall be inventoried either as individual items or by the quantity of bags removed. Any items of value (including but not limited to jewelry, electronics, medical or dental equipment) shall be inventoried. The *Inventory Form* shall note whether each piece of inventoried Unattended Property removed from a given site is to be transported for storage or disposed of. A copy of this form shall be maintained by Corporation Yard staff.

Unattended Property that has been removed shall be kept in clear bags and bins. Each bag or bin shall be affixed with a copy of the *Inventory Form,* which displays the date and the location from which the Unattended Property was removed.

At the expiration of the requisite storage time, unclaimed property shall be disposed of; the date of disposal shall be noted on the corresponding *Inventory Form* and submitted to Corporation Yard staff.

City staff shall not store any of the following items as they are unsafe for storage or considered to be trash:

- Soiled or moldy items
- Loose or scattered papers
- Wet or damp clothing, bedding or sleeping bags if storing it would cause it to mold
- Perishable food or personal products that will spoil in storage
- Personal hygiene products such as toothbrushes, hair brushes
- Bike carcasses
- Mattresses, futons, furniture
- Shopping Carts*
- Broken or disassembled items or those stripped of parts (i.e. flat tires, electronics, torn up clothes)
- Weapons – weapons will be turned over to Berkeley Police Department
- Any item that may attract rodents or insects (containers for recycling or food storage)
- Hazardous or Explosive items such as gasoline cans, propane tanks, batteries

*Shopping carts with their contents shall not be stored in their entirety. Shopping carts will be returned to identified stores and/or the stores will be notified to retrieve them when possible. City Staff shall not remove the contents of shopping carts, unless there are items which can be easily identified as personal belongings and which meet the criteria for storage. These items shall be stored, and items which do not meet the criteria for storage shall be disposed. The *Inventory Form* shall be noted accordingly.

To Retrieve Stored Property:
Citizens wishing to reclaim their property shall contact 311 Customer Service Center. 311 shall in turn transfer the caller to the appropriate City Department, Parks or Public Works, based upon the location from which the property was removed, between the hours of 8:00 a.m. and 4:00 p.m. Monday – Friday, excluding holidays.

City Staff shall verify the date, time, location from which the requestor reports the property was picked up by the City, and the description of the property, against the *Inventory Forms*, to determine whether the property is in storage.

If the property is determined to be in storage, an appointment to reclaim the property from storage shall be scheduled between the appropriate City staff and the caller/requestor, for retrieval between the hours of 9:30 a.m. and 2:30 p.m. Monday – Friday, excluding holidays.

At the appointed date/time, the requestor shall come to the City's Corporation Yard, Bldg A lobby area. The individual shall identify him/her self and provide the date and location from which the property was picked up, along with a description of the property. The requestor shall wait at the Corporation Yard while designated City Staff retrieves the identified property from the storage unit and transports it to the parking lot. The requestor will be required to sign the *Inventory Form* and a copy of which will be maintained by Corporation Yard staff.

If an advocate for the requestor is retrieving the items, he/she shall be required to provide to City Staff a completed *Declaration of Authorization to Take Custody of Property* and sign the *Inventory Form* upon receipt of the property.

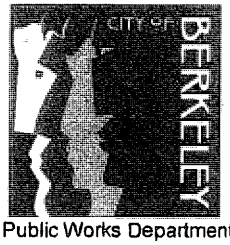
To File a Complaint:
Persons having complaints about the City's process for managing Unattended Property may submit their concerns to the Online Service Center http://www.cityofberkeley.info/onlineservicecenter/, and the complaint will be reviewed by designated City Staff accordingly.

To File a Claim:
Persons wishing to file a claim shall be directed to complete the claim form which can be found - http://www.cityofberkeley.info/Attorney/Home/Claim_Form.aspx

RESPONSIBLE DEPARTMENT: **Public Works, Parks Recreation and Waterfront** **TO BE REVISED:** As needed	Approved by: Department Director Department Director City Manager

APPENDICES

APPENDIX 1: PROPERTY INVENTORY FORM



Public Works Department
Parks, Recreation & Waterfront

PROPERTY INVENTORY FORM

INVENTORY ID NUMBER: _____

LAGAN CASE #: _____

DATE PICKED UP: _____

TIME PICKED UP: _____

PICK UP LOCATION/ADDRESS: _____

[ ] HOLD FOR 14 DAYS: Property which appears to be personal possessions of **less** than $100 resale value.

[ ] HOLD FOR 45 DAYS: Property which is usable for shelter.

[ ] HOLD FOR 90 DAYS: Property which appears to be personal possessions of **more** than $100 resale value.

[ ] DISCARDED: Property which appears to have been abandoned, illegally dumped or does not meet the storage requirements.

EMPLOYEE # (S): _____

DEPARTMENT: _____

DESCRIPTION of UNATTENDED PROPERTY (itemized with estimated value):

A.R. NUMBER:	**10.2**
ORIGINAL DATE:	11/13/18
POSTED DATE:	11/26/18
PAGE 1 OF 4	PAGES

CITY OF BERKELEY ADMINISTRATIVE REGULATION

Subject: **Regulating Temporary Non-Commercial Objects on Sidewalks and in Parklets, Pursuant to BMC § 14.48.120** on line

PURPOSE

This Regulation is intended to protect the City's substantial interests in access and safety on Sidewalks and Parklets for pedestrians and for persons with disabilities, aesthetically pleasing streetscapes, and vital commercial areas, all of which are critical to the City's economic and social well-being, in a manner consistent with the United States and California Constitutions, including the First, Fourth, Eighth, and Fourteenth Amendments.

This Regulation provides policy and procedures regarding placing Temporary Noncommercial (TNC) Objects on Sidewalks and Parklets, pursuant to Berkeley Municipal Code (BMC) § 14.48.120.

DEFINITIONS

"BART Access Corridor" is a Sidewalk, including a wide plaza area, on the same side of the street as a BART Station entrance, within 25 feet of such entrance. In the downtown area, the BART Access Corridor includes all sidewalk and plaza areas on the west side of Shattuck Avenue from Addison Street to Allston Way.

"Parklet" is defined as provided in BMC § 14.48.190.

"Path of Travel" is defined as:

- For Sidewalks which measure less than fourteen (14) feet in width, the Path of Travel is six (6) feet wide; this 6-foot wide strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.

- For Sidewalks which measure 14 feet or greater in width, the Path of Travel is ten (10) feet wide; This 10-foot strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.

"Sidewalk" is defined as provided in BMC § 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

"TNC Objects" are defined as provided in BMC § 14.48.120 as personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;

2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;

3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.

4. Not furniture. Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 for Objects in Transit or BMC § 14.48.150 for Sidewalk Café permits and City-installed furniture.

POLICY

A. Objects Subject to this Regulation

This Regulation applies to all Temporary Noncommercial (TNC) Objects. It does not apply to leafleting, hawking, peddling and similar activities to the extent those activities do not involve the placement of physical objects on the Sidewalk, or to TNC or other objects expressly permitted by the Berkeley Municipal Code.

B. TNC Objects Exempt from this Regulation:

The following categories of TNC Objects are exempt from this Regulation:

1. Mobility devices in use by pedestrians or individuals in wheelchairs; or

2. Blankets, cushions, mats, or other material providing cushioning ("Cushioning Material") while an individual is seated on such an item, which does not expand beyond 2' x 2' in size and is outside of the Path of Travel.

C. Time and Location Requirements for TNC Objects

1. TNC Objects - Residential Districts:

TNC Objects are prohibited on Sidewalks in Residential Districts, except Objects in Transit pursuant to BMC § 14.48.030 or as otherwise specifically authorized by the BMC.

2. TNC Objects - Commercial and Manufacturing Districts

a. TNC Objects shall not be left unattended for more than 2 hours.

b. TNC Objects may not be placed in Parklets.

c. TNC Objects must not interfere with access to and use of driveways, crosswalks, bus benches, bus stops, transit stops, bicycle racks, fire hydrants, faucet bibs,

utility boxes, public art installations, mailboxes, ATM machines, embedded trap doors, parking meters, parking payment machines, refuse or recycling cans, or pursuant to a City permit, construction materials, newspaper racks, or sidewalk café seating.

d. TNC Objects may not be placed in a location that interferes with access for individuals with disabilities such as curb and wheelchair ramps, or other features for disability access.

e. TNC Objects may not be placed in a location where they would obstruct, restrict, or hinder visibility of traffic devices or signs.

f. TNC Objects may not be placed at or adjacent to any blue or white curb.

g. TNC Objects may not be placed on a Sidewalk directly in front or within three feet of either side of a building entrance, from the building face to the curb edge of the Sidewalk, except between the hours of 10:00 p.m. and 7:00 a.m., if the building entrance will not be used during that period (i.e., not an apartment building entrance where people may be expected to enter and exit 24/7, and not the entrance to a restaurant or business that is open for customers or deliveries).

h. TNC Objects may not be placed within a BART Access Corridor, except objects in transit per 14.48.030 and other objects expressly allowed by the BMC.

D. ENFORCEMENT PROCEDURES

To the extent possible, given resources, the initial outreach may be made by homeless outreach staff; management and/or enforcement of TNC Objects may be initiated by Code Enforcement and/or Public Works staff.

To further implement BMC §§ 14.48.120(C) and (D), the City hereby adopts the following procedures:

1. If TNC Objects or Cushioning Material are located within the Path of Travel or in a BART Access Corridor, they must be immediately moved out of the Path of Travel or BART Access Corridor by their owner upon request of the enforcement officer. Should TNC objects not be immediately moved, such objects can be removed and stored by the City pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, and/or a citation may be issued.

2. For TNC Objects or accumulations of TNC Objects, enforcement of this Regulation shall be a low priority, except when:

    - TNC Objects have been in the same approximate location for 24 hours or more,

- More than two accumulations of TNC Objects occupy a single blockface, or
- TNC Objects pose a significant risk to health or safety.
- Within 600 feet of a K-12 public or private school with 25 or more students located in a residential district.

Enforcement officers may:

- Request that TNC Objects be reduced to a 9-square-foot footprint (measured as 3' x 3', 4' x 2.25', 9' x 1', etc.) and/or less than 5 feet in height,
- Request that TNC Objects be moved to another location,
- Subject to the notice requirements below, remove and store TNC Objects pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, or
- Issue an administrative citiation or infraction.

3. Except in the case of a significant health or safety risk:

   Prior to removal of TNC Objects, 24 hour written notice of intent to remove TNC Objects shall be provided, either by attaching such notice to, or directly adjacent to, such TNC Objects, or by providing notice to the owner.

   Removal of TNC Objects is a low priority between 10:00 p.m. and 7:00 am.

INTERPRETATION

This Regulation is intended to be consistent with the United States and California constitutions, and in the event a patent or latent ambiguity in this Chapter requires interpretation by the City or a Court, such interpretation shall, to the extent permissible, be consistent with relevant constitutional provisions.

RESPONSIBLE DEPARTMENT: City Manager **TO BE REVISED:** As needed	Approved by: BERKELEY CITY COUNCIL on October 16, 2018 City Manager

Public

Office of the City Manager

February 20, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Re: Eighth St and Harrison St Encampment Efforts

The purpose of this memo is to inform the Council that the City's Homeless Response Team (HRT) will be temporarily suspending efforts to resolve the remaining encampments in and around the intersection of Eighth St and Harrison St in Northwest Berkeley until the Court proceedings in two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction.
The memo provides background and rationale behind this difficult decision.

The HRT strives to assist people who are homeless primarily through guiding them to housing (interim or permanent) and supportive services, while also ensuring the conditions of their encampments are as safe and clean as possible. The encampments in and around 8th and Harrison Streets in Northwest Berkeley have persistently posed serious health and safety concerns to the residents of the encampments as well as their neighbors, who include both residents and merchants. They have also contributed to public infrastructure damage (damaged and inoperable street lights, damaged sidewalks and street tree wells, dead or dying city trees, etc.) in the area. The HRT's strategy to resolve this challenging situation is laid out in greater detail below, and has included providing direct access to motels and other indoor solutions, cleaning the area regularly, and attempting to prevent re-encampment and a re-creation of the same problematic concerns and conditions so that infrastructure repairs and construction can commence.

The decision to temporarily pause this work will free up resources to more proactively address encampment concerns elsewhere in Berkeley. We will offer interim housing to those who are willing to accept it, and those areas can be more effectively be maintained for a complete resolution.

BACKGROUND

The encampments in this corridor of the city have, for several years, posed both very dangerous living conditions for the people living in them, and serious impacts to the neighboring businesses, residents, and general public. For years, the City has offered a wide range of both service opportunities and enforcement attempts at this encampment

to foster safer and healthier conditions. (Both the persistent concerns and our efforts to mitigate them are documented in Attachment 1 to this memo.) However, a number of significant external challenges have consistently hindered the City's ability to permanently resolve this encampment, including an ever-shifting and uncertain legal landscape in the wake of Ninth Circuit's *Martin v. City of Boise* decision[1]; suspension of encampment enforcement pursuant to CDC guidance during the height of the global COVID-19 pandemic[2]; and federal Coordinated Entry guidance regulating the prioritization of limited permanent supportive housing that is silent on the impacts of encampments.[3] At the same time, and largely due to the presence of the encampment, the corridor has seen significant damage to public infrastructure, (including inoperable city streetlights; damaged city sidewalks; damaged tree wells and dead or dying city street trees) that have gone unrepaired.

In February 2023, the Neighborhood Services Division in the City Manager's Office applied for, and was awarded, a State of California Encampment Resolution Fund grant that enabled the City to master lease the Super 8 motel at 1619 University Avenue as a non-congregate shelter destination for individuals in this encampment. Over the spring and early summer, Neighborhood Services conducted an extensive survey of the encampments in the area, generating a census of 51 people living there, and between May and July 2023, the Homeless Response Team conducted three community meetings with the residents, advocates, and service providers in this encampment to explain our plans to target the new Super 8 motel to this encampment and eventually resolve the encampment to perform the infrastructure repairs. In August 2023, the program opened its doors and residents began moving into the shelter.

However, despite having non-congregate shelter beds dedicated to this encampment, nearly every effort that the City has made to resolve portions of the encampment have been met with significant opposition and/or legal challenges:

- On August 22, 2023, the City attempted to resolve the encampments in and along the northernmost part of 8th St and Codornices Creek from 8th St to 6th St, in accordance with pending construction in the area by the City of Albany; opponents pitched a "sit-in" and the closure was only partially completed (the Creek remains encamped to this day).

[1] See: https://cases.justia.com/federal/appellate-courts/ca9/15-35845/15-35845-2019-04-01.pdf?ts=1554138051

[2] See: https://stacks.cdc.gov/view/cdc/107838

[3] See https://files.hudexchange.info/resources/documents/Coordinated-Entry-Core-Elements.pdf. In 2023, recognizing the insufficiency of this federal guidance with respect to dangerous encampments, the City of Berkeley sponsored a change in State law, AB 1285 (Wicks), and pressed the Alameda County Continuum of Care (CoC) to prioritize the Harrison St encampments for permanent supportive housing, in a formal memo to the CoC (included here as Attachment 2). On November 8, a subcommittee of the CoC's Leadership Board voted 7-1 to deny Berkeley's recommendation to prioritize this encampment (see agenda item 7 in the Nov 8, 2023 minutes of the Outreach, Access, and Coordination Committee).

- On September 6, 2023, and in response to a formal declaration of the area as an imminent hazard and an order for summary abatement by the City Manager (see Attachment 1), the City attempted to abate the public health and safety hazards on Harrison St between 7th St and 8th St. In response, advocates and residents in the encampment, in collaboration with East Bay Community Law Center and Disability Rights Advocates, filed a lawsuit (*Prado v. City of Berkeley*) and were granted a temporary restraining order (TRO), enjoining the city from action. The TRO was eventually lifted on September 27, but the numerous conditions simultaneously imposed by the Judge posed significant implementation challenges for the city, such that this health and safety abatement could not be completed until November 7, 2023. Meanwhile, the *Prado* case is pending.
- On November 14, 2023, the City attempted to resolve the encampments along Harrison St from 7th to 8th, but was met with another TRO less than 24 hours before the planned operation. This had the effect of delaying the operation until December 5.
- On December 12, the City planned an operation to resolve the encampments along 8th St and along Harrison St from 8th to 9th, both to continue clearing the area for planned street construction as well as to enable adjacent parcel owners to construct a privately-financed fence. Hours into the operation, the City learned that another lawsuit (*Parnell v. City of Berkeley)* and order to cease and desist had been issued, forcing the City to suspend plans to fence the areas that had been closed that morning (which were re-encamped within minutes of the court's order).
- Between the November 7, 2023 abatement operation and the date of this memo, the temporary fencing designating the area as a pending construction zone has been breached, and the area behind the fencing re-encamped, on several occasions, sometimes within hours of the City's putting it up.

DECISION AND RATIONALE

The Homeless Response Team has made the decision to temporarily suspend future efforts to resolve the encampments in this area until the Court proceedings in the two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction. Because the timing is ultimately in the hands of the Court, we are unable to offer a timeline for when closure, and ultimately the street construction efforts they will precede, can continue. We will continue to serve the people living in these encampments with outreach and service offers; move those who wish to move into shelter indoors, in accordance with available resources; and perform regular clean-ups in the area to manage the footprint of the encampment. These latter efforts are ongoing and they will not stop now.

The rationale for this difficult decision is as follows:

- Each of these resolution operations required numerous hours of intricate legal, operational, and tactical planning by staff across numerous city departments, and pursuant to numerous case laws, required advanced written notice and careful

planning on how to sort and store each person's belongings. Despite all this planning, staff have been met three times with Court orders to cease, hours before or even during the operation, effectively rendering planning efforts moot. If and when the operations do take place, each operation has been a physically and emotionally taxing endeavor for HRT staff, with many hours in the field amidst vehement protest opposition. However, sometimes within days or even hours of completing an operation, the area is re-encamped and/or fencing has been breached and destroyed, putting the City back at square one. We simply do not have the staffing resources to continue these efforts indefinitely.

- The City has, since the inception of the Homeless Response Team in September 2021, focused the majority of its time and efforts in the Gilman District. More specifically:
    - Since September 2021, the Homeless Response Team has performed **106** encampment operations, including closures, deep cleanings, and vehicular enforcement. **28%** of all interventions have occurred in the Gilman District.
    - Since September 2021, the Homeless Response Team has removed **998,060** pounds of debris from encampments around the City. **22%** has come from the Gilman District.
    - Since September 2021, the Homeless Response Team has made **657** offers of shelter/interim housing to people in encampments. **35%** of all offers have been given to people living in the Gilman District.

  The amount of time, resources, and effort given to this area have been immense—frankly, they have exceeded what a City of our size, considered by the State too small to be eligible for direct State homelessness funding, could reasonably be expected to provide. But there are numerous other encampments around the city, including in other historically redlined areas of West and South Berkeley, that need our attention and resources as well.
- The District Court has repeatedly required that we hold non-congregate shelter beds open for any closure of these encampments, even though our offers of shelter have been continuously declined, and congregate housing is available. It is unethical to continue to withhold vacant beds from people in other areas of the City who might benefit from them now. (Of lesser importance, beds at the Super 8 motel are paid for by a State grant with aggressive expenditure deadlines, and continuing to keep the beds vacant jeopardizes compliance with the deadlines.)
- The Homeless Response Team is a multi-disciplinary, multi-departmental team comprised of staff from numerous departments, including Neighborhood Services; Police; Public Works; Health, Housing and Community Services; Parks, Recreation, and Waterfront; and others as needed. Notably, the HRT is not sufficiently budgeted to pay for dedicated encampment staff from each of these departments; to staff a major encampment operation, the HRT relies on the same Police officers who respond to violent calls for service across the City and the same Public Works staff who perform street construction work. With vacancies in each of these departments hovering at 1 in 5 positions, we do not have the staff

to perform more than a handful of encampment operations every month, and other health and safety concerns elsewhere in the city need our attention as well.

Once again, we will not abandon the Gilman District nor the people living unsheltered in it, and will continue to make every effort to provide available services to those unsheltered here and provide clean-ups in the area as frequently as our resources allow. But we must be realistic about what a City of our size and capacity can accomplish in the wake of so much judicial risk and uncertainty, and the very real costs to limited staff time and budgetary resources this uncertainty poses.

If you should have any questions, please do not hesitate to contact Peter Radu, Assistant to the City Manager, at 510-981-7045 or pradu@berkeleyca.gov.

cc:

Peter Radu, Assistant to the City Manager
LaTanya Bellow, Deputy City Manager
Anne Cardwell, Deputy City Manager
Farimah Brown, City Attorney
Andrew Murray, Interim Public Works Director
Jennifer Louis, Chief of Police
David Sprague, Chief of Fire
Matthai Chakko, Assistant to the City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk

Office of the City Manager

To: Dee Williams-Ridley, City Manager

From: Peter Radu, Assistant to the City Manager

Date: August 31, 2023

Re: Nuisance Declaration and Summary Abatement of Conditions on Harrison St

INTRODUCTION AND HISTORY OF SERVICE EFFORTS

The encampments in and around Harrison Street, especially those between 8th and 7th Streets, in West Berkeley have presented ongoing challenges to the City. The City has provided a wide range of services for the residents in this area as well as full scale operations to reduce the debris and dangerous conditions. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8th St in April 2022, with service 4 times a week, and a second dumpster on 7th and Harrison in August 2023, as well as weekly illegal dumping removal service from the city's Public Works Department;
- The placement of two port-a-potties with wash station located at the corner of Eighth and Harrison St; both are serviced on a regular basis.
- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
- Nine deep cleanings of the encampment, in which a total of 124.9 tons (249,800 pounds) of debris have been removed, and a major nuisance abatement of rodent harborage conditions in October 2022, in which a total of 32.1 tons (64,200 pounds, or nearly the weight of a humpback whale) of debris were removed.
- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.

- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Three community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

On June 14, 2023, the City of Berkeley was awarded $4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City now uses to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. Since August 1, the HRT has maintained a daily presence in the area to schedule move-ins and begin assisting people from the encampment into places of greater safety. So far, 14 people have moved into the Super 8 from this encampment, with an additional 4 scheduled; 3 people have been matched directly to permanent supportive housing, and one more has moved into the Berkeley Inn.

In addition, the HRT has attempted to foster a more transparent and collaborative working relationship with the residents and advocates of this encampment to maintain cleaner conditions. Since May of 2023, the HRT and the encampment have had three community meetings to discuss the City's concerns about the conditions, the encampment residents' stated needs, and how to better work together in maintaining cleaner conditions. These "Good Neighbor Guidelines" are 5 common sense standards which, if maintained, reduce the likelihood of a large city clean-up. Though these Guidelines have not been officially adopted,[1] they received a good deal of stated support and understanding from residents themselves in the encampment.

ASSESSMENT OF PRESENT ENCAMPMENT CONDITIONS

Nevertheless, and despite these numerous efforts, for months (and at present) the HRT continues to observe dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering

[1] Advocates in the encampment specifically recommended engaging businesses, housed residents, and other stakeholders for their input before adoption, and so Neighborhood Services will be bringing them to the October 4, 2023 meeting of the Homeless Services Panel of Experts for discussion and a possible referral to the Council or a Council policy subcommittee.

structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

RECOMMENDATION

The HRT and City Manager's Office will continue to work to finalize the Good Neighbor Guidelines for future implementation at encampments around the City and will continue the ongoing process of moving residents inside the new Super 8 or other City shelter resources. The City has also formally engaged the Alameda County CoC with a recommendation to prioritize this encampment for permanent supportive housing referrals, with a memo dated July 20, 2023, and that recommendation is under discussion.

In the meanwhile, however, the Berkeley Fire Department and Environmental Health Divisions have observed alarming conditions that justify their declaring Harrison St between 7th and 8th Streets an imminent health hazard (see attached memos and reports). Therefore**, to resolve these dangerous nuisance conditions now as we work towards a fuller resolution of the entire encampment in the near future, we recommend a summary nuisance abatement of the encampment conditions Harrison St between 7th and 8th Streets.**

Respectfully submitted,

Peter T Radu

Assistant to the City Manager – Neighborhood Services

Department of Fire and Emergency Services
Division of Fire Prevention & Investigations

M E M O R A N D U M

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager, City of Berkeley Neighborhood Services

From: Shannon Shaffer-Killey, Fire Prevention Inspector, Berkeley Fire Department

Subject: Fire Department Response and Inspection of Encampments at Harrison Street between Seventh and Eighth Streets

The Division of Fire Prevention & Investigations reviewed fire-related incidents on Harrison Street between Seventh and Eighth Street in Berkeley, CA. The time period reviewed was from January 2023 through August 28, 2023. The following are the twenty-nine incidents that occurred in the vicinity:

Searched under "Harrison, Harrison & 7th, Harrison & 8th"

2023-000068 on 1/02/2023 at 11:08 AM - small fire in the roadway, initially dispatched as encampment fire
2023-000927 on 1/19/2023 at 04:56 PM - contained cooking fire, initially dispatched as a van on fire
2023-000979 on 1/20/2023 at 07:16 PM - pallet on fire
2023-001683 on 2/04/2023 at 04:58 PM - RV fire
2023-002343 on 2/18/2023 at 01:17 PM - trash burning in the middle of the roadway
2023-002665 on 2/25/2023 at 05:20 AM - small encampment fire
2023-004252 on 3/23/2023 at 10:16 PM - rubbish fire
2023-004471 on 3/28/2023 at 04:30 PM - individual burning garbage in the roadway
2023-005720 on 4/23/2023 at 10:30 AM - trash in a BBQ grill
2023-005856 on 4/26/2023 at 02:17 AM - large encampment fire
2023-005909 on 4/27/2023 at 08:15 AM - wood warming fire
2023-006403 on 5/07/2023 at 08:34 AM - multiple warming fires in metal containers next to encampments
2023-008467 on 6/23/2023 at 09:15 AM - cooking fire
2023-008595 on 6/27/2023 at 05:05 AM - mattress fire due to smoking
2023-008618 on 6/27/2023 at 02:46 PM - clothing and garbage burning in roadway
2023-008924 on 7/04/2023 at 07:32 PM - cooking fire in the creek area
2023-009110 on 7/09/2023 at 01:03 AM - dumpster fire
2023-009175 on 7/10/2023 at 12:43 PM - cooking and warming fires

2023-009202 on 7/10/2023 at 09:21 PM - Tent fire
2023-009859 on 7/25/2023 at 10:43 AM - barrel fire in the middle of the roadway
2023-010331 on 8/04/2023 at 12:46 PM - large cooking fire in the middle of roadway
2023-010408 on 8/06/2023 at 12:21 PM - debris fire
2023-010455 on 8/07/2023 at 05:55 AM - cooking fire
2023-010609 on 8/10/2023 at 08:23 AM - debris fire in middle of roadway
2023-010662 on 8/11/2023 at 06:54 AM - cooking fire
2023-010800 on 8/14/2023 at 05:20 AM - burning leaves and cardboard in roadway
2023-011051 on 8/19/2023 at 08:07 AM - warming and cooking fire
2023-011078 on 8/19/2023 at 05:49 PM - cooking fire under the brush near creek
2023-011238 on 8/22/2023 at 11:40 AM - tent and surrounding belongings on fire

Additionally, on August 23 2023, a joint inspection was completed with Fire Prevention, Homeless Response Team, and Environmental Health to assess the current situation on the north side Harrison St between Seventh and Eighth St. During this inspection, multiple fire and building code violations were identified, and include (but not limited to) the following:

1. Constructing and maintaining this structure constitutes an unlawful act - BFC 112.1
2. The structure does not have adequate fire separation distance and fire-resistive construction to separate it from adjacent property lines and structures - BBC 602
3. As constructed the design, materials, methods of construction, and the structure as a whole have not been approved and do not comply with important provisions of the Berkeley Building Code including Chapter 23, “Wood” of the Berkeley Building Code.
4. Accumulations of combustible waste materials are present in and around the structure and the adjacent encampment areas - BFC 304.1
5. Combustible materials are being stored within ten feet of the lot line - BFC 315.4

The volume of fire-related calls for service in this specific area is unusually high for the time period when compared to similar areas that do not have encampments. Based on the nature of the calls, the great majority of these calls appear to be directly related to human activity, specifically habitation in this area. The number and types of calls combined with the observed code violations are sufficiently concerning for the Berkeley Fire Department to recommend that the encampments on the north side of Harrison St. be abated summarily. This action will significantly reduce the likelihood of severe injury or death from fire, as well as reduce the likelihood of substantial damage to property and public infrastructure.

Cc: David Sprague, Fire Chief, Berkeley Fire Department
Keith May, Deputy Fire Chief, Berkeley Fire Department
Steve Riggs, Fire Marshal, Berkeley Fire Department

Attachment: August 23, 2023 Inspection Photos

Internal

Harrison Street Encampments

Location: Northside of Harrison St. between Seventh St. and Eighth St. Berkeley CA

Date of Inspection: August 23, 2023

4 HR
PARKING
AT ANY
TIME

Internal

Internal

Internal

Health, Housing &
Community Services Department
Environmental Health Division

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager

From: Ron Torres, Environmental Health Division Manager

cc: Amy Davidson, HHCS Deputy Director

Subject: Declaration of Imminent Health Hazard for areas along Harrison St between Seventh and Eighth Street

Per your request, Environmental Health staff assessed the conditions of the subject area and found significant areas of concern with regard to the health and safety of the residents in this area and to the public in general. These concerns are included in the attached report which identifies several areas along the north side of Harrison St.

I believe that the conditions documented in attached report rise to the level of an imminent health hazard, particularly findings of used syringes, areas where raw sewage was observed and the proliferation of rat burrows all along the Harrison St corridor.

Per Section 11.40.030 of the Berkeley Municipal Code, I am recommending to the City Manager that those areas identified in the attached report be summarily abated to minimize the impact to the residents and general public.

Internal

August 23, 2023

Report of Findings on the Health and Safety Conditions of the Harrison St Corridor between Seventh and Eighth Street, Berkeley, CA

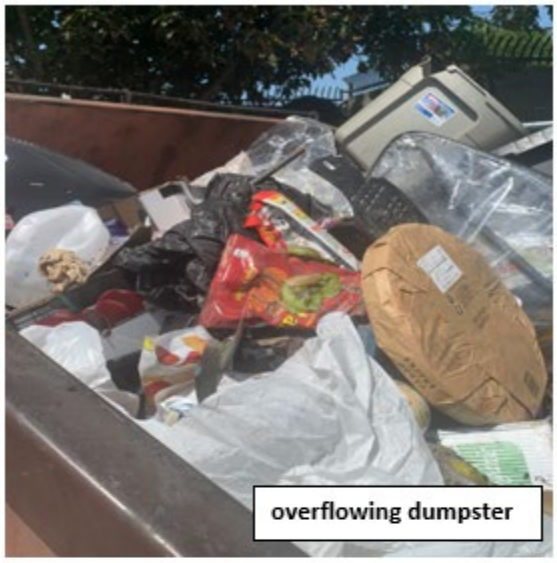
Areas inspected by Environmental Health staff are designated as Locations “1”, “2” and “3” above and are detailed on the following pages.

Internal

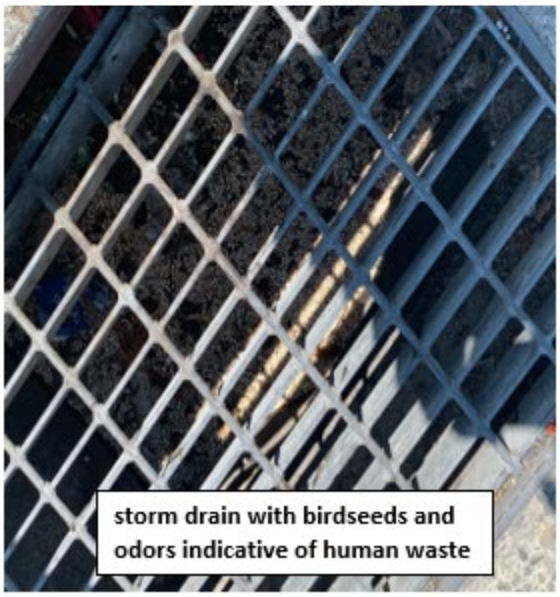
Location 1:

Rodent Burrows

Internal



Food Sources



Storm Drain

Imminent Health Hazard - Storm Drain

Debris Harborage

Note: The presence of raw sewage and the proliferation of rat burrows due to abundant food sources and harborage are of utmost concern in this area

Internal

Location 2:

Food Sources

Debris Harborage

Imminent Health Hazard

Note: the presence of the used hypodermic needles are of utmost concern in this area of the Harrison St corridor

Internal

Rodents

Rodent Burrows

Internal

Rodent Droppings

Internal

Debris Harborage

Internal

Food Sources

Internal

Location 3:

Food Sources

Imminent Health Hazard - Storm Drain

Debris Harborage

a. *VIOLATIONS:*
    i. *BMC 11.32.050. Rodent harborage--Maintenance prohibited.*
    ii. *BMC 11.32.070. Accumulations creating rodent harborage prohibited.*
    iii. *BMC 11.36.030. Imminent health hazards designated.*
    iv. *BMC 17.20.030 No matter other than stormwater may be discharged into the storm drain system.*
    v. *BMC 17.20.050 Affirmative duty to prevent contamination of stormwater by pollutants.*
b. *PROPOSED REMEDY: PROPOSED REMEDY: Removal of all debris, food sources, and vehicles. Treat with C02 where necessary.*

Glossary of Violations:

i. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

ii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.2.2 Pipe and Fittings, 5.2.2.2** Sprinkler piping shall not be used to support non-system components.

iii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.4.1 Sprinklers, 5.4.1.7** Sprinklers shall not be altered in any respect or have any type of ornamentation, paint, or coatings applied after shipment from the place of manufacture.

iv. **California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances.**

1. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.

2. 304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley,

3. parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.

v. **BFC 114.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.

vi. **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.

vii. **BFC 307.4.3 Portable outdoor fireplaces**. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

viii. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

ix. **BMC 11.32.050. Rodent harborage--Maintenance prohibited**. No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

x. **BMC Sec 11.32.070. Accumulations creating rodent harborage prohibited.** No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

xi. **BMC 11.36.030. Imminent health hazards designated.** For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.

xii. **BMC 14.48.020. Obstruction on Streets and Sidewalks.** It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council.

xiii. **BMC 17.20.030**. No matter other than stormwater may be discharged into the storm drain system.

xiv. **BMC 17.20.050**. Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements: (A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned

objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.

Office of the City Manager

To: Members of the Systems Coordination Committee, Alameda County Continuum of Care

From: Peter Radu, Assistant to the City Manager, City of Berkeley

Date: July 20, 2023

Re: Pilot Approach to Prioritizing Residents of the Harrison Street Encampments in Berkeley

RECOMMENDATION

The encampments in and around Harrison Street from 10th St to 6th/7th in West Berkeley have presented ongoing challenges to the City of Berkeley, and pose acute threats to the health and safety of the residents living in them. With new State ERF-2 resources and the City Council's commitment of local resources, the City of Berkeley has an exciting opportunity to resolve one of the most persistently challenging encampments in all of Alameda County. To do so as rapidly and effectively as possible, **we respectfully request a partnership with the County and CoC to explicitly prioritize, on a pilot basis, the PSH-eligible residents of this encampment for all new upcoming permanent supportive housing vacancies in the CoC.** Beyond the obvious benefits of improved public health and decreased need for costly services in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment. The remainder of this memo outlines the rationale for this recommendation.

HISTORY OF SERVICES AND RESOURCES AT THE ENCAMPMENT

The City of Berkeley's Homeless Response Team (HRT) is the multi-departmental team, coordinated by the City Manager's Office, charged with responding to unsheltered homelessness with resource and shelter offers, and resolving dangerous encampments without the use of citation and arrest. The HRT is committed to the USICH 7 Principles of Encampment Resolution, and has provided countless hours and resources in an attempt to better the lives of those living in this encampment, and better the conditions of the encampment. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8th St in April 2022, with service 4 times a week, and weekly illegal dumping removal service from the city's Public Works Department;
- The placement of a port-a-potty located at the corner of Eighth and Harrison St. The residents here also have access to another port-a-potty located at Eighth St and the Creek. Both are serviced on a regular basis.

- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
- Nine deep cleanings of the encampment, in which a total of 124.9 tons (249,800 pounds) of debris have been removed, and a major nuisance abatement of rodent harborage conditions in October 2022, in which a total of 32.1 tons (64,200 pounds, or nearly the weight of a humpback whale) of debris were removed.
- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.
- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Two community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

Nevertheless, and despite these numerous efforts, for months the HRT has repeatedly observed dead animals, open food sources and spoiled food, used uncapped drug needles, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

On June 14, 2023, the City of Berkeley was awarded $4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City will use to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. On June 22, 2023, the Berkeley City Council's Budget and Finance Policy Committee voted unanimously to approve an additional $5M in City general fund to match this State grant, and on July 11th, the City Council

approved the lease, contract, and funding. **Altogether, this means Berkeley has everything in place to open this new noncongregate shelter by August 1, and to keep it open for at least four years.** Because of the serious and persistent health and safety concerns at this encampment, we will prioritize this new resource to the residents there, with the goal of ultimately resolving the encampment to make way for long-overdue infrastructure repairs and other construction-related activity later this calendar year. We will also prioritize all North County Coordinated Entry resources, including City-funded housing navigation slots and other services, to this encampment, and we have recently approved an exception to our internal HIPAA Privacy Rule interpretations to allow for need-to-know information sharing with our Mental Health Division to better coordinate mental health resources for the encampment as well.

Put simply, the City has done--and with this new State grant, will be doing--everything within our power to prioritize these vulnerable residents for shelter and every other resource at our direct disposal that can improve their lives. However, we do not have the administrative authority to prioritize permanent supportive housing to these residents; by Federal regulation, only the CoC, through the Coordinated Entry process, can prioritize and match permanent supportive housing.

RATIONALE FOR RECOMMENDATION

Beyond the obvious benefits of improved public health and decreased need for services resources in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment.

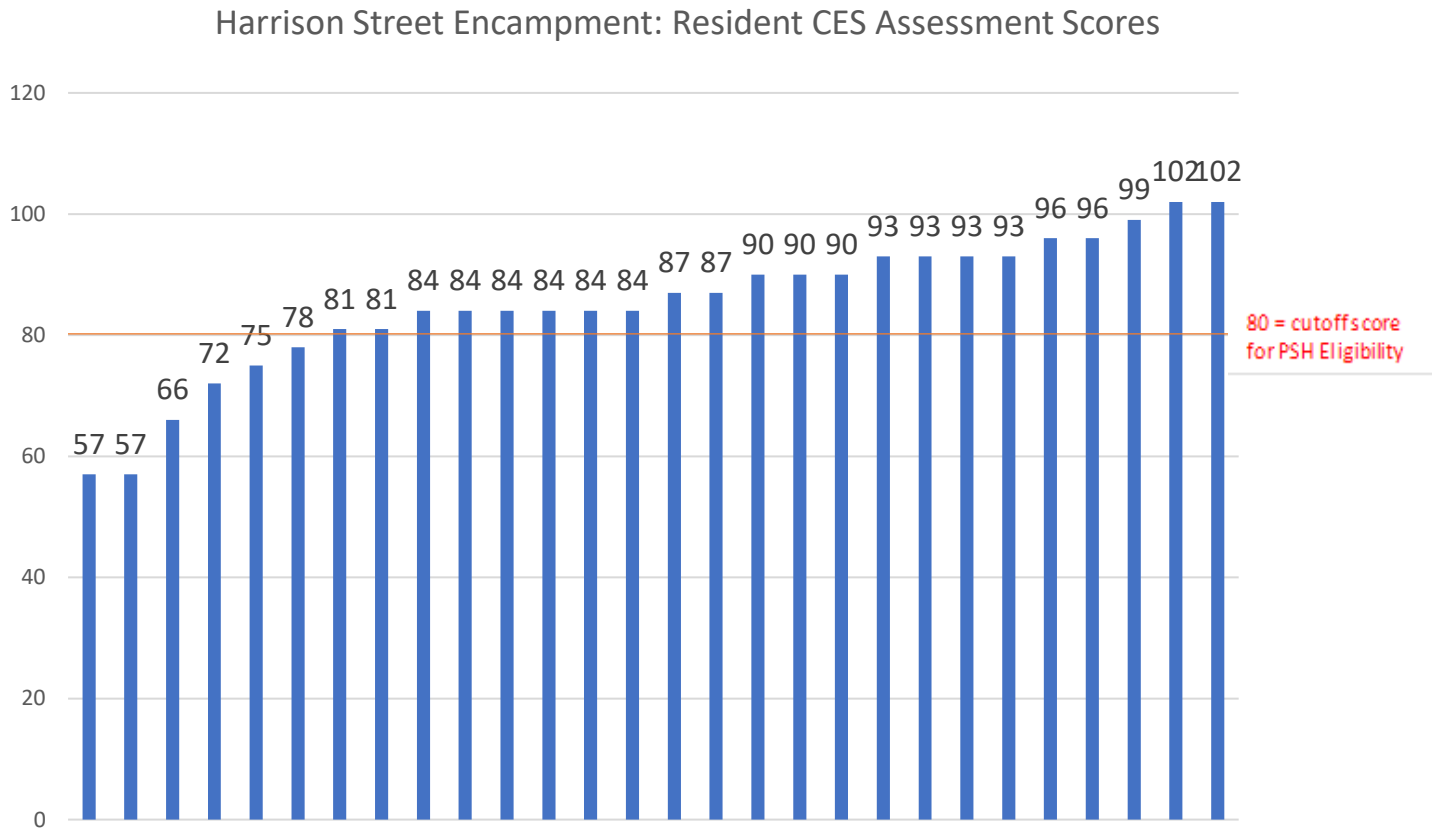
(1) This request is permissible and justified under our CoC's current Coordinated Entry policies.

From April 19 – May 1 and again from June 14 - 30, 2023, the HRT performed daily outreach to the residents (both in tents and vehicles) at this encampment, with the purposes of building and refining an accurate by-name census of everyone known to be living in the encampment. In addition to allowing us to better serve these residents with tailored outreach, this effort has allowed us to collect both information on Coordinated Entry scores and vulnerabilities, as well as demographics on race, ethnicity and gender at the encampment.

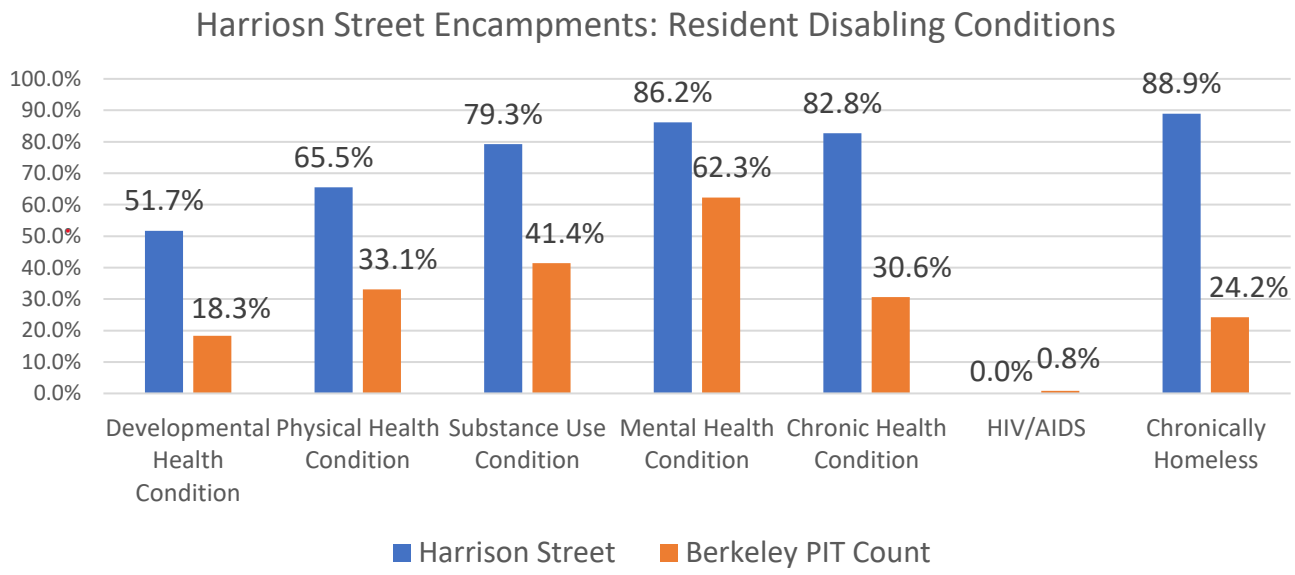
Our analyses of these data found 47 total people known to us and our partner providers to be living in this encampment. Of those:

- 28 of the 47 residents (59.6%) staying in the Harrison Street encampment have been assessed for Coordinated Entry.
- 22 (78.6% of those assessed) qualify for Permanent Supportive Housing (PSH) – i.e., are already on the PSH Priority list. An additional 4 residents (14.3%) qualify for rapid rehousing.
- Only 2 residents (7.1%) do not score high enough to qualify for a traditional housing intervention.

The chart immediately below provides a breakdown of the assessment scores of those who have been assessed: only five people assessed for Coordinated Entry do not meet the threshold score in our CoC for PSH:



In addition, the chart below provides a breakdown of the self-reported vulnerabilities of those in the encampment, relative to the self-reported vulnerabilities in our overall homeless population, showing how disproportionately vulnerable the residents of this encampment are:



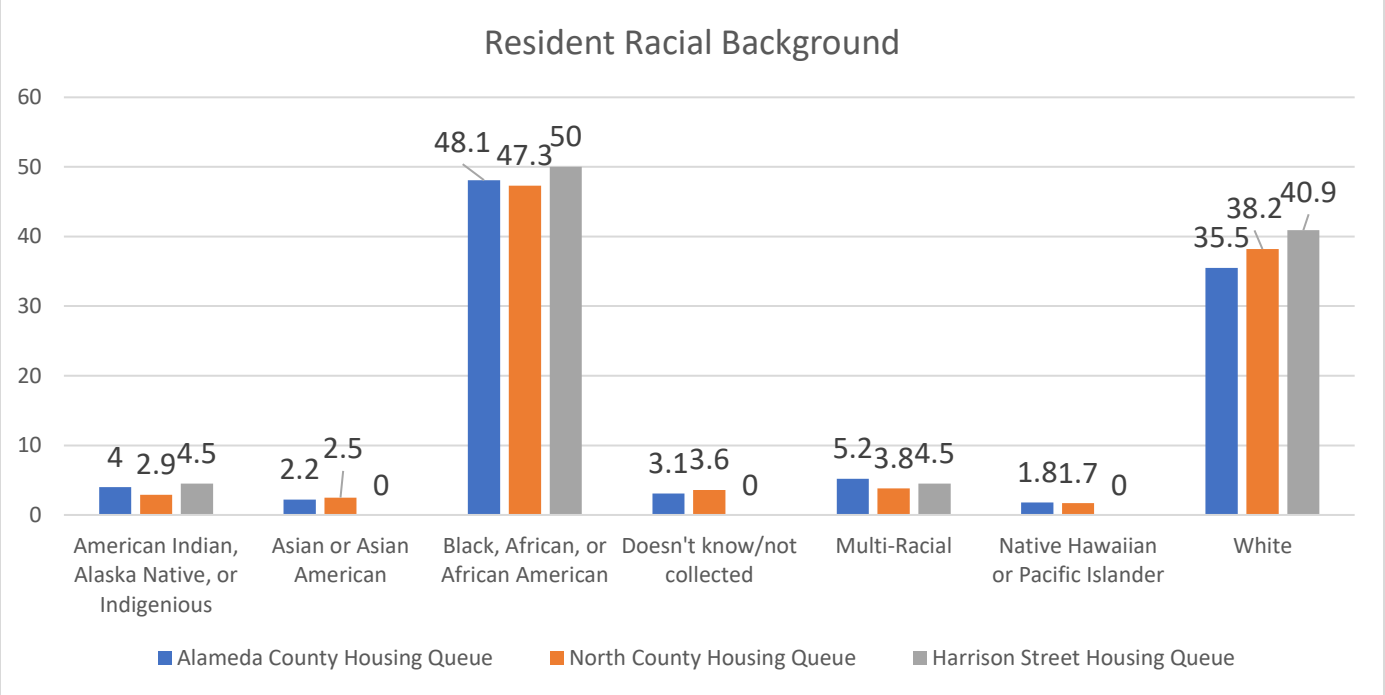
By all accounts, these are people who would already otherwise be eligible and prioritized for Permanent Supportive Housing in Alameda County. Importantly, *this proposal would not make anyone who is not already on the PSH Priority List eligible for permanent supportive housing.*

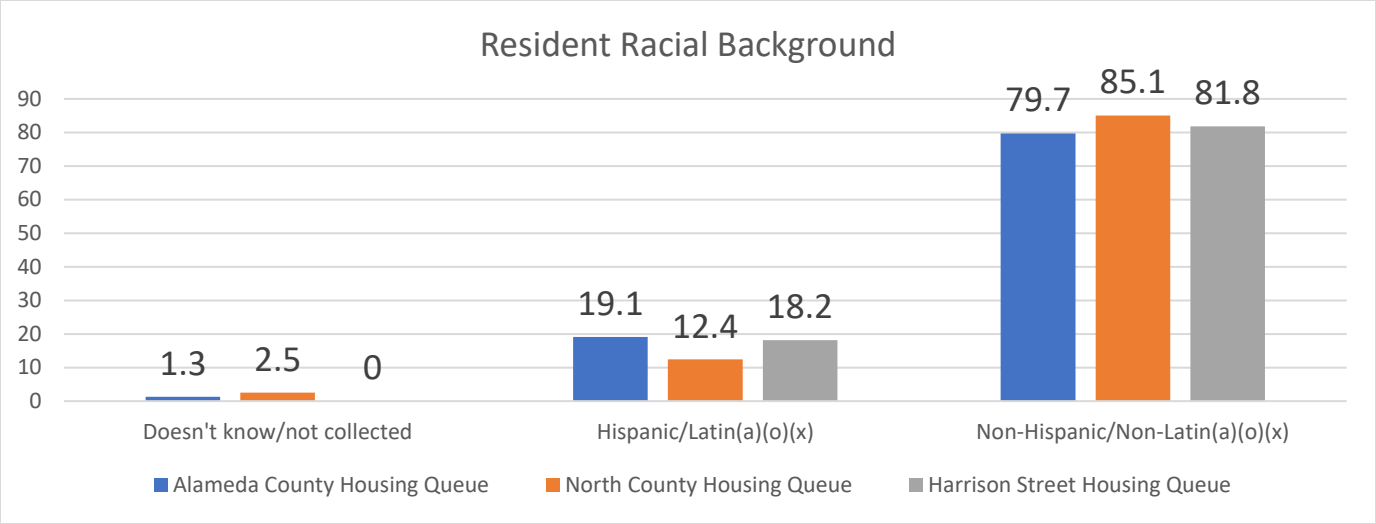
Instead, it would offer those residents in the encampment census *who otherwise are already on the priority list* the first referrals to any upcoming permanent housing vacancies. In other words, it would, temporarily and on a pilot basis, limit the County's priority pool only to those in the encampment census who otherwise qualify for permanent supportive housing under the existing established Federal and CoC Coordinated Entry policies, and keep it that way until everyone has had a housing offer. It does not otherwise change the prioritization algorithm in any way.

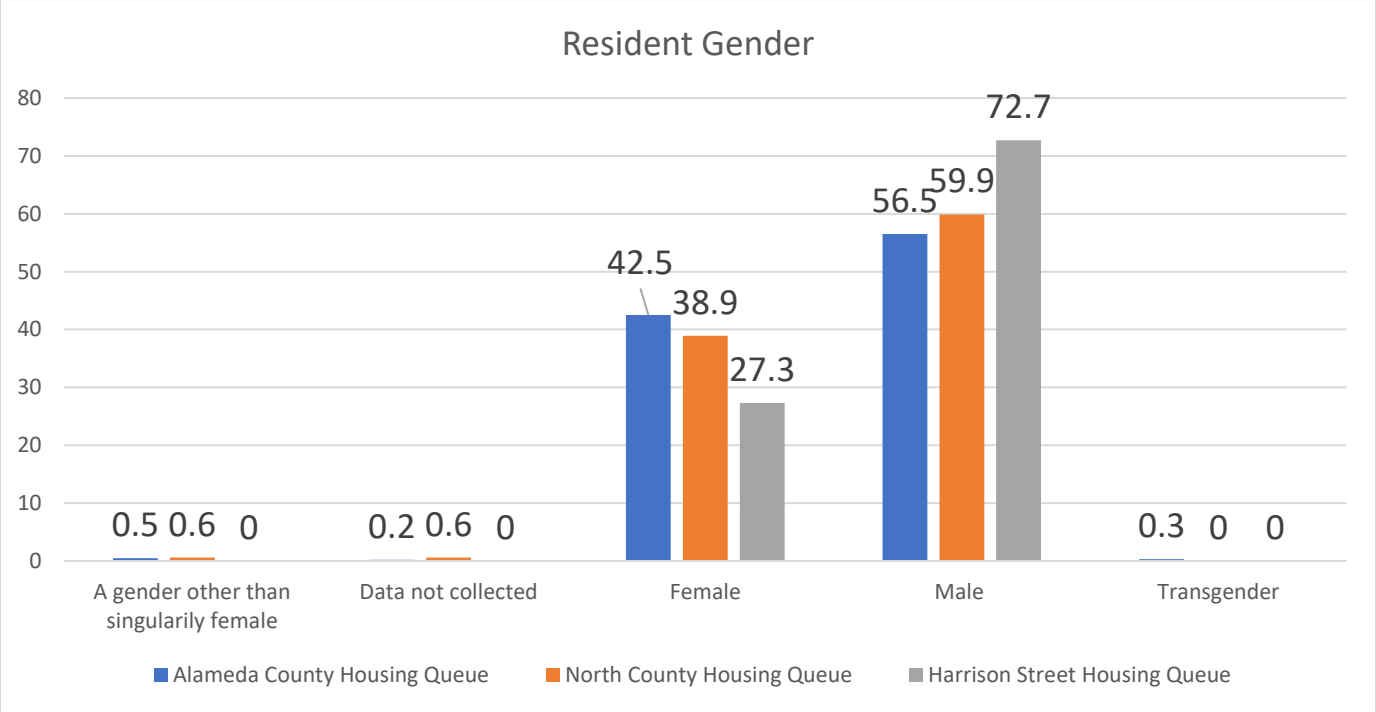
(2) This request is allowable under Federal Fair Housing law.

The essence of Federal Fair Housing law is that housing access must not discriminate against, or cause disproportionate impacts on the basis of, a protected class status. To preempt any Fair Housing concerns associated with the targeting of this encampment for housing resources, the City of Berkeley contacted the HUD Region IX Program Compliance Division for guidance (see Attachment 1). We were advised that such an analysis can be performed by comparing the demographics (race, ethnicity, disability, and gender) of all residents currently living in encampments in the encampment and who are on the PSH priority list to their representation in the North County and Alameda County PSH priority lists, to determine if any protected class groups will be disproportionately impacted by giving a priority or preference to the encampment.

To this end, Berkeley staff and our nonprofit contractors spent weeks collecting and compiling into HMIS the demographic data of everyone known to be living in the encampment, and found the following demographics for persons on the priority list within the encampment:







From these analyses, we see no compelling evidence that this proposal would disproportionately impact any protected racial and ethnic classes; if anything, it would *better* serve Black/African American and Indigenous homeless residents, those races most disproportionately represented in Alameda County's homeless population and the key focus of the County's own stated racial equity goals for our homeless response system.[1]

While the gender distribution in our analyses do reveal a skew towards those identifying as male, we have evidence that this skew is not necessarily a result of the Harrison St demographic make-up *per se*, but could reflect systematic bias in Coordinated Entry access at this encampment: of

[1] See: https://everyonehome.org/wp-content/uploads/2020/10/EveryOneHome_10.20_Summary_FINAL.pdf

the 12 residents identifying as female at this encampment, 6 have been assessed for CES and 6 have not (50% of females are assessed). Meanwhile, of the 25 residents identifying as male, 22 have been assessed and 3 have not (88% of males are assessed).[2] The overall distribution of females to males in the encampment is closer to 50%, but females are clearly not receiving assessments at the same rate as males—despite a recent sustained "assessment blitz" in early July by the City and its providers to all encampment residents here. Thus, we assert that the slight skew towards males in our analyses do not reflect a Fair Housing concern with the proposal *per se*, but rather *a deeper underlying equity problem in Coordinated Entry access at encampments by gender* that is worth further consideration from the CoC, and further underscores the validity of a pilot approach to prioritizing this encampment.

(3) This request is especially urgent because of the considerable fire and life safety hazards at the encampment

Aside from the fact that these residents are, by and large, already the very residents our Coordinated Entry system would prioritize for permanent supportive housing, they face an unusual exposure to additional health and safety threats simply by virtue of their living in this encampment setting: the area was recently declared an imminent health hazard, pursuant to Berkeley Municipal Code 11.36.030, by the City's Environmental Health Manager, due primarily to the rodent harborage conditions and extensive network of rodent burrows in the encampment (see attachment 2), and according to the Berkeley Fire Marshal is experiencing an unusually high and concerning number of fires and fire-related calls (see attachment 3). In other words, aside from the documented *personal* vulnerabilities of the people living in this encampment, they are exposed to unusually intense *environmental* vulnerabilities.

Many years ago, our nation's health experts realized that health is not simply a factor of personal vulnerabilities; the environment one lives in can expose people to additional health risk factors, and population level health requires the mitigation of environmental risk factors. Indeed, many of our County's recent public health initiatives have explicitly prioritized communities for interventions on the basis of environmental or geographic risk: most recently, we explicitly prioritized COVID testing and vaccine resources to those ZIP codes most likely to experience socioeconomic conditions, such as crowded housing or employment in an essential service, that made them disproportionately vulnerable to the disease. Ironically, Alameda County homeless service providers often speak about homelessness not just as a housing crisis but a health crisis too, and speak of housing as a healthcare intervention—but we have taken few affirmative steps to explicitly prioritize the environmental factors that also dictate a homeless person's health when making Coordinated Entry prioritization decisions.

If a chief moral imperative of Coordinated Entry in our CoC is to assist those people who are most vulnerable to serious illness and death on the streets, then by any measure—personal or environmental--the residents of this encampment are as or more vulnerable than any in our County. The urgency of their situation, in the opinion of the health and fire experts in our City, should increase their priority for housing.

[2] The remaining 10 clients on the census have not provided us with any information as to their gender identity.

CONCLUSION

The City of Berkeley has done—and with the recent State ERF-2 grant announcement, will do—everything within our power to serve and end the homelessness of those living in the deplorable conditions at the Harrison and 8th St encampments. But we cannot resolve this encampment on our own, which is why we respectfully request a pilot program that would offer these residents—assuming they otherwise qualify for PSH—the first offers for new PSH vacancies, until such time as everyone eligible has been made an offer.

Rationing scarce resources efficiently—which is the fundamental essence of Coordinated Entry—requires that we start *somewhere.* This memo has argued that starting with the residents of the Harrison and 8th Street encampment is justified, legal, and especially urgent. Necessarily, when rationing resources, there will always be "winners" and "losers." In our current system, residents of entrenched and dangerous encampments have systematically been the "losers" for far too long—and it's time we put them at the front of the line.

Respectfully submitted,

Peter T. Radu

Assistant to the City Manager - Neighborhood Services

City of Berkeley

2180 Milvia St, 5th Floor | Berkeley, CA 94704

Desk: 510-981-7045 | Cell: 510-853-2368

Email: pradu@cityofberkeley.info

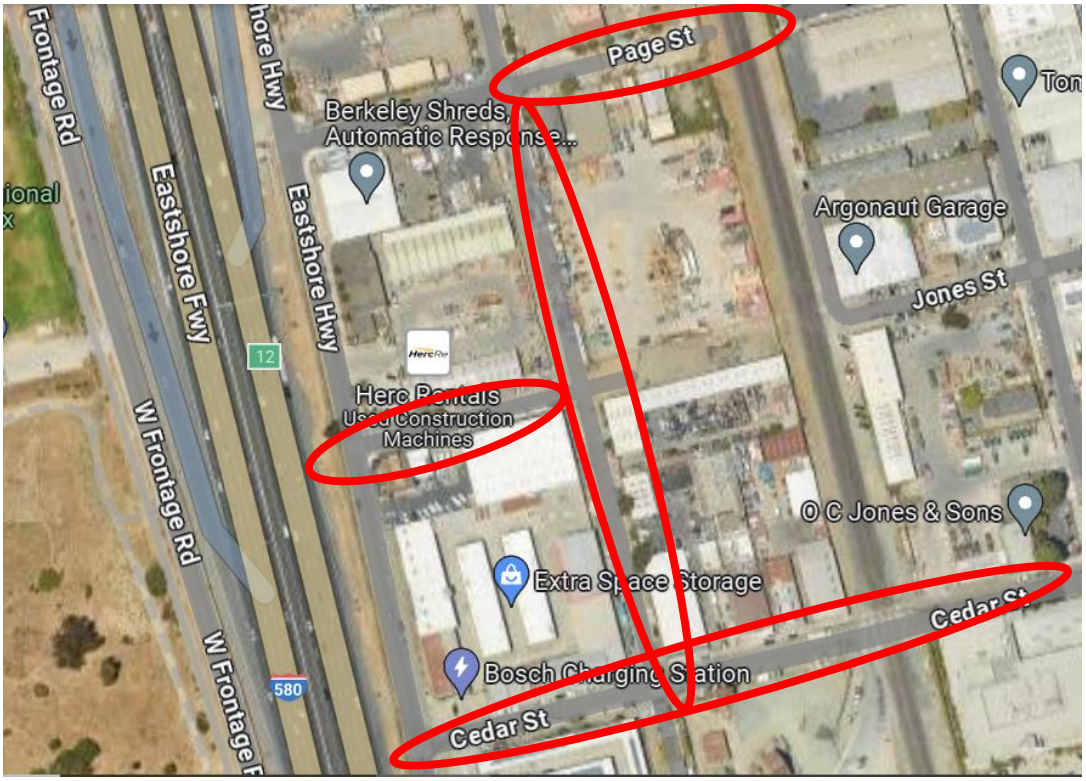
ATTACHMENTS:

1. Correspondence with HUD Region IX Program Compliance Division on Fair Housing Law analysis guidance, Feb – May 2023
2. Memo from City of Berkeley Environmental Health Division Manager re: Conditions of Imminent Health and Safety Hazards at the Eighth St. and Harrison St. corridor, May 2023
3. Memo from City of Berkeley Deputy Fire Marshall re: Fire Department Incident Responses to Encampment at Harrison, Seventh and Eighth Streets, May 2023

Encampment Map:

2nd St, Page St, Jones St, Cedar St – Berkeley, CA

Areas circled in RED are the streets and sidewalks where encampments currently reside.



Berkeley Police Department

Date: January 10, 2024

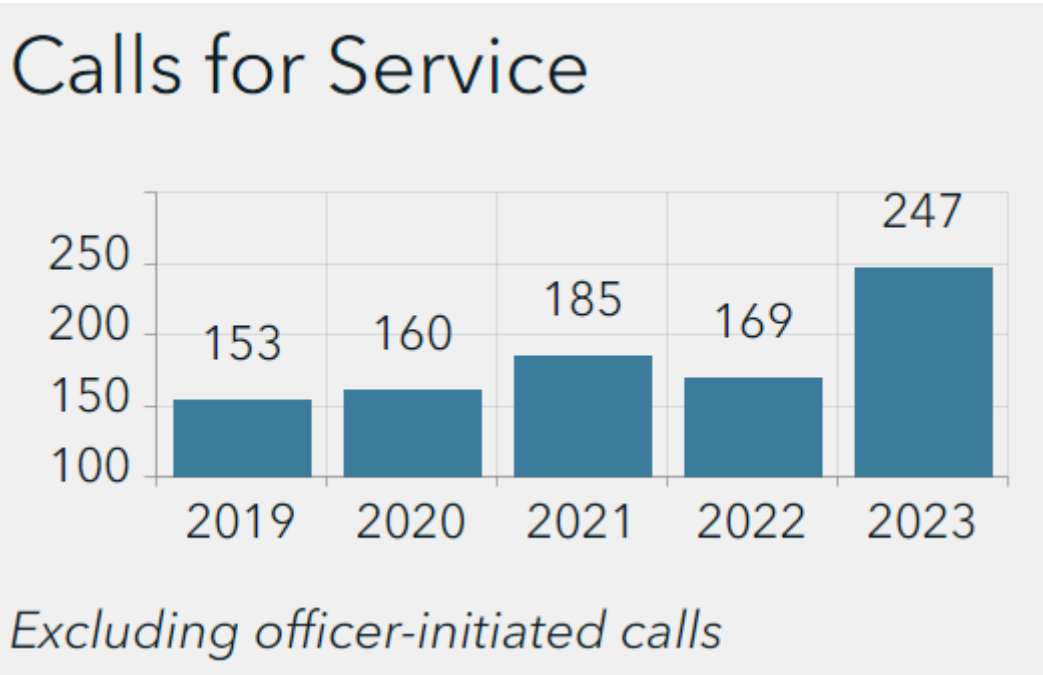
To: Peter Radu, Assistant to the City Manager

From: Arlo Malmberg, Data and Policy Analyst, Berkeley Police Department

Subject: Public Safety Concerns at the 2nd Street Encampment Zone

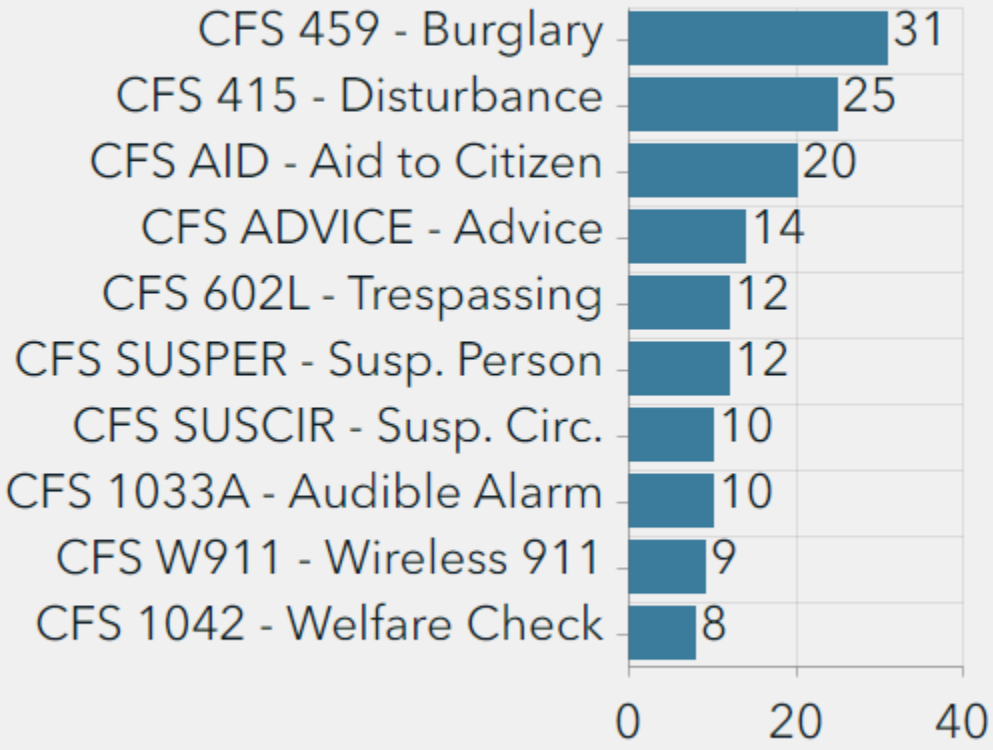
The data from the area bounded by Eastshore Hwy, Cedar St., 3rd St., and Page St. indicates a significant public safety concern, with a marked increase in calls for service and crimes over the past year. In 2023, calls for service jumped to 247 from 169 (+46%) in the previous year, and reported crimes rose to 69 from 60 (+15%). Commercial burglary was the most prevalent crime type, with 27 incidents reported. The data suggests a worsening safety situation, particularly around the 2nd St. encampments.

In the opinion of BPD, any resources that can resolve this encampment by moving its residents inside and away from this encampment is likely to improve the public safety issues in this area.



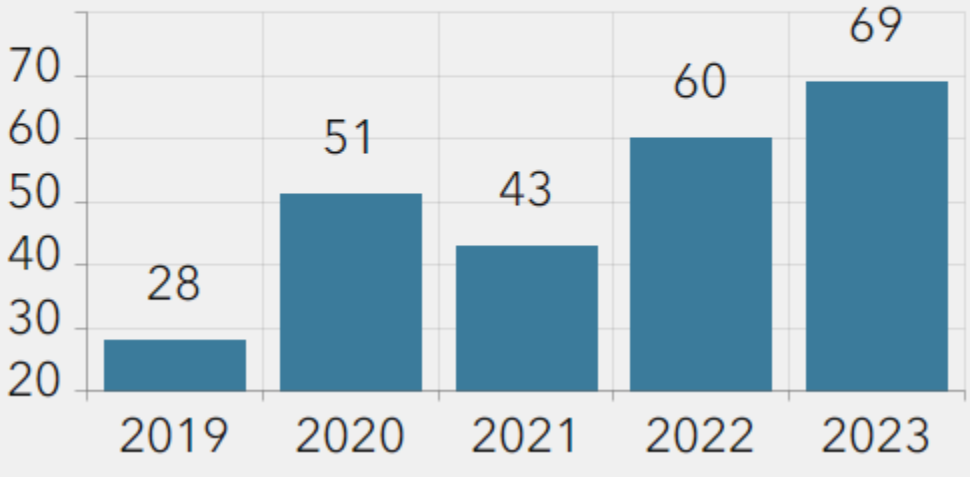
2023:

Call Types

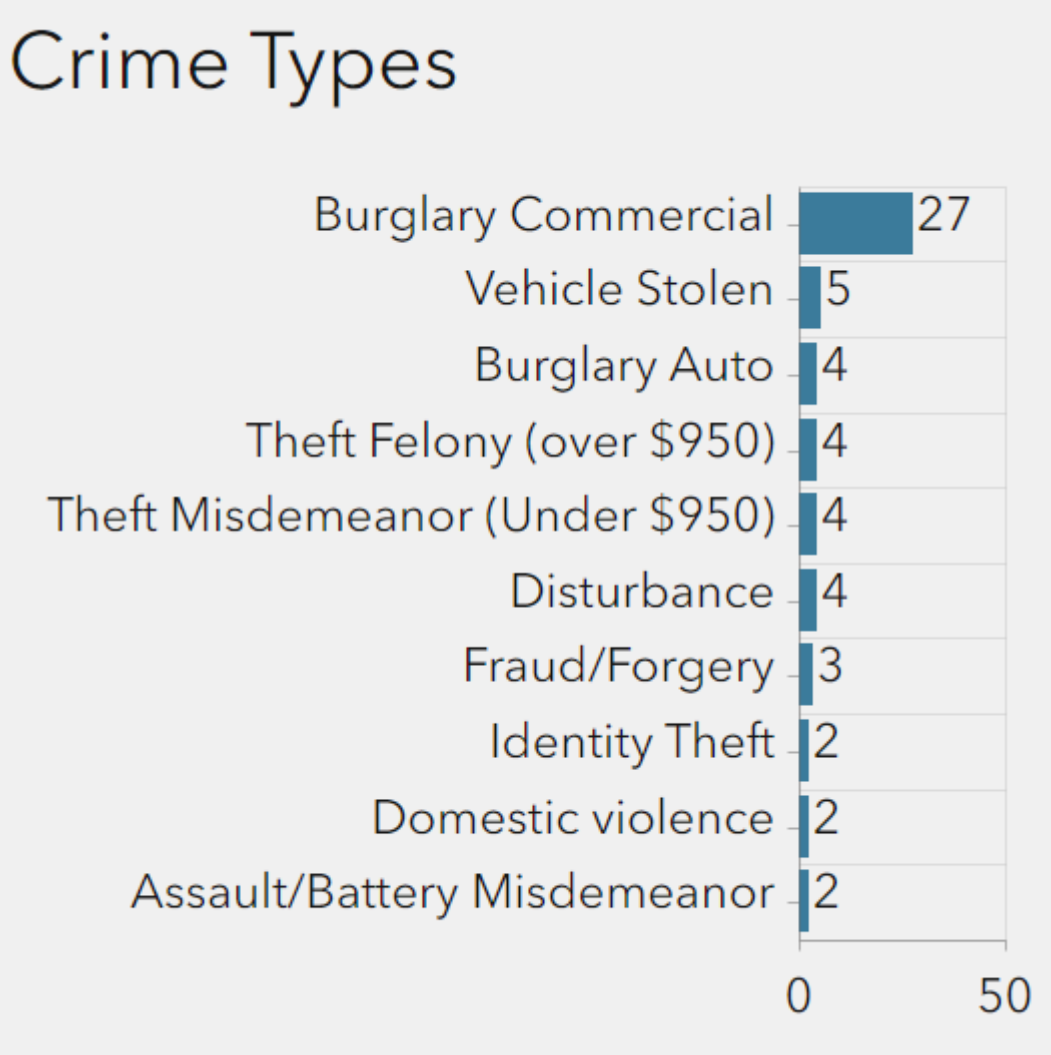


Excluding officer-initiated calls

Crimes



2023:


Crime Types
Burglary Commercial
27
Vehicle Stolen
5
Burglary Auto
4
Theft Felony (over $950)
4
Theft Misdemeanor (Under $950)
4
Disturbance
4
Fraud/Forgery
3
Identity Theft
2
Domestic violence
2
Assault/Battery Misdemeanor
2
0
50

Health, Housing &
Community Services Department
Environmental Health Division

Date: January 12, 2024

To: Peter Radu, Assistant to the City Manager

From: Ron Torres, Environmental Health Manager

cc: Amy Davidson, HHCS Deputy Director

Subject: Declaration of Imminent Health Hazard for areas of Second Street between Page and Cedar Streets

Environmental Health staff assessed the conditions of the subject area and found significant areas of concern with regard to the health and safety of the residents in this area and to the public in general. In addition, significant environmental impacts to water quality were observed. These concerns are included in the attached report which identifies several areas along the Second Street corridor between Page and Cedar Streets.

I believe that the conditions documented in attached report rise to the level of an imminent health hazard with significant environmental impacts. Findings include:

- Used hypodermic needles
- Extensive rat burrow systems and harborages with abundant food sources and putrescible waste (rotting food) helping to support a significant rat population
- Direct contamination of the of the City's storm water drainage system

To minimize the impact to the residents of this encampment and general public, we strongly recommend prioritizing this encampment for any resources, including the State of California Encampment Resolution Funding program, that can lead to a quick and humane resolution of this encampment and its conditions.

Respectfully,

Ron Torres

Environmental Health Manager

City of Berkeley

January 4, 2024

2nd St Between Cedar St and Second St

1. Violations:
    a. Rodent Harborage: rat burrows
    PROPOSED REMEDY: Treatment of CO2
    (BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
    No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

    b. Rodent harborage - food sources & rubbish
    (BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
    No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
    (BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

2. Violations:

Storm Drain with rubbish

(BMC) 17.20.030 No matter other than stormwater may be discharged into the storm drain system
(BMC) 17.20.050 Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements:
(A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.

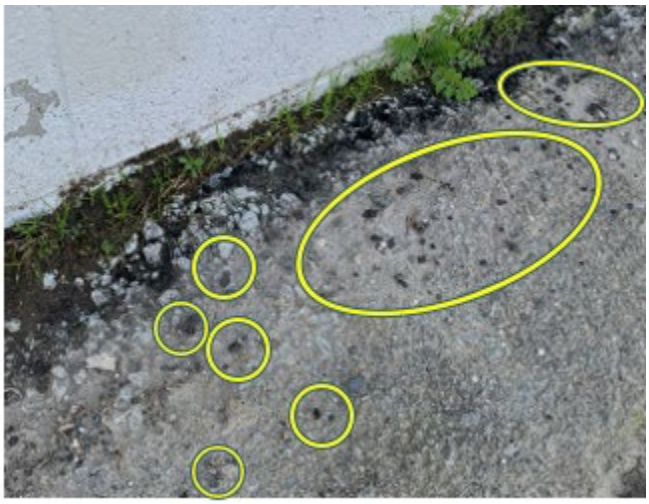
Waste valve with hose attachment within feet from storm drain

3. Violations:

Rodent harborage – rat run & burrow
PROPOSED REMEDY: Treatment of CO2
(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

4. Violations:

Rodent harborage - food sources & rodent droppings
(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



5. Violations

Rodent harborage - food sources & rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

6. Violations:

Rodent harborage - rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

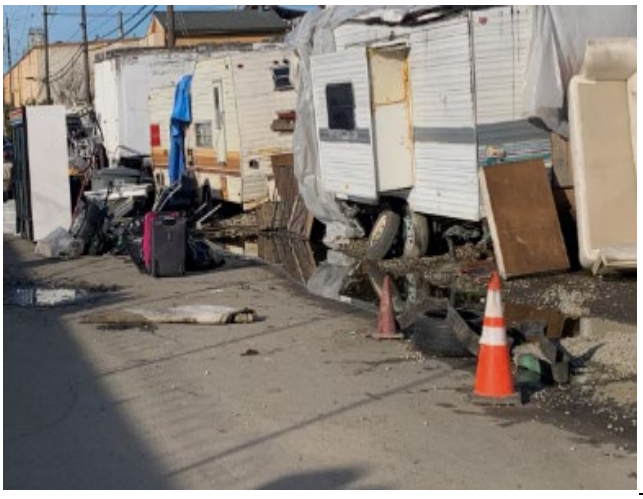
(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

7. Violations
    a. Rodent Harborage – rubbish

    (BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

    No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

    (BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



8. Violations:

Rodent harborage - food sources & rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

9. Violations:

Rodent Harborage – rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
(BMC) 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

10. Violations

Rodent Harborage – rat burrow
(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

11. Violations
    a. Exposed hypodermic syringes

    (BMC) 11.36.030. Imminent health hazards designated.

    For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.

b. Rodent Harborage – rubbish, food sources & indications of rat gnawing
(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.
No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
(BMC) 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

Oreo

Glossary of Violations:

i. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

ii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.2.2 Pipe and Fittings, 5.2.2.2** Sprinkler piping shall not be used to support non-system components.

iii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.4.1 Sprinklers, 5.4.1.7** Sprinklers shall not be altered in any respect or have any type of ornamentation, paint, or coatings applied after shipment from the place of manufacture.

iv. **California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances.**

1. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.

2. 304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley,

3. parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.

v. **BFC 114.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.

vi. **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.

vii. **BFC 307.4.3 Portable outdoor fireplaces**. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

viii. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

ix. **BMC 11.32.050. Rodent harborage--Maintenance prohibited**. No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

x. **BMC Sec 11.32.070. Accumulations creating rodent harborage prohibited.** No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the

ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

xi. **BMC 11.36.030. Imminent health hazards designated.** For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.

xii. **BMC 14.48.020. Obstruction on Streets and Sidewalks.** It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council.

xiii. **BMC 17.20.030**. No matter other than stormwater may be discharged into the storm drain system

xiv. **BMC 17.20.050**. Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements: (A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.

Fire & Emergency Services Department
Fire Prevention Division

Date: January 23, 2024
To: Peter Radu, Assistant to the City Manager
From: Dori Tieu, Deputy Fire Marshal
Subject: Assessment of fire hazards for areas along Second Street between Page and Cedar Streets

On January 9, 2024, Berkeley Fire Department Fire Prevention staff assessed fire safety conditions along the Second Street corridor between Page and Cedar Streets, including half the block of Cedar Street west of Second Street. Staff found some areas of concern with regard fire safety in this area and to the public in general. A majority of the concerns were related to storage of combustible items and rubbish along the corridor providing potential fuel for a fire:

- **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.
- **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

There were a handful of fire code violations related to:

- **BFC 305.1 Clearance from ignition sources.** Clearance between ignition sources, such as luminaires, heaters, flame-producing devices and combustible materials, shall be maintained in an approved manner.
- **BFC 305.4 Deliberate or negligent burning.** It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.
- **BFC 305.5 Unwanted fire ignitions.** Acts or processes that have caused repeated ignition of unwanted fires shall be modified to prevent future ignition.
- **BFC 507.5.4 Obstruction.** Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- **BFC 507.5.5 Clear space around hydrants.** A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants, except as otherwise required or approved.

Environmental Health Division Staff completed an assessment of the same area on January 4, 2024. In their memo to Peter Radu, Assistant to the City Manager, they provided an aerial photo of the area and numbered the locations on the map. Below is the photo that Fire will also reference to in this report.

2nd St Between Cedar St and Second St

The subsequent photos document examples of the following fire code violations:

BFC 304.2 Storage. Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.

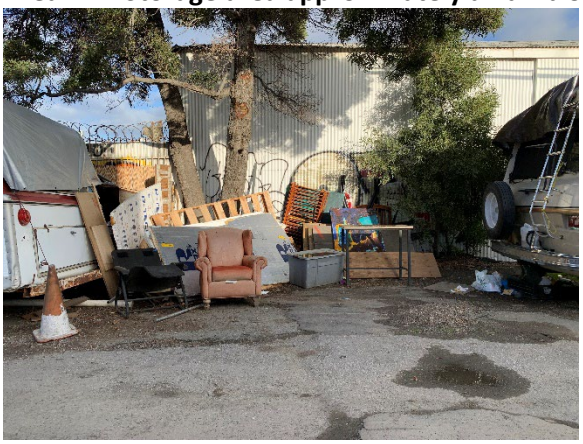
BFC 315.4 Outside storage. Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

Area #11 – Encampments along north side of Page Street, east of Second Street

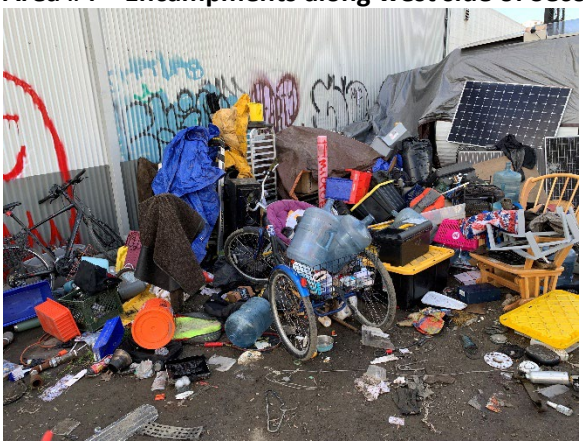
Area #11 – Encampments along south side of Page Street, east of Second Street

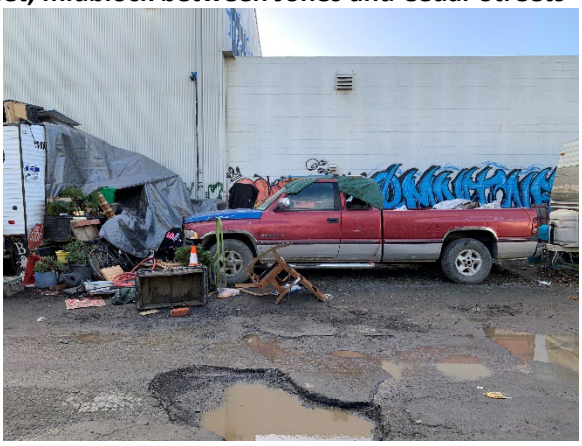
Area #10 – Encampment at southeast corner of intersection of Second Street and Page Street

Area #4 – Storage area approximately a half block south of Jones Street on east side of Second Street

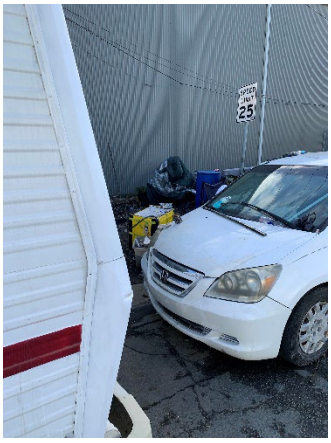


Area #4 – Encampments along west side of Second Street, midblock between Jones and Cedar Streets





Area #1 – Encampments along south side of Cedar Street, west of Second Street



Area #1 – Encampments along north side of Cedar Street, west of Second Street

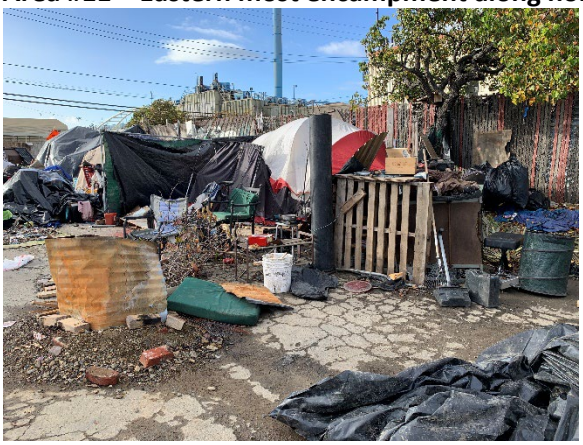
The following four photos document examples of the following fire code violations:

BFC 305.1 Clearance from ignition sources. Clearance between ignition sources, such as luminaires, heaters, flame-producing devices and combustible materials, shall be maintained in an approved manner.

BFC 305.4 Deliberate or negligent burning. It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.

BFC 305.5 Unwanted fire ignitions. Acts or processes that have caused repeated ignition of unwanted fires shall be modified to prevent future ignition.

Area #11 – Eastern most encampment along north side of Page Street, east of Second Street



Area #11 – Midblock encampment along south side of Page Street, east of Second Street

Area #1 – Solar panel charging a DC battery along the north side of Cedar Street, west of Second Street

The following two photos document examples of the following fire code violations:

BFC 507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

BFC 507.5.5 Clear space around hydrants. A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants, except as otherwise required or approved.

Area #1 – Encampment at northwest corner of Second Street and Cedar Street intersection

There have been multiple fires at abandoned warehouses and nuisance fires in proximity to the encampment. A quick search of fires in 2023 resulted in 20 fires within one to two blocks of the encampment. The most recent building fire occurred on January 13, 2024, at 2:15 AM. It became a two-alarm fire with mutual aid that started as an offensive attack and moved to a defensive attack because of the large size of the fire and heavy content loading inside the building. Embers cast from nearby fires could ignite the combustible materials among the encampment and endanger the residents.

The Berkeley Fire Department is concerned about the numerous fire and life safety hazards associated with this encampment, and would recommend prioritizing this encampment for any shelter resources, including the State of California Encampment Resolution Funding program, that can lead to resolution of this encampment and its conditions. We also recommend fire safety education, clean-up of combustible materials, removal of obstructions and tampering of the fire hydrant, and removal of potential ignition sources. We look forward to partnering with you towards a safer future for this encampment

Respectfully,

Dori Tieu, Deputy Fire Marshal

CC: Fire Chief David Sprague
Fire Marshal Steve Riggs
Fire Prevention Inspector Shannon Shaffer-Killey
Fire Prevention Files

Harrison Street Corridor RV Operation – Day 1 After Action Report

9/30/21

Harrison between 8th and 7th

8th between Harrison and Gilman

Harrison between 9th and 8th

SE Corner of 9th and Harrison

On Wed, Sept 29, 2021, City staff from Neighborhood Services, Public Works, and BPD including Parking Enforcement collaborated in the first of two planned operations to address the RVs encamped along the Harrison St Corridor and neighboring side streets. The City Attorney signed off on the final notice and advised during the planning process. This report provides a brief after-action summary of the operation and its outcomes:

- Reason for operation and timing:
  - The operation was planned to coincide with the opening of the Safe RV Parking Program on Grayson Street. A deep cleaning of the area's streets and sidewalks was planned to help reduce/remove the debris associated with the vehicles after vehicles moved into the program.
  - Vehicles in the area were provided a notice of a street sweeping, TNC regulations, and the City's storage policy for unattended belongings on Friday, Sept 24th. Temporary tow-away signage for the day and time of the operation (9/29 and 10/6, 7am – 3pm) was posted on Fri, Sept 24th as well.
- Number of Vehicles and Brief Site Assessment:
  - On Sept 23, Neighborhood Services performed a final census of the area. Staff identified 38 oversized vehicles, 35 of which were being used as shelter and potentially eligible for Rv Parking Program referral.
  - No vehicles that moved into the area after the census were eligible for referral into the program.
- History of Outreach/Engagement Attempts:
  - Outreach began in preparation for the operation in early September. Neighborhood Services performed numerous visits to advise people of the opening of the Safe RV Parking program, build a referral list, and advise residents there of the possibility of impending parking enforcement.
- Outcomes:
  - At the conclusion of yesterday's operation, Neighborhood Services counted 17 remaining oversized vehicles in the area. This is a roughly 50% reduction in vehicles. The debris/belongings footprint associated with most of the remaining vehicles was substantially reduced.
  - A total of 23 vehicles were issued citations for parking violations in the street sweeping zone. Six were dismissed when the vehicle moved. One vehicle was towed. No vehicles being used as shelter were towed.
  - Public Works picked up 3.49 tons of debris from Harrison Street, Ninth Street, Eighth Street, Fourth Street and 2nd Street from Camelia Street to Cedar Street. Harrison Street was mechanically swept and pressure washed.
  - As of 5:30pm on 9/29, 6 vehicles from the area had moved into the Safe RV Parking Program. The destination for the other vehicles that relocated is unknown at this time.
- Next Steps:
  - City staff will reconvene on Friday, Oct 1 to plan for addressing the remaining vehicles.
  - The second of the two planned operations will be conducted on Wed., October 6th. Notices will be reposted by Neighborhood Services on Friday, Oct. 1.

City Manager's Office

2nd Street Deep Cleaning - After Action Report
12/2/21

Page Street - Before

Page Street - After

City Manager's Office

Cedar and 2nd - Cleaned

2nd b/w Camelia and Page - Cleaned

On Wednesday, December 1, 2021, City staff from Neighborhood Services, Public Works, and BPD collaborated to perform a deep cleaning of the 2nd Street Corridor from Cedar to Camelia in West Berkeley. The scope of the operation was to remove the huge accumulation of debris in the area, as well as address an encampment on private property on Page between Eastshore and 2nd. No one on public property was required to move or relocate, nor to part with anything they did not want to. This report provides a brief after-action summary of the operation and its outcomes:

- Reason for the operation:
  - A large accumulation of debris, trash, and hazardous materials (large quantities of loose and uncapped syringes, human waste) in the public right of way that required a dedicated crew to fully address.
  - An encampment that was located on private property, where the owner had submitted trespassing complaints and requested removal of the encampment pursuant to CA Penal Code 602.
- Scope of the operation:
  - The target area was 2nd Street between Camelia and Cedar, as well as an encampment on private property on Page St between 2nd and Eastshore.
  - The public right of way in the area had roughly 25 RVs and 4 tents/structures on the day of the operation.
  - The private parcel had 8 tents/structures on the day of the operation.

City Manager's Office

- Outcomes:
    - 7.47 tons (14,900 pounds) of debris were removed from the area.
    - One referral for an RV (parked adjacent to the private parcel) was made for the Grayson Street Safe Parking Program and was accepted. One RV, known to be unoccupied, was towed.
    - No arrests/citations were issued.
    - On the private parcel:
        - Five tents were unattended and were removed. Nothing was stored as there were serious health hazards including numerous loose and scattered syringes.
        - Three tents/structures were attended at the time of the operation; two voluntarily relocated. The third did not and so was not removed, and will be addressed at a later time.
        - Two shelter offers were made to Horizon and one was accepted.

City Manager's Office

2nd Street Deep Cleaning - After Action Report
4/19/22

2nd near Cedar - Before

2nd near Cedar - After

2nd near Jones - Before

2nd near Jones - After

City Manager's Office

Page St - Before

Page St - After

On Tuesday, April 19, 2022 the Homeless Response Team performed a deep cleaning of the 2nd Street Corridor from Cedar to Camelia in West Berkeley. The scope of the operation was to remove the huge accumulation of debris and rodent harborage conditions in the area, which negatively affects both the residents and the surrounding businesses. No one was required to move or relocate, nor to part with anything they did not want to. This report provides a brief after-action summary of the operation and its outcomes:

- Scope and Reason for the operation:
  - The target area was 2nd Street between Camelia and Cedar, as well as Page St between 2nd and Eastshore.
  - A large accumulation of debris, trash, and hazardous materials (large quantities of loose and uncapped syringes, human waste, appliances, flammable materials like propane tanks and gasoline containers) and rodent harborage conditions (open and rotting food sources) in the public right of way that required a dedicated crew to fully address.
  - Recent fires in the area (one on the southwest corner of 2nd and Page that destroyed an RV, another on Page St between Eastshore and 2nd) pose safety risks to the unsheltered as well as the surrounding business community.
- Outreach/Assessment and Notification Efforts:
  - Neighborhood Services staff performed a site assessment on April 11 and noted 20 RVs and 8 tents/structures in the target area. On the day of the operation, staff noted 19 RVs and 7 tents/structures.
  - Written notice was provided to residents in the area on April 12.

City Manager's Office

- Outreach was provided by Neighborhood Services on April 12, 13, 15, and 18, to inform residents of the upcoming intervention and make shelter offers. No shelter offers were accepted.
- Neighborhood Services also coordinated with Street Medicine staff from LifeLong Medical Care in the week prior to the operation, allowing outreach from trusted (non-City) providers and thus providing additional notice and preparation for the operation.

- Outcomes:
  - 11.67 tons (23,340 pounds) of debris were removed from the area.
  - Shelter was offered to 2 individuals but it was declined.
  - Animal Services was engaged to assess two RVs with dogs on Page St, including one with a suspected abandoned/neglected dog inside. Notice was provided and Animal Care Services will continue to engage.
  - No arrests/citations were issued.

City Manager's Office

2nd Street & Page St Encampment Closure - After Action Report
11/30/22

2nd Between Page and Camelia - Before

2nd Between Page and Camelia - After

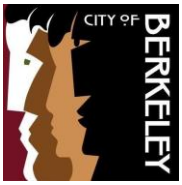
City Manager's Office

Page St - Before

Page St - After

On Tuesday, August 31, 2022 the Homeless Response Team (HRT) closed the vehicle and tent encampments along 2nd and Page Streets in West Berkeley. Beginning in September, this area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project. Phase II of this construction project, which includes 2nd St from Camelia to Page and the north side of Page St from 2nd to Eastshore, is scheduled to begin on December 1. To meet this deadline, the scope of the present operation was to remove all tents and vehicles in the construction corridor. This report provides a brief after-action summary of the operation and its outcomes:

- <u>Scope and Reason for the operation:</u>
  - The target area for the operation was the north side of Page St between Eastshore Hwy to 2nd St, and 2nd St from Page St north to Camelia St. Beginning in September, the greater area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project, with Phase II in the target area beginning on December 1. Neighborhood Services and Public Works have been coordinating closely with CalTrans on construction phasing and timing.
  - The target area was found to be in violation of the City's street and sidewalk policies (BMC sections 14.48.020 and 14.48.120).
  - Growing accumulation of debris, trash, and hazardous materials (syringes, rodent harborage conditions) in the public right of way.
- <u>Brief Site Assessment</u>
  - The Homeless Response Team has performed numerous assessments of the target area alongside outreach efforts. On both November 15 and Nov 12 (date of first and second rounds of written noticing, respectively), staff observed 6 residents and 4 trailers/RVs, and posted 10-12 written notices. On the day of the operation, staff encountered 6 residents and 3 trailers/RVs remaining in the construction area.



City Manager's Office

- The HRT repeatedly observed numerous health and safety violations in the area, including loose and scattered syringes; live and dead rodents and rodent harborage conditions including accumulated trash and debris and open food sources; and debris and belongings, including tents, spilling into the lane of traffic.

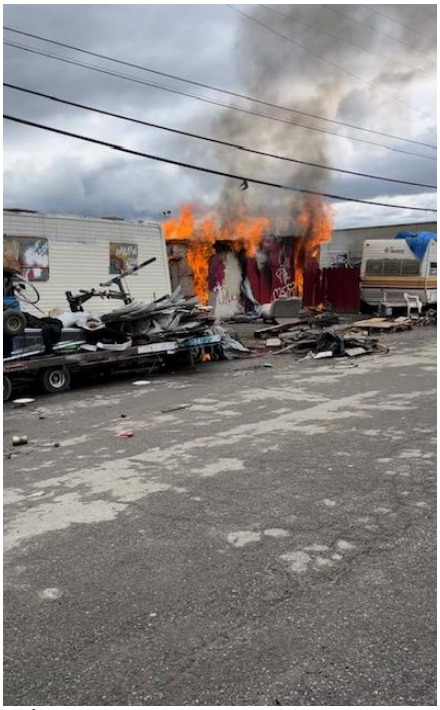
- Outreach/Assessment and Notification Efforts:
  - The HRT as well as the City's contracted homeless providers have provided regular outreach to this area for many months, including garbage service and the provision of a port-a-potty and wash station.
  - Beginning in August, once the HRT learned of the timeline for construction in the target area, Neighborhood Services convened a weekly case conference of numerous contracted homeless providers and outreach workers, including representatives from HHCS and Alameda County, to build a robust by-name list of everyone in the area, with the goal of (1) connecting them to as many services and housing opportunities as possible; (2) coordinating their care across multiple agencies; and (3) providing thorough and advance notification of the upcoming construction and City encampment interventions to prepare for it.
  - Two rounds of written notice of the operation were provided to residents in the area (on Nov 15 and 22), providing 2 weeks of formal notice. This was accompanied by outreach to explain the scope and purpose of the operation to residents in the area, along with the distribution of maps to clearly identify the construction zone to be vacated.
  - No Parking/Tow Away signage was posted on November 23, providing more than 72 hours' notice.
- Outcomes:
  - All residents, including those living in vehicles, voluntarily relocated by or before the morning of the operation. Shelter was not offered on the morning of the operation, as the population in the area had been previously offered shelter and had all declined. HRT will continue to collaborate with our nonprofit service providers to assist these residents into permanent housing wherever possible and as outreach resources allow.
  - No vehicles being used as residences were towed, but three passenger vehicles (all unattended and inoperative) were towed to impound, one after having received targeted treatment to abate rodents living in the vehicle.
  - 5.75 tons (11,500 pounds) of debris were removed from the area. As residents were given ample notice to vacate, as well as some time during the morning of the operation to remove a last round of wanted belongings, no storage for belongings was provided.
  - No arrests/citations were issued.

Homeless Response Team

East side of Page at 2nd Partial Closure, and 2nd Street Deep Cleaning Between Cedar and Page - After Action Report
03/22/23

East side of Page at 2nd Street- Before

East side of Page at 2nd Street- After



2nd Street – Structural Fire

2nd and Page Street- Burnt RV

Homeless Response Team

2nd and Page Street- Stole Vehicle

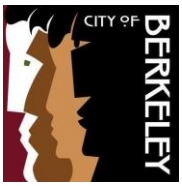
On Wednesday, March 22, 202, the Homeless Response Team performed a Partial closure on the East Side of Page (at 2nd St) and a Deep Cleaning on 2nd Between Cedar and Page. This report provides a brief after-action summary of the operation and its outcomes:

Reason for closures and closure's timing:

- **East side of Page at 2nd St.**
  - Debris and belongings impeding the vehicular right-of-way; excessive trash and debris.
  - Impeding access to a gate for a City sanitary sewer construction project.
  - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
- **2nd Street Between Cedar and Page**
  - Debris and belongings impeding the vehicular right-of-way; excessive trash and debris; remains of an RV fire.
  - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
- **Final notice of closure was posted on March 17, 2023 for location listed, providing more than 72 hours' notice.**

Number of Individuals at the Encampment and Brief Site Assessment:

- **East Side of Page Street at 2nd St.**
  - Documented conditions of the encampment include: rotting food; loose and scattered syringes; soiled clothing and bedding; dismantled camping gear; evidence of recent fire activity and excessive debris and personal belongings.
  - The population at this encampment has remained consistent with approximately 6 individuals, all of whom have resided in the area for over a year and was relocated



Homeless Response Team

from the area of 2nd from Page through Camelia due to construction which began December 2022.

- **2nd Street between Cedar and Page**
  - Documented conditions of the encampment include: rotting food; soiled clothing and bedding; dismantled camping gear; evidence of recent fire activity; and excessive debris and personal belongings.
  - An RV which was burned out completely.
  - The population at this encampment remained consistent with approximately 15 RV's parked at the location. However, the area is a highly sought out encampment location due to being less visible. The area does experience a high level of criminal activity in comparison to other encampments throughout the city.

History of Outreach/Engagement Attempts and Shelter Placements:

- **East Side of Page at 2nd St.**
  - Public Works Clean City staff performs weekly cleanings in order to manage the debris and reduce the footprint that builds up quickly and frequently by both the residences of the area and illegal dumping.
  - Offers of housing coordination with City contractor BACS.
  - Receives care from Lifelong Medical Street Medicine Team.
  - Connection with local organizations such as HAC, and Where do we Go Berkeley
  - HHCS provides a mobile shower and laundry services through Dignity on Wheels resource to all residences in the area.
  - There has been on going outreach beginning mid- March up until the day of the operation by both Berkeley Police CSB unit and Neighborhood Services staff as a way to gain voluntary compliance.
- **2nd street Between Cedar and Page**
  - Neighborhood Services has attempted outreach, but since many reside in RV's. engagement has not been successful since they indicate they do not consider themselves homeless.
  - Public Works Clean City staff performs weekly cleaning in order to manage the debris and reduce the footprint that builds up quickly and frequently by both the residences of the area along with illegal dumping.
  - Receives care from Lifelong Medical Street Medicine Team
  - Offers of housing coordination with the City contractors BACS
  - Connection with local organizations such as HAC, and Where do we Go Berkeley.
  - HHCS provides a mobile shower and laundry service through Dignity on Wheels resources to all residences in the area.

Outcomes:

Homeless Response Team

- **East Side of Page at 2nd Street**
  - Upon arrival there had been some voluntary removal. There needed to be a bit more for the sanitary sewer project access gate to be fully accessible for construction equipment to safely come in and out. There was one Berkeley Inn referral to a resident in the area which was accepted. He stated that he would need help transporting his dogs' belongings which BPD agreed to. He then biked over to the motel where he met with a member of the Neighborhood Services Team and was successfully moved in. While the other residents in the area remained, some did in fact voluntarily reduce their footprint by sorting through belongings and disposing to the Public Works crew.
- **2nd Street Between Cedar and Page**
  - Upon arrival previously there had been a fire in the area where a vehicle was completely burned and displaced 3 people. The owner of the vehicle stated the vehicle could be removed he would need a notice of when that was to take place so that he had time to salvage some of his personal belongings he wished to keep, that requested was accepted by the Neighborhood Services Team and he was given notice on 3/17/2023 providing him 6 days to gather what he needed. There was no shelter provided, the owner was able to establish shelter for himself within the corridor. The vehicle was stripped of all the metal and was not in the same condition as it was on the day which notice was provided, this was not done by the owner. It was later during the clean-up that the resident stated he would be utilizing a vehicle on scene to transport the material, but the vehicle was determined to in fact be stolen and the owner of the vehicle was contacted. He came to retrieve the vehicle. The individual originally wanting to utilize the vehicle to transport the material stated he was housed and left the scene. The driver of the stolen vehicle is someone which the Neighborhood Services Team is familiar with and had previously placed into a motel, she had left the scene shortly after arriving stating a claim that she had lost the keys and was going elsewhere to retrieve a spare and never returning while staff was on scene. The frame of the burnt RV was towed after being stripped of debris.
  - On the East side of 2nd between Page and Cedar there was a makeshift structural shelter made of plywood and pallets which caught fire and was engulfed in flames within a matter of seconds. Fire arrived on scene determined there was no one inside and extinguished the fire. The fire captain expressed his safety concern for the recent fires in the area stating they have been responding to fires in the area daily.

- No arrests/citations were issued.
- No storage pursuant to AR 10.1 provided.

Homeless Response Team

- 12.68 tons of debris were removed and discarded by Public Works.

Homeless Response Team

2nd St. between Page and Cedar, and on Page St. East of 2nd St. Deep Cleaning - After Action Report
5/9/23

2nd and Cedar- Before

2nd and Cedar- After

Homeless Response Team

2nd and Jones (Unsafe Structure)- Before

2nd and Jones (Unsafe Structure)- After

2nd and Jones- Before

2nd and Jones- After

Homeless Response Team

2nd and Jones- Before

2nd and Jones- After

2nd and Page (Unsafe Structure)- Before

2nd and Page (Unsafe Structure)- After

Homeless Response Team

2nd and Page- Before

2nd and Page- After

On Tuesday, May 9, 2023, City staff from Neighborhood Services, Public Works, Fire, Environmental Health and BPD collaborated to perform a deep cleaning of the 2nd Street Corridor from Cedar to Page in West Berkeley. The scope of the operation was to remove the huge accumulation of debris, hazardous materials, and unsafe unpermitted structures. No one was asked to relocate from the area. This report provides a brief after-action summary of the operation and its outcomes:

Homeless Response Team

- **<u>Reason for deep cleaning and removal of structures:</u>**
- **2nd St. between Page and Cedar and on Page St. East of 2nd St.**
  - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
  - Debris and belongings impeding the vehicular right-or-way.
  - Berkeley Fire Code 114.1.1 Unsafe conditions
  - Berkeley Fire Code 315.4 outside storage
  - Berkeley Fire Code 304.2 Storage
  - Berkeley Fire Code 307.4.3 Portable Outdoor Fireplaces
  - California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances
  - Building Code 116.1
  - Berkeley Municipal Code 11.36.030 Imminent Health Hazards Designated
  - Berkeley Municipal Code 17.20.030
  - Berkeley Municipal Code 17.20.050
- **Final Notice of Deep Cleaning was posted May 5, 2023 for the location listed, providing more than 72 hours' notice.**
- **<u>Number of Individuals at the Encampment and Brief Site Assessment:</u>**
- **2nd St. Between Page and Cedar and on Page St. East of 2nd St.**
  - The population of this area has remained consistent with approximately 25 RVs and 8 tents and 4 structures on the day of the operation. However, the area is a highly sought out encampment location due to being les visible, we frequently see new encampment pop up once one relocates others move in within a day or so.
  - Documented conditions of the encampment including; human waste; rotting food; soiled clothing and bedding; dismantled camping gear; and excessive debris and personal belongings.
  - Data provided by the Fire Deparments indicates there has been

- **<u>History of Outreach/Engagement Attempts and Shelter Placements:</u>**
- **2nd St. Between Page and Cedar and on Page St. East of 2nd St.**
  - Public Works Department conducts weekly cleanings in order to manage the debris and reduce the footprint that builds up frequently, primarily due to safety concerns of the residents and business whom are impacted due to close proximity and the great concern of rodents which affects their businesses.
  - Offers of housing coordination with City contractor BACS.
  - Receives care from Lifelong Medical Street Medicine Team.
  - Homeless Response Team conducted daily outreach in the are beginning on April 19th.
  - There was weekly meeting with partner organization in which there was discussion around on how to best serve the population at the encampment.
  - A community meeting was held on April 21, 2023 in the area of 2nd St. present was City staff (Neighborhood Services Team, Fire, and Environmental Health),

Homeless Response Team

advocates, and resident as a way we all could best coordinate on best efforts to assist them with the resources required to sustain a safe environment. There was a report provided to all in attendance which was developed by an assessment conducted within the corridor on April 5, 2023 where Fire and Environment Health documented the conditions of the area and determined the desired outcome of the deep cleaning.

- Neighborhood Services had tents on hand for the residents whom structures would need to be removed due to Fire recommendations. As a way to mitigate the rodent activity each resident in the corridor received 2 (27 gallon) storage containers where they would be able to store food and other personal belongings.

- **Outcomes:**
  - 10.85 of debris were removed from the area.
  - One RV parked on the East side of 2nd was towed and one van on the West/North corner of Jones and Eastshore Highway.
  - Neighborhood Services offered a motel room to a resident whom had previously been on 3rd and Camelia, after several attempts' appointments made for intake and him being unavailable, the room remained available for him an additional 3 weeks and he successfully moved in on May 9th.
  - May 3rd a meeting was held with Public Works to discuss placement of a dumpster to reduce the debris in the vehicular right-of way and it was agreed upon that one would be placed at the S/W corner of 2nd and Page St. and would receive service weekly.
  - No arrests/citations were issued.

02a.38

Susan Wengraf
Vice Mayor & Councilmember District 6

CONSENT CALENDAR
September 10, 2024

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Wengraf (Author)

Subject: Amending BMC 7.52.060 to include “Wildfire Hardening” in the Real Property Transfer Tax Exceptions

RECOMMENDATION

Adopt the first reading of an Ordinance to amend Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.

FINANCIAL IMPLICATIONS

To be determined

CURRENT SITUATION AND ITS EFFECTS

The inherent wildfire risk Berkeley faces because of the natural topography and weather conditions is increasing due to climate change which is bringing more frequent and substantial draughts, and higher temperatures.

The City of Berkeley has and will continue to implement strategies that reduce the wildfire risk to our community, and should a wildfire occur, improve the emergency response. However, the City is able to address only part of the wildfire risk that the community faces as much of the risk within the City proper lies on private property in the form of structures that pre-date modern fire resistive building codes. While some of the retrofit work that must occur is inexpensive, much of it is expensive and requires professionals. Thus, there is a significant challenge to getting this work completed, even for motivated residents. There is a need to be nimble and adapt our legislation to incentivize the work we know has to get done, work that will help slow an advancing fire so firefighters can protect the community. This amendment will provide an opportunity and mechanism for the City to incentivize homeowners in making these improvements.

This risk can be reduced through “hardening” which is the process of increasing resistance to wildfire by replacing combustible materials with ignition resistant and/or non-combustible materials and other scientifically proven actions including:

- Reducing the home’s vulnerability to heat.
- Creating fire-resistant surfaces.
- Blocking any potential points of ingress for embers and other flammable material.

Retrofitting our homes against seismic damage and destruction has proven to be good policy; hardening against wildfire will be as well. Providing a refund of a portion of the transfer tax to harden against wildfire will incentivize owners and buyers to undertake these important upgrades and reduce our vulnerability to destruction and damage as a result of a wildfire.

Berkeley Municipal Code (BMC) Chapter 7.52 (Real Property Transfer Tax) Section .060 provides exceptions to payment of transfer tax, including to those who make seismic upgrades just before or after selling or buying their home. Up to one-third of the tax imposed by BMC 7.52 can be reduced, on a dollar-for-dollar basis, for all expenses incurred on or after October 17,1989 to "seismically retrofit".

This item recommends a similar exception for wildfire hardening expenses. The maximum rebate shall be one-third (1/3) of the tax paid for a transfer of real property. Multiple rebate applications may be submitted for a rebate of the tax paid, but the total rebate for all applications shall not exceed the maximum of one-third (1/3) of the tax paid per property per every ten years. This shall take effect on January 1, 2025.

Qualifying upgrades and wildfire hardening projects must be completed either up to one year prior to the transfer of real property or within one year after the transfer. If the work qualifying for a rebate is completed prior to the transfer of the real property, the seller and buyer must decide who may apply for and receive the rebate. Work must be performed pursuant to a plan prepared by the applicant and approved by the Building Official, Fire Marshall or their designee.

Some of the hardening upgrades will require a permit and inspection by the Building Department. Work that requires a permit and inspection, that is completed without one, will not be eligible for the transfer tax rebate. Property owners wishing to perform their own work may not include a charge for their time.

Wildfire hardening may include but is not limited to:

- Replace wood shake roof with a Class A fire rated roof
- Installation of non-combustible siding around deck perimeter
- Installation of ember and flame-resistant screen or rated vents to attic and crawlspace openings and under eaves.
- Block spaces between roof covering and sheathing with noncombustible materials (bird stops).
- Installation of noncombustible gutter covers on gutters to prevent the accumulation of leaves and debris in the gutter.
- Caulk and plug gaps greater than 1/8-inch around exposed rafters and blocking to prevent ember intrusion into the attic or other enclosed spaces.

- Installation of weather-stripping to gaps greater than 1/8-inch between garage doors and door frames to prevent ember intrusion - weather-stripping must be compliant with UL Standard 10C.9.
- Replace windows with multi-paned windows that have at least one pane of tempered glass.
- Replace siding or deck using compliant noncombustible, ignition-resistant materials.
- Installation of a minimum 6-inch metal flashing, applied vertically on the exterior of the wall at the deck-to-wall intersection to protect the combustible siding material.
- Replace wood mulch products within five feet of all structures with noncombustible products such as stone, concrete, or gravel.
- Replace wooden fences within five feet of structures with noncombustible or ignition resistant materials.

Wildfire hardening increases a home’s resistance to heat, flames and embers, thereby reducing the chances of a home igniting. This also protects adjacent homes from igniting and causing a structure-to-structure fire spread through the community.

Adding Wildfire Hardening to Berkeley Municipal Code 7.52.060, Sub-section L, in addition to Seismic upgrades, supports Berkeley’s Strategic Plan Goal to create a resilient, safe, connected and prepared city.

BACKGROUND

Maintaining our housing stock is essential to the health and welfare of our city. The impacts from a wildfire are not just seen in the structures; it has devastating consequences on mental health, individual sense of security, and our financial stability as a community.

The Loma Prieta Earthquake took the Bay Area by surprise on October 17,1989. According to the California Department of Conservation, that 6.9 magnitude earthquake killed 63 people, injured close to 4,000 and displaced over 12,000 people. Less than two years later, June 25, 1991, Berkeley City Council voted for an exception on transfer property taxes to help homeowners pay for seismically upgrading their homes, and BMC 7.52.060, Sub-section K was established. In the last 10 years, the Finance Department processed approximately 1,200 seismic upgrade rebates for a total of $7.2M.

Since the seismic retrofit exception was included in BMC 7.52.060 in 1991 no expanded safety exceptions have been added. The City of Berkeley is in one of the highest wildfire risk areas in the state. We have a long history of catastrophic wildfire here in Berkeley. Most notably, in 1923, when a wildfire destroyed more than 600 homes, leaving more than 1,000 residents homeless. In 1991, the Berkeley/Oakland Tunnel Fire was

responsible for 25 deaths and destroyed more than 3,000 homes. In 2024 valuation, that conflagration cost 4 billion dollars. Now is the time to amend this policy, adapt our legislation and help residents harden their homes against wildfire.

Fire science studies are decisive. Wildfire hardening reduces the chances of a home catching fire. The Home Insurance industry has taken note and adopted the components of Chapter 7A and defensible space in their evaluations of risk during the underwriting process. IBHS, the Insurance Institute for Business & Home Safety, initiated the Wildfire Prepared Home program, which incentivizes homeowners to implement home hardening best practices based on scientifically proven Wildfire Defense Standards.

Attachments
1: Ordinance Amending Sections of 7.52.060 of the BMC

ORDINANCE NO. #### -N.S.

AMENDING SECTIONS 7.52.060 OF THE BERKELEY MUNICIPAL CODE

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

Section 1. That Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, is amended to add Sub-section L. and read as follows:

BMC 7.52.60 Sub-section L

L. 1. Up to one-third of the tax imposed by this chapter shall be reduced, on a dollar for dollar basis, for all expenses incurred on or after January 1, 2025 to "wildfire harden" either any structure which is used exclusively for residential purposes, or any mixed-use structure which contains two or more dwelling units. Multiple rebate applications may be submitted for a rebate of the tax paid, but the total rebate for all applications shall not exceed the maximum of one-third (1/3) of the tax paid per property per every ten years.

2. The term "wildfire harden" within the meaning of this chapter means any of the following:

(a) That work which will substantially increase the capability of residential buildings to withstand destruction or damage in the event of a wildfire or structure fire. The work must be permanent and not vegetation management or gardening adaptations that need continued maintenance. Best practices recommended by CAL FIRE are listed in subsection L 2(b).

(b) Replace wood shake roof with a Class A fire rated roof; install non-combustible siding around deck perimeter; install ember and flame-resistant screen vents with 1/16 mesh metal in attic, under eaves and at the foundation; block any spaces between roof covering and sheathing with noncombustible materials (bird stops); install a noncombustible gutter cover on gutters to prevent the accumulation of leaves and debris in the gutter; caulk and plug gaps greater than 1/8-inch around exposed rafters and blocking to prevent ember intrusion into the attic or other enclosed spaces; install weather-stripping to gaps greater than 1/8-inch between garage doors and door frames to prevent ember intrusion - weather-stripping must be compliant with UL Standard 10C.9; replace windows with multi-paned windows that have at least one pane of tempered glass; replace siding or deck using compliant noncombustible,

ignition-resistant materials; install a minimum 6-inch metal flashing, applied vertically on the exterior of the wall at the deck-to-wall intersection to protect the combustible siding material; replace wood mulch products within five feet of all structures with noncombustible products such as dirt, stone, or gravel; replace wooden fences within five feet of structures with noncombustible or ignition resistant materials;

(c) Any other work found by the building official or Fire Marshall to substantially increase the capability of those structures, specified in subsection L.1, to withstand destruction or damage in the event of a wildfire;

(d) Acceptable products and materials are those listed by the California State Fire Marshal or in a current report issued by an approved agency (accredited to ISO 17065) to meet one of the following test standards:

• Noncombustible – Made from material of which no part will ignite and burn when subjected to fire. Any material passing ASTM E136 is considered noncombustible.

• Ignition-resistant – A type of building material that resists ignition or sustained flaming combustion sufficiently to reduce losses from wildland-urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of embers and small flames. Ignition-resistant building materials must comply with one of the following: • Extended ASTM E84 (UL 723) test or ASTM E2768 or non-combustible material.

(f) BMC 19.28.030 CBC Chapter 7A Material and Construction Methods for Exterior Wildfire Exposure provides additional guidance.

3. The work to wildfire harden as provided herein shall be completed either up to one-year prior to the transfer of property or as provided in subsection L.4.

4. If the work to wildfire harden structures and property provided for herein is to be performed after the transfer of property which is subject to the tax imposed by this chapter, upon completion of such work and certification by the building official as to the amount of the expenses of such work the City Manager or their designee may refund such expenses not to exceed one-third of the tax imposed to the parties to the sale in accordance with the terms of such sale. Any remaining tax shall be retained by the City.

5. From the date of the recordation of the transfer document, the applicant shall have one year to complete all wildfire hardening work and submit a wildfire hardening verification application to the Codes and Inspection Division of the City of Berkeley. If the work is not completed at the end of one year, that portion which has been completed may be credited to the applicant upon submission of a Home Hardening verification application and substantiating documentation, as required by the codes and inspections division of the City of Berkeley, showing the dollar amount of work completed up to that date. All other monies remaining in escrow will be returned to the City of Berkeley upon written request by the Finance Department.

6. Within the one-year period established by paragraph 5, an applicant may request, and the City Manager may approve, an extension of up to one year. The City Manager or their designee may grant such an extension only for good cause. The decision of the City Manager or their designee shall be entirely within their discretion and shall be final.

(a) "Good cause" includes (i) the inability of the applicant, after a prompt and diligent search to find and retain the services of an architect, engineer, contractor or other service provider whose services are necessary for the Home Hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the Home Hardening work due to circumstances in the field which could not reasonably have been known earlier; and (iii) serious illness or other extraordinary and unforeseeable circumstances that prevented the timely commencement or completion of the Home Hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the seismic retrofit rebate provided in this chapter or state or local laws relating to the standards with which seismic retrofit work must comply; or (ii) any delays which were within the control or responsibility of the applicant.

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 Council Chambers, 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.

02a.39

Housing Advisory Commission

INFORMATION CALENDAR
September 10, 2024

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Debbie Potter, Chairperson, Housing Advisory Commission

Subject: 2024-25 Housing Advisory Commission Work Plan

INTRODUCTION

The Housing Advisory Commission (HAC) submits its 2024-25 work plan (Attachment 1) as an information item to City Council.

CURRENT SITUATION AND ITS EFFECTS

In July 2016, the City Council directed all commissions (with certain exceptions) to submit work plans detailing goals and objectives for the year. Plans should be submitted at the start of each fiscal year.

At its June 6, 2024 meeting, the HAC approved its FY 2024-25 work plan with the following vote:

Action: M/S/C (Calavita/Braslaw) to adopt the FY 2024-2025 Housing Advisory Commission Work Plan.

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

The goal of the work plan is to recommend to the City Council affordable housing and community development programs and policies that further social justice and address systemic racism, classism, and inequity in the City of Berkeley.

The FY 2024-25 work plan goal will be achieved through the following work plan activities:

1. Convene year-round subcommittees to work with staff on proposed HTF allocations and CDBG-funded public facilities improvements and make funding recommendations to the full HAC.
2. Work with the Civic Arts Commission, via a joint subcommittee, regarding proposed artist housing initiatives for HAC's and the Civic Arts Commission's approval and City Council consideration of any recommended initiatives.

3. Seek information via presentations, subcommittee work, etc. about Citywide initiatives that impact affordable housing preservation and development and make recommendations to City Council as appropriate. Initiatives include proposed amendments to the demolition ordinance, the San Pablo Avenue Specific Plan, and proposed "upzoning" to provide opportunities for more middle-income housing.
4. As part of the CDBG five-year Consolidated Plan adoption, provide recommendations to the City Council regarding the City's single-family rehabilitation programs, including emergency home repair, accessibility improvements, and major rehabilitation.
5. Review and make recommendations to City Council regarding various affordable housing policies including inclusionary housing fees, the Housing Preference Program discrimination study report (if funded), etc.

BACKGROUND

The FY 2024-25 work plan reflects the HAC's mission to:

1. Advise the City Council on housing matters, including affordable housing programs and policies and Community Development Block Grant (CDBG) and Emergency Services Grant (ESG) programs and their funding allocations;
2. Recommend to the City Council Housing Trust Fund (HTF) allocations;
3. Serve as the oversight body for Measure O, the $135 million General Obligation bond to fund development of affordable housing; and
4. Review and make recommendations on items referred by the City Council, HAC members, or other commissions.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

POSSIBLE FUTURE ACTION

The HAC will continue to work on this Work Plan in order to refine potential outputs, outcomes, activities, and required resources.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

It is possible that adoption of new housing-related programs or policies stemming from City Council referrals or City Council-adopted HAC recommendations could result in fiscal impacts to the City.

CONTACT PERSON

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

Attachment:
1. Housing Advisory Commission FY 2025 Work Plan

Attachment 1

FY 2024-25 HAC WORK PLAN

Mission Statement:

The Housing Advisory Commission:

- Advises the City Council on housing matters, including affordable housing programs and policies and Community Development Block Grant (CDBG) and Emergency Services Grant (ESG) programs and their funding allocations;
- Recommends to the City Council Housing Trust Fund (HTF) allocations;
- Serves as the oversight body for Measure O, the $135 million General Obligation bond to fund development of affordable housing; and
- Reviews and makes recommendations on items referred by the City Council, HAC members, or other commissions.

In addition, as necessary, the HAC:

- Hears matters regarding abatement of substandard buildings pursuant to Chapter 19.40; and
- Serves as the appeals board for relocation and correction of code violations as provided in Chapter 19.40.

When advising the City Council, the HAC is committing to addressing past and present racial and social inequities in housing and other community development service delivery and approaching its recommendations through a social justice lens.

Goal:

Recommend affordable housing and community development programs and policies that further social justice and address systemic racism, classism and inequity in the city of Berkeley as outlined in HAC's FY 2024-25 work plan.

FY 2024-25 Work Plan Activities:

- Convene year-round subcommittees to work with staff on proposed HTF allocations and CDBG-funded public facilities improvements and make funding recommendations to the full HAC.
- Work with the Civic Arts Commission, via a joint subcommittee, regarding proposed artist housing initiatives for HAC's and the Civic Arts Commission's approval and City Council consideration of any recommended initiatives.
- Undertake a process to: 1) better inform the HAC about General Fund-funded workforce development programs and agencies, and ESG and CDBG-funded agencies, programs, and funding needs, and 2) enhance public participation and the public's feedback on program effectiveness ahead of recommending five-year and annual program and funding allocations to City Council.

- Increase opportunities for more direct participation, including exploring hybrid meeting access, with community members and groups to gather input to be included in decision-making and recommendations.
- Review and make recommendations to City Council regarding various affordable housing policies including the Housing Preference Program discrimination study report (if funded), the proposed amendments to the City's linkage fees program, etc.
- Seek information via presentations, subcommittee work, etc. about Citywide initiatives that impact affordable housing preservation and development and make recommendations to City Council as appropriate. Initiatives include proposed amendments to the demolition ordinance, the San Pablo Avenue Specific Plan, proposed "upzoning" to provide opportunities for more middle-income housing.
- As part of the CDBG five-year Consolidated Plan adoption, provide recommendations to the City Council regarding the City's single-family rehabilitation programs, including emergency home repair, accessibility improvements, and major rehabilitation.

Outcomes:

- HTF monies pledged to affordable housing projects serving families and housing-insecure households
- CDBG-funded public facilities constructed in support of non-profits
- Proposed initiatives to promote affordable artist housing to retain and build the city's cultural infrastructure
- Five-Year and Annual CDBG/ESG/Workforce Development Plans/programs and funding recommendations that are grounded in service to the city's low-income and historically marginalized residents
- Citywide initiatives that enhance opportunities for affordable housing preservation and development
- A more efficient and effective CDBG-funded affordable housing preservation strategy that maximizes services that allow people to stay in their homes and thrive
- Outcomes that are reflective of the community's actual needs and concerns through increased consideration and inclusion of community voices.

Upcoming Worksessions and Special Meetings *start time is 6:00 p.m. unless otherwise noted*	
Scheduled Dates	
Sept 16 (Mon.)	1. Ashby BART Development & Berkeley – El Cerrito Corridor Access Plan
Oct 22	1. Draft Waterfront Specific Plan
Oct 29 (3:30pm)	1. Re-Imagining Public Safety Update (tentative)

Unscheduled Workshops and Special Meetings

1. Feasibility Study Follow Up Session (Fall 2024)
2. COPA/TOPA (September 10, 2024 regular meeting agenda)

Unscheduled Presentations (City Manager)

1. Economic Dashboards Update (January 2025)

	City Council Referrals to the Agenda & Rules Committee and Unfinished Business for Scheduling
	None

CITY CLERK DEPARTMENT WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL			
Address	**Board/ Commission**	**Appeal Period Ends**	**Public Hearing**
NOD – Notices of Decision			
844 University Avenue (Black Pine Circle School)	**ZAB**	**9/3/2024**	
Public Hearings Scheduled			
3000 Shattuck Avenue (construct 10-story mixed-use building)	**ZAB**		**TBD**
Remanded to ZAB or LPC			
Notes			

8/22/2024

Local City Rules of Order to prevent disruptions at their Council Meetings

Berkeley Council *Rules of Order and Procedure* and are similarly strong, or stronger, than several surrounding municipalities in defining rules of decorum, disruption, and enforcement of decorum. Berkeley also refers to those guidelines in the front of its agenda.

The Cities studied: El Cerrito, Walnut Creek, Santa Monica, Santa Cruz, Concord, and San Francisco, though not necessarily stronger in their guidelines, do have a few practices worth Berkeley could consider borrowing. Highlights of those guidelines are in the following paragraph. Specifics follow on the next page.

Highlights

El Cerrito does not allow Councilmembers or the public to make personal, slanderous, or profane remarks to any member of the Council, staff or the general public. They also suspended public comment via Zoom in Sept 2023. Walnut Creek does not allow speakers to cede their unused time to other speakers. Santa Monica lists on the first page of their agenda, the Standards of Behavior that Promote Civility at All Public Meetings. They also prohibit applause, vocally or clapping, except for ceremonial items, or when invited by presiding officer. They include blocking the audience or camera view of the proceedings as disruptions. Santa Cruz includes in their Rules of Procedure, guidelines for Councilmember interactions with each other. Concord does not allow public comment via Zoom unless a Councilmember is attending remotely. San Francisco does not permit audible support or opposition to statements by elected or those testifying and does not permit bringing in or displaying signs.

Specifics

Rules & Protocols from other Cities re: What they do at their Council Meetings

BERKELEY

On Agenda

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.

Council Rules of Procedure

V. Procedural Matters

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.

EL CERRITO

Agenda

Conduct: This meeting shall be conducted pursuant to the El Cerrito City Council Rules
of Order and Procedure, including adjourning by 11:00 PM unless extended to a specific
time determined by a majority of the Council

Council Rules of Order and Procedure

XI. PROCEDURAL MATTERS

Y. Decorum

… No person shall disrupt the orderly conduct of the City 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, approaching the City Council dais or speaker podium without consent, or refusing to obey the orders of the Mayor or Council. Any message to or contact with any member of the City Council while the City Council is in session shall be through the City Clerk. Neither Councilmembers nor any persons addressing the City Council shall make personal, slanderous, or profane remarks to any member of the Council, staff or the general public. Noise emanating from the audience within the City Council Chamber or lobby area

which disrupts meetings shall not be permitted. All cellular phones and other consumer devices shall be muted while in the Chamber. Refusal shall be grounds for removal.

Z. Enforcement of Decorum

The Mayor may call a recess if a speaker or group of speakers become unruly and/or interferes with the orderly conduct of the meeting. Any law enforcement officers on duty or whose services are commanded by the Mayor shall be Sergeant-at-Arms of the City Council meetings. They shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the City Council meetings. Upon instructions of the Mayor or a majority of the City Council, it shall be the duty of the Sergeant-of-Arms, or any officer present, to escort outside or place under arrest any person who violates the order and decorum of the meeting, and cause them as necessary, to be prosecuted under the provisions of applicable law.

Instructions for Submitting Public Comments – For Hybrid City Council Meetings

El Cerrito has suspended public comment via Zoom (per 9/28/2023 revision)

WALNUT CREEK

Agenda

Nothing about Rules and Procedures or Decorum on their agenda.

Council Handbook

9.5. Public Comment

1. Opportunity to Speak

… Speakers may not assign unused time to other speakers.

9.7. Additional Protocol and Decorum

5. Warnings. The Mayor shall ask that any person violating the rules of decorum be orderly and silent. The warning shall be in substantially the form described below. If, after receiving a clear warning from the Mayor, the person persists in disturbing the meeting, the Mayor may order a brief recess of the City Council to

regain order. If the person persists in disturbing the meeting, despite having been previously warned, the Mayor may order him or her to leave the City Council meeting. If the person does not depart the City Council Chamber of his or her own volition, the Mayor may order any law enforcement officer who is on duty at the meeting as Sergeant-at-Arms of the City Council to escort that person from the City Council Chamber.

The Mayor shall deliver the requisite warning in substantially the following form:

> *You are hereby advised that your conduct is in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403, and you are directed to be orderly and silent. Penal Code Section 403 states that any person who, without authority of law, willfully disturbs or breaks up a lawfully convened meeting of the City Council is guilty of a misdemeanor. Continued disruption of this City Council meeting will result in your removal from the meeting by the Sergeant-at-Arms and you will not be permitted to return to City Council Chamber for the duration of the meeting. In addition, any continued disruption of this meeting is grounds for your being arrested and charged with a misdemeanor. Do you understand this admonition?*

6. Misdemeanor. Any person who willfully disturbs or breaks up a City Council meeting may be arrested and charged with a misdemeanor, pursuant to California Penal Code Section 403.

MOUNTAIN VIEW

Agenda

Nothing about Rules and Procedures or Decorum on their agendas.

Council Code of Conduct

6.8 Decorum

6.8.1 While the City Council is in session, all persons shall conduct themselves with reasonable decorum.

6.8.2 The presiding officer may remove or cause the removal of any individual(s) for disrupting a meeting in accordance with California Government Code Section CLK/6/Council Code of Conduct 428-03-14-23CoC -34- 54957.95, as may be amended from time to time. The presiding officer shall call a recess until such time as the individual(s) have been removed and the meeting can resume without disruption.

6.8.3 In accordance with California Government Code Section 54957.9, as may be amended from time to time, the Council may order a meeting room cleared and continue in session in the event a meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of the meeting impossible and order cannot be restored by the removal of individuals who are disrupting the meeting.

6.8.4 The Police Chief or authorized representative shall be sergeant at arms of the Council meeting. The sergeant at arms shall carry out all orders and all instructions of the presiding officer for the purpose of maintaining order and decorum at Council meetings.

SANTA MONICA

Agenda

The following is listed on the first page of the downloaded agenda, but not the on-line agenda:

STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS:

- Treat everyone courteously;
- Listen to others respectfully;
- Exercise self-control;
- Give open-minded consideration to all viewpoints;
- Focus on the issues and avoid personalizing debate;
- Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions
- Hate has no place in Santa Monica. The City opposes abusive or threatening hate speech, intolerance, or dehumanization, and supports basic civil respect and human decency.

Amended Rules of Order and Procedure for the Conduct of City Council Meetings, Resolution No. 11547 (09/26/2023)

RULE 16. RULES OF CONDUCT AND SAFETY.

1st paragraph: Applause, vocally or clapping, is prohibited, except for ceremonial items, or as may be invited by the Presiding Officer.

2nd paragraph: Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruption shall include but not be limited to, blocking the audience or camera view of the proceedings.

SANTA CRUZ

Agenda

Nothing about Rules and Procedures or Decorum on their agendas.

Councilmembers' Handbook

RULES OF PROCEDURE FOR CONDUCT OF CITY COUNCIL BUSINESS

COUNCIL INTERACTIONS

In interactions with each other, Councilmembers will abide by the following principles:

- Be Respectful: Treat each other with respect, even when/especially when there is disagreement.
- Engage in Open and Honest Communication: Be direct, straightforward, and transparent with each other.
- Be Honest and Truthful: Act with integrity and authenticity; be ethical.
- Address Difficult Issues: Confront challenging topics directly; avoid talking around them or not talking about them at all.
- Find Areas of Common Ground: Seek areas of agreement; identify shared interests, values, and positions.
- Be Open to Different Perspectives: Keep an open mind; be willing to change your views with new information, data, etc.
- Give the Benefit of the Doubt: Freely give credit for good intentions; avoid ascribing bad intentions.
- Role Model Good Leadership: Be professional; adhere to standards of civility; demonstrate effective leadership for the community.

- Be Considerate of Each Other's Time: Manage expectations about responsiveness and availability, recognize the time limitations and constraints of your colleagues.

DECORUM IN COUNCIL MEETINGS

3. While the Council is in session, all persons shall preserve order and decorum. Any person who causes a disruption at the Council meeting shall be removed from the meeting and barred from further attendance at said meeting by the presiding officer unless permission for continued attendance is granted by a majority vote of the Council. Disruption is defined as behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting. An individual may cause a disruption by failing to comply with reasonable meeting rules, using force or threatening to use force, or causing other disruptions.

CONCORD

Agenda

Please note the following change to the City's public comment procedures: Unless a Councilmember is participating in the meeting remotely pursuant to AB 2449, remote public comment will not be accepted. Public comment may be provided in-person or via email, as set forth below.

Rules and Procedures

Didn't find one.

SAN FRANCISCO

Agenda

Board procedures do not permit: 1) vocal or audible support or opposition to statements by Supervisors or by other persons testifying; 2) ringing and use of cell phones or electronic devices; 3) bringing in or displaying signs in the meeting room; and 4) standing in the meeting room.

Rules of Order

1. Public Participation

1.3.1. Actions Prohibited during Board of Supervisors' Meetings. 1. Applause or vocal expression of support or opposition 2. Standing in meetings 3. Eating or drinking in the public gallery 4. Use of electronic devices, unless they are in silent mode 5. Handheld signs in the Legislative Chamber or in the committee room (although small signs may be worn on clothing)

1.7. Disorderly Conduct. The presiding officer shall order removed from the meeting room any person who commits the following acts in respect to a meeting of the Board or of a standing or special committee:

1.7.1. Disorderly, contemptuous or insolent behavior toward the Board or committee or any member thereof, tending to interrupt the due and orderly course of said meeting;

1.7.2. A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;

1.7.3. Disobedience of any lawful order of the presiding officer, which shall include an order to be seated or to refrain from addressing the Board or committee;

1.7.4. Usage and ringing of cell phones and pagers, not in silent mode in Board and committee meetings;

1.7.5. Any other interference with the due and orderly course of said meeting.

09

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

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~~Agenda 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.~~

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

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

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.

Commented [NML3]: Process moved here from Appendix C

~~and, w~~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.

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

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.~~

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.

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.

~~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.E~~D~~.2. Exceptions to this rule are limited to circumstances listed in Section III.E~~D~~.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:

1. "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~~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 ~~the City Manager~~a 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 A~~a~~genda I~~i~~tems 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~~

2. ~~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

~~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 Ccouncil ~~agenda item~~Agenda Item.

5. "Agenda" means the compilation of the descriptive titles of Aagenda ~~i~~items submitted to the City Clerk, arranged in the sequence established in Section III.F~~E~~ 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:

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.

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

C. Standards for Agenda ~~i~~Items

Commented [NML10]: Moved here from above

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;

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~~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:

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 c~~C~~lear, 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.

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 15th 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 Items Authored by the Mayor, or a Councilmember~~, or the Auditor~~.**

Commented [NML12]: Auditor moved to paragraph (c) below with the consent of 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.C~~B~~.1~~2~~ (Primary Author may decline and request Policy Committee assignment).

iv. Refer the item to a Policy Committee.

v. Schedule the item for the ~~agenda~~Agenda under consideration or one of the next three ~~full~~regular Council ~~agenda~~Agendas.

b) Major Items ~~Authored by the Mayor, a Councilmember, or the Auditor.~~

Commented [NML13]: Per discussion at Agenda & Rules on 7/8/24 to create a process for the new category of "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:

~~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 susequent 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~~C~~.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.~~C~~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~~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.

~~c)~~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.1~~B.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 ItemsCouncil 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 agendized commission itemreport 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 agendaAgendas 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 agendaAgenda. 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 ec.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~~ 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~~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~~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~~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:

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~~citizen~~ 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~~citizen~~ 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 ~~42~~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~~citizen~~ 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 ~~agenda~~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~~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~~Agenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the ~~author~~Author to list the facts which support consideration of the item for addition to the ~~agenda~~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~~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~~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~~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.

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 ~~packet~~Packet, which shall include the ~~agenda~~Agenda plus all its corresponding ~~agenda item~~Agenda Items. No item shall be considered if not included in the ~~packet~~Packet, except as provided for in Section III.D.5.~~C.~~4 and Section III.~~D~~E.4.

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

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.7~~8~~.

- 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.

~~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

Commented [NML16]: Per discussionn at Agenda & Rules on 7/8/24 – for clarity.

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 Iitems 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 primarly related to the new definitaiton 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 Aagenda 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 ~~agenda~~Agenda.

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 C~~c~~ouncil ~~agenda~~Agenda 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

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 ~~agenda~~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~~B.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~~Agenda ~~packet~~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 C~~c~~ity 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 C~~c~~ity 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~~Agenda. The Agenda & Rules Committee may leave the item on the ~~agenda~~Agenda under consideration or place it on the next Council ~~agenda~~Agenda. Items appearing on a City Council ~~agenda~~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~~Agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their ~~agenda~~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~~Agenda. The Agenda & Rules Committee may leave the item on the ~~agenda~~Agenda under consideration or place it on the following Council ~~agenda~~Agenda. The Agenda & Rules Committee may agendize 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

Commented [NML23]: New policy based on discussion at Agenda & Rules on 7/8/24

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.

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 Iitem, 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 [NML24]: Moved here as these rules are intended to cover all types of public comments

Commented [NML25]: Stated above, no need to repeat.

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 [NML26]: 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 [NML27]: 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 [NML28]: 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 A~~a~~genda. 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~~are 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~~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 [NML29]: Revised to account for hybrid meetings.

Commented [NML30]: 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~~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 [NML31]: Per discussion at Agenda & Rules on 7/8/24 – not current or even recent practice

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.~~

~~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 agendized business remains unfinished at 11:00 p.m.~~ If 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 [NML32]: Per discussion at Agenda & Rules on 7/8/24

Commented [NML33]: Language is simplified and removed repition 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.

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 Cconsent and iInformation 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.~~

Commented [NML34]: Per discussion at Agenda & Rules Committee this is a re-working of the previous language adopted by Council in 2023.

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.~~

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 [NML35]: 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~~Agenda.

~~**5. Public Comment on Non-Agenda Matters.**~~

Commented [NML36]: Moved above

~~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.~~

~~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 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 agendized business 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 ~~c~~Consent ~~c~~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 [NML37]: 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 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~~Agenda as individual matters for discussion but will be distributed as part of the Council ~~agenda~~Agenda ~~packet~~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~~Agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council ~~agenda~~Agenda to the Council to be reproduced in the "Communications" section of the Council ~~packet~~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 ~~c~~Consent or ~~a~~Action item for placement on a future ~~agenda~~Agenda.

Communications related to an item on the ~~agenda~~Agenda 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 [NML38]: Codifies long-standing practice

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~~Agenda under the Action portion of the Council ~~agenda~~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 Ppresiding Oofficer 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 themself 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~~two~~ minutes each to make initial comments on an ~~agenda item~~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.

~~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 [NML39]: Per Council direction on 5/7/24

Commented [NML40]: Per discussion at Agenda & Rules on 7/8/24 – eliminates redundancy in this paragraph.

Commented [NML41]: This obsolete "20-minute rule" language is replaced with the language immediately above from Appendix C

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.

VI. FACILITIES

A. Meeting Location Capacity

Attendance at Ccouncil 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

Commented [NML42]: Per Council direction on 5/7/24

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~~, 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 [NML43]: 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

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 ~~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 [NML44]: Eliminated here – redundant with text in the body of the ROP

~~Guidelines for City Council Items:~~ Requirements for City Council~~member~~/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

- 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 ~~d~~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**

APPENDIX C: TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY

Commented [NML45]: 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

Commented [NML46]: Relevant portions have been moved to the body for the Rules of Procedure.

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.

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 [NML47]: 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.~~

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

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 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.~~

Commented [NML1]: Per Council action on 5/7/24.

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 Consent or Information Calendar.

Commented [NML2]: Process moved here from Appendix C

~~and, w~~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.

Commented [NML3]: Per Council action on 5/7/24.

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.~~

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.

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

E. Adjournment

1. 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.

2. 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.

~~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 [NML5]: 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.

~~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 of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.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, ~~the City Manager~~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 ~~the City Manager~~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 ~~in the following manner:~~ 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. ~~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~~

~~2. 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 [RT6]: "regular item" and "major item" are not included in this list of definitions.

Commented [WA7]: "We talked about not having co-sponsors until an item comes out of committee. Since no one knows if their item will be sent to a committee, the best time to add co-sponsors all around is after the item is placed on a Council Agenda – whether it's gone through a committee or not, you have time to do this." – SH

Commented [NML8]: Per discussion at Agenda & Rules on 7/8/24

~~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.~~

3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.

Commented [RT9]: Renumber accordingly.

4. "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.

5. "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.

6. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

7. "Packet" means the agenda plus all its corresponding agenda items.

8. "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;

b) A crippling disaster, which severely impairs public health, safety or both. 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.

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

10. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

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

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

~~10.~~13. "Regular Item" means any agenda item not classified as a Major Item.

Commented [NML10]: Per discussion at Agenda & Rules on 7/8/24

C. Standards for Regular 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 Primary 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 extend relevant, the points of analysis in Major Council Item Standards at 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 Council/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 c~~C~~lear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

iv. Summary Statement

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

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 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.

   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 15th 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 Council~~member~~, 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 Items Authored by the Mayor, a Councilmember, or the Auditor.**

As to regular items authored by the Mayor, 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.C~~B~~.1~~2~~ (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 full Council 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:

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 determine if a notice should be sent to the Budget & Finance Committee because the item contains a budget referral.
iii. Schedule the item for the Council agenda under consideration.
iv. Schedule the item for one of the susequent three Council agendas or a special meeting.
v. Refer the item to a commission with the consent of the Author.

Commented [WA11]: "Need to reconcile the authority of the Agenda and Rules Committee here with the changes in toher parts of the ROP." - MN

Commented [NML12]: The Committee may wish to remove the Auditor from this subparagraph and add the Auditor below to paragraph (c) regarding the rules for Charter Officers.

Commented [NML13]: Per discussion at Agenda & Rules on 7/8/24

For referrals of Regular Items under Chapter III.D~~C~~.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) 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 under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.~~C~~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 held 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.

~~b)~~ **c)Items Authored by ~~the City Manager~~Charter Officers.** The Agenda & Rules Committee shall review agenda descriptions of items authored by ~~the City Manager~~Charter Officers. The Committee can recommend that the matter be referred to a commission, to a policy committee, or back to the ~~City Manager~~Charter Officer for adherence to required form, additional analysis as required in Section III.C.1~~B.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 determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the ~~Manager~~Charter Officer. All Charter Officer~~City Manager~~ items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

Commented [WA14]: "Same comment as immediately above – this is part of the same subsection." - MN

Commented [NML15]: Include Auditor here?

~~c)~~ **d) Items Authored by Boards and Commissions.** 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 agendized commission 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 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 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 c.i. above.

~~d)~~b) 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 E.

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; 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.

Commented [NML16]: 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 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 City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

c) **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~~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) 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 ~~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. 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 citizen 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 citizen 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 ~~42~~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 citizen 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.

Commented [NML17]: 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 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.

~~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 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.C.4 and Section III.D.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 in advance of the meeting in 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.8.

- 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.

~~E.~~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, Non-Agenda Public Comment, Public Comment by Employee Unions)

a) The Land Acknowledgement Statement and Public Comment from Employee Unions are conducted at the first regular meeting of each month.

Commented [NML18]: Per discussionn at Agenda & Rules on 7/8/24.

~~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 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 items begin with submission to the Agenda & Rules Committee.

~~Full Council~~Exempt Items ~~Track~~

Items under this category 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 ~~Full Council Track~~Exempt Items items are listed below.

a. Items submitted by ~~the City Manager~~Charter Officers and City Auditor
b. ~~Items submitted by Boards and Commissions~~
c. Position Letter 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.

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 and 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.

~~For a Major Item Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the Council Aagenda 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 [NML19]: 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 agenda.

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

a) 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.
b) 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 agenda if determined to be time critical.

2. Council Referrals to 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 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~~B.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 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 regardless of which committee recommendation is assigned. ~~Only items that receive a Positive Recommendation can be placed on the Consent Calendar.~~

Commented [NML20]: Per discussion at Agenda & Rules on 7/8/24

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.

The Primary Author may withdraw their item from the legislative process during the time it is pending at a policy committee by sending written notification to the City Clerk.

Commented [NML21]: Moved to Chpater III.D. and restated per discussion at Agenda & Rules on 7/8/24

5. Number and Make-up of 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

Commented [NML22]: Rewritten per discussion at Agenda & Rules on 7/8/24

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. The Agenda & Rules Committee shall 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.

The Mayor or any Councilmember may, at any time, submit an item on the same topic with similar or identical language to any item authored by a former official in accordance with the guidelines and standard agenda deadlines.

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.
- 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 ~~Action~~agenda ~~I~~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 [NML23]: Moved here as these rules are intended to cover all public comments

Commented [NML24]: Stated above, no need to repeat.

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.

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 ~~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~~are selected to address matters not on the Council 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.

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 [NML25]: From Appendix C

Commented [NML26]: From Appendix C

Commented [NML27]: This section moved here to mirrir the order of business on the agenda

Commented [NML28]: Revise to account for hybrid meetings.

Commented [NML29]: Per discussion at Agenda & Rules on 7/8/24

Commented [NML30]: Per discussion at Agenda & Rules on 7/8/24

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.~~

~~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 agendized business remains unfinished at 11:00 p.m.~~ If 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 [NML31]: Per discussion at Agenda & Rules on 7/8/24

Commented [NML32]: Language is simplified and removed repition from other sections.

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 Cconsent and iInformation 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 Section 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.~~

Commented [NML33]: Per discussion at Agenda & Rules Committee

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.~~

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 [NML34]: Clarification based on BMC

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.

~~5.2. 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.~~

~~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 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 agendized business 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.~~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~~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 consent 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 [NML35]: 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 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.C.4.

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 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 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 themself 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~~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.

~~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 be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

Commented [NML36]: Per Council direction on 5/7/24

Commented [NML37]: Per discussion at Agenda & Rules on 7/8/24

Commented [NML38]: Replaced the obsolete 20-minute rule language with the language above from Appendix C

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

VI. FACILITIES

A. Meeting Location Capacity

Attendance at Ceouncil 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

Commented [NML39]: Per Council direction on 5/7/24

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 technically 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, ~~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 [NML40]: 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

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 ~~DEVELOPING AND WRITING~~ CITY COUNCIL/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.~~

~~Guidelines for City Council Items:~~ Requirements for City Council/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].~~

Commented [WA41]: "Need better explanation." - SH

~~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**

APPENDIX C, TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY

Commented [NML42]: 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

Commented [NML43]: Relevant portions have been moved to the body for the Rules of Procedure.

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.

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 [NML44]: 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.~~

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.

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

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 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.~~

Commented [NML1]: Per Council action on 5/7/24.

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 Consent or Information Calendar.

Commented [NML2]: Process moved here from Appendix C

~~and, w~~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.

Commented [NML3]: Per Council action on 5/7/24.

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.~~

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.

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

E. Adjournment

1. 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.

2. 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.

~~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 [NML5]: 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.

~~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 of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

B. Definitions

Commented [RT6]: "regular item" and "major item" are not included in this list of 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, ~~the City Manager~~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 ~~the City Manager~~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 ~~in the following manner:~~ 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 for action.

Commented [WA7]: "We talked about not having co-sponsors until an item comes out of committee. Since no one knows if their item will be sent to a committee, the best time to add co-sponsors all around is after the item is placed on a Council Agenda – whether it's gone through a committee or not, you have time to do this." – SH

   - ~~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~~

~~2. 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;~~

~~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.~~

3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.

4. "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.

5. "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.

6. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

7. "Packet" means the agenda plus all its corresponding agenda items.

8. "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;

Commented [RT8]: Renumber accordingly.

b) A crippling disaster, which severely impairs public health, safety or both. 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.

9. “Continued Business” Items carried over from a prior agenda of a meeting occurring ~~less than~~ 11 or fewer days earlier.

10. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

11. “Charter Officer” means the City Manager, City Attorney, and the Director of Police Accountability.

12. “Major Item” means an agenda item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts.

~~10.~~13. “Regular Item” means any agenda item not classified as a Major Item.

C. Standards for Regular 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 Primary 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 extend relevant, the points of analysis in Major Council Item Standards at 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 Council/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 c~~C~~lear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

iv. Summary Statement

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

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 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.

   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 15th 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 Council~~member~~, 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 Items Authored by the Mayor, a Councilmember, or the Auditor.**

Commented [WA9]: "Need to reconcile the authority of the Agenda and Rules Committee here with the changes in toher parts of the ROP." - MN

As to regular items authored by the Mayor, 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.C~~B~~.1~~2~~ (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 full Council 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:

i. Return the item to the Author if the item is not substantially compliant with the guidelines in Appendix B and Chapter III.C.2.
ii. Refer the item to a policy committee and determine if a notice should also be sent to the Budget & Finance Committee if the item contains a budget referral.
iii. Schedule the item for the Council agenda underconsideration.
iv. Schedule the item for one of the susequent three Council agendas or a special meeting.
v. Refer the item to a commission with the consent of the Author.

For referrals of regular items under Chapter III.D~~C~~.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) 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 under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.~~C~~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 held 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.

b) **Items Authored by ~~the City Manager~~Charter Officers.** The Agenda & Rules Committee shall review agenda descriptions of items authored by ~~the City Manager~~Charter Officers. The Committee can recommend that the matter be referred to a commission, to a policy committee, or back to the ~~City Manager~~Charter Officer for adherence to required form, additional analysis as required in Section III.C.1~~B.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 determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the ~~Manager~~Charter Officer. All Charter Officer~~City Manager~~ items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

Commented [WA10]: "Same comment as immediately above – this is part of the same subsection." - MN

c) **Items Authored by Boards and Commissions.** 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 agendized commission 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 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 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 c.i. above.

d) 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 E.

2. **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. **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 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 City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

c) **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~~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) 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 ~~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. 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 citizen 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 citizen 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 ~~42~~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 citizen 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.

Commented [NML11]: For web posting so that virtual attendees have access

5. 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.

6. **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.C.4 and Section III.D.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 in advance of the meeting in 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.8.

      - 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.

~~E.~~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, Non-Agenda Public Comment, Public Comment by Employee Unions)
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 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 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 items begin with submission to the Agenda & Rules Committee.

~~Full Council~~Exempt Items ~~Track~~

Items under this category 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 ~~Full Council Track~~Exempt Items items are listed below.

a. Items submitted by ~~the City Manager~~Charter Officers and City Auditor
b. ~~Items submitted by Boards and Commissions~~
c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
d. Position Letters and/or Resolutions of Support/Opposition
e. Donations from the Mayor and Councilmember District Office Budgets
f. Referrals to the Budget Process
g. Proclamations
h. Sponsorship of Events
i. Information Reports
j. Presentations from Outside Agencies and Organizations
k. Ceremonial Items
l. 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.

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 and 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.

~~For a Major Item Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the Council Aagenda 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 [NML12]: 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 agenda.

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

a) 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.
b) 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 agenda if determined to be time critical.

2. Council Referrals to 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 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~~B.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 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. Only items that receive a Positive Recommendation can be submitted as~~placed on the~~ Consent Calendar items.

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.

The Primary Author may withdraw their item from the legislative process during the time it is pending at a policy committee by sending written notification to the City Clerk.

5. Number and Make-up of 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 Councilmembers

The City Council retains all legislative options with regards to items in the legislative process that are authored by a former Mayor or Councilmember. A Policy Committee may make any of the allowed policy committee recommendations, and the full Council may modify, amend, adopt, refer, or dispose of the item by Council motion and vote.

The Mayor or any Councilmember may resubmit an item on the same topic with similar or identical language to the item by the former Councilmember in accordance with the standard agenda deadlines.

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.
- 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 ~~Action~~agenda ~~I~~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 [NML13]: Moved here as these rules are intended to cover all public comments

Commented [NML14]: Stated above, no need to repeat.

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 [NML15]: 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 [NML16]: 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 [NML17]: This section moved here to mirrir 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~~are selected to address matters not on the Council 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 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 [NML18]: Revise to account for hybrid meetings.

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 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.

~~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 agendized business remains unfinished at 11:00 p.m.~~ If 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 [NML19]: Language is simplified and removed repition from other sections.

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 Cconsent and iInformation 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 scheduled 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 Section 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.~~

Commented [NML20]: Per discussion at Agenda & Rules Committee

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.~~

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 [NML21]: Clarification based on BMC

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.

~~**5.2. 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.~~

~~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 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 agendized business 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.~~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~~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 consent 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 [NML22]: 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 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.C.4.

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 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 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 themself 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~~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).

Commented [NML23]: Per Council direction on 5/7/24

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:~~

Commented [NML24]: Replaced the obsolete 20-minute rule language with the language above from Appendix C

~~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 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.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 cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

VI. FACILITIES

A. Meeting Location Capacity

Attendance at Ceouncil 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

Commented [NML25]: Per Council direction on 5/7/24

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 technically 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, ~~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 [NML26]: 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

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 ~~DEVELOPING AND WRITING~~ CITY COUNCIL/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.~~

~~Guidelines for City Council Items:~~ Requirements for City Council/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].~~

Commented [WA27]: "Need better explanation." - SH

~~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**

APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY

Commented [NML28]: 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

Commented [NML29]: Relevant portions have been moved to the body for the Rules of Procedure.

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.

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 [NML30]: 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.~~

The Berkeley City Council
Rules of Procedure and Order

Adopted by Resolution No. 71,174–N.S.

Effective January 22, 2024

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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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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.

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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 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 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) will be heard with the consent of 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.

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.

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E. Adjournment

1. 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.

2. 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.

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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 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.

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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.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.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, the City Manager, the Auditor, or any board/commission/committee created by the City Council, 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 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 ~~in the following manner:~~ 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 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~~

2. ~~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 [WA1]: "We talked about not having co-sponsors until an item comes out of committee. Since no one knows if their item will be sent to a committee, the best time to add co-sponsors all around is after the item is placed on a Council Agenda – whether it's gone through a committee or not, you have time to do this." – SH

~~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.~~

3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.

4. "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.

5. "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.

6. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

7. "Packet" means the agenda plus all its corresponding agenda items.

8. "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;

b) A crippling disaster, which severely impairs public health, safety or both. 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.

9. “Continued Business” Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.

10. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

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 Primary 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.

   It is recommended that reports also include, to the extend relevant, the points of analysis in Major Council Item Standards at 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 Council/Mayor Major Items:

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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

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

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

xi. Environmental Sustainability

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 City Manager, the Auditor, or any board/commission/committee created by the City Council. 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 15th 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 Councilmember, 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.

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

Commented [WA2]: "Need to reconcile the authority of the Agenda and Rules Committee here with the changes in toher parts of the ROP." - MN

As to items authored by the Mayor, 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 adherence to required form or for additional analysis as required in Section III.B.2 (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 full Council agendas.

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For referrals under Chapter III.C.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:

Commented [WA3]: "Same comment as immediately above – this is part of the same subsection." - MN

1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or

2) 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 under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.C.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 held 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.

b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

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c) **Items Authored by Boards and Commissions.** 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 agendized commission 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 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 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 c.i. above.

d) 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 E.

2. **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. **Submission of Agenda Items.**
   a) **City Manager 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 City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

c) **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 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) 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 less than 11 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. 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 citizen 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 citizen 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 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. 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 citizen 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.

5. 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.

6. **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.

D. 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.C.4 and Section III.D.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 in advance of the meeting in 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.8.

      - 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.

E. 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, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment, Public Comment by Employee Unions)
2. Consent Calendar
3. Action Calendar
   a) Appeals
   b) Public Hearings
   c) Continued Business
   d) Old Business

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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 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. 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.

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G. Regulations Governing City Council Policy Committees

1. Legislative Item Process

All agenda items begin with submission to the Agenda & Rules Committee.

Full Council Track

Commented [WA4]: "Were these going to be renamed 'Standard Items'?" - MN

Items under this category 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 Full Council Track items are listed below.

a. Items submitted by the City Manager and City Auditor
b. Items submitted by Boards and Commissions
c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
d. Position Letters and/or Resolutions of Support/Opposition
e. Donations from the Mayor and Councilmember District Office Budgets
f. Referrals to the Budget Process
g. Proclamations
h. Sponsorship of Events
i. Information Reports
j. Presentations from Outside Agencies and Organizations
k. Ceremonial Items
l. 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 Track exception or if it will be processed as a Policy Committee 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.

The Agenda & Rules Committee must refer an item 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 and 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.

For a Major Item ~~Policy Committee Track item~~, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the Council Aagenda 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 [WA5]: "It was discussed that Agenda & Rules could refer a deficient Major Item back to the Author and not allow it to continue under these three options." - MN

Time Critical Track

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.

a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to 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.
b) 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 agenda if determined to be time critical.

2. Council Referrals to 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 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.B.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.

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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 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.

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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. Only items that receive a Positive Recommendation can be placed on the Consent 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 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.

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.
- 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.

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.

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1. **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.

2. **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. Public comment will occur for each Action item—excluding public hearings, appeals, and/or quasi-judicial matters—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 to determine the number of persons interested in speaking at that 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.

3. 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 proposed 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.

4. 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.

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.

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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 agendized business 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.

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 City Manager deem to be of such nature that no debate 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.

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.

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 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.C.4.

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, 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 the appellant and 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 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 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.

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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.

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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 themself 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.

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G. Debate Limited

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 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

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submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.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 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.

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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 Commission –Parks, recreation centers, camps, plazas and public open spaces

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.

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:

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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.

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APPENDIX B. GUIDELINES FOR ~~DEVELOPING AND WRITING~~ CITY COUNCIL/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.~~

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~~Guidelines for City Council Items:~~ Requirements for City Council/Mayor Major Items are provided in Section [XXX] of the City Council Rules of Procedure and Order. These guidelines further explain the requirements and are intended to assist in preparation of fully researched and documented items that are likely to be deemed complete by the Agenda and Rules Committee in [process].

Commented [WA6]: "Need better explanation." - SH

~~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
   - 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

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- 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**

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APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY

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.

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

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.

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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. **<u>Consider possible refinements to the definition of Major Items</u>**
   “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

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~~These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item.~~ These ~~g~~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~~y 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;~~

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~~duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Guidelines for City Council Items:

1. Title
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10. Implementation, Administration and Enforcement
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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, ~~-~~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
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- 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.

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 Considerations
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, 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, 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?

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. 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.

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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;[1]
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.

[1] 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

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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. [2]

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.[3] Ultimately the City Manager's proposal was not adopted by Council, and was

[2] 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.

[3] 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%891iLPosUUV90e0sL0rH3HFNV2BEtmCo%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

- Council items are required to follow the guidelines already promulgated rather than leaving these guidelines as recommended only;[4]
- Formal process for City staff to provide high level conceptual input to authors before they submit proposals;[5]
- Process for addressing or re-prioritizing the "backlog" of unfunded items;[6]
- 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).[7]
- Policy Committees' analysis is enhanced using a checklist (excluding Hahn proposal to rate items).[8]

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."[9]
- 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.[10] The proposal does not appreciate the September deadline artificially circumscribes Council's ability to be responsive to public.[11] 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.[12]
- 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.[13]
- Provides Policy Committees inappropriate authority to prioritize/score items they review. Currently, Policy Committees provide recommendations about individual

[4] Councilmember Hahn Draft Proposal, p. 44.
[5] Id., p. 43.
[6] Id., p. 47.
[7] Id., p. 44.
[8] Id., p. 36.
[9] Id., p. 24.
[10] Id., p. 43.
[11] Id. p. 27.
[12] 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.
[13] Id., p. 44.

policies, and Council as a whole is rightly tasked with prioritizing and scoring items in terms of approval and budgeting.[14]

- 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).[15]
- 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.[16]
- 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.[17]

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

[14] Id.
[15] Id., p. 26.
[16] Id.
[17] Id., p. 45

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
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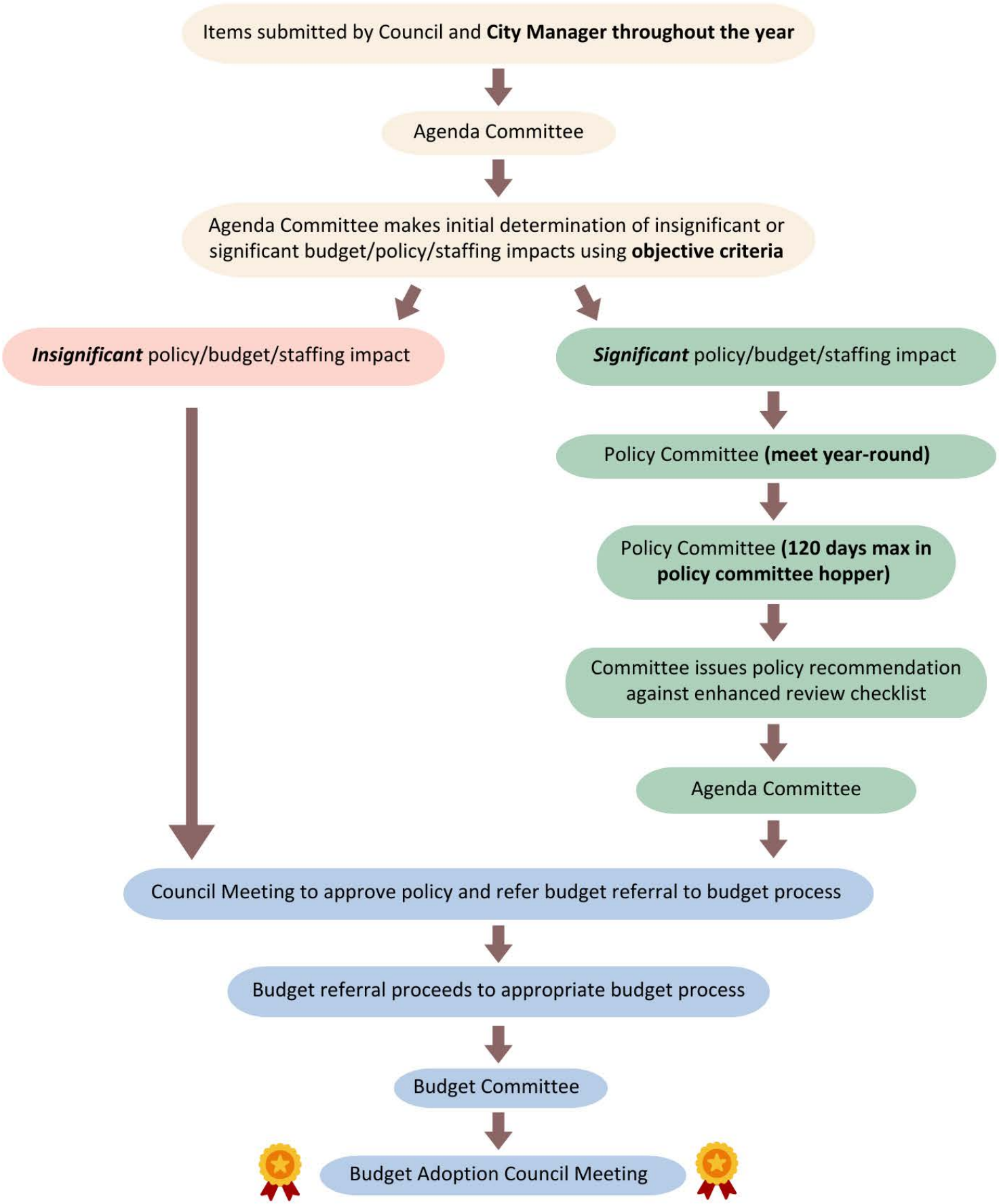
ATTACHMENTS:
1. Flowchart of Alternative Systems Alignment Proposal

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 COMMITEE

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**

SPECIAL TOPIC # 1

OVERRIDE

for Time Critical Items

- 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].

SPECIAL TOPIC # 2

PRE-SUBMISSION DETAILS

- **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*

SPECIAL TOPIC # 4

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

SPECIAL TOPIC # 5

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

SPECIAL TOPIC # 6

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

SPECIAL TOPIC # 7

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

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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, 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

	Item	JM City Manager's System's Realignment Proposal	LM Droste Response	LM Council Feedback from Work Session	JM Hahn Proposal	LM Harrison Proposal	LM 2021 Council Feedback	JM Droste BERIPE Plan	JM Hahn/City Clerk Proposal to A & R
	Date	4/26/2021	5/18/2021	5/18/2021	6/15/2021	6/15/2021	6/15/2021	3/14/2023	10/10/2023
Item Summary	Decisions/ Actions Taken	Thesis: Councilmembers to return with thoughts/proposals	Thesis: Supports CM Proposal. Recommends template adjustments to increase effectiveness and clarify reason for proposal and its recomendations 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.	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 reseached, revised and vetted with input from stakeholders, the public, City Staff and Council collegues. City staff contribute with increased levels of input and participation as the legislation moves forward.	Thesis: Does not support CM Proposal. Major items only put forward Jan - April to conincide with budget process limits public and Council voices. Harrison's proposal operates continuously with deadlines for each step of review.	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 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)
	Process for Council Items	A & R determines if Major Item If not major, agendized for Council meeting	Council Agenda Item Template recommended adjustments: - add: Define the Problem -Include Criteria Considered & -Rationale for Recommendatio -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
	Major Item Definition	- Cannot be operationalized over time with existing resources - Displaces an existing prioritzed 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
	Major Item Determination	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 Coucilmembers, 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 Guildelines	Should be determined by Policy Committees, not Agenda Committee, via objective determination. No determination criteria given.	N/A	N/A	Submittal 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
	Major Item Deadline	A & R agenda prior to April 30 to be considered in legislative year Agendized 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 Distinction/ Process	Item	JM City Manager's System's Realignment Proposal 4/26/2021	LM Droste Response 5/18/2021	LM Council Feedback from Work Session 5/18/2021	JM Hahn Proposal 6/15/2021	LM Harrison Proposal 6/15/2021	LM 2021 Council Feedback 6/15/2021	JM Droste BERIPE Plan 3/14/2023	JM Hahn/City Clerk Proposal to A & R 10/10/2023
	Policy Committee Review	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	See Implementation Conference	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 Guildelines 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
	Implementation Conference	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
	Implementation Conference Deadline	August 31	No calendar deadline		No calendar deadline	No calendar deadline. Rolling basis.	N/A	N/A	N/A
	Initial Prioritization	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
	Council Approval and Final Prioritization	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 Implemention	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 Commitee

Systems Realignment Matrix - Updated 10-3-2023

	JM	LM	LM	JM	LM	LM	JM	JM
Item	**City Manager's System's Realignment Proposal**	**Droste Response**	**Council Feedback from Work Session**	**Hahn Proposal**	**Harrison Proposal**	**2021 Council Feedback**	**Droste BERIPE Plan**	**Hahn/City Clerk Proposal to A & R**
Date	**4/26/2021**	**5/18/2021**	**5/18/2021**	**6/15/2021**	**6/15/2021**	**6/15/2021**	**3/14/2023**	**10/10/2023**
Budget & Strategic Planning	**December/January** Staff to incorporate approved items into Budget/workplan ranked by priority **January - March** Council and Staff revise the budget based on department presentations to BC **May/June** 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 recieving 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
Implementation						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
Tools	Council Item template outlining required information Major Item checklist Implementation Conference Worksheet	Major Item Determination Checklist	Policy Committee Ranking Form	Guildelines for Proposals/Council Items	Alternateive Systems Alignment Proposal flowchart.	N/A		Major Items Guidelines Format Enhanced Review Process
Consolidated Yearly Cycle	**Major Item Deadline:** April 30 **Implementation Conference Deadline:** August 31 **Council Prioritization Deadline:** July 31 **Council Approval Deadline:** November 30 **Budget Cycle:** 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	**Submittal Season:** Year round with August 1 deadline for next fiscal year consideration **Committee Season:** Sept 1 - January 30 A & R and council committee review **Coucil Season:** Feb 1 - April 30 **Budget Season:** May 1 - June 30
Recomm **Consensus**	1 - Staff input in legislative drafting is important							
Variable Differences	1 - Different timelines for different types of items (some staggered, some ongoing)							
Outstanding Questions	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 overally 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 agendized 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 agendize 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 stymy 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.

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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 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 tthree-quartersof 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 2nd, 3rd, and 4th 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,[1] 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

[1] 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)

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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 Guildelines, 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.

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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 Guildelines, 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
MAJOR ITEM SUBMISSION	***Strongly encourage Authors to present Major Items in the full Guidelines format, which prompts for deep research, analysis and consultation***	
Define Major Item	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. *The adoption of a definition for Major Items clarifies a practice that is already in place*. 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"). *All of this is already reflected in the Rules governing Policy Committees.*
Major Item Routing	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. *The Rules should be amended to require all Major Items, regardless of where they originated, to be reviewed in Committee* unless they fall under the Time Critical Track or another exception.
Make **Guidelines Mandatory** 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.
Staff Consultation is encouraged, but not required 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

development of a legislative item.		input. Concerns, if any, should be addressed with a problem-solving lens.
City Attorney Consultation	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.	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.
Agenda Committee makes an initial determination of whether an Item is "Major" and will be referred to a Committee, with input from the Author(s).	*This tracks the current practice* - 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.	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 *not* referred to Committees. *This practice will be unchanged.*
The Agenda Committee may **require a Major Item not presented and/or fully rendered according to the Guidelines to be more amply developed** before being sent to Committee.	Authors of Major Items should do substantial research, analysis, and consultation before sending them to a Committee for further input and development. 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.	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.
Appeal/Override of Agenda Committee recommendation to revise Major Item before submission to a Committee	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.	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.
Major Items that are Complete go to Committee (or items that are incomplete but subject to an override)	*Per existing rules*, Major Items will be routed to a policy committee unless an exception applies.	Exceptions are already listed in the Rules.

MAJOR ITEM COMMITTEE REVIEW	***Clarify and significantly improve process and substance of Major Item review @ Committee, including development of a preliminary launch and implementation plan and associated costs***	
Committee hears Major Item more than once - 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 Commitee 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.
Committee reviews specific elements 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.
Committee identifies and does specific outreach to Stakeholders and Experts	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.
Staff input is agendized and includes preliminary review of Launch and Implementation	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. *In addition, a specific time for staff input should be agendized.* The Staff presentation should include *preliminary review of staffing and budget/resource needs for both Launch and Implementation.*	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.

Manage/reduce **Staffing of Committees**	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.	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.
Major Item moves forward to Council (all recommendations)	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.	
Major Item gets **passed by Council**	Goes to Budget Implementation Conference, or vote no and it’s over	

Background Material
Attachment 2b

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.

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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.

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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 renumeration 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 withing 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

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.

CONTACT

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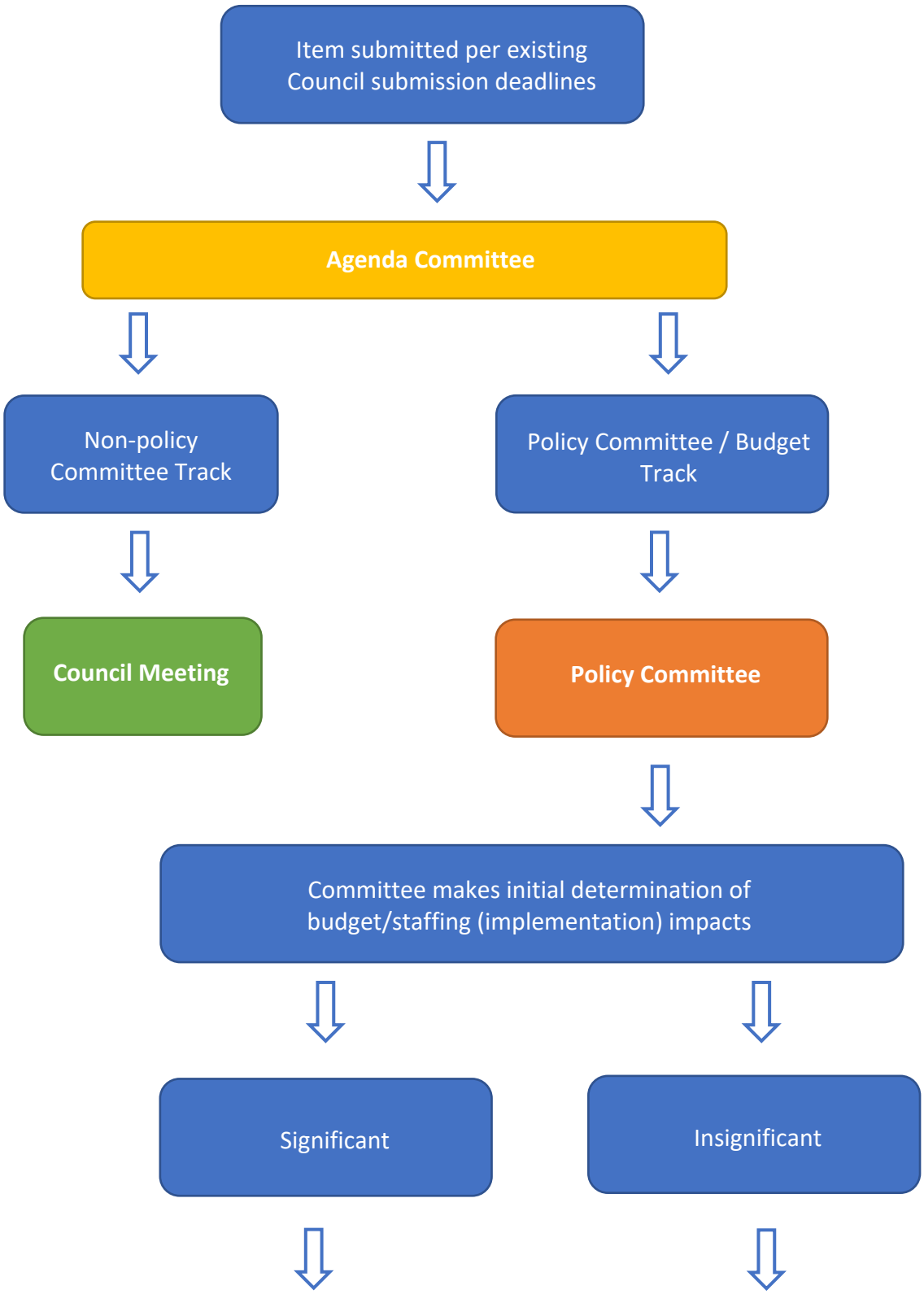
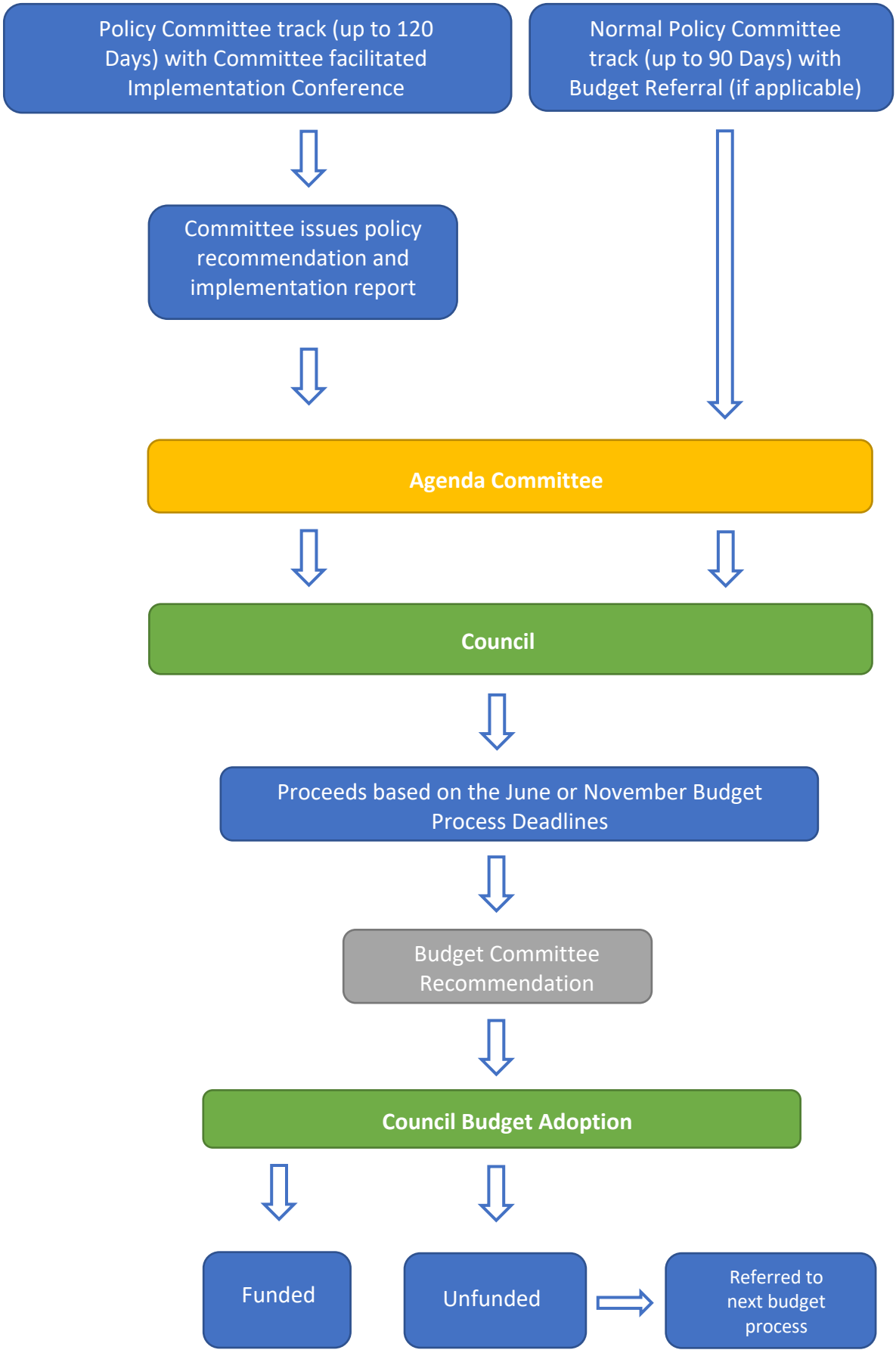
ATTACHMENTS:

1. Flowchart of Alternative Systems Alignment Proposal

Alternative Systems Alignment Proposal




Policy Committee track (up to 120 Days) with Committee facilitated Implementation Conference
Normal Policy Committee track (up to 90 Days) with Budget Referral (if applicable)
Committee issues policy recommendation and implementation report
Agenda Committee
Council
Proceeds based on the June or November Budget Process Deadlines
Budget Committee Recommendation
Council Budget Adoption
Funded
Unfunded
Referred to next budget process

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[1] (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

[1] 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.

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[2], including but not limited to health and

[2] 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*,[3] the Policy

[3] 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,[4]
- *Implementation, Administration, and Enforcement*, which
    - Identifies internal and external benefits and impacts, and

[4] 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.[5]

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 of special Council meeting in October for approval and inclusion in the RRV process.

[5] 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.[6] This ensures that staff is able to develop the budget starting from and based on Council priorities.

Step 6: Budget & Strategic Plan Process

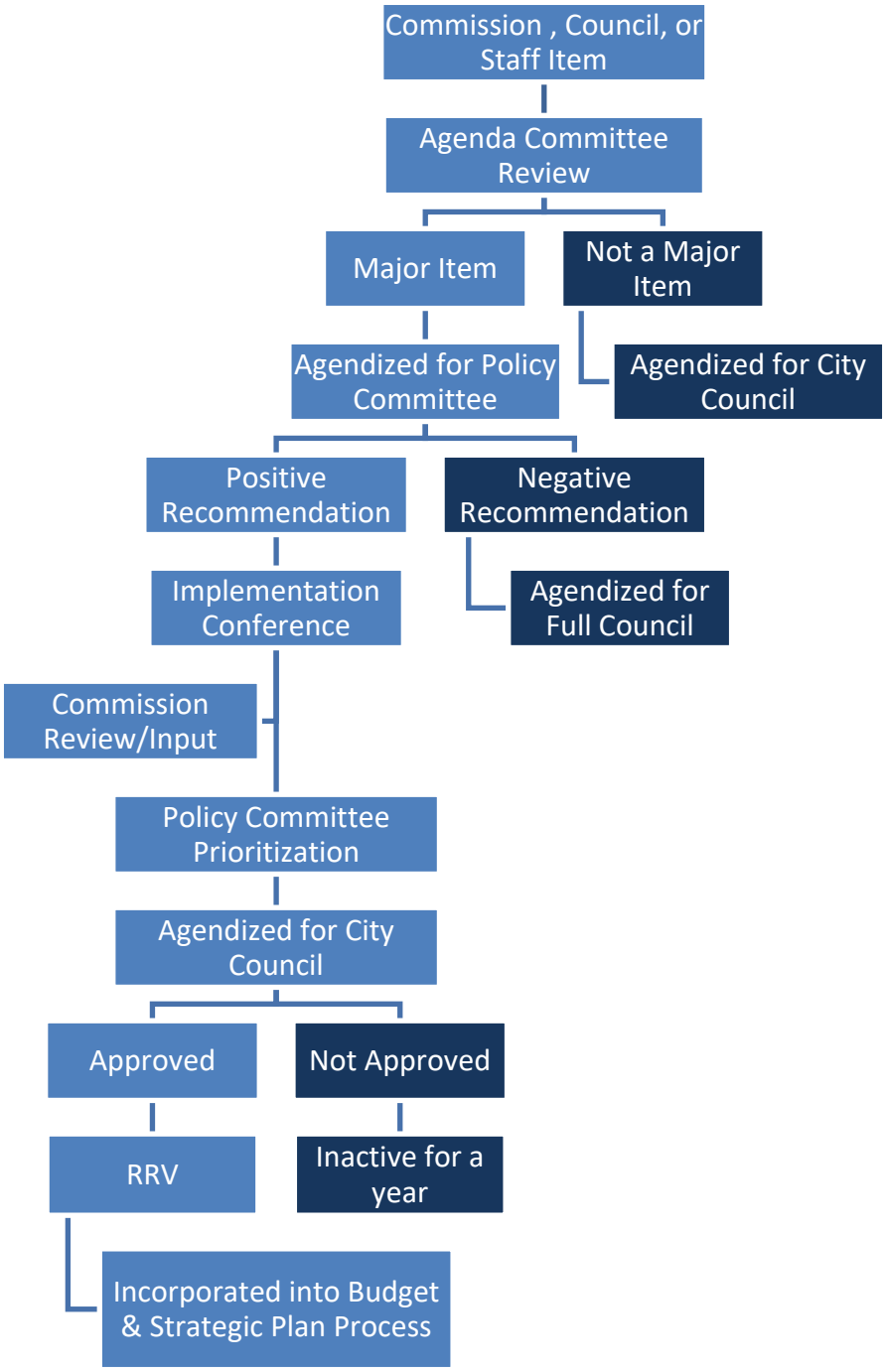
The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward 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 biennual. 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.

[6] Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

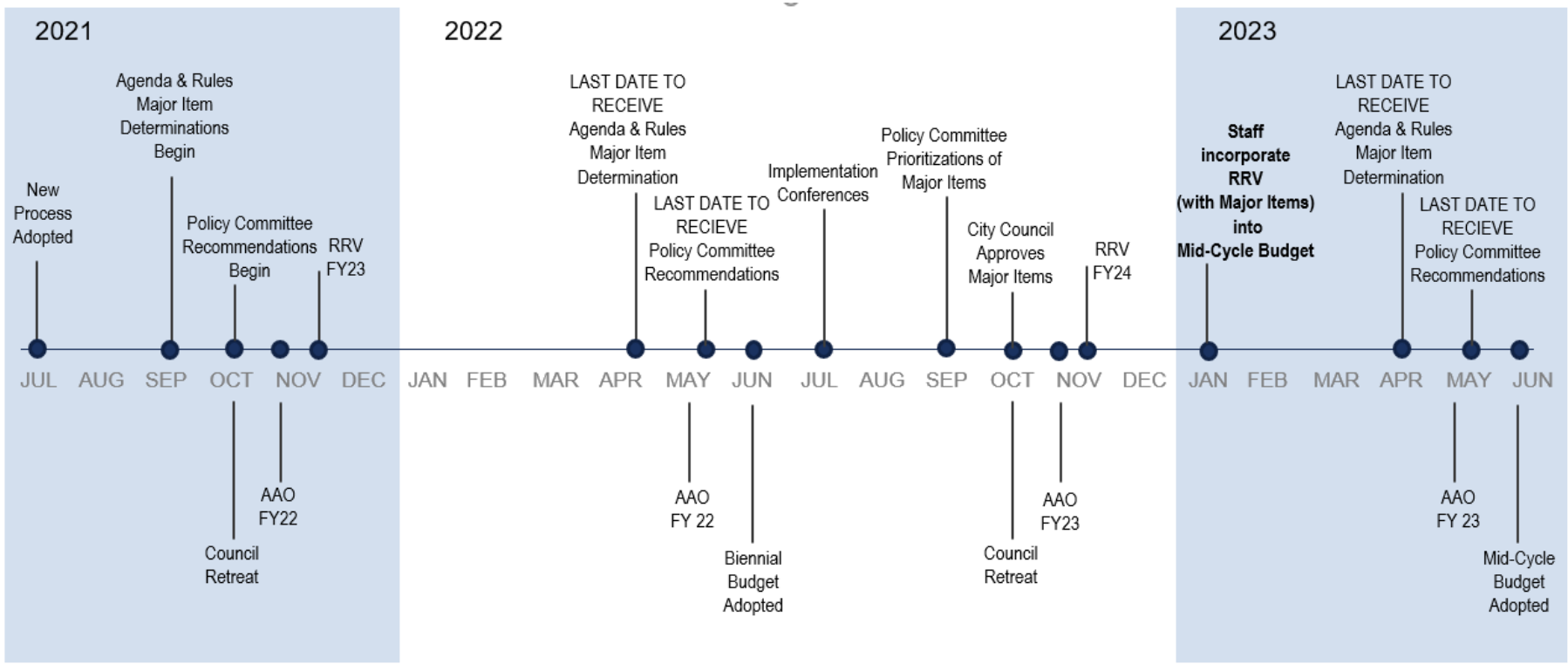
Figure 1, Proposed Process[7]



[7] 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	
☐	☐	Item represents a significant change to existing law, program, or policy.
☐	☐	Item represents a significant addition to existing law, program, or policy.
☐	☐	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	
☐	☐	Item is related the City's COVID-19 response.
☐	☐	Item is related to the City Budget process.
☐	☐	Item is related to essential or ongoing City processes or business.
☐	☐	Item is urgent.
☐	☐	Item is time-sensitive.
☐	☐	Item is smaller.
☐	☐	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_____

DRAFT

[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.

DRAFT

- 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:

DRAFT

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:

DRAFT

STAFF SECTION

Staff may complete section to provide required information for the report.

Estimated Launch/implementation Deliverables/Dates:	
Month/Year	*Deliverable*
Estimated Administration Deliverables/Dates:	
Month/Year	*Deliverable*

Legal Consultation:

☐ Confirmed

Name/Date _____

Staff Consultation:

☐ Confirmed

Name(s)/Date(s) _____

DRAFT

Policy Committee Ranking Form

Starting on the right, think about and then indicate whether each consideration is high (H), medium (M) or low (L). Then rank the list of priorities. The highest priority would be "1", the next highest "2" and so on.

Priority 1 is highest	**Major Item Name**	**Major Item Author**	**Considerations** H high M medium L low		
			Staff Resources	Cost	Benefits/ Savings

Policy Committee Determination:

Indicate name and date below.

Per Committee Member_____

Per Committee Member_____

Per Committee Member_____

DRAFT

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 amelioriation.

(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:]
    - 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.
    - 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
Problem Statement
Background, etc
Plans, etc.
Current Situation and Its Effects
Actions/Alternatives Considered
Stakeholders Consultation and Results
~~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~~ *should go at the end after evaluative criteria*
Policy Benefit
~~Internal Benefits of Implementation:~~
~~Internal Impacts of Implementation:~~
~~External Benefits of Implementation:~~
~~External Impacts of Implementation:~~
Equity Considerations
Environmental Considerations
Operational Impacts
Strategic Plan Goal Alignment
Staff Resources Needed (Number of FTE/hours, Type of staff resource needed):
Costs (Amount(s), Funding Source):
Rationale for Recommendation *(after analysis)*

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 amelioriation.

(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:]
    - 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.
    - 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
Problem Statement
Background, etc
Plans, etc.
Current Situation and Its Effects
Actions/Alternatives Considered
Stakeholders Consultation and Results
~~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~~ *should go at the end after evaluative criteria*
Policy Benefit
~~Internal Benefits of Implementation:~~
~~Internal Impacts of Implementation:~~
~~External Benefits of Implementation:~~
~~External Impacts of Implementation:~~
Equity Considerations
Environmental Considerations
Operational Impacts
Strategic Plan Goal Alignment
Staff Resources Needed (Number of FTE/hours, Type of staff resource needed):
Costs (Amount(s), Funding Source):
Rationale for Recommendation *(after analysis)*

SYSTEMS ALIGNMENT

PROCESS PROPOSAL FOR VETTING & PRIORITIZING MAJOR ITEMS

THE TEAM

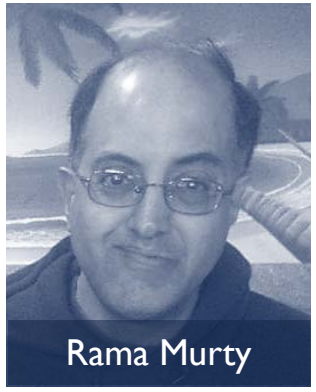
Dee Williams-Ridley

Dave White

Paul Buddenhagen

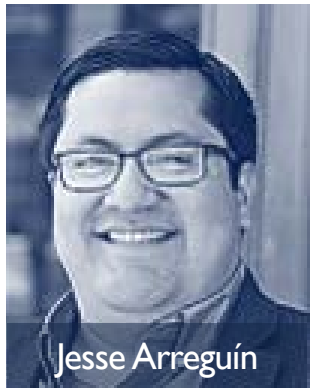
Farimah Faiz Brown

Mark Numainville


Rama Murty

Melissa McDonough

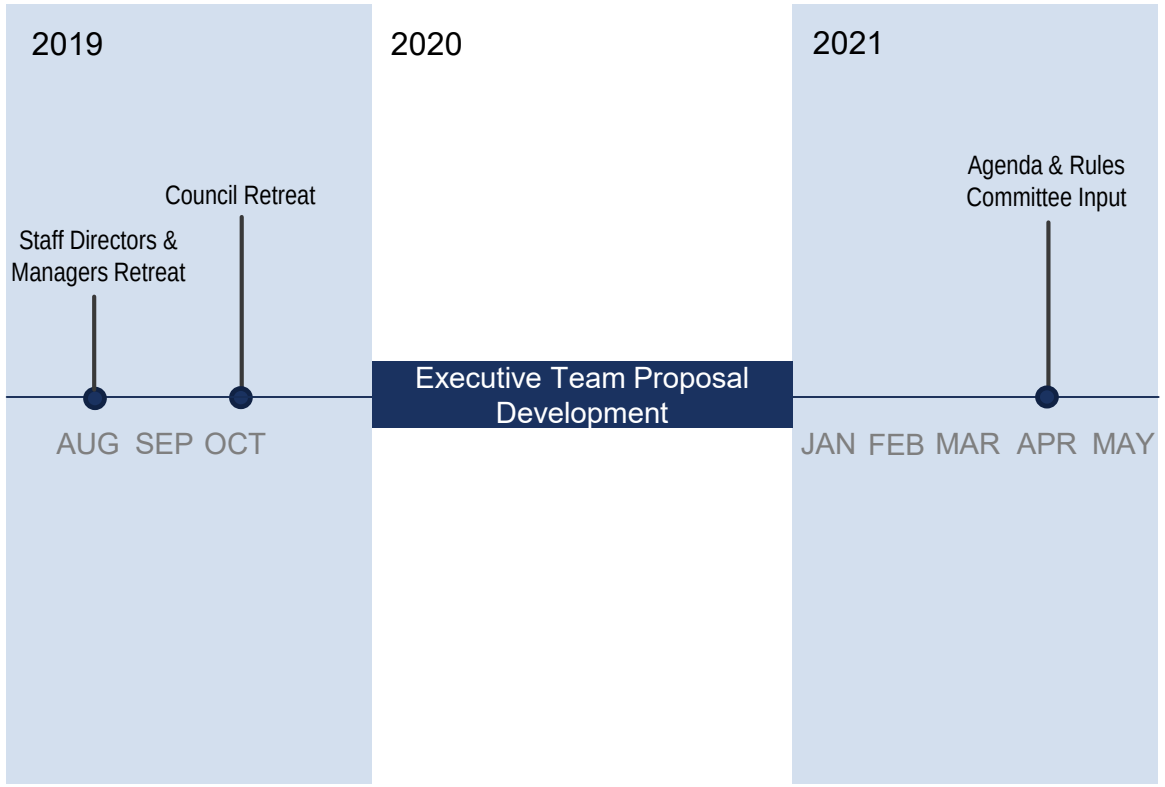
AGENDA & RULES COMMITTEE

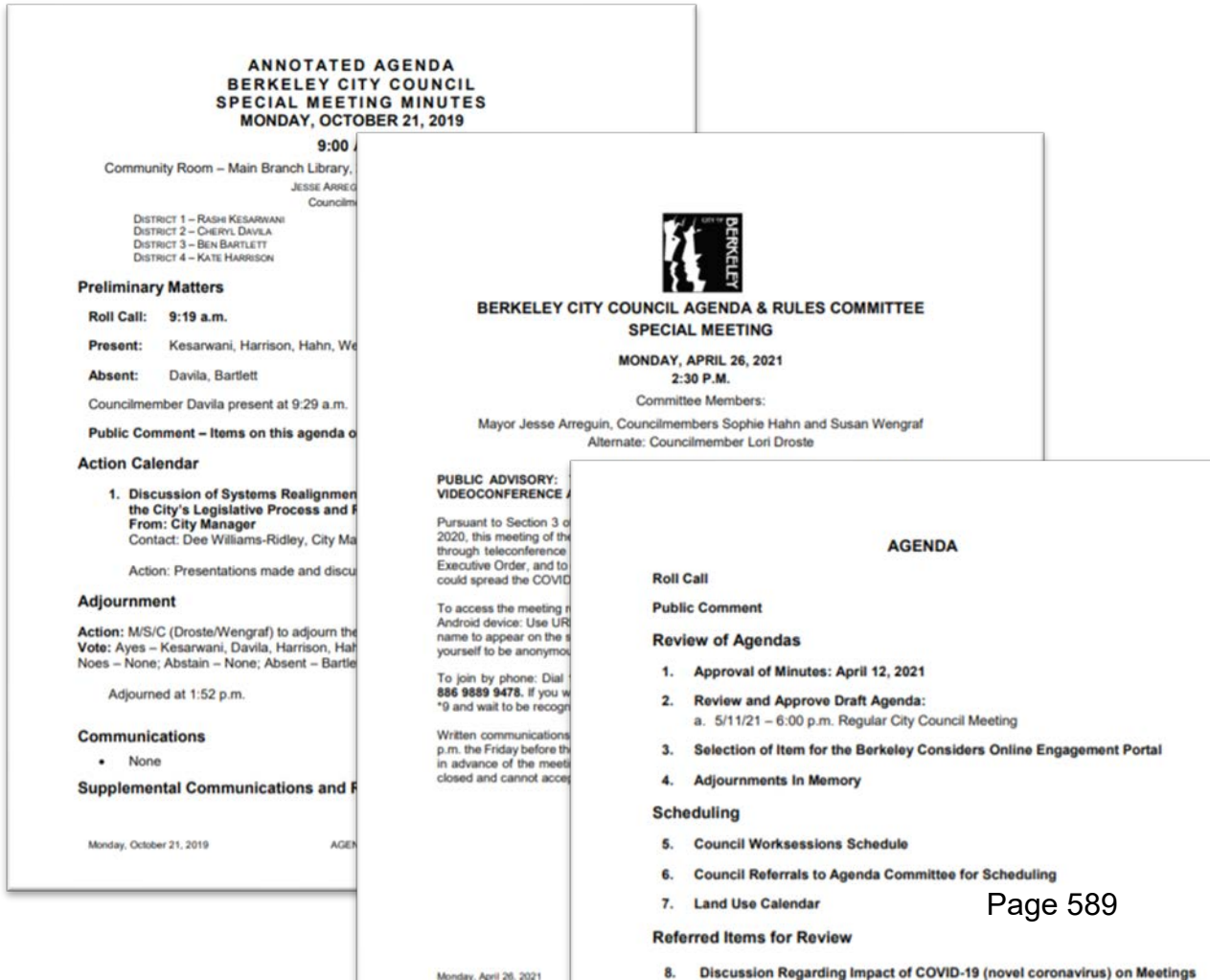

Jesse Arreguín

Sophie Hahn

Susan Wengraf

BACKGROUND





ANNOTATED AGENDA
BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES
MONDAY, OCTOBER 21, 2019

Preliminary Matters

Roll Call: 9:19 a.m.

Present: Kesarwani, Harrison, Hahn,

Absent: Davila, Bartlett

Councilmember Davila present at 9:29 a.m.

Action Calendar

Adjournment

Action: M/S/C (Droste/Wengraf) to adjourn the
Vote: Ayes – Kesarwani, Davila, Harrison, Hah
Noes – None; Abstain – None; Absent – Bartle

Adjourned at 1:52 p.m.

Communications

- None

Supplemental Communications and

Monday, October 21, 2019

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING

MONDAY, APRIL 26, 2021
2:30 P.M.

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf
Alternate: Councilmember Lori Droste

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

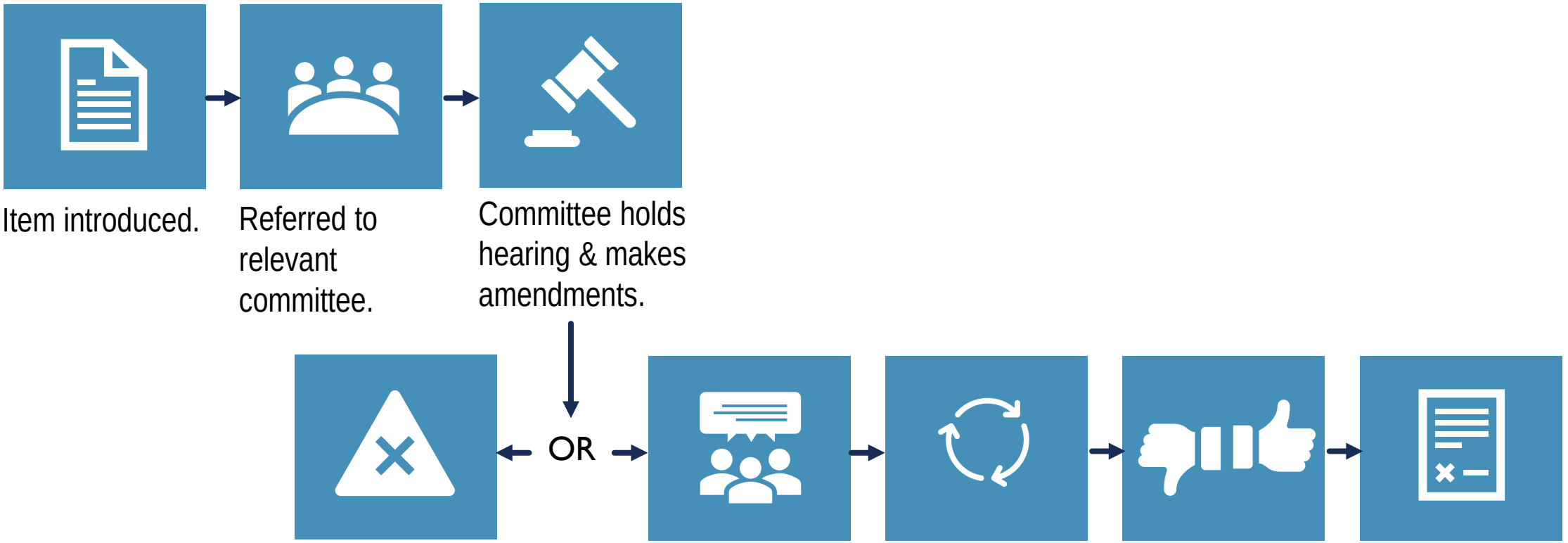
Referred Items for Review

8. Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings

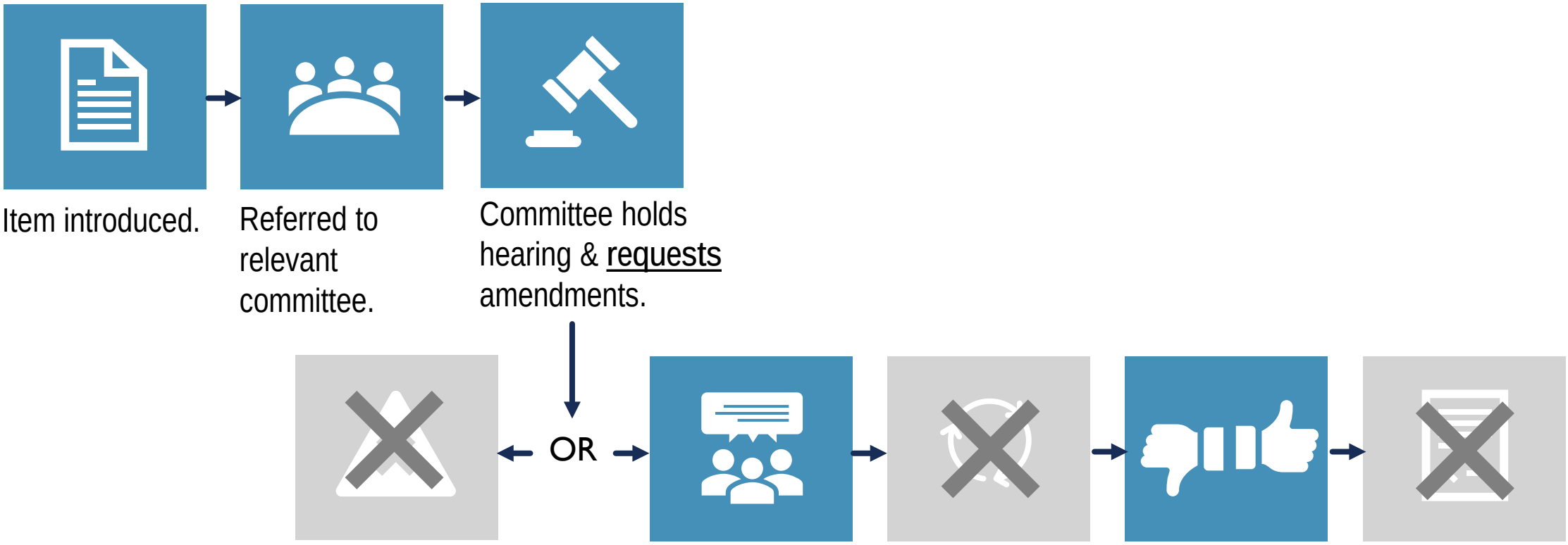
OBJECTIVES

- Align timing of Council approval and resource (budget) allocation
- Communicate resource needs (and any tradeoffs) well
- Ensure Council priorities are resourced and implemented

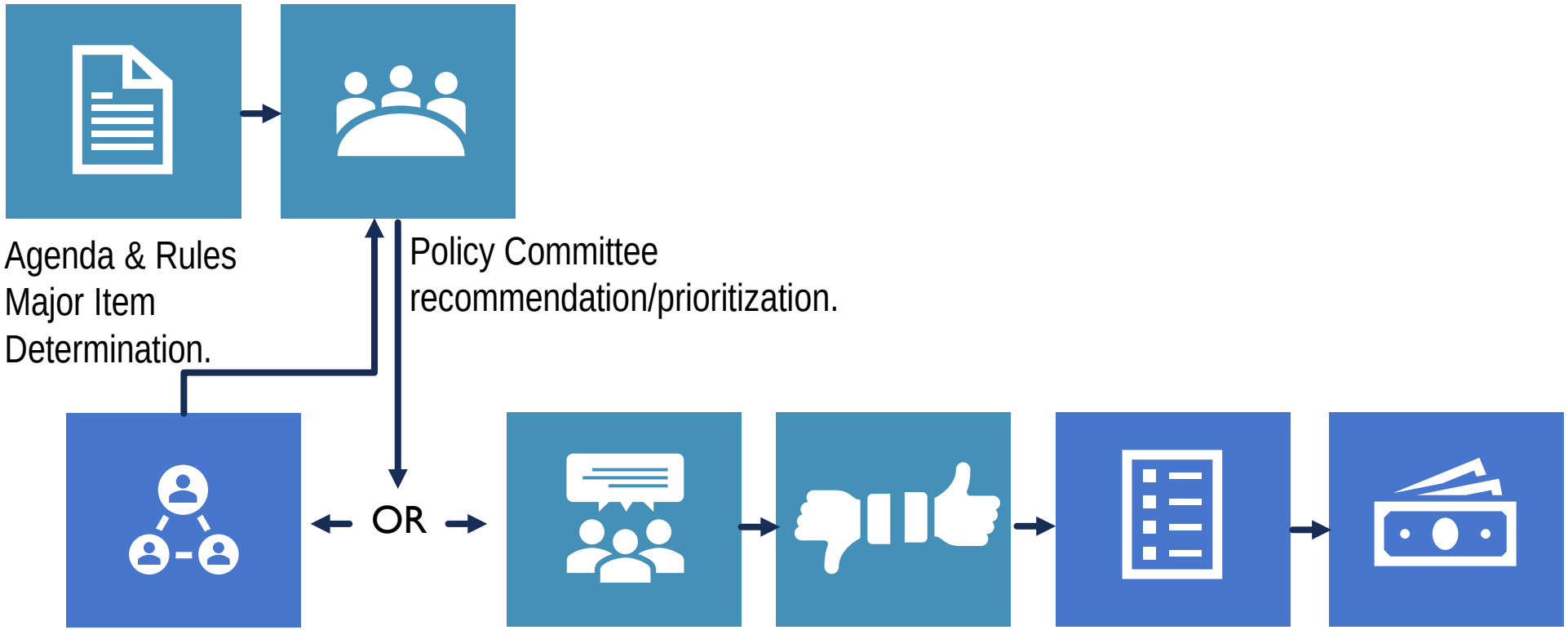
STATE OR FEDERAL MODEL



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 COMMITTE

NOT RECOMMENDED

- Agenda & Rules Committee
  - **Appointees:**
    Jesse Arreguin, Mayor
    Sophie Hahn, Councilmember, District 5
    Susan Wengraf, Councilmember, District 6
  - **Alternate:** Lori Droste, Councilmem
- Budget & Finance Committee
  - **Appointees:**
    Jesse Ar
    K
    , Councilmember, District 1
    are, Transportation, Environment & Sustainability Committee
    ittees:
    erry Taplin, Councilmember, District 2
    Kate Harrison, Councilmember, District 4
    Rigel Robinson, Councilmember, District 7
  - **Alternate:** Sophie Hahn, Councilmember, District 5

nment, Equity & Community Committee
ppointees:
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	
☐	☐	Item represents a significant change to existing law, program, or policy.
☐	☐	Item represents a significant addition to existing law, program, or policy.
☐	☐	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	
☐	☐	Item is related the City's COVID-19 response.
☐	☐	Item is related to the City Budget process.
☐	☐	Item is related to essential or ongoing City processes or business.
☐	☐	Item is urgent.
☐	☐	Item is time-sensitive.
☐	☐	Item is smaller.
☐	☐	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 informat

Descriptive title:
Is this for Consent, Action, or Information Caler
Recommendation:
Summary statement:
Background (history, circumstances and conce
Plans, programs, policies and/or laws were tak
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 consulti
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:	
Month/Year	*Deliverable*

Estimated Administration Deliverables/Dates:	
Month/Year	*Deliverable*

Legal Consultation:

☐ Confirmed

Name/Date _____

Staff Consultation:

☐ Confirmed

Policy Committee Ranking Form

Starting on the right, think about and then indicate whether each co… …ow (L). Then rank the list of priorities. The highest priority would be "1", the …

Priority 1 is highest	Major Item Name		Considerations H high M medium L low		
			Staff Resources	Cost	Benefits/ Savings

Policy Committee Determination:

Indicate name and date below.

Per Committee Member_____

Per Committee Member_____

Per Committee Member_____

NOT RECOMMENDED

[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….

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

- 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]

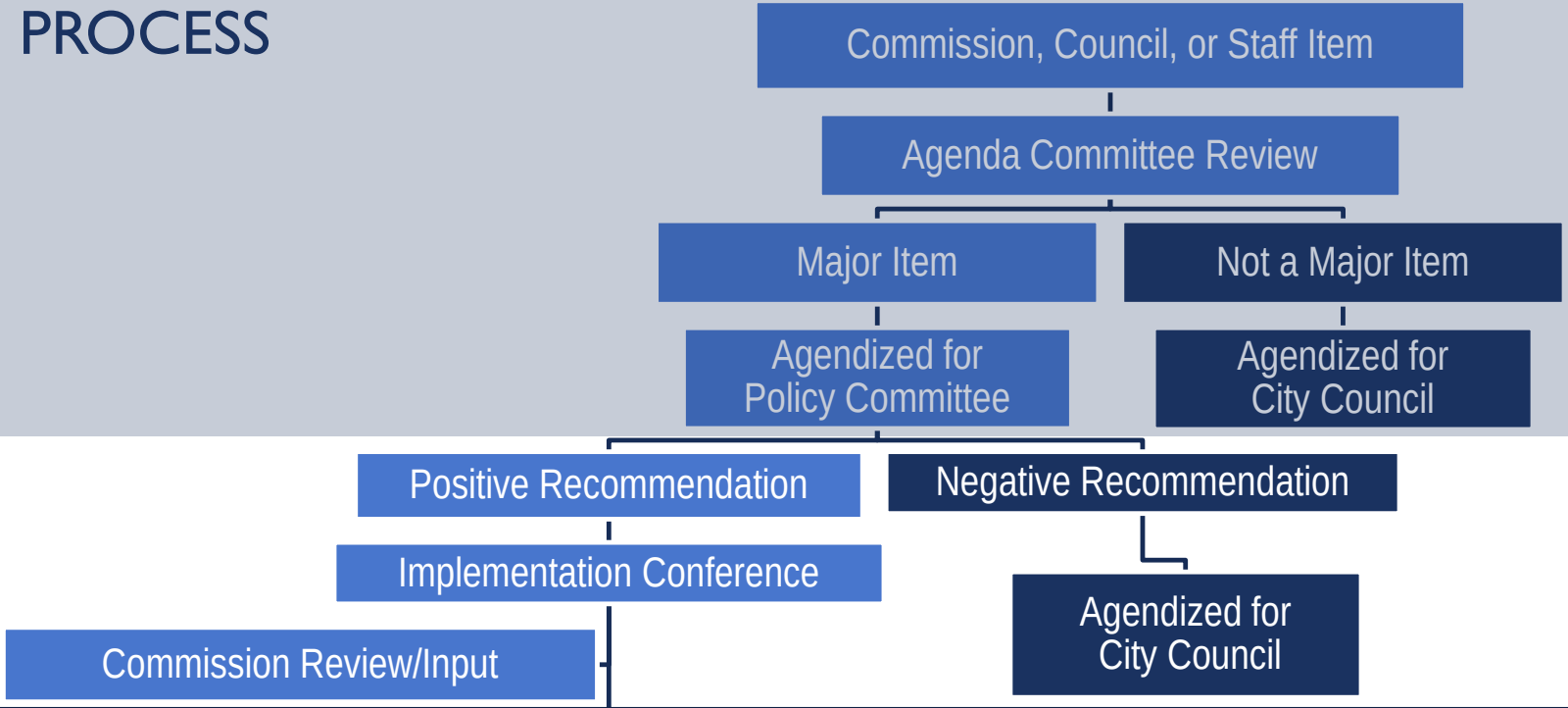
Attachments: [Delete if there are NO Attachments]
1: Resolution
Exhibit A: [Title or Description of Exhibit]
Exhibit B: [Title or Description of Exhibit]
2: [Title or Description of Attachment]
3: [Title or Description of Attachment]

PROPOSED PROCESS

FLOW CHART

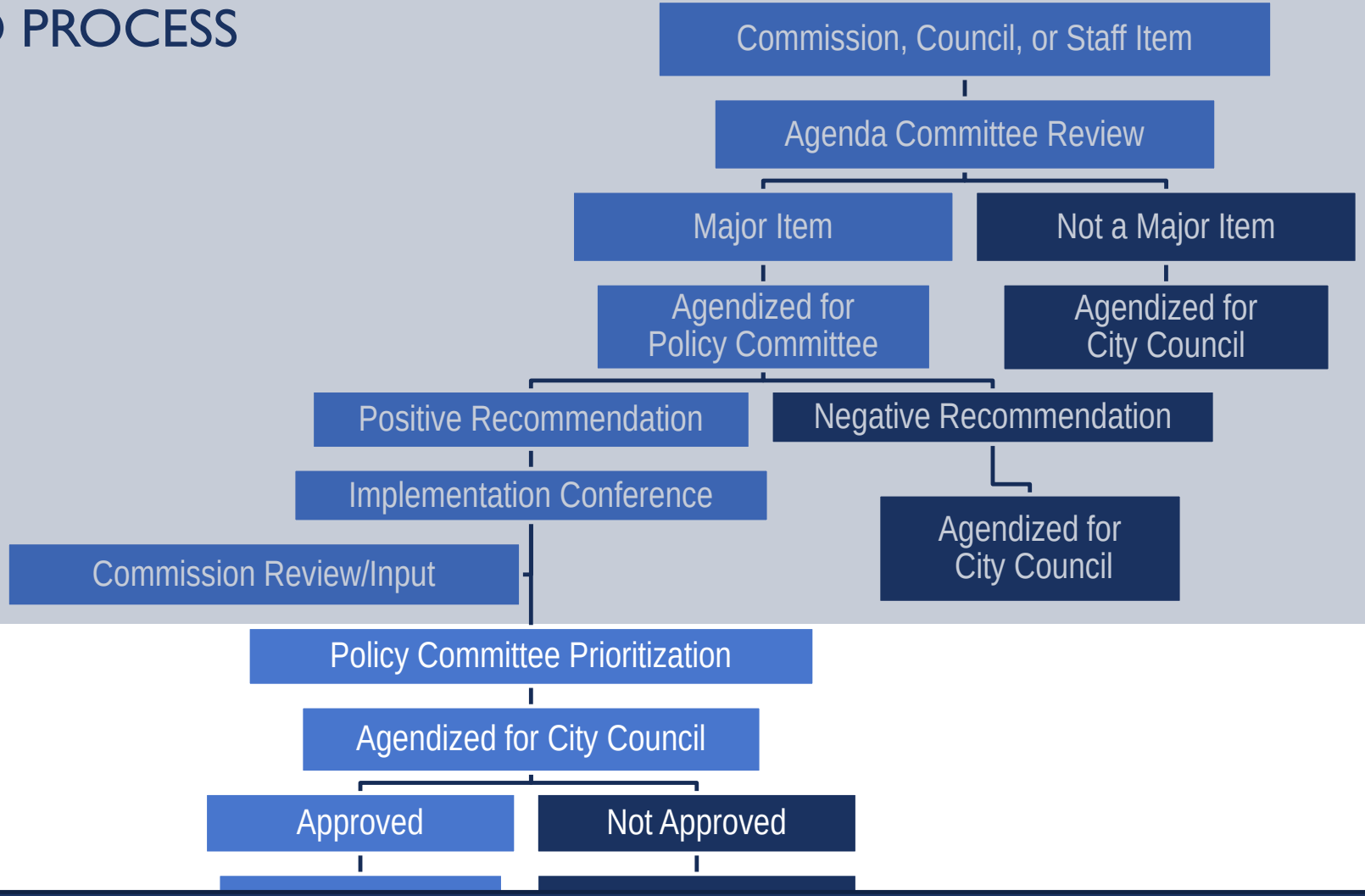
PROPOSED PROCESS

FLOW CHART



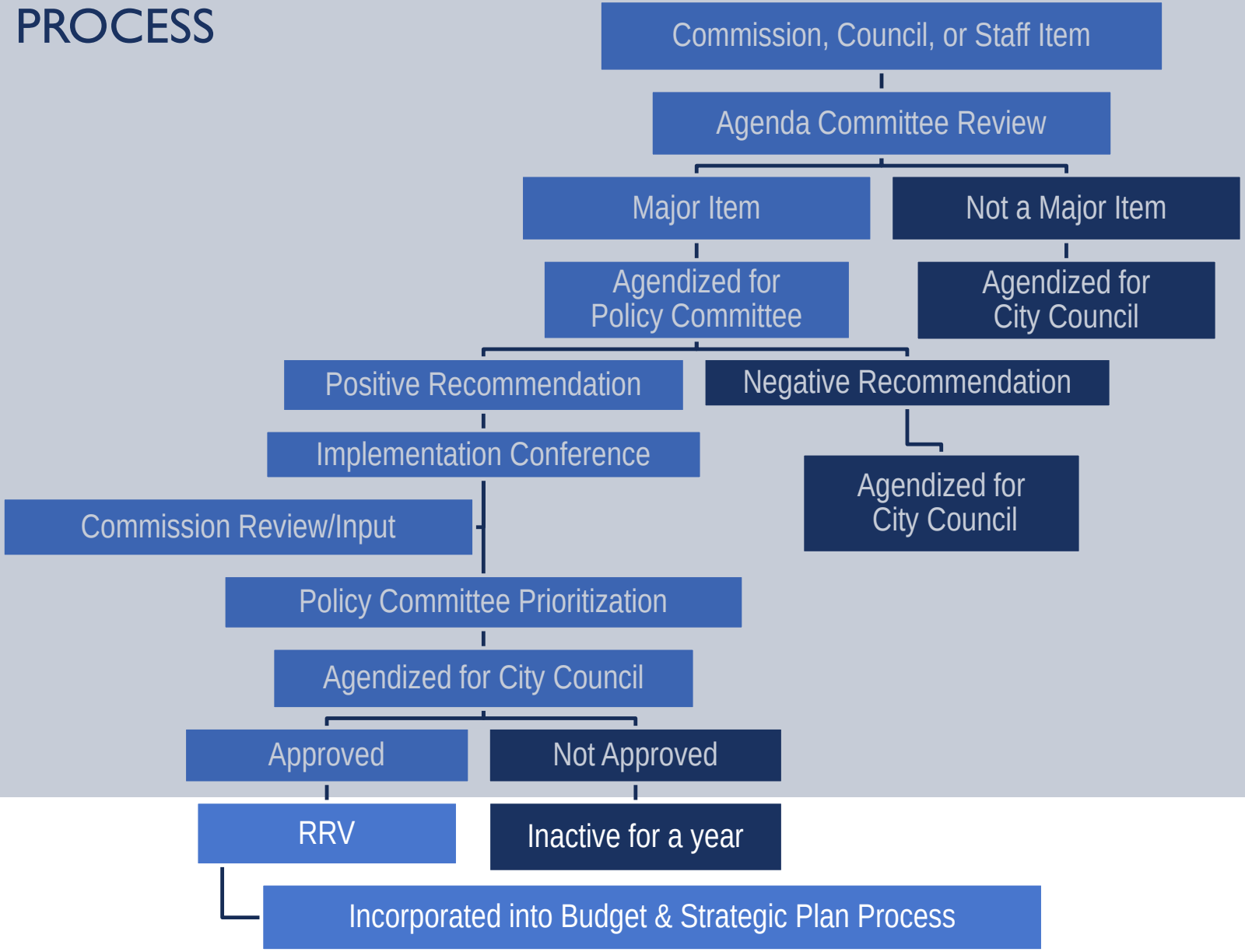
PROPOSED PROCESS

FLOW CHART



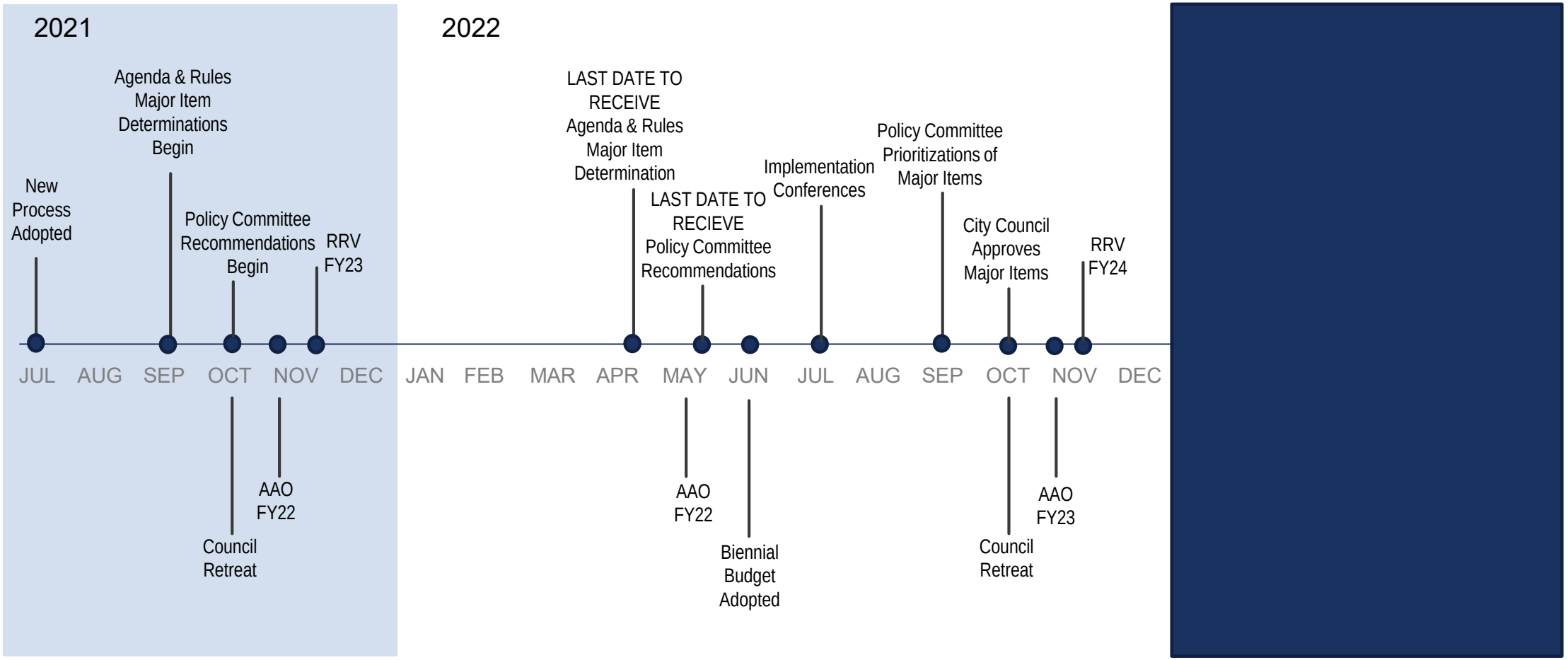
PROPOSED PROCESS

FLOW CHART



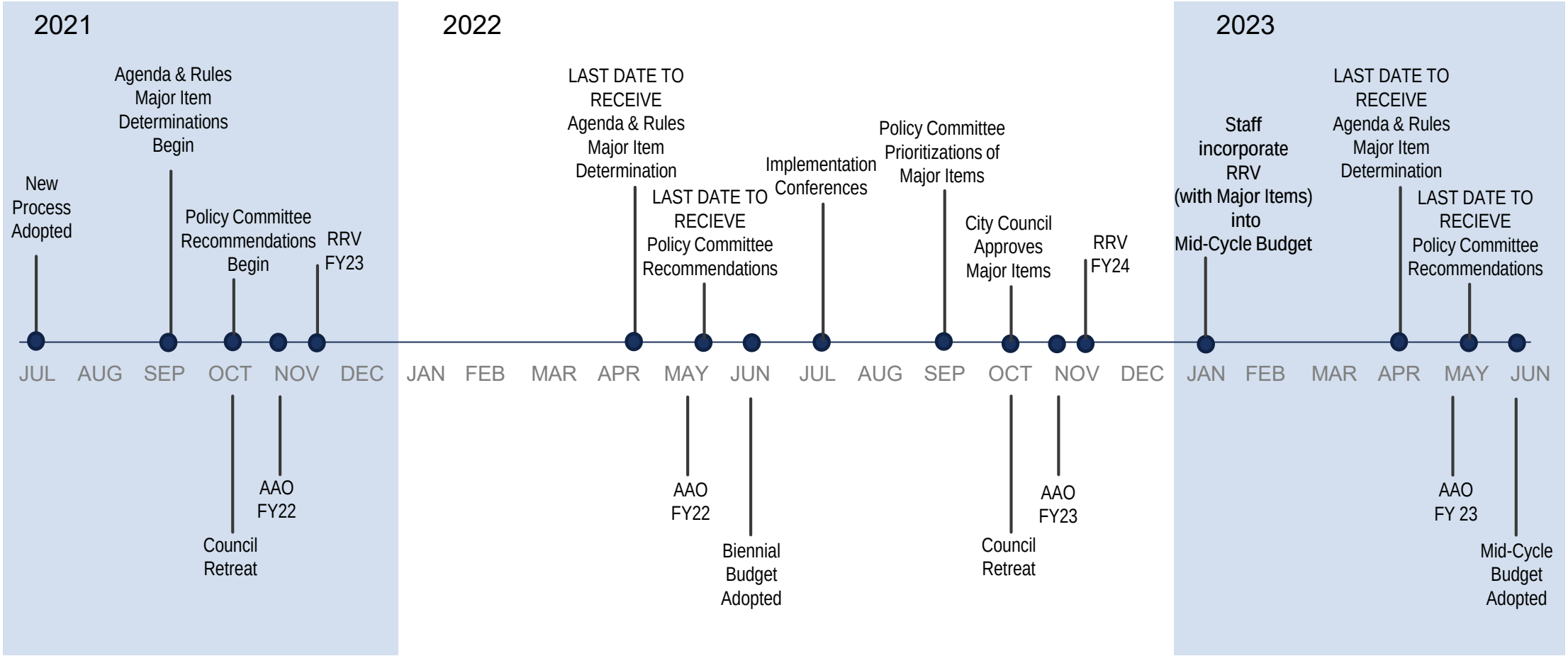
PROPOSED IMPLEMENTATION

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

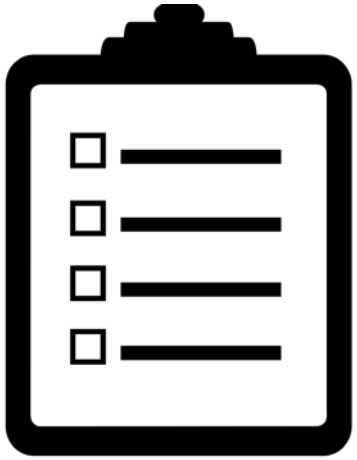
Uncertain Timeline

Proposed

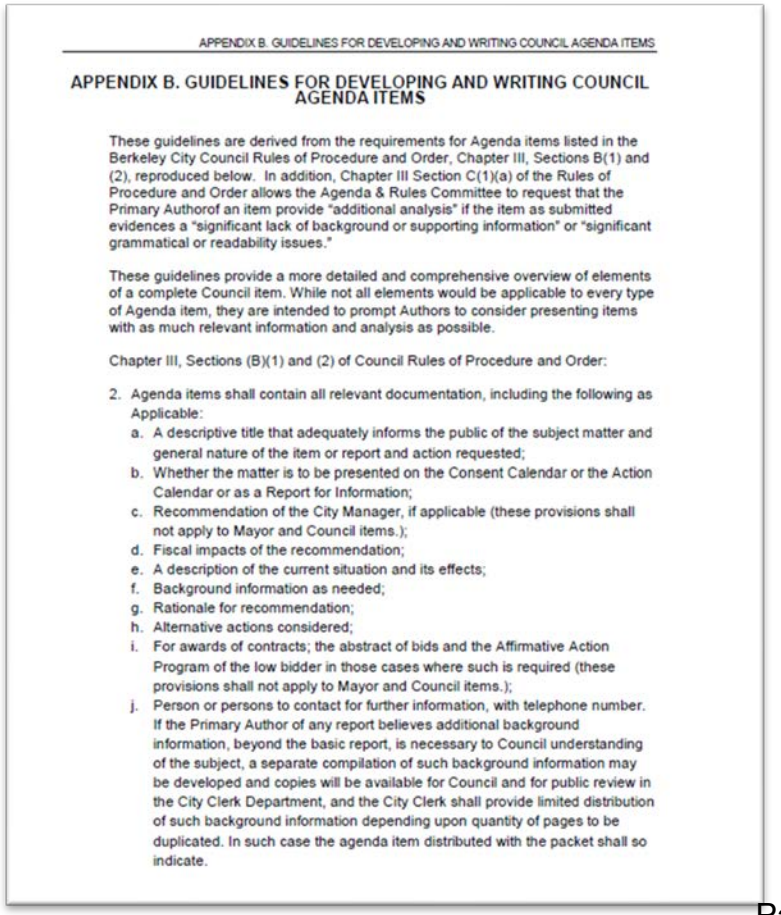
1. Idea
2. Committee Consideration
3. Vetting & Costing
4. Council Approval
5. RRV
6. Budget development

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

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 Authorof 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

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[1] (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

[1] 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.

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[2], 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.

[2] 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*,[3] 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).

[3] 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,[4]
- *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,

[4] 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.[5]

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 of 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

[5] 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.[6] This ensures that staff is able to develop the budget starting from and based on Council priorities.

Step 6: Budget & Strategic Plan Process

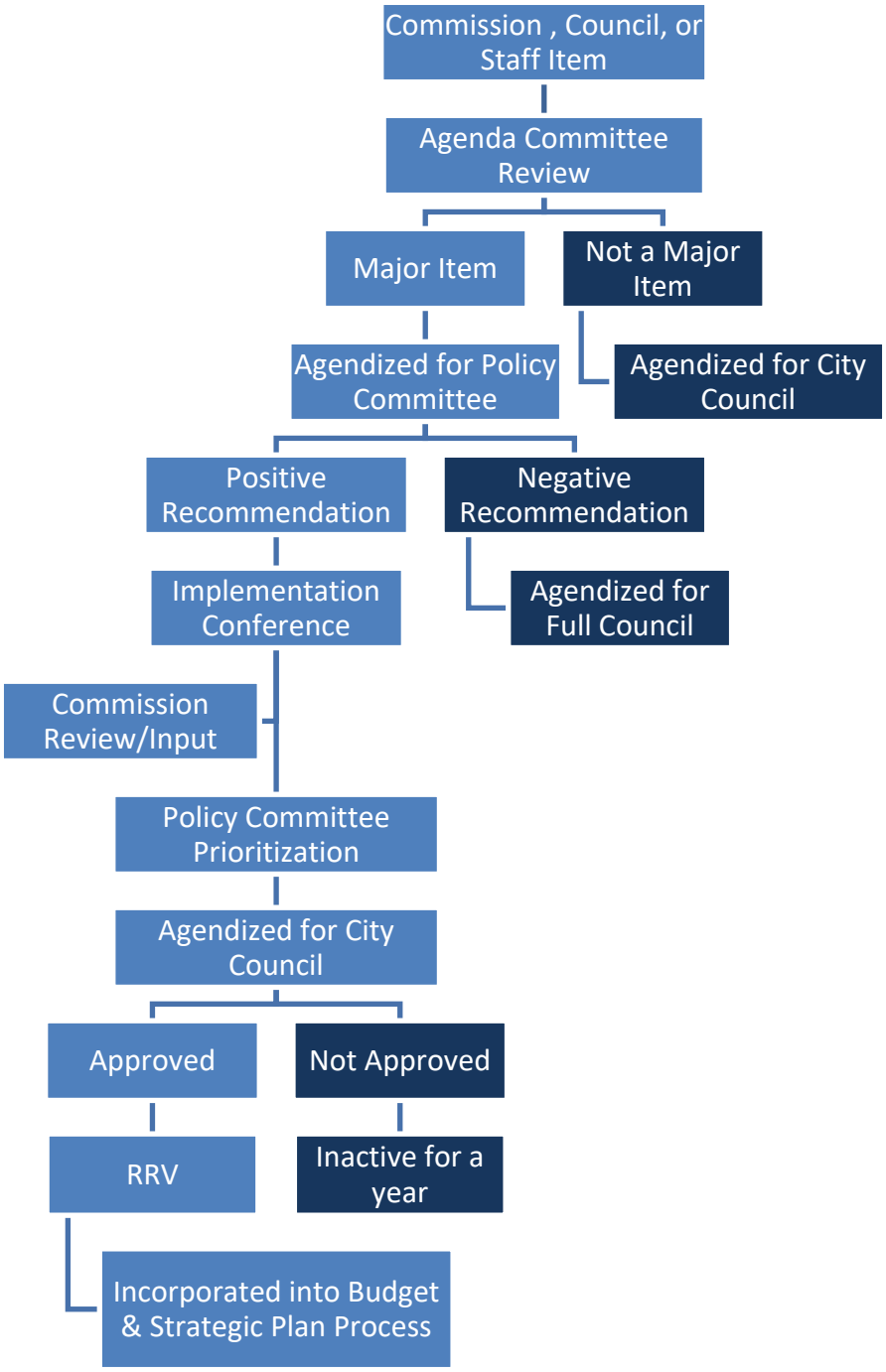
The Council's rankings are also forwarded to the Budget and Finance Committee for consideration as part of budget development. If the proposal is not ultimately funded in the biennial budget, mid-cycle budget or the Annual Appropriations Ordinance (mid-year budget amendment), then it does not move forward 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 biennual. 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.

[6] Due to noticing requirements, an RRV process completed by November 30 may not appear on a City Council Agenda for adoption until January.

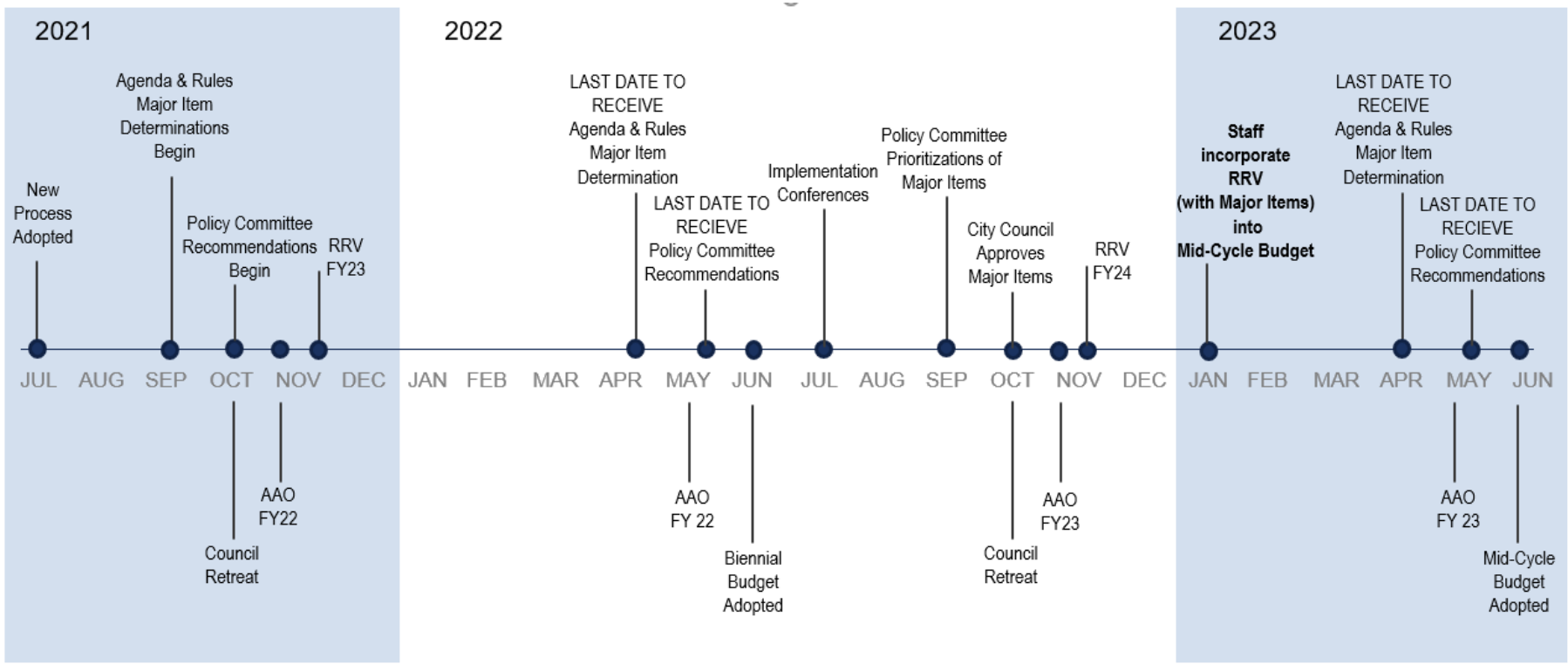
Figure 1, Proposed Process[7]



[7] 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	
☐	☐	Item represents a significant change to existing law, program, or policy.
☐	☐	Item represents a significant addition to existing law, program, or policy.
☐	☐	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	
☐	☐	Item is related the City's COVID-19 response.
☐	☐	Item is related to the City Budget process.
☐	☐	Item is related to essential or ongoing City processes or business.
☐	☐	Item is urgent.
☐	☐	Item is time-sensitive.
☐	☐	Item is smaller.
☐	☐	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_____

DRAFT

[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.

DRAFT

- 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:

DRAFT

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:

DRAFT

STAFF SECTION

Staff may complete section to provide required information for the report.

Estimated Launch/implementation Deliverables/Dates:	
Month/Year	*Deliverable*
Estimated Administration Deliverables/Dates:	
Month/Year	*Deliverable*

Legal Consultation:

☐ Confirmed

Name/Date _____

Staff Consultation:

☐ Confirmed

Name(s)/Date(s) _____

DRAFT

Policy Committee Ranking Form

Starting on the right, think about and then indicate whether each consideration is high (H), medium (M) or low (L). Then rank the list of priorities. The highest priority would be "1", the next highest "2" and so on.

Priority 1 is highest	**Major Item Name**	**Major Item Author**	**Considerations** H high M medium L low		
			Staff Resources	Cost	Benefits/ Savings

Policy Committee Determination:

Indicate name and date below.

Per Committee Member_____

Per Committee Member_____

Per Committee Member_____

DRAFT

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BERKELEY SPECIAL MEETING

TUESDAY, OCTOBER 10, 2023

Unofficial Text File

>> GOOD AFTERNOON.

THANK YOU FOR WAITING PAITENTLY.

I WOULD NOW LIKE TO CALL TO ORDER THE SPECIAL MEETING OF THE

BERKELEY CITY COUNCIL FOR TUESDAY, OCTOBER 10TH, 2023 AT 4 P.M..

IF THE CITY CLERK CAN PLEASE CALL THE ROLL.

[ROLL CALL]

>> CLERK: COUNCILMEMBER KESARWANI.

>> R. KESARWANI: HERE.

>> CLERK: TAPLIN.

>> T. TAPLIN: PRESENT.

>> CLERK: BARTLETT.

>> B. BARTLETT: HERE.

>> CLERK: HARRISON.

>> K HARRISON: HERE.

>> CLERK: HAHN.

>> S. HAHN: PRESENT.

>> CLERK: WENGRAF.

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>> S. WENGRAF: PRESENT.

>> CLERK: ROBINSON.

>> R. ROBINSON: PRESENT.

>> CLERK: HUMBERT.

Unofficial Text File

>> M. HUMBERT: PRESENT.

>> CLERK: AND MAYOR ARREGUIN.

>> MAYOR J. ARREGUIN: PRESENT.

>> CLERK: OKAY.

>> MAYOR J. ARREGUIN: OKAY.

ALL MEMBERS ARE PRESENT.

THANK YOU VERY MUCH.

SO THIS IS A SPECIAL CITY COUNCIL MEETING TO HOLD A WORK SESSION TO POTENTIAL PROPOSALS FOR THE REDESIGN OF OUR CITY COUNCIL'S LEGISLATIVE PROCESS.

AND I JUST WANT TO PROVIDE SOME INTRODUCTORY COMMENTS AND THEN TURN IT OVER TO COUNCILMEMBER HAHN, WHO IS GOING TO GO THROUGH PRESENTING THE PROPOSED FRAMEWORK THAT WE WANTED COUNCIL INPUT ON.

AND THEN, I'LL GIVE COUNCILMEMBER HARRISON AN OPPORTUNITY TO PRESENT ON HER CONCEPTS AS WELL.

SO AS THE COUNCIL KNOWS, WE HAVE BEEN DISCUSSING A REDESIGN OF OUR LEGISLATIVE SYSTEM FOR SEVERAL YEARS NOW.

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ADD OUR RETREAT IN OCTOBER, 2019, WE HAD I THINK A VERY EXCELLENT DISCUSSION AROUND POTENTIAL CHANGES TO THE PROCESS IN WHICH WE INTRODUCE AND REVIEW AND APPROVE LEGISLATION AT THE CITY COUNCIL LEVEL.

Unofficial Text File

AND THERE WERE SEVERAL GOALS WE WANTED TO ACHIEVE. ONE, WE WANTED TO MAKE SURE THAT THERE WAS ALIGNMENT OF OUR LEGISLATIVE PROCESS WITH THE BUDGET PROCESS.

BECAUSE WHILE WE MAY ADOPT LAWS OR PROPOSED COUNCIL REFERRALS, IF THOSE LAWS OR PROGRAMS ARE NOT FUNDED, AND WE DON'T HAVE STAFF RESOURCES OR FUNDING ALLOCATED, THEN THEIR IMPLEMENTATION WILL NOT BE EFFECTUATED, IT WILL BE DELAYED.

IN ORDER TO FULLY REALIZE THE IMPACT OF THE LEGISLATION WE ADOPT WE WANTED TO ALIGN THE ADOPTION OF MAJOR ITEMS IN LEGISLATION WITH OUR BUDGET PROCESS TO MAKE SURE WE CAN CONSIDER THE BUDGET NEEDS, TO MAKE SURE WE CAN SET ASIDE FUNDING IN THE BUDGET FOR CITY STAFF AND IMPLEMENTATION.

ANOTHER AREA WAS LOOKING AT HOW CAN WE ENSURE MORE THOROUGH REVIEW OF ITEMS.

TO MAKE SURE THAT THEY HAVE COMPLETE INFORMATION AND ARE LOOKING AT PHYSICAL IMPACTS.

ANOTHER ISSUE WAS LOOKING AT WHAT WOULD BE AN EFFECTIVE PROCESS FOR THESE ITEMS IT BE CONSIDERED TO ALIGN WITH OUR BUDGET PROCESS, TO ALIGN WITH THE A.A.O.

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AND ON TOP OF THAT WE HAD A PRIORITIZATION PROCESS.

WHAT IS THE RELATIONSHIP TO THE PRIORITIZATION PROCESS AND THIS PROCESS.

SO WE HAD A LOT OF GOOD DISCUSSION WITH THE CITY MANAGER CAME FORWARD AFTER THAT WITH A PROPOSAL THAT WE DISCUSSED IN 2021.

AND/OR THE CITY MANAGER PUT THAT FORWARD TO STIMULATE DISCUSSION.

SHE SAID TO THE AGENDA COMMITTEE SHE HAS WITHDRAWN THAT PROPOSAL.

SO THAT IS NOT, SHE'S NOT PRESENTING THAT FOR ACTION AT THE PRESENT TIME BY COUNCIL.

BUT THAT DID SPARK A LOT OF REALLY GOOD IDEAS THAT HAD BEEN BROUGHT FORWARD THE LAST SEVERAL YEARS, ALL OF WHICH WERE INCLUDED IN THE PACKET.

WE WANT TODAY MAKE SURE THE PROPOSALS AND IDEAS THAT COUNCILMEMBERS CURRENTLY PROPOSED AROUND HOW TO IMPROVE AND STREAMLINE THE LEGISLATIVE PROCESS.

THOSE WERE INCLUDED SO WE CAN LOOK AT THE COMPREHENSIVE RECORD.

AND SO, THE AGENDA RULES COMMITTEE TASKED BY THE CITY COUNCIL TO NOT JUST APPROVE THE DRAFT AGENDA BUT TO ALSO REVIEW AND MAKE RECOMMENDATIONS ON CHANGES TO OUR COUNCIL RULES.

HAS BEEN DISCUSSING FOR SEVERAL YEARS NOW THE CHANGES TO OUR LEGISLATIVE PROCESS.

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AND OUT OF THAT, COUNCILMEMBER HAHN HAS BEEN WORKING WITH, I THINK THE CITY CLERK DEPARTMENT, THE CITY MANAGER'S OFFICE AND OTHERS TO COME UP WITH A CONCEPTUAL FRAMEWORK TO PRESENT SOME IDEAS FOR COUNCIL CONSIDERATION.

Unofficial Text File

SO THAT WE CAN GATHER INPUT AND COME BACK WITH A PROPOSAL SO WE CAN FINALLY MOVE THIS CONVERSATION FORWARD.

THE PURPOSE OF TONIGHT'S WORK SESSION IS NOT TO TAKE ACTION BUT TO HEAR THE WHOLE COUNCIL'S INPUT.

BECAUSE THE AGENDA AND RULES COMMITTEE THERE ARE ONLY THREE MEMBERS THAT SIT ON THAT COMMITTEE, WE CANNOT ASK FOR YOUR IDEAS, UNFORTUNATELY.

SO REALLY, THIS IS WE'RE THE AGENDA RULES COMMITTEE PUTTING THIS FORWARD TO HEAR THE WHOLE COUNCIL'S IDEAS, SO WE CAN TAKE BACK THAT INPUT AND COME FORWARD WITH A RECOMMENDATION IN THE COMING MONTHS.

SO I REALLY APPRECIATE COUNCILMEMBER HAHN COMING FORWARD WITH A CONCEPTUAL, THOUGHTFUL FAKE WORK.

THE COMMITTEE DID NOT APPROVE THIS, I WANT TO CLARIFY.

WE WANT TO SEND IT FORWARD TO ALL COUNCIL, SO THE WHOLE COUNCIL CAN PROVIDE ITS FEEDBACK AND WE CAN TAKE THAT INTO CONSIDERATION AS WE'RE DELIBERATING ON IT.

I APPRECIATE COUNCILMEMBER HARRISON AND ROBINSON AND TAPLIN'S INPUT.

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THERE MAY BE OTHER IDEAS WE HEAR TONIGHT.

THIS IS INTENDED TO BE A DISCUSSION, AN OPPORTUNITY FOR COUNCIL INPUT AND OUR GOAL IS TO TAKE ALL THESE GOOD IDEAS, AND TO COME BACK WITH A PROCESS THAT WORKS FOR OUR CITY COUNCIL, OUR STAFF AND COMMUNITY, FOR OUR COMMISSIONS.

Unofficial Text File

AND SO, WITH THE GOAL OF TRYING TO HAVE A PROCESS THAT HELPS REALIZE THE IMPACTS OF THE LEGISLATION WE'RE ADOPTED FOR THE BENEFIT OF THE PEOPLE OF BERKELEY.

AND I THINK AN IMPORTANT PART IS OUR BOARDS AND COMMISSIONS AND THE ROLE THEY PLAY ALSO IN REVIEWING A MAJOR LEGISLATION.

SO WITH THAT INTRODUCTION IN MIND, WITH THE UNDERSTANDING WE'RE NOT TAKING ACTION TONIGHT BUT INTENDED FOR DISCUSSION.

I WANT TO TURN IT OVER TO COUNCILMEMBER HAHN WHO WILL PRESENT ON THE SORT OF THE PROPOSED FRAMEWORK THAT WAS PRESENTED AT THE AGENDA RULES COMMITTEE AND THEN COUNCILMEMBER HARRISON THEREAFTER.

>> S. HAHN: THANK YOU SO MUCH, MAYOR.

SOME PRELIMINARY REMARKS.

AND I'LL ASK THE CITY CLERK IF THEY CAN GO AHEAD AND PUT UP THE FIRST PAGE.

FIRST OF ALL, I WANT TO CLARIFY THAT THE AGENDA COMMITTEE WAS WE WERE DELEGATED THE TASK OF COMING BACK TO COUNCIL WITH SOMETHING.

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AND AS YOU ALL KNOW FROM YOUR OWN COMMITTEES YOU CANNOT WORK TWO PEOPLE ON A COMMITTEE CANNOT WORK TOGETHER BEHIND THE SCENES. I WAS DESIGNATED AS A PERSON WHO WOULD WORK ON BRINGING SOMETHING FORWARD.

Unofficial Text File

AND I DID I WAS ABLE TO WORK WITH THE CITY MANAGER AND THE CITY CLERK'S OFFICE, NOT JUST TO GET THEIR INPUT BUT BECAUSE I NEEDED BUDDIES TO HELP DEVELOP THIS AND HAD NO OPPORTUNITY TO WORK WITH MY COLLEAGUES.

I ALSO JUST WANT TO BE REALLY CLEAR, I'M EXTREMELY PROUD OF THE WORK PRODUCT BEING BROUGHT FORWARD AS A THOUGHT EXERCISE HERE TODAY.

BUT THIS IS NOT MY PROPOSAL.

THE PACKET HAS MY PROPOSAL.

MY PROPOSAL IS ON PAGE 43 OF THE PACKET.

AND IF ANYONE WANTS TO KNOW WHAT MY PROPOSAL IS, THAT IS IT.

I AM HAPPY TO TAKE CREDIT FOR HAVING LISTENED TO MANY DIFFERENT STAKEHOLDERS AND LOOKED AT MANY DIFFERENT PROPOSALS THAT ARE HERE IN THE RECORD.

AND TO HAVE WORKED, TO PUT SOMETHING TOGETHER THAT HOPEFULLY REFLECTS AN AMALGAMATION OF MANY DIFFERENT IDEAS AND THAT PROVIDES A CONVERSATION OPPORTUNITY FOR THE WHOLE COUNCIL, WHICH IS WHAT WAS ALWAYS INTENDED.

SO I JUST, I DO THINK THERE HAS BEEN A LITTLE CONFUSION.

This information provided by a Certified Realtime Reporter. The City of Berkeley cannot certify the following text since we did not create it.

AND I WANTED TO CLARIFY WHILE I'M PROUD TO HAVE DONE WORK ON THIS, THIS IS NOT MY PROPOSAL.

MY PROPOSAL IS ELSEWHERE IN THE PACKET.

I ALSO WANTED TO JUST BRING YOUR ATTENTION TO THIS FIRST PAGE.

PROCESS SKETCH FOR DISCUSSION.

Unofficial Text File

WE NAMED IT THAT FOR A REASON.

IT'S ACTUALLY NOT A PROPOSAL.

IT IS A SKETCH OF A POTENTIAL PROCESS.

THAT IS INTENDED TO SPARK CONVERSATION.

IT'S NOT A PROPOSAL.

I WANTED TO MAKE THAT CLEAR AS WELL.

GIVEN THE VARIETY OF WORK PRODUCT THAT WE HAD TO GO BACK AND LOOK AT, AND TO KIND OF DIGEST AND PULL TOGETHER, IT'S NOT POSSIBLE FOR A SINGLE SKETCH TO INCLUDE ABSOLUTELY ALL THE IDEAS AT ONCE.

AND I THINK AS THE REASON WHY WE AS THE AGENDA COMMITTEE DID NOT APPROVE THIS AS A BODY IS BECAUSE WE WANT YOUR INPUT.

WHAT WE MIGHT FINALLY BRING FORWARD MAYBE VERY DIFFERENT FROM THIS.

BUT YOU HAVE TO START SOMEWHERE WITH A CONVERSATION.

AND I REALLY WANT TO MAKE SURE THAT ANY MISCHARACTERIZATION OF WHAT IS HERE IS CLEARED UP.

ALL RIGHT.

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SO LET'S GO THROUGH THIS SKETCH.

AND THE PURPOSE TODAY IS FOR US TO GET ALL YOUR IDEAS AND INPUT.

AND THERE IS NO DECISION POINT TODAY.

I ALSO WANT TO SAY THAT AS WE WERE GOING THROUGH THIS, IT'S ACTUALLY VERY COMPLEX.

Unofficial Text File

AND THERE IS A LOT OF MOVING PIECES AND THERE IS A LOT OF PLACES WHERE YOU WANT TO STEP INTO A MORE COMPLICATED CORNER AND GO DOWN THAT LITTLE RABBIT HOLE.

THE WAY IT'S ORGANIZED THERE IS KIND OF AN OVERVIEW AND WE ACTUALLY DID A LITTLE WAYS DOWN A FEW RABBIT HOLES TO SORT OF SUGGEST SOME OF THE CONSIDERATIONS IN EACH OF THOSE SPECIAL TOPICS.

BUT IT IS OUR INTENT THAT WITH AN OVER-- CLEAR WITH THE OVERVIEW WE WOULD THEN TOGETHER DEVELOP AND REFINE SOME OF THE SPECIAL TOPICS.

>> MAYOR J. ARREGUIN: CAN I ADD ONE THING, COUNCILMEMBER HAHN, IF I MAY.

I FORGOT TO MENTION THAT WHAT WE INCLUDED IN THE PACKETS WAS A MATRIX, WHICH SUMMARIZED ALL THE DIFFERENT PROPOSALS THAT HAVE BEEN PUT FORWARD IN THE LAST WHAT THREE OR FOUR YEARS, INCLUDING THE MOST RECENT PROPOSAL THAT COUNCILMEMBER HAHN IS ABOUT TO PRESENT.

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AND KIND OF REALLY BROKE IT DOWN BY SORT OF ISSUE AREA, MAJOR ITEM DEFINITION PROCESS.

SO YOU CAN SEE ACROSS WHERE EACH PROPOSAL HAPPENED AND -- LANDED AND THE EVOLUTION THAT LED TO THIS PROPOSAL THAT COUNCILMEMBER HAHN WILL PRESENT.

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I WANT TO THANK MY STAFF, JACQUELINE MCCORMICK AND LAURIE, AND COUNCILMEMBER WENGRAF'S OFFICE WHO WORKED QUICKLY TO PUT THIS TOGETHER SO WE HAD SOMETHING TO LOOK AT FOR COMPARATIVE PURPOSES.

BACK TO YOU.

>> S. HAHN: THANK YOU.

I ALSO WANT TO ACKNOWLEDGE AND THAT CAN THEM.

AS YOU CAN SEE BY LOOKING AT THE MATRIX, IT WAS VERY FORGET COMPLICATED.

AND THERE WERE A LOT OF DIFFERENT IDEAS THAT HAD BEEN FLOATED OVER TIME.

AND AGAIN, THIS SKETCH IS ONE OF MANY POTENTIAL PATHS FORWARD.

LET'S GO AHEAD AND WALK DOWN THE SKETCH PATH.

HOPEFULLY, THAT WILL TRIGGER MANY IDEAS AND INPUTS.

SO FIRST OF ALL, LET'S GO TO THE -- WELL, LET ME START HERE BY SAYING THIS IS BY MAJOR ITEMS.

SO VERY QUICKLY, YOU HAVE TO IMAGINE THAT THERE IS LOTS OF ITEMS THAT ARE NOT INCLUDED THAT ARE NOT BEING DISCUSSED.

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WHAT IS A MAJOR ITEM?

CURRENTLY, WE HAVE A DEFINITION.

SO IT'S NOT -- WE CALL IT A POLICY COMMITTEE TRACK ITEM.

THAT WAS TOO MUCH A MOUTHFUL.

Unofficial Text File

WE'LL CALL THEM MAJOR ITEMS.

BUT IT IS THE SAME DEFINITION THAT WE HAVE CURRENTLY.

THIS IS NOT A NEW DEFINITION.

THIS IS THE OPERATIVE DEFINITION IN OUR COUNCIL RULES AND PROCEDURE AND ORDER, AND I HAVE NOT HEARD ANY CONCERNS ABOUT THE DEFINITION TO DATE.

IT IS THE ONE WE'VE BEEN USING FOR A COUPLE OF YEARS.

HOWEVER, AS WITH EVERYTHING THAT WE'RE LOOKING AT TODAY, IT'S ENTIRELY POSSIBLE FOR US TO ADJUST THE DEFINITION.

SO THAT'S NOT SET IN STONE.

IT'S JUST TO EXPLAIN WHERE WE GOT THAT TERMINOLOGY FROM.

WE CAN GO TO THE NEXT SLIDE.

THESE BIG IDEAS YOU CAN EACH BRING YOUR OWN TO THIS.

THIS WAS SORT OF THE BIG IDEAS, AGAIN, I WASN'T ABLE TO WORK TOGETHER WITH ANY OTHER COMMITTEE MEMBERS.

SO THE BIG IDEA FOR COUNCIL THAT CAME FROM MYSELF, SUCCESSFULLY DEVELOP AND IMPLEMENT STATE OF THE ART AND INNOVATIVE PROGRAM AND POLICIES TO SERVE BERKELEY AND MODEL BEST PRACTICES FOR OTHER JURISDICTIONS.

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THE CITY CLERK'S BIG IDEA WAS CONSISTENCY IN PROCESS FOR MAJOR ITEM DEVELOPMENT, BUDGETING AND IMPLEMENTATION.

OBVIOUSLY, CITY ATTORNEY IS INTERESTED IN ENSURING LEGAL AND DRAFTING COMPLIANCE.

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AND THE CITY MANAGER'S BIG IDEA WAS TO HELP THE ORGANIZATION DELIVER WITHOUT OVERWHELM, AND HELP STAFF BE SUCCESSFUL IN THEIR WORK.

AND I THINK THAT EVEN THOUGH THOSE ARE COME FROM ONE INDIVIDUAL EACH, I THINK THEY ACTUALLY REALLY REFLECT WHAT THESE DIFFERENT ROLES MIGHT HAVE TOP OF MIND.

BUT OBVIOUSLY, YOU ALL MAY HAVE YOUR OWN RENDITIONS OF THIS AS WELL.

GOING TO THE NEXT SLIDE.

SO OBVIOUSLY, THIS IS A BIG POTENTIAL CHANGE.

BUT NOT AT ALL NECESSARY.

BUT THE IDEA OF YEARLY CYCLE REALLY I WOULD SAY IS BUILT BACKWARDS FROM THE IDEA THAT WE WANT TO GET TO A PLACE WHERE WE DON'T HAVE BACKLOGS, WHERE ITEMS WE PASS AND EVEN THAT WE FUND DON'T GET IMPLEMENTED FOR YEARS.

AND WE'RE -- THERE IS KIND OF A TIGHTER AND LOGICAL PROGRESSION FROM PROPOSALS TO BEING VET, TO BEING ELIGIBLE FOR FUNDING, TO RECEIVING FUNDING, TO HOPEFULLY BEING IMPLEMENTED PRETTY MUCH IMMEDIATELY AFTER.

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SO THAT THE CONVERSATION ABOUT IMPLEMENTATION BEGINS ESSENTIALLY AFTER THE ITEM IS FUNDED.

SO WHILE IT COULD ENTAIL A LONGER TIMELINE BEFORE AN ITEM IS PASSED AND BUDGETED, IT IS INTENDED TO SIGNIFICANTLY REDUCE THE AMOUNT OF TIME THAT IT TAKES FROM APPROVAL OR BUDGET TO IMPLEMENTATION.

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AND THERE ARE OTHER WAYS TO ACHIEVE THIS.

AND PEOPLE MAY WISH TO FRONT LOAD THE WEIGHT OR BACK LOAD THE WEIGHT OR DISTRIBUTE IT DIFFERENTLY.

BUT -- I DID WANT TO EXPLAIN WHY THE IDEA OF A YEARLY CYCLE SEEMED LIKE SOMETHING WE MIGHT WANT TO PUT FORWARD.

SO, IF THERE WAS A YEARLY CYCLE, AGAIN ALL OF THESE DATES CAN BE CHANGED.

LOOKING AT IT WITH THE CITY MANAGER AND THE CITY CLERK, AND TRYING TO UNDERSTAND SORT OF THE DEADLINES BY WHICH THE BUDGET COMMITTEE NEEDS THINGS AND OTHER CONSIDERATIONS, WE CAME TO THE IDEA THAT JULY THROUGH SEPTEMBER COUNCIL WOULD BE FINALIZING ITEMS, NOW JUST TO BE CLEAR, THEY COULD DEVELOP AND SUBMIT THEM AT ANY TIME DURING THE YEAR.

BUT THERE WOULD BE FOUR MONTHS WHERE -- THREE MONTHS WHERE YOU COULD REALLY FOCUS ON THAT.

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DURING THAT TIME, THE CITY MANAGER WOULD BE FOCUSED ON STARTING TO IMPLEMENT ITEMS FROM THE PREVIOUS YEAR THAT HAD JUST BEEN FUNDED.

OCTOBER TO MARCH WOULD BE COMMITTEE SEASON.

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RECOGNIZING THAT THERE IS PROBABLY A PRETTY BIG GAP IN DECEMBER.

AND THERE MIGHT BE QUITE A FEW ITEMS AND THE COMMITTEES WOULD BE DOING ROBUST REVIEWS AND WOULD NEED TO HEAR ITEMS MORE THAN ONCE.

AND THEN, APRIL THROUGH JUNE WOULD BE THE TIME WHEN COUNCIL WOULD REVIEW AND APPROVE ITEMS AND THE BUDGET WOULD FUND THOSE ITEMS THAT COUNCIL DEEMED READY TO FUND THAT YEAR.

SO IT'S BUILT BACK FROM THAT JUNE 30 BUDGET ADOPTION.

THE NEXT SLIDE.

SO SOME OF THE BENEFITS WERE WRITTEN HERE.

OBVIOUSLY, THERE IS DOWN SIDES AS WELL.

EVERYTHING CHOICE WE ME, INCLUDING THE CHOICE WE HAVE RIGHT NOW HAS UP SIDES AND DOWN SIDES.

BUT IN INTRODUCING A NEW IDEA, WE THOUGHT WE WOULD SHARE WHAT SOME OF THE BENEFITS MIGHT BE.

A YEARLY OPPORTUNITY.

THE FOUR SUBJECT MATTER COMMITTEES WOULD HAVE MORE OF A SEASON.

ALTHOUGH, THEY ABSOLUTELY COULD MEET AT ANY TIME.

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STAFF WOULD HAVE A PERIOD OF TIME WHEN THEY COULD FOCUS IN A MUCH MORE ROBUST WAY THAN THEY DO NOW.

ON IMPLEMENTATION AND COUNCILMEMBER SAID DURING THAT TIME WOULD ALSO HAVE SORT OF MORE FREE TIME, QUOTE/UNQUOTE, WITHOUT COMMITTEE MEETINGS TO FINALIZE ITEMS THEY WANTED TO SUBMIT BY THE DEADLINE.

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AND AGAIN, THE IDEA BEING TO REDUCE THE GAP BETWEEN APPROVAL AND IMPLEMENTATION.

AND JUST TO BE CLEAR, WE DON'T REALLY HAVE EXPLICIT DEADLINES FOR ITEMS.

BULT BECAUSE WE HAVE A BUDGET CYCLE, THERE IS A DEADLINE, THERE IS A DATE AFTER WHICH AN ITEM CAN NO LONGER BE CONSIDERED FOR THAT BUDGET CYCLE.

EXACTLY.

SO WE DON'T HAVE THOSE DEADLINES DELINEATED VERY CLEARLY RIGHT NOW.

AND I THINK THAT CAN BE A PROBLEM.

BECAUSE PEOPLE DON'T REALLY KNOW HOW MUCH TIME THEY HAVE TO SUBMIT AN ITEM THAT MIGHT HAVE TO GO TO COUNCIL.

AND THEY DON'T KNOW IF THEY WILL MISS BEING CONSIDERED FOR ONE OR ANOTHER BUDGET CYCLE.

BY CLARIFYING, IT WOULD BE VERY FAIR AND EVERYONE WOULD BE ON NOTICE.

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THIS IS THE DATE BY WHICH YOUR ITEMS HAVE BEEN TO BE IN IN ORDER TO BE CONSIDERED FOR THIS CYCLE.

THERE IS OBVIOUSLY DOWN SIDES AS WELL, TRADEOFFS.

AND I THINK IT'S SOMETHING FOR EVERYONE HERE TO CONSIDER.

Unofficial Text File

SO LET'S GO TO THE NEXT SLIDE.

MAJOR ITEM DEVELOPMENT AND SUBMISSION.

AGAIN, YOU WOULD HAVE ALL YEAR TO SUBMIT.

IT'S NOT THAT YOU WOULD ONLY BE ABLE TO SUBMIT DURING A THREE-MONTH PERIOD.

BUT THAT YOU WOULD HAVE LESS OTHER RESPONSIBILITIES DURING THAT TIME AND YOU COULD FOCUS MORE.

SO FIRST THE MAJOR ITEM GUIDELINES WOULD BECOME MANDATORY.

RIGHT NOW THEY ARE RECOMMENDED AND I THINK A LOT OF PEOPLE DON'T REALIZE THEY ARE RECOMMENDED.

AND THE AGENDA COMMITTEE HAS NOT NECESSARILY BEEN CONSISTENT AND APPLYING THAT.

FIRST IDEA WOULD BE MAJOR ITEM GUIDELINES.

WHY?

BECAUSE THEY REQUIRE ROBUST RESEARCH AND CONSULTATION.

AND THAT WOULD MEAN THAT ITEMS CAME TO US AS A COUNCIL MORE FULLY FORMED.

THEN THE SEPTEMBER 30 SUBMISSION DEADLINE.

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BUT ITEMS CAN BE SUBMITTED PRIOR AND THEY COULD BE REVIEWED BY THE AGENDA AND RULES COMMITTEE JUST FOR THE QUESTION OF DO THEY COMPLY WITH THE GUIDELINES.

TIMELINE ALLOWS FOR COUNCILMEMBERS TO WORK ALL YEAR WITH CONCENTRATED OPPORTUNITY JULY THROUGH SEPTEMBER.

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AND ALSO STAFF INPUT AT THE PRESUBMISSION LEVEL AND INPUT FROM THE CITY ATTORNEY WOULD BE MORE FORMALIZED.

RATHER THAN SORT OF CATCH US IF YOU CAN AND SOMETIMES A DEPARTMENT HEAD HAS TIME TO WORK WITH YOU AND SOMETIMES THEY DON'T.

IT WOULD BE EXPLICIT, THE LEVEL OF INPUT AND CONSULTATION AVAILABLE TO COUNCILMEMBERS AS THEY ARE DEVELOPING THEIR ITEMS.

WE CAN GO TO THE NEXT SLIDE.

SO IN OCTOBER, AGAIN, MAYBE OCTOBER, IT'S ALL UP TO YOUR COMMENT.

WE WOULD HAVE THE AGENDA COMMITTEE WOULD REVIEW ALL MAJOR ITEMS THAT CAME IN TOWARDS THE DEADLINE FOR COMPLIANCE WITH THE GUIDELINES.

COMPLIANT MAJOR ITEMS WOULD GO TO COMMITTEES.

IF AN ITEM WAS NONCOMPLIANT THERE WOULD BE AN OPPORTUNITY FOR THE AUTHOR TO RESUBMIT AND STILL CATCH THAT CYCLE.

NEXT SLIDE.

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OCTOBER THROUGH MARCH, THE POLICY COMMITTEES WOULD ORGANIZE THEMSELVES.

MID OCTOBER THEY WOULD PLAN THEIR SESSION.

MAYBE THERE ARE SEVERAL ITEMS ON A SIMILAR TOPIC AND IT MAKES MORE SENSE TO HEAR THEM TOGETHER.

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MAYBE THERE ARE ITEMS THAT THEY FEEL ARE GOING TO REQUIRE VERY SIGNIFICANT OUTREACH AND THEY WANT TO SCHEDULE THEM IN THAT WAY.

AND THIS OF COURSE IS HOW IT IS DONE IN COMMITTEES, COMMITTEE SYSTEMS THAT HAVE AN ANNUAL CYCLE AT THE STATE LEVEL AND IN OTHER CITIES.

AND IT'S NOT UNCOMMON THAT THERE IS A TIME WHEN THE COMMITTEE IS ESSENTIALLY PLANS OUT THEIR HEARINGS.

THE MAJOR ITEMS WOULD BE REVIEWED ON A ROLLING BASIS.

AND ALL THE ITEMS WOULD BE OUT OF THE POLICY COMMITTEE BY MARCH 30.

THIS BULLET POINT WITH COMMITTEES MAY PRIORITIZE OR SCORE ITEMS THEY REVIEW.

THE REASON IT'S IN BRACKETS BECAUSE IT'S A BIG QUESTION MARK.

SO MAYBE THEY WOULD MAYBE THEY WOULDN'T.

BUT THAT IS IN BRACKETS BECAUSE IT'S REALLY A QUESTION MARK HERE.

NEXT SLIDE.

SO, IN APRIL ALL MAJOR ITEMS WOULD HAVE BEEN VOTED ON.

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THEY ARE NOT ALL VOTED ON IN APRIL.

BUT THEY WOULD ALL BE VOTED ON BY APRIL 30.

MAY MIGHT REQUIRE US, IT MIGHT REQUIRE A SPECIAL MEETING IN APRIL.

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THERE WERE A WHOLE LOT OF THEM.

THE CITY ATTORNEY WOULD SIGN OFF ON THE DRAFTING AND LEGAL CONFORMITY OF THE ORDINANCE AS RESOLUTIONS AND FORMAL POLICIES.

AND APPROVE ITEMS WOULD GO TO THE BUDGET COMMITTEE.

AND THEN NEXT SLIDE.

AND THEN, POSSIBLY, AGAIN, POSSIBLY MAJOR ITEMS.

AND JUST TO BE CLEAR, THAT'S NOT THE SAME AS ALL ITEMS PRIORITIZATION, BUT POSSIBLY THERE WOULD BE A PROCESS OF TAKING ALL THOSE MAJOR ITEMS FROM THAT CYCLE AND HAVING A PRIORITIZATION OF THEM.

AND SENDING THAT IN BY THE MIDDLE OF MAY.

AND THAT WOULD BE GOING TO THE BUDGET COMMITTEE.

BUT NOT BE BINDING.

IT WOULD BE A NONBINDING PRIORITIZATION.

AND NEXT SLIDE.

THEN THE BUDGET COMMITTEE WOULD HAVE ALL THESE.

THE PRIORITIZATIONS AGAIN IN BRACKETS AND COMMITTEE WITH A QUESTION MARK WOULD GO TO THE BUDGET COMMITTEE AS GUIDES BUT NOT BE BINDING.

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BUT THE BUDGET COMMITTEE WOULD ALREADY HAVE AN IDEA OF WHAT THE COUNCIL THOUGHT WHERE THE PRIORITIZATIONS.

THE BUDGET COMMITTEE WOULD DO NORMAL RECOMMENDATION TO THE FULL COUNCIL.

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THE BUDGET WOULD GET PASSED.

MAJOR ITEMS THAT WERE FUNDED WOULD MOVE FORWARD TO IMPLEMENTATION.

THAT MEANS IMMEDIATE IMPLEMENTATION.

AND THAT IS ONE OF THE BIG CHANGES THAT THIS KIND OF A SET UP HOPEFULLY WOULD ALLOW.

AS WE ALL KNOW, RIGHT NOW MAJOR ITEMS THAT ARE PASSED AND FUNDED GO INTO A BIG BUCKET AND OFTEN TIMES ARE NOT BROUGHT FORWARD TO FRUITION FOR MANY YEARS, SOMETIMES 10 YEARS.

WE HAVE SEEN THINGS LIKE THAT.

ITEMS PASSED BY COUNCIL BUT NOT FUNDED WOULD GET AN AUTOMATIC ROLL OVER TO BE CONSIDERED AT FUTURE FUNDING OPPORTUNITIES.

TO BE CLEAR, THAT ISN'T THE NEXT YEAR.

THAT'S NOT 12 MONTHS LATER.

IT WOULD BE A FUTURE FUNDING OPPORTUNITIES THROUGHOUT THE YEAR.

NEXT SLIDE.

THIS IS REALLY, I THINK REALLY THE DOMAIN OF THE CITY MANAGER.

AND THIS SLIDE REFLECTS I THINK AND CITY MANAGER PLEASE STEP IN IF I DON'T PRESENT THIS CORRECTLY.

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BUT THIS REFLECTS HER THINKING.

AND I THINK WE ALL KNOW THAT SHE HAS BEEN VERY FOCUSED ON IMPLEMENTATION.

SHE WANTS THE WORK THAT WE DO TO BE SUCCESSFUL.

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AND IT IS HER DREAM THAT WE ARE ABLE TO CLEAR OUR BACKLOGS AND THAT WE ACTUALLY START IMPLEMENTING RIGHT AWAY.

AND THAT THESE PROGRAMS AND POLICIES SEE THE LIGHT OF DAY SOON AFTER THEY ARE APPROVED AND FUNDED.

SO THE IDEA WOULD BE THAT THE CITY MANAGER WOULD ASSIGN A SINGLE IMPLEMENTATION LEAD, THAT THE LEAD AND CITY MANAGER WOULD ASSEMBLE THEIR TEAM, THAT MIGHT BE A COUPLE OF DIFFERENT DEPARTMENT HEADS.

THAT THEY MIGHT MEET WITH THE AUTHORS TO CLARIFY ANY INTENTIONS OR TO SKETCH TIMELINES OR DISCUSS OPPORTUNITIES, IDEAS OR CHALLENGES.

AND LET ME BE CLEAR, THOSE ARE AROUND IMPLEMENTATION.

NOT CHALLENGES WITH THE LEGISLATION ITSELF.

WHEN YOU SIT DOWN TO ACTUALLY DO AN IMPLEMENTATION PLAN, IT'S VERY DIFFERENT FROM KIND OF THE HIGH LEVEL THINKING ABOUT IMPLEMENTATION THAT OBVIOUSLY HAS TO HAPPEN BEFORE THE ITEM IS APPROVED.

THE IMPLEMENTATION TEAM HAS PREPARED TWO SEPARATE THINGS.

ONE IS A LAUNCH PLAN AND ONE IS AN OPERATING PLAN.

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AND THAT IS THE CITY MANAGER REALLY RECOGNIZING THAT LAUNCHING SOMETHING AND RUNNING IT ARE TWO DIFFERENT THINGS.

BUILDING A STRUCTURE AND KEEPING IT FUNCTIONING OVER TIME ARE DIFFERENT THINGS.

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PUTTING IN A GARDEN AND KEEPING IT GOING OVER TIME ARE TWO DIFFERENT THINGS.

AND SO BOTH OF THOSE WOULD BE DEVELOPED AND THEN AS SOON AS POSSIBLE, THE PROGRAM OR POLICY WOULD BE LAUNCHED AND IMPLEMENTED.

SO LET'S GO TO THE NEXT SLIDE.

SO THAT IS, THAT WAS IT FOR THE OVERVIEW OF WHAT A WHOLE CYCLE MIGHT LOOK LIKE.

NOW, WE'RE GOING INTO WHAT I CALL SPECIAL TOPICS.

THESE ARE SOME OF THOSE THINGS THAT WE CAME UPON AS WE WERE THINKING THESE THINGS THROUGH.

THAT WOULD BE QUESTIONS WE PROBABLY WOULD WANT TO MAKE SURE WE HAD COVERED.

AND BY THE WAY, OUR SPECIAL TOPICS ARE NOT DEFINITIVE.

THERE ARE MANY MORE.

WE CHOOSE TO JUST GIVE YOU A LITTLE BIT OF A NIBBLE AND HAVE YOU UNDERSTAND THAT WE DIDN'T NOT THINK ABOUT THESE THINGS.

SO THE FIRST OBVIOUSLY IMPORTANT THING IS WHAT DID YOU DO IF THERE ARE A TIME CRITICAL MAJOR ITEM?

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IF WE'RE STUCK IN A CYCLE WHAT DO WE DO IF THERE IS AN URGENT NEED AND WHAT COMES TO MIND FOR ME IS AFTER GEORGE FLOYD WAS MURDERED, THERE WAS A VERY, VERY INTENSE DESIRE ON THE PART OF THE COMMUNITY AND OUR COUNCIL TO BE ABLE TO BE RESPONSIVE VERY QUICKLY WITH PRETTY COMPREHENSIVE IDEAS THAT WERE PUT FORWARD.

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I DON'T THINK ANY OF US WOULD WANT SOMETHING LIKE THAT TO HAVE TO SIT AND WAIT FOR SEVERAL MONTHS TO BE SENT TO A COMMITTEE OR TO BE CONSIDERED.

SO THE OVERRIDE FOR TIME CRITICAL ITEMS IS A CRITICAL COMPONENT OF THIS.

WE ALREADY HAVE SOME TERMS FOR OVERRIDE IN OUR COUNCIL RULES AND PROCEDURE AND ORDER.

AN ITEM THAT WOULD OTHERWISE BE ASSIGNED TO A POLICY COMMITTEE MAY BY-PASS, IF IT'S DEEMED TIME CRITICAL.

AND THE AGENDA AND RULES COMMITTEE DETERMINES WHETHER IT IS TIME CRITICAL.

LIKE EVERY THING WE COULD EXPAND THIS, WE COULD REWRITE IT, WE COULD MAKE IT HAVE MORE SPECIFICITY.

BUT THE IDEA THAT WE WOULD HAVE A SAFETY VALVE FOR TIME CRITICAL ITEMS IS VERY IMPORTANT.

AND I THINK BECOMES MORE IMPORTANT IF WE'RE GOING TO HAVE A PROCESS THAT IS A YEARLY PROCESS.

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ANOTHER IDEA THAT I THINK IS IMPORTANT FOR US TO CONSIDER, IS THAT IF THE AGENDA COMMITTEE GETS TO MAKE THESE DECISIONS WE MAY ACTUALLY WANT TO HAVE AN OVER RIDE THAT TAKES THAT DETERMINATION TO THE FULL COUNCIL.

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SO LET'S SAY A COUNCILMEMBER BRINGS SOMETHING FORWARD, THEY THINK IT'S TIME CRITICAL, THE AGENDA AND RULES COMMITTEE DOESN'T AGREE.

THEY COULD THEN BRING THAT DECISION TO THE FULL COUNCIL AND THE FULL COUNCIL WOULD BE ABLE TO WEIGH IN ON WHETHER THAT ITEM WAS TIME CRITICAL.

ALL RIGHTY.

NEXT TOPIC.

MOVING TO ANOTHER SPECIAL TOPIC.

THE DETAILS OF PRE SUBMISSION.

THE GUIDELINES FORMAT WOULD BE MANDATORY.

ANOTHER SUGGESTION IS THAT AT THIS STAGE THERE WOULD ONLY BE AUTHORS AND NO CO-SPONSORS AND THAT WOULD HELP WITH BROWN ACT ISSUES AS THINGS MOVE THROUGH COMMITTEE.

THAT A PRE-SUBMISSION CONSULTATION WITH THE CITY MANAGER WOULD BE AVAILABLE.

EXPLICITLY AVAILABLE SO THAT PEOPLE DON'T FEEL LIKE THEY ARE KIND OF BUGGING SOMEBODY BY REACHING OUT AND ASKING FOR HELP OR ADVICE ON SOMETHING THEY ARE THINKING OF DEVELOPING.

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AND THEN A REQUIRED PRE-SUBMISSION CONSULTATION WITH THE CITY ATTORNEY SO HER OFFICE HAS THE OPPORTUNITY TO IDENTIFY POTENTIAL LEGAL AND DRAFTING CONSIDERATIONS VERY EARLY IN THE PROCESS.

I THINK IT'S PROBABLY A GOOD IDEA FOR THE CITY ATTORNEY TO DECIDE IF THERE ARE ISSUES.

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AND THIS WOULD PROVIDE NOT JUST OPPORTUNITY BUT A REQUIREMENT TO RUN THINGS BY THE CITY ATTORNEY'S OFFICE.

THE LAST BULLET POINT IS VERY IMPORTANT.

HOW DO WE FOLD IN COMMISSIONS.

THIS IS SOMETHING BIG THAT THE AGENDA AND RULES COMMITTEE MEMBERS FELT VERY STRONGLY ABOUT.

I HAVE TO SAY THAT JUST TRYING TO HARNESS A SKETCH FOR THE COUNCIL PROCESS WAS A LOT.

BUT WE'RE VERY CLEAR THAT WHATEVER PROCESS WE STICK WITH OR MOVE TOWARDS, WE HAVE TO HAVE MORE EXPLICIT ABOUT HOW OUR COMMISSIONS ARE CONSULTED AND HOW WE GET THEIR IMPORTANT ADVICE AND REVIEW AND HOW THAT GETS WOVEN IN.

WE THOUGHT THERE MIGHT BE AN IMPORTANT ROLE FOR THAT IN THE PRE SUBMISSION PHASE.

LET'S SAY YOU START DEVELOPING SOMETHING EARLY IN THE CYCLE, IT'S POSSIBLE THAT IT COULD GO TO A COMMISSION BEFORE YOU EVEN SUBMIT IT.

THERE MIGHT BE OTHER WAYS AND OTHER TIMES IN THE PROCESS.

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BUT I REALLY WANT TO HIGHLIGHT THAT AS WE GO THROUGH THIS, THE AGENDA AND RULES COMMITTEE WAS VERY CONCERNED THAT THE COMMISSIONS NOT BE SIDE LINED AND ON THE CONTRARY, THAT WE FIND EXPLICIT WAYS FOR THEIR CONTRIBUTIONS AND THOUGHTS AND OPINIONS TO BE INTEGRAL TO THE PROCESS OF MOVING LEGISLATION FORWARD.

Unofficial Text File

OKAY.

NEXT SLIDE.

STRENGTHENING THE COMMITTEE REVIEW.

LOTS OF IDEAS FOR HOW TO DO THAT.

AND I'M SURE THERE IS GOING TO BE A LOT MORE.

BUT SOME OF THE IDEAS OBVIOUSLY WOULD BE THAT FOR EVERY ITEM THERE IS A WHOLE SERIES OF QUESTIONS, A CHECKLIST IF YOU WANT TO CALL IT.

BUT A SERIES OF INQUIRIES THE COMMITTEE IS REQUIRED TO MAKE SO EVERY ITEM OF LEGISLATION IN COMMITTEE AND ACROSS COMMITTEES IS GETTING THE SAME SCRUTINY AND SAME OPPORTUNITY FOR INPUT.

ONE IDEA IS RELEVANCE TO STRATEGIC PRIORITIES.

ADDED VALUE OF THE PROGRAM OR POLICY.

BENEFITS AND COSTS OF THE PROGRAM OR POLICY TO THE COMMUNITY AND THE CITY.

POTENTIAL ALTERNATIVE MEANS TO ACHIEVE THE SAME OR SIMILAR GOALS THAT MIGHT BE MORE FRUITFUL OR MORE QUICK OR LESS EXPENSIVE.

PHASING IN TIMELINES FOR IMPLEMENTATION.

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STAFFING AND RESOURCES NEEDED.

HOW THE PROGRAM OR POLICY WOULD BE EVALUATED.

HOW IT WILL BE ENFORCED.

AND THEN AGAIN, IN BRACKETS ARE THINGS WITH A REAL QUESTION MARK.

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WOULD THE COMMITTEE DO SOME KIND OF RATING OR RANKING, YES OR NO, POSSIBLY.

SHOULD WE INCREASE THE OPTIONS AROUND THE POSITIVE AND NEGATIVE RECOMMENDATIONS.

I THINK YOU ARE ALL FAMILIAR.

WE HAVE ONLY FOUR OPTIONS.

WHEN WE SEND SOMETHING TO CITY COUNCIL, MAYBE THERE IS SOME ROOM TO CHANGE OR REFINE THINGS THERE.

OTHER WITH A QUESTION MARK.

THIS QUESTION OF STRENGTHENING COMMITTEES REGARDLESS OF OUR OVERALL PROGRAM IS A SPECIAL TOPIC THAT WE ARE GOING TO HAVE TO ADDRESS AS A COUNCIL.

GOING TO THE NEXT SLIDE.

CONTINUING ON THE STRENGTHENING COMMITTEES IDEA, WE WOULD ALSO NEED TO CONSIDER HOW ARE WE GOING TO GET THE INPUTS WE NEED FROM THE PUBLIC, FROM STAFF, FROM CITY ATTORNEY.

THE COMMITTEES WOULD NEED TO DO ACTIVE OUTREACH WITH STAFF SUPPORT.

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ACTUALLY IDENTIFY STAKEHOLDERS THAT WOULD EITHER BE IMPACTED OR WOULD NEED TO TAKE ACTION ON ONE OR ANOTHER PRIORITY AND DO ACTIVE OUTREACH, NOT JUST HOPE THAT THEY MIGHT HAPPEN UPON AN AGENDA SOMEWHERE.

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MULTIPLE HEARINGS TO ALLOW FOR A BEST COMMUNITY STAFF AND CITY ATTORNEY INPUTS AND DISCUSSION.

ENHANCE AND EMPOWER THE CITY ATTORNEY AND STAFF PARTICIPATION.

SO THAT THEY COULD GIVE MEANINGFUL VERBAL INPUT WITHOUT THE REQUIREMENT FOR A FORMAL REPORT.

AND I KNOW THAT BOTH THE CITY ATTORNEY'S OFFICE AND THE CITY MANAGER ARE VERY HESITANT TO GIVE US AND HAVE THEIR STAFF GIVE US SORT OF PRELIMINARY ADVICE THAT DOES NOT REFLECT FULL AND DEEP CONSIDERATION.

AND I THINK THIS WILL BE SOMETHING FOR THE CITY ATTORNEY'S OFFICE AND THE CITY MANAGER'S OFFICE TO THINK ABOUT WHAT KIND OF INPUT THEIR STAFF COULD PROVIDE THEY WOULD FEEL COMFORTABLE WITH THAT WOULD BE SUBSTANTIAL AND MOVE THINGS ALONG.

THE COMMITTEE SCHEDULE.

HAVING A SCHEDULE AHEAD OF TIME COULD HELP THE CITY ATTORNEY AND THE CITY MANAGER SEND THE RIGHT PEOPLE TO EACH MEETING.

KNOWING AHEAD OF TIME WHAT ITEMS ARE GOING TO BE CONSIDERED AT DIFFERENT TIMES, I THINK COULD ALLOW US TO HAVE THE RIGHT PEOPLE THERE AND MORE ROBUST INPUT FROM OUR IMPORTANT PARTNERS.

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AND THEN, AGAIN CONSIDER HOW TO ATTAIN AND INTEGRATE INPUT FROM COMMISSIONS.

AGAIN, WE DID NOT GO DEEP THERE.

BUT WE IDENTIFIED IT AS SOMETHING CRITICALLY IMPORTANT.

Unofficial Text File

NEXT SLIDE.

SO ANOTHER SPECIAL TOPIC.

PRIORITIZATION.

AND WHEN WE TALKED ABOUT THIS A LOT, BUT IN DISCUSSING THIS WITH THE CITY MANAGER, I THINK WE CAME TO UNDERSTAND THAT THERE IS KIND OF TWO ISSUES.

ONE IS THAT WE WHILE REDUCED, WE STILL HAVE THE BACKLOG NOW.

WE HAVE A BIG BACK LOG.

AND SO WE NEED TO FIGURE OUT SORT OF AN END GAME FOR HOW WE'RE GOING TO DEAL WITH THOSE BACKLOG ITEMS.

AND THE END GAME MIGHT BE THAT WE SORT OF FIGURE OUT WHAT TO DO.

THE SECOND TOPIC AROUND PRIORITIZATION IS ASSUMING THE DREAM OF A SYSTEM THAT HAS NO BACKLOGS, WE STILL WOULD HAVE TO DO PRIORITIZATION.

SO LOOKING AT THE BACKLOG QUEUE, ONE IDEA WAS A ONE TIME PROCESS FOR MAJOR ITEMS THAT ARE CURRENTLY IN THE QUEUE THAT ALL PENDING BUT NOT INITIATED ITEMS EXPONENTIALLY WOULD GO BACK TO THE POLICY COMMITTEES FOR LIKE A REREVIEW.

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AND THE POLICY COMMITTEES WOULD LOOK AT THEM AND CONSIDER MERGING ITEMS OR UPDATING REFERRALS IN CASE THEY ARE STALE OR OTHER INITIATIVES THAT COME FORWARD THAT MAYBE MAKE THEM, MAKE IT WORTH CHANGING THEM A LITTLE BIT.

Unofficial Text File

REAPPROVAL OF ITEMS AS IS.

RECOMMENDATIONS TO SUNSET OR REMOVE ITEMS THAT HAVE BEEN SUPERSEDED MAYBE BY STATE LAW, MAYBE BY SOMETHING ELSE THE CITY HAS DONE.

RECOMMEND DISPOSITION OF ALL THE ITEMS.

POTENTIALLY RANKED BY LEAD DEPARTMENT.

AND BRING ALL THOSE RECOMMENDATIONS FROM EACH COMMITTEE TO THE COUNCIL FOR US TO DECIDE WHAT WE WANT TO CONSOLIDATE, WHAT WE WANT TO REMOVE, WHAT DO WE WANT TO RESTATE AND WHAT DO WE WANT TO RESUPPORT.

WE MIGHT NEED SOME CRITERIA.

WE MIGHT NEED SOME KIND OF R.R.V.

THE POINT HERE IS WE WOULD HAVE TO DEAL WITH A BACKLOG IN ORDER TO GET TO THAT BEAUTIFUL DAY WHERE EVERY YEAR, THE ITEMS THAT WERE APPROVED AND FUNDED COULD BE IMPLEMENTED OR THE IMPLEMENTATION COULD BEGIN RIGHT AWAY.

SO NEXT SPECIAL TOPIC.

IS THE PRIORITIZATION ON AN ONGOING BASIS OF A YEARLY QUEUE WITH THE DREAM OF THE BACKLOG HAVING BEEN CLEARED.

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FIRST OF ALL, IT IS HOPED THE ENHANCED COMMITTEE PROCESS WOULD RESULT IN FEWER BACKLOGS, AND THAT ITEMS WOULD BE IMPLEMENTED IN A REASONABLE TIMEFRAME.

AND THEREFORE, PRIORITIZATION WOULD BECOME LESS OF AN ISSUE.

Unofficial Text File

OBVIOUSLY WHEN YOU HAVE 150 ITEMS YOU HAVE TO PRIORITIZE.

IF YOU HAVE 10 OR 15, IT'S MUCH LESS OF A CHALLENGE.

BUT IN A RATIONALIZED SYSTEM, ONE, YOU WOULD HAVE MORE FULLY CONCEIVED AND VETTED ITEMS.

MAYBE YOU WOULD HAVE COMMITTEE SCORING AND/OR RANKING.

AND THEN, COUNCIL RANKING.

AND IT IS SUGGESTED THAT WOULD BE EITHER BY LEAD DEPARTMENT OR OVERALL.

I THINK WE'VE ALL SEEN A SITUATION WHERE WE RANK EVERYTHING TOGETHER.

AND IT TURNS OUT THE FIRST 15 ITEMS ARE FOR PUBLIC WORKS OR PLANNING.

AND THEN OTHER DEPARTMENTS THEIR ITEMS ARE SPRINKLED IN THE QUEUE.

WE MAY WANT TO LOOK AT RANKING BY DEPARTMENT RATHER THAN JUST DOING THE UNIVERSAL RANKING.

AND AGAIN, THESE ARE ALL IDEAS.

IT'S BIG.

THERE WAS A LOT FOR US TO COVER.

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ALL RIGHT.

NEXT SPECIAL TOPIC.

WE WOULD NEED A PROCESS AT THE MIDYEAR BUDGET OPPORTUNITIES.

HERE YOU SEE IN BLUE VERY HIGH-LEVEL SUGGESTIONS.

Unofficial Text File

WE'LL FELTS THIS WOULD BE A TOPIC THAT WOULD HAVE TO GO TO BUDGET AND FINANCE.

ONE IDEA WAS THAT ONLY TIME CRITICAL AND ROLL OVER ITEMS PREVIOUSLY APPROVED BUT UNFUNDED WOULD BE CONSIDERED.

NOT JUST FOR COUNCIL ITEMS BUT ALSO FOR CITY MANAGER ITEMS.

ANOTHER WOULD BE THAT NOT ALL THE EXTRA FUNDS WOULD GET ALLOCATED AND MORE FUNDS WOULD BE AVAILABLE FOR THE ANNUAL BUDGET PROCESS FOR COUNCIL INITIATIVE SAID THAT GO THROUGH THE YEAR PROCESS.

AND POSSIBLY THAT A.A.O.1 AND 2 ARE ONE TIME OR SENSITIVE NEEDS, EXCEPT IN SPECIAL CIRCUMSTANCES.

REALLY WE FELT THIS SHOULD GO TO BUDGET AND FINANCE TO THINK ABOUT SHOULD WE ADOPT SOMETHING LIKE A YEARLY PROCESS.

BUT WITH ANY PROCESS, THESE THINGS WOULD NEED TO BE CLARIFIED.

ALL RIGHT, NEXT SPECIAL TOPIC.

IMPLEMENTATION.

WE ALREADY SAW WHAT THAT LOOKS LIKE.

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BUT I THINK THE CITY MANAGER REALLY WOULD WANT TO WORK ON FILLING OUT WITH MORE DETAIL WHAT THE IMPLEMENTATION PROCESS WOULD LOOK LIKE.

AND I KNOW SHE'S VERY COMMITTED TO HAVING A LEAD SO THAT EVERYBODY KNOWS WHO SAID RESPONSIBLE FOR MAKING SOMETHING HAPPEN.

Unofficial Text File

BUT ALSO, HAVING A TEAM AND ALSO MAKING SURE THAT THERE IS CLARITY ABOUT INTENTIONS AND OFTEN TIMES AN AUTHOR WILL HAVE THOUGHT ABOUT IMPLEMENTATION.

AND HAVE SOME GOOD IDEAS.

WE'LL HAVE CONSULTED WITH STAKEHOLDERS AND THE COMMUNITY AND MAY HAVE SOME ADDITIONAL HELPFUL IDEAS BUT ULTIMATELY, IT'S UP TO THE CITY MANAGER TO DETERMINE IMPLEMENTATION, THAT CONSULTATION IS OBVIOUSLY A COURTESY, WHICH I THINK SHE IS VERY GENEROUSLY INTERESTED IN EXTENDING.

AND I CAN'T REMEMBER DO WE HAVE ONE MORE SPECIAL TOPIC?

NO.

WE DON'T.

THAT'S IT.

SO THANK YOU VERY MUCH.

>> MAYOR J. ARREGUIN: THE LAST PIECE ON IMPLEMENTS, THAT HAS BEEN HOW WE HAVE DONE -- IMPLEMENTATION, IMPLEMENTATION OF MAJOR NEW LAWS.

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IS AFTER WE WHILE WE'RE DEVELOPING IT AND WE GET INPUT ON OPERATIONAL IMPACTS, IMPLEMENTATION, THEN WE REFER TO THE CITY MANAGER DEVELOP IMPLEMENTATION PLAN, RESOURCE THAT AND THEN IMPLEMENTATION.

Unofficial Text File

SO I THINK IT'S OPERATIONALIZING THE KIND OF AD HOC PRACTICE THAT WE'VE IMPLEMENTED.

I WANT TO TURN IT OVER TO COUNCILMEMBER HARRISON.

>> K HARRISON: FIRST OF ALL, I WANT TO THANK YOU COUNCILMEMBER HAHN FOR HER HARD WORK.

IT IS NOT EASY TO TACKLE SUCH A BROAD TOPICKISM SOMEONE HAS TO START.

IF YOU DON'T START YOU NEVER GET ANYWHERE.

SO THANK YOU VERY MUCH FOR THAT.

I REALLY COMMEND YOU FOR LEADING THIS EFFORT.

SINCE WE FIRST DISCUSSED IT IN 2021, AND THE CITY MANAGER CONTRIBUTION AND DEFERRING TO COUNCIL FOR THE SHAPE ANY CHANGES TAKE.

I HEARD HER SAY A COUPLE OF TIMES, IT IS NOT HER PROPOSAL.

I WANT TO MAKE THAT STATEMENT.

I'M NOT ON THE AGENDA COMMITTEE.

AND AS YOU NOTED, I WASN'T ABLE TO WORK WITH YOU, BUT I WORKED WITH COUNCILMEMBERS ROBINSON AND TAPLIN.

THANK YOU TO BOTH.

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AND I THINK COUNCILMEMBER BARTLETT IS INTERESTED IN THE PROPOSAL ABOUT TO DISCUSS, TO UPDATE AND BUILD ON IT.

I SUBMITTED AN ALTERNATIVE.

THIS IS NOT AN ALTERNATIVE TO COUNCIL HAHN, IT WAS AN ALTERNATIVE TO THEN COUNCILMEMBER DROSTE'S PROPOSAL IN 2021.

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WHICH WAS MUCH MORE CONVEIN STRAINING OF US.

CONSTRAINING OF US.

I UPDATED TO RESPOND TO COUNCILMEMBER HAHN.

IT'S MEANT TO BE TAKEN CONSIDERATION HERE AND THE PUBLIC AND COUNCIL AND THE AGENDA COMMITTEE.

THERE IS REALLY POSITIVE ASPECTS OF COUNCILMEMBER HAHN'S PROPOSAL I WANT TO HIGHLIGHT.

AND I THINK WE SHOULD MOVE AHEAD.

COUNCIL ITEMS SHOULD FOLLOW THE GUIDELINES ALREADY PROMULGATED RATHER THAN USING THEM AS RECOMMENDATIONS.

WE GET THINGS IN VERY DIFFERENT FORMAT SAID IN COMMITTEES.

AND IT MEANS WE DON'T HAVE FAIR CRITERIA AGAINST WHICH THINGS ARE EVALUATED.

I THINK WE NEED TO ADOPT THESE AS BEING MANDATORY.

I LIKE THE IDEA OF A FORMAL PROCESS FOR CITY STAFF TO PROVIDE HIGH LEVEL CONCEPTUAL INPUT TO AUTHORS BEFORE SUBMITTING PROPOSALS.

I ALWAYS DO THAT.

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I PROBABLY NEVER SUBMIT ANYTHING WITHOUT FIRST TALKING TO THE DEPARTMENTS AND THE CITY ATTORNEY'S OFFICE.

I THINK THIS IS GOOD PRACTICE AND WE'RE PROBABLY ALL DOING IT.

I LIKE THE PROCESS FOR ADDRESSING THE BACKLOG OF UNFUNDED ITEMS.

Unofficial Text File

I DON'T THINK IT SHOULD BE IN THE POLICY COMMITTEE.

I'LL EXPLAIN MORE IN A MINUTE.

I LIKE THE ENHANCED CHECKLIST FOR THE POLICY COMMITTEE.

I THINK WE NEED THAT.

WE OFTEN STRUGGLING, AS CHAIR OF ONE OF THEM.

EXCLUDING THE PROPOSAL THAT WE RATE ITEMS.

I DON'T WANT TO RANK ITEMS.

I'M IN A THREE PERSON COMMITTEE.

WE ALL BRING THINGS FORWARD.

I DON'T WANT TO SAY, I'M GOING TO RANK MINE AHEAD OF COUNCILMEMBER TAPLIN.

THAT IS AWKWARD.

IT'S THE JOB OF THE FULL COUNCIL TO DO THE RANKING.

AND I DO LIKE THE IDEA OF SOMEHOW GETTING BETTER INPUT FROM COMMISSIONS.

BUT I DON'T WANT TO DO BEFORE AN ITEM GOES BEFORE COUNCIL.

WE DON'T WORK FOR THE COMMISSION.

THAT STRUCK ME AS A LITTLE ODD, THERE ARE TIMES I HAVE WRITTEN LEGISLATION, ASKED THEM TO HOLD HEARINGS, WHICH IS SOMETHING WE

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CAN CONSIDER DOING IF IT'S COMPLICATED AND WE BENEFIT FROM A LOT OF MORE HEARINGS THAN WE'RE ABLE TO HAVE.

BUT I DON'T WANT IT TO BE MANDATORY ANYWAY.

AND I GUESS MY MAJOR CONCERN ABOUT PROPOSALS, I'M A REALLY STRONG SUPPORTER OF THE POLICY COMMITTEE SYSTEM.

Unofficial Text File

THAT COUNCILMEMBER HAHN ACTUALLY PROPOSED.

AND I DON'T BELIEVE OUR CENTRAL PROCESS IS FUNDAMENTALLY FLAWED ON MAJOR ITEMS.

I THINK WE'RE DOING A GOOD JOB ON THAT.

I'M GOING TO DESCRIBE IN A MINUTE WHY THE PROCESS WILL GO THROUGH A LENGTHY PROCESS AND DELAY US GETTING THINGS DONE.

I THINK THE MAIN THINGS WE'RE NOT DOING AS GOOD A JOB ON ARE REFERRALS AND BUDGET REQUESTS.

AND WHAT I SEE EMBEDDED IN BUDGET REQUESTS, BEING ON THE BUDGET COMMITTEE IS A LOT OF POLICY QUESTIONS NOBODY ANSWERED YET.

AND THAT REALLY CONCERNED ME.

IF WE CAN'T REALLY DISCUSS THE MONEY UNTIL WE KNOW HOW IT WILL WORK.

I'M HOPING YOUR INTENTION WAS TO INCLUDE IN THE GROUP OF ITEMS ORDINANCES WE WRITE NOW, REFERRALS, AND BUDGET REQUESTS OVER A CERTAIN DOLLAR AMOUNT.

I'M GOING TO MAKE A PROPOSAL HOW TO DO THAT.

I DON'T WANT TO SEE BUDGET REFERRALS JUST GO THROUGH.

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I THINK THAT'S NOT GOOD EITHER WHEN THEY ENTAIL A LOT OF BUDGETARY, POLICY ASPECTS.

A COUNTER EXAMPLE.

RECENTLY COUNCILMEMBER KESARWANI RECOMMENDED PUTTING MORE MONEY IN PAVING.

Unofficial Text File

THAT DIDN'T NEED TO GO TO A POLICY COMMITTEE BECAUSE IT WASN'T CHANGING THE PAVING PLAN ANY WAY.

IT WAS SAYING PUT MORE MONEY IN.

IT WAS STRICTLY A BUDGET THING.

I'M NOT SURE WHY WE HAD IT AT OUR COMMITTEE.

OTHER TIMES WE HAVE THINGS THAT HAVE A LOT OF POLICY IMPLICATIONS BUT NOT MUCH MONEY AND GOING STRAIGHT TO BUDGET AND WE'RE LEFT AT BUDGET SAYING HOW ARE WE GOING TO DO THIS.

I THINK THAT IS THE WRONG PLACE TO ASK THOSE QUESTIONS.

I THINK THAT SHOULD GET WORKED OUT IN ADVANCE.

SOME OF THE MY CONCERNS ABOUT THE PROPOSAL I HAVE I AM GRATEFUL FOR, I THINK IT'S SIGNIFICANTLY LIMITS ACCESS TO THE LEGISLATIVE PROCESS BY EXTENDING TIMELINES.

RIGHT NOW, MAJOR ITEMS CAN BE SUBJECT TO NEARLY 300 DAYS.

THIS COMPARES THE CURRENT 120 DAYS IN COMMITTEE.

THAT HAPPENS BECAUSE OF THE SEPTEMBER DEADLINE.

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IF YOU TURN SOMETHING IN IN OCTOBER THAT IS NOT TIME CRITICAL BUT NONETHELESS IMPORTANT TO THE COMMUNITY IT WILL SIT THERE UNTIL NEXT YEAR.

AND THEN IT WILL SIT THERE UNTIL THE JUNE BUDGET PROCESS, THE WAY I READ IT NOW.

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WE COULD BE LOOKING AT 18 MONTHS.

I DON'T THINK WE NEED TO BUILD IN EXTRA TIME.

SO I'M GOING TO SUGGEST WAYS TO NOT DO THAT.

IT ALSO DOESN'T ALIGN TIMELY LEGISLATIVE ITEMS WITH THE FALL BUDGET PROCESS.

THIS HAS BEEN A HUGE CONFUSION.

I HEARD THIS IN TWO DIFFERENT DIRECTIONS FROM THE CITY MANAGER.

ONE, SHE WOULD LIKE US TO GET ALL OF OUR PROPOSALS IN BEFORE THE JUNE BUDGET.

BUT TWO, ALSO SHE WOULD LIKE US TO NOT SUBMIT ANYTHING EXCEPT FOR THE A.A.O.

THAT'S WHEN WE KNOW MORE ABOUT REVENUES.

WE NEED A DEFINITIVE ANSWER ABOUT THE BEST PROCESS.

BUT I DO NOT WANT TO ASSUME THE BUDGET PROCESS.

I PERSONALLY THINK WE CAN HAVE TWO CYCLES.

ONE OF WHICH IS TO JUNE AND ONE OF WHICH IS TO A.A.O.

I THINK I'M RECOMMENDING WE DO THAT.

THAT WILL GET THINGS THROUGH MORE QUICKLY.

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I REALLY DON'T WANT POLICY COMMITTEES TO PRIORITIZE AS I'VE ALREADY DISCUSSED.

AND I THINK THAT IS REALLY A COUNCIL JOB.

ALSO, THERE IS SOMEWHERE IN HEREANE AN IMPLICATION THE POLICY COMMITTEES ARE A TIME COMMITMENT BURDEN. ON STAFF AND THE COUNCIL.

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I THINK IT'S THE OPPOSITE.

PERSONALLY FOR ME THE STUFF WE GET AT COUNCIL IS SO MUCH BETTER BECAUSE OF YOUR SYSTEM, COUNCILMEMBER HAHN, OF SETTING OF THESE COMMITTEES AND REVIEW IT GOES THROUGH THAT I THINK THE STAFF BURDEN IS LESS.

AND SO THE BURDEN ON THE PUBLIC VERY CONFUSING PROPOSALS IS LESS.

THINGS ARE BETTER BECAUSE THEY HAVE GONE THROUGH THESE COMMITTEES.

SO I REALLY DON'T THINK WE SHOULD BE LIMITING THE COMMITTEES TO OPERATING SIX MONTHS OF THE YEAR.

WHEN WE DON'T HAVE SOMETHING TO DO.

I THINK IT'S OKAY TO KEEP THEM OPERATING DURING THE ENTIRE TIME THE COUNCILMEMBER IS MEETING AND TAKE THINGS UP AS THEY COME ALONG.

I'M GOING TO PROPOSE THAT.

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AND THEN FINALLY, I DON'T LIKE THE IMPLEMENTATION TEAM AT THE END AFTER THE ITEM HAS GONE OUT OF THE COMMITTEE, INCLUDING THE COUNCILMEMBER.

IT FEELS LIKE, BECAUSE IT INDICATES THEY WOULD BE ESTABLISHING CLARITY OF INTENTIONS, TIMELINES, OPPORTUNITIES, IDEAS AND CHALLENGES.

Unofficial Text File

THAT SHOULD ALL HAPPEN AT THE COMMITTEE PROCESS.

IF WE HAVEN'T FIGURED OUT TIMELINES AND OPPORTUNITIES THEN, I DON'T THINK I'M COMFORTABLE WITH ONE COUNCILMEMBER BEING IN CHARGE OF THAT.

EVEN WHEN IT'S MINE, I DON'T THINK I LIKE THAT.

THAT I'M NOW I'M NEEDING TO FIGURE OUT HOW WE'RE REALLY GOING TO DO IT.

THAT SHOULD HAVE ALL BEEN TALKED ABOUT UP FRONT IN A COMMITTEE PROCESS.

SO I HAVE A FLOW CHART THAT TRIES TO SHOW WHERE THE DIFFERENCES ARE.

BUILDING OCOUNCILMEMBER HAHN'S EXCELLENT WORK.

GIVE ME ONE SECOND.

I'M ALWAYS TERRIBLE AT THIS.

I DON'T KNOW HOW TO SHARE A SCREEN.

HOLD ON A MINUTE PLEASE.

YOU WILL LAUGH AT ME BECAUSE I'M NOT GOOD AT THIS.

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I JUST FOUND IT.

THANK YOU, MR. MAYOR.

I SO APPRECIATE THAT.

HERE'S MY FLOW CHART, WHICH TRIES TO SHOW WHERE THERE ARE DIFFERENCES BETWEEN THE TWO PROPOSALS.

Unofficial Text File

I'M PROPOSING THAT WE STILL SUBMIT ITEMS THROUGHOUT THE YEAR.

I THINK YOU SAID YOU WERE INTENDING FOR THE COUNCIL TO DO THAT.

A BIG DISTINCTION FOR ME IS ANOTHER THING THAT DOESN'T GO THROUGH THIS RIGOROUS ANALYSIS YOU ARE CALLING FOR ARE CITY MANAGER ITEMS.

AND I WOULD LIKE THOSE TO ALL GO THE COMMITTEE PROCESS.

THAT'S HOW THEY DO IT IN ON THE GROUND AND SAN FRANCISCO.

MY STAFF SPEND TIME LOOKING AT THOSE RULES.

IF IT'S A SIGNIFICANT THING, IT SHOULD BE USING THE SAME PROCESS THAT WE USE FOR OUR THINGS.

WE ARE THE BODY, WE APPROVE THE BUDGET AND THE ITEMS.

SO I WANT MAJOR ITEMS FROM THE CITY MANAGER TO ALSO GO TO THESE COMMITTEES.

AND I WANT TO DO IT ALL YEAR.

I ALSO WANT SOME OBJECTIVE CRITERIA FOR DETERMINING FROM THE AGENDA COMMITTEE, WHAT IS MAJOR.

I THINK RIGHT NOW THE LANGUAGE NEEDS TO BE TIGHTENED UP BUT IT IS A GOOD START.

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I THINK WE NEED TO IS SAY BUDGET ITEMS MORE THAN "X" DOLLAR.

BUDGET ITEMS THE DOLLARS THAT CAUSE OPERATIONAL DIFFERENCES OR SOMETHING.

BUT WE NEED SOME CRITERIA IN THERE.

Unofficial Text File

AND I WOULD HAVE THE POLICY COMMITTEES CONTINUE TO MEET DURING THE ENTIRE PERIOD.

AND AGAIN, KEEP THINGS FOR 120 DAYS MAXIMUM IN THE POLICY COMMITTEE HOPPER.

ALTHOUGH I THINK THE MAYOR WAS THINKING WE WANT TO EXTEND THAT TIME.

I THINK WE START WITH THE 120 AND IF WE NEED TO EXTEND, WE CAN ALWAYS GET ACCOMMODATIONS FROM OUR COLLEAGUES ON THAT.

ISSUING THE POLICY RECOMMENDATIONS AGAINST THE ENHANCED REVIEW CHECKLIST, WHICH IS I THINK IS REALLY CRITICAL.

GOES BACK TO THE AGENDA COMMITTEE.

THEN IT GOES TO COUNCIL MEETING.

THEN IT GOES TO ONE OR THE OTHER OF THE BUDGET PROCESSES DEPENDING ON WHAT TIME OF YEAR YOU ARE IN THROUGH THE BUDGET COMMITTEE.

AND THEN IT'S ADOPTED AS PART OF THE BUDGET.

A COUPLE OF OTHER COMMENTS I WANTED TO MAKE.

I'M NOT CERTAIN I THINK ALL BUDGET PROPOSALS SHOULD AUTOMATICALLY ROLL TO THE NEXT PERIOD.

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THE MAYOR HAS A UNIQUE AND DIFFERENT ROLE IN OUR GOVERNMENT.
WE DO HAVE A STRONG CITY MANAGER FORM OF GOVERNMENT.
AND WE DO HAVE A COLLABORATIVE COUNCIL IN WHICH HE SITS.
BUT THE CHARTER IS REALLY CLEAR THE MAYOR PRESENTS A BUDGET.
IF HE DOESN'T LIKE SOMETHING OR THINKS IT SHOULD NEVER BE BUDGETED, I WANT HIM TO HAVE THAT OPPORTUNITY.
I'VE ACTUALLY NEVER SEEN YOU DO THAT.
BUT THERE COULD COME A TIME WHEN IT COULD HAPPEN.
AND SO I THINK THAT TAKING THAT AWAY FROM YOU IS NOT A GOOD THING.
I DON'T THINK EVERYTHING SHOULD ROLL.
I THINK WE CAN HAVE A WORKING EXPECTATION THINGS WILL ROLL OVER BUT I DON'T WANT EVERYTHING TO ROLL.
BECAUSE YOU MIGHT HAVE SOMETHING THAT ISN'T YOU THINK IS NOT A GREAT IDEA OR THE CITY MANAGER MIGHT SAY THAT IS NEVER GOING TO WORK BUDGETARILY SO DON'T DO THAT.
AND WE WANT TO MOVE ON WITH IT.
I ALSO FEEL WE HAVE TO VERY CLEARLY ESTABLISH THESE CRITERIA FOR WHAT IS A SIGNIFICANT ITEM.
AND AGAIN IT SHOULD APPLY TO EVERYTHING FROM THE CITY MANAGER AND FROM US.
AND ORDINANCES, REFERRALS AND BUDGET REQUESTS.

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MOST OF THE PROBLEMS I'VE SEEN IN MY COMMITTEE ARE NOT ORDINANCES.

WE ALREADY HAVE A GOOD PROCESS ON ORDINANCES.

THE PROBLEM ARE REFERRALS.

Unofficial Text File

AND I WOULD BE PANICKED IF I WERE YOU I SAW THAT LONG LIST LIKE OH, MY GOD.

I JUST CAN'T GET THROUGH IT.

SO WE DO NEED, AND I SHOULD HAVE SAID THIS IN A POSITIVE ASPECT PARTS.

WE NEED AN ACTIVE PROCESS FOR GETTING RID OF REFERRALS.

AND I'M GOING TO SAY ON MY OWN BEHALF, I'M THE ONLY ONE IN THE LAST THREE CYCLES THAT HAS IDENTIFIED OTHER PEOPLE'S REFERRALS TO GET RID OF OTHER THAN MY OWN OR MY PREDECESSORS.

AND YOU KNOW WHAT, WE'VE SEEN THE ENEMY, AND IT IS US.

WE KEEP PUSH STUFF FORWARD.

WE DON'T WANT TO SAY NO TO EACH OTHER.

OUR PROBLEM IS US.

AND I THINK WE HAVE TO BE BRAVER IN SAYING I DON'T WANT TO PRIORITIZE THIS AT ALL.

I DON'T CARE IF IT COMES IN 43.

I REALLY DON'T THINK WE SHOULD BE DOING THIS THING OR 43 FITS WITH 22.

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BECAUSE NOW I'M "D" AND I HAVE 43 ITEMS AND I'M NEVER GOING TO DO 43.

OKAY. IT'S NEVER GOING TO HAPPEN BUT IT IS STILL THERE.

SOMEBODY IS STILL GOING TO CALL AND SAY WHAT THE HECK HAPPENED TO THAT THING WITH THE REFRIGERATORS FOR THE HOMELESS, WHICH I NOTICED WAS STILL ON THE LIST LAST YEAR.

SO YOU KNOW, WE SHOULD KILL IT.

IF WE DON'T LIKE IT, LET'S GET RID OF IT.

LET'S BE BRAVE HERE, PEOPLE.

LET'S DO OUR JOB SO DEE CAN DO HERS.

I THINK THAT'S KIND OF ONE OF MY BASIC PREMISES HERE.

I WANT US TO BE A LOT OF MORE SYSTEMATIC ABOUT THAT REFERRAL LIST.

AND I THINK WITH THOSE CHANGES, I THINK THAT I LIKE THIS GENERAL FLOW.

AGAIN, A FEW THINGS I DON'T WANT POLICY COMMITTEES DOING A COUPLE THINGS I WANT BETTER DEFINED.

AND I DON'T WANT THIS LONG TIMELINE.

I THINK IT'S WAY TOO LONG.

WE CAN DO MORE WORK THAN THIS.

WE'VE BEEN DOING MORE WORK THAN THIS.

AND I THINK WOULD BE KEEP IT UP WITH SOME BETTER STANDARDS AND FORMS.

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SO THANK YOU, COUNCILMEMBER HAHN.

>> MAYOR J. ARREGUIN: OKAY, THANK YOU VERY MUCH.

WE'LL GO TO COUNCILMEMBER HUMBERT.

>> M. HUMBERT: YES, THANK YOU, MR. MAYOR.

Unofficial Text File

THOSE TWO PRESENTATIONS ARE HARD ACTS TO FOLLOW CERTAINLY.

I WANT TO SAY HOW MUCH I APPRECIATE ALL OF THE WORK THAT AGENDA AND RULES COMMITTEE DID TO REVIEW AND SUMMARIZE THE PROPOSALS CURRENTLY ON THE TABLE.

AND TO ESPECIALLY THANK THE MAYOR, COUNCILMEMBER WENGRAF AND THEIR STAFF FOR THE WORK THEY DID TO CREATE THE MATRIX.

IT WAS A LOT OF MATERIAL.

THE MATRIX TO ME WAS REALLY HELPFUL IN BEING ABLE TO DO A MORE APPLES TO APPLE COMPARISON BETWEEN THE PROPOSALS THAT HAVE COME DOWN DURING A SIGNIFICANT PERIOD OF HISTORY.

AND HOW THEY WOULD POTENTIALLY IMPACT VARIOUS COMPONENTS OF THE LEGISLATIVE PROCESS.

I ALSO WANT TO DEEPLY THANK COUNCILMEMBER HAHN FOR HER WORK IN PRESENTING A MORE STRUCTURED PROCESS THAT IMPLEMENTED WOULD CERTAINLY HELP ENSURE THE DETAILS AND POLICIES AND PROPOSALS ARE DRILLED INTO WELL BEFORE THEY REACH THE COUNCIL STAGE.

I ALSO WANT TO THANK COUNCILMEMBER HARRISON, ALONG WITH COUNCILMEMBERS TAPLIN AND ROBINSON FOR THEIR WORK TO PUT FORWARD AN ALTERNATIVE LEGISLATIVE CYCLE APPROACH.

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I APPRECIATE HAVING DIFFERENT OPTIONS TO CONSIDER.

AND I THINK THIS ALTERNATIVE HAS SOME ADDITIONAL POSITIVE CHARACTERISTICS.

INCLUDING SIMPLICITY THAT MERIT STRONG CONSIDERATION.

Unofficial Text File

OVERALL THOUGH I HAVE TO AGREE, ALTHOUGH I AGREE THAT PROPOSALS SOMETIMES NEED MORE WORK BEFORE COMING TO COUNCIL, BASED ON MY LIMITED EXPERIENCE ON COUNCIL, I DON'T NECESSARILY FEEL THAT A LACK OF COMPLETENESS IS THE BIGGEST PROBLEM WE FACE IN TERMS OF COUNCIL'S APPROACH TO MAJOR ITEMS.

I THINK THAT OUR EXISTING COMMITTEE APPROACH AND EXTREMELY CAPABLE STAFF ALREADY DO A PRETTY GOOD JOB OF ENSURING ITEMS EITHER GET TO COUNCIL OR COME OUT OF COUNCIL IN DESCENT SHAPE.

AND THERE IS ALSO THE FACT THAT COUNCIL WAS A POLICY SETTING BODY WITH IMPLEMENTATION AND OPERATIONS BEING THE PROVINCE OF STAFF.

I DON'T KNOW THAT COUNCIL AND COUNCIL COMMITTEES GETTING EVEN MORE INTO THE WEEDS ON MINUTE DETAILS IS NECESSARILY GOING TO HELP STAFF DO THEIR JOBS.

IT MIGHT EVEN HAVE THE OPPOSITE EFFECT FOR POLICIES AND PROGRAMS AND HAVE LESS FLEXIBILITY.

THIS BRINGS ME TO WHAT I THINK IS THE FUNDAMENTAL PROBLEM WITH OUR APPROACH TO LEGISLATING, WE DO TOO MUCH OF IT.

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I THINK THE CITY MANAGER HAS BEEN JUST ABOUT AS CLEAR AS SHE CAN BE IN TELLING US WE NEED TO SLOW OUR GENERATION OF REFERRALS WHEN IT COMES TO THE MAJOR POLICIES AND PROGRAMS COMING OFF OF THIS DAIS.

Unofficial Text File

AND I JUST DON'T FEEL A LEGISLATIVE SEASON APPROACH REALLY TACKLES THE FUNDAMENTAL ISSUE.

THAT'S WHY I LEAN STRONGLY TOWARD USING MY PREDECESSOR FORMER COUNCILMEMBER DROSTE BE RIGHT PROPOSAL AS A STARTING POINT WORKING OUT FROM THERE.

IN GENERAL, I'M RELUCTANT TO SUPPORT A LEGISLATIVE OVER HAUL WITHOUT LIMITS ON COUNCIL ITEMS OR TIME OUR REWEIGHTED RANGE VOTING PRIORITIZATION EXERCISE TO TAKE PLACE BEFORE STAFF AND COMMITTEES REALLY DIVE INTO THE DETAILS OF PROPOSALS THAT COULD CLEAR OUT SOME OF THE ITEMS EFFICIENTLY.

THIS LEGISLATIVE SEASON APPROACH SEEMS POISED TO RESEARCH OUTREACH AND NATIONAL BURDENS ASSOCIATED WITH ANY GIVEN ITEM, BOTH FOR COUNCIL STAFF AND POTENTIALLY OTHER CITY STAFF.

WITHOUT SOME LIMITS ON COUNCIL ITEMS THIS PROPOSAL SEEMS LIKELY TO INCREASE THE COMPLEXITY AND WORKLOAD ASSOCIATED WITH ITEMS COMING FROM COUNCIL.

IN ADDITION, BECAUSE ALL MAJOR ITEMS WOULD BE HELD TO THE SAME TIMELINE OR SAME TIMELINES THESE INCREASED NEEDS FOR REVIEW

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HEARINGS, AND ANALYSIS SEEM LIBEL TO EXACERBATE CRUNCH TIMES DURING THE YEAR AND POSSIBLY EVEN CREATE NEW ONES.

I THINK THAT THE HARRISON, TAPLIN, ROBINSON PROPOSAL IS BETTER THAT WOULD REDUCE STAFF EFFORTS AND AVOID GIVING COMMITTEES AN APPROPRIATE VETO POWER OVER COUNCIL REFERRALS.

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AGAIN, THAT SAID, I STILL THINK THIS ALTERNATIVE ALSO GIVES SHORT SHIFT TO THE FUNDAMENTAL ISSUE, THE SHEER VOLUME OF COMPLEX AND WORK INTENSIVE POLICY AND PROGRAMS COMING OUT OF COUNCIL.

THIS REMAINS THE NUMBER ONE ISSUE TO ME.

AND THIS FEELS CONSISTENT WITH WHAT WE HEARD FROM THE CITY MANAGER.

I'M NOT GOING TO SUGGEST A MORATORIUM ON NEW MAJOR NONEMERGENCY ITEMS WOULD BE IN ORDER.

I'M SURE I WOULDN'T FIND SUPPORT AND MAYBE IT DOESN'T MAKE SENSE BUT A CAP OF SOME SORTED AND PERHAPS A TEMPORARY NUMERICAL CAP IS WHAT WE SHOULD AIM FOR.

I DON'T FEEL LIKE IN SUPPORT ANY PROPOSAL THAT DOESN'T SET A FIRM LIMIT ON MAJOR COUNCIL ITEMS.

BUT I DO WANT TO THANK EVERYBODY FOR ALL THE REALLY COMPLICATED AND HARD WORK THAT THEY PUT IN ON THIS.

AND I'VE SPENT A LOT OF TIME LOOKING AT THESE PROPOSALS.

AND THANK YOU SO MUCH.

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>> MAYOR J. ARREGUIN: OKAY.

COUNCILMEMBER HAHN WANT TO MAKE A CLARIFYING COMMENT.

AND THEN, ARE THERE ANY OTHER CITY COUNCIL MEMBERS THAT HAVE COMMENTS?

Unofficial Text File

WE NEED TO TAKE PUBLIC COMMENTS AS WELL.

>> S. HAHN: THANK YOU.

COUNCILMEMBER HARRISON, I WANT TO BETTER UNDERSTAND.

I COMPLETELY AGREE WITH YOU THAT CITY MANAGER ITEMS WOULD ALSO BENEFIT FROM THE SAME REVIEW.

BUT I'M TRYING TO UNDERSTAND WHERE THAT COMES UP, BECAUSE MOST OF WHAT THEY BRING TO US ARE REFERRAL RESPONSES.

AND I WAS TRYING TO REMEMBER A TIME WHEN THE CITY MANAGER SORT OF BROUGHT US SOMETHING NEW THAT HADN'T BEEN REFERRED BY THE CITY COUNCIL.

THE ONLY THING I CAN THINK OF WAS THE KIOSKS IS WHEN THE REFERRAL RESPONSE COMES BACK THAT RESPONSE SHOULD THEN BE VETTED BY A COMMITTEE?

IF YOU COULD CLARIFY WHAT YOU MEAN BY THAT.

>> K HARRISON: YES, MANY PAST REFERRALS WERE SO VAGUE THAT WE, AND WE HAD COMPLETELY DIFFERENT PEOPLE ON COUNCIL THAT I WOULD HOPE THEY WOULD COME BACK TO US.

IF WE START DOING A BETTER JOB OF REFERRALS, THE WON'T BE AS BIG AN ISSUE.

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I THINK SOMETIMES STAFFING IN THE DARK TO FIGURE OUT HOW TO RESPOND.

IT MIGHT NOT BE ON POINT WITH WHAT WE WERE THINKING.

I CAN'T THINK OF AN EXAMPLE.

Unofficial Text File

THERE HAVE BEEN EXAMPLES ABOUT HOMELESS POLICY, SHE'S TRYING TO DO SOMETHING REASONABLE BUT MANY THINGS HAVE CHANGED IN THE LEGAL LANDSCAPE THAT HAVE CHANGED WHAT WE MIGHT BE ABLE TO DO OR NOT DO.

FOR EXAMPLE, WE HAD CERTAIN POLICIES ABOUT SLEEPING IN CARS AND THAT CHANGED AS YOU RECALL, THEN IT CAME BACK.

I THINK IF THAT'S GOING TO BE SOMETHING WITH A LOT OF IMPLICATIONS, IT SHOULD GO TO COMMITTEE.

>> S. HAHN: NOT NECESSARILY SOMETHING WRITTEN, A CHANGE IN POLICY.

>> K HARRISON: I THINK SHE WAS COMING BACK WITH CHANGE IN WRITTEN POLICY BASED ON CHANGE IN THE LAW.

>> S. HAHN: I SEE.

>> K HARRISON: SO I THINK AT THAT POINT DEPENDING ON HOW COMPLEX IT IS, CRITERIA, IT WOULD GO TO A COMMITTEE.

MANY THINGS AREN'T THAT COMPLEX.

SO OBUT AND STILL THINK THERE ARE ITEMS --

>> S. HAHN: YEAH.

>> K HARRISON: -- [MULTIPLE SPEAKERS]

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>> S. HAHN: I WAS TRYING TO UNDERSTAND EXACTLY WHAT YOU WERE REFERRING TO.

WE'RE JUST TAKING NOTES AND WE'LL TAKE IT BACK TO THE AGENDA AND RULES COMMITTEE.

Unofficial Text File

BUT I WONDERED, I THINK THE CITY MANAGER MIGHT HAVE HAD, MAYOR, IF I MAY, I THOUGHT IT LOOKED THE CITY MANAGER MIGHT HAVE A COMMENT ON THAT.

>> I JUST WANTED TO ECHO YOUR CONCERNS, COUNCILMEMBER HAHN, THAT WE RARELY IN EVER BRING FORWARD OUR OWN MAJOR, I DON'T BRING FORWARD POLICY.

I'M RESPONDING TO THIS BODY'S POLICY.

BUT IF THAT'S THE ROUTE THAT IS BEING RECOMMENDED WE BRING IT BACK TO A POLICY COMMITTEE BEFORE BRINGING IT TO THE FULL COUNCIL FOR ADOPTION, WE'RE OPEN TO THAT AS WELL.

>> S. HAHN: OKAY.

ANYTHING ELSE COUNCILMEMBER HARRISON, FOR US TO FULLY UNDERSTAND YOUR VISION ON THIS?

>> K HARRISON: AS AN EXAMPLE.

I THINK THE RESPONSE TO A.L.P.R.'S IS A GOOD EXAMPLE.

WE HAD A REFERRAL A LONG TIME AGO.

WE HAVE SO MUCH COMPLICATION, THE PARKING L.P.R.'S, THE OTHER CAMERAS THAT DID FINALLY GO TO PUBLIC SAFETY BUT IT WENT TO BUDGET FIRST.

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AND THAT WAS ODD.

SO IT'S REALLY NEED THAT NEEDED THAT PUBLIC SAFETY COMMITTEE REVIEW.

AND YOU GUYS DID A GREAT JOB BUT THAT WAS A BIG DEAL.

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IT IS THINGS LIKE THAT.

I DON'T THINK IT WILL COME UP EVERY DAY.

BUT WE'RE DEALING, YOU ARE DEALING WITH A LOT NOW, CITY MANAGER, MADAM CITY ATTORNEY, COMPLICATED ITEMS, AND I THINK SOMETIMES THEY BENEFIT FROM THAT FORUM.

THE COMMITTEES ARE BETTER FOR HAVING PUBLIC INPUT.

ONE REASON I LOVE THEM, WE REDUCED CONFUSION AT THE COUNCIL ABOUT WHAT THINGS ARE.

IT'S BEEN VERY HELPFUL.

>> THANK YOU.

VERY HELPFUL FOR US TO BETTER UNDERSTAND THE VISION ON THAT.

>> MAYOR J. ARREGUIN: COUNCILMEMBER ROBINSON.

>> R. ROBINSON: SURE.

GOOD AFTERNOON, I'LL TAKE THIS OPPORTUNITY TO JUMP IN.

AND FIRST, THANK YOU TO THE AGENDA COMMITTEE WHO HAVE BEEN ENGAGING WITH THE DISCUSSION AND INCREDIBLY DEEP LEVEL.

THE REST ARE STUCK OUTSIDE WITH OUR FACES PUSHED AGAINST THE WINDOW EAVESDROPPING AND UNABLE TO PARTICIPATE.

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COUNCILMEMBER HAHN, IT IS SO MUCH EASIER FOR THE REST OF US TO POKE AT PROPOSALS AND IDENTIFY THINGS WE'RE CRITICAL OF TO ASSEMBLE FOR CONSIDERATION.

THANK FOR THE HEAVY LIFTING.

Unofficial Text File

MY FEEDBACK IS LARGELY REFLECTED IN THE SERIES OF NOTES WITH COUNCILMEMBER HARRISON.

I'M GLAD THE COMMITTEE WILL BE ABLE TO WEIGH THAT AND CONSIDER ALL PATHS AVAILABLE TO US.

REALLY I THINK COUNCILMEMBER HARRISON, TAPLIN, AND I, IT'S NOT REALLY A PROPOSAL.

IT'S A STRING OF IDEAS AND PRIORITIES REALLY FOR THE PROPOSAL THAT I THINK WILL BE SHAPED BY THE AGENDA COMMITTEE.

I'LL FOCUS MY COMMENTS ON THE TINY HANDFUL OF THOUGHTS IN MY TIME SITTING HERE.

ONE, WHICH I THINK COUNCILMEMBER HUMBERT ALLUDED TO, BUT WE HAVEN'T TALKED TO SUPER DIRECTLY.

THE IDEA OF QUANTITIVE LIMITS ON THE NUMBER OF PIECES OF LIMITED LEGISLATION THAT COUNCILMEMBERS AND INTRODUCE, THIS HAS BEEN FLOATED BEFORE AND IT'S SOMETHING I THINK CANDIDLY INITIALLY I HAD A BIT MORE HOSTILE OF A REACTION TO.

I THINK IT FELT A LITTLE UNDEMOCRATIC IF YOU WILL.

WE’RE REPRESENTATIVES OF OUR DISTRICTS.

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I THINK WE SHOULD BE ABLE TO INTRODUCE THE VOLUME OF LEGISLATION THAT OUR RESIDENTS EMPOWER US TO.

BUT THAT SAID, WE HAVE A REAL ISSUE HERE.

AND I THINK IF I'M A LITTLE HONEST WITH MYSELF, I THINK THERE IS PROBABLY NUMBERS OUT THERE, MAYBE IT'S FIVE.

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A NUMBER OF MAJOR ITEMS THAT ONE COUNCIL MEMBER COULD INTRODUCE THAT IS HIGHER THAN THE NUMBER OF MAJOR ITEMS I OR SOMEONE WAS GOING TO INTRODUCE ANYWAY BUT COULD HAVE AN INTERESTING SELECTIVE AFFECT IN OUR DECISION-MAKING PROCESS, TO EXERCISE JUST A LITTLE BIT MORE HESITATION TO VET AN IDEA JUST A LITTLE BIT MORE BECAUSE YOU KNOW THERE IS AN OPPORTUNITY COST TO INTRODUCING IT.

THAT LEVEL OF ANALYSIS, THAT LEVEL OF PATIENCE, REALLY THAT LEVEL OF HESITATION I THINK IS VALUABLE.

AND COUNCILMEMBER HARRISON, AS YOU SAID, IF THE PROBLEM IS US, IT'S REALLY HARD TO DEFINE RULES THAT WILL SHAPE THAT.

BUT I THINK THERE IS PROMISE THERE.

I THINK THERE ARE LIMITS SO WE COULD PUT IN PLACE THAT REALLY DON'T MEANINGFULLY CURTAIL THE EXTENT TOO MUCH WE CAN BE INNOVATIVE AND PUT THINGS ON THE TABLE AND FORCE US TO ASK OURSELVES BEFORE WE THROW SOMETHING ON THE HOPPER IF IT'S THE HILL WE WANT TO DIE ON.

I'M RUMINATING ON THAT.

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OPEN TO POSSIBILITY SAID THERE.

A LOT OF OTHER THINGS I LIKE THAT ARE IN THE MIX ACROSS PROPOSALS, I THINK REQUIRING THE ITEM GUIDELINES WE HAVE BE IN PLACE WOULD BE VALUABLE.

Unofficial Text File

I'M CERTAINLY NOT ALWAYS THE BEST AT FOLLOWING THEM.

I THINK EXPLICIT CLARITY ABOUT ITEM DEADLINES FOR BUDGETING/IMPLEMENTATION WILL BE VALUABLE.

I THINK IT WILL BE GOOD, REALLY WE'RE DOING THIS CYCLE I THINK IT'S A GOOD PRACTICE TO MAKE PERMANENT TO BE CLEAR ABOUT WHAT THE ROLE OF BUDGET REFERRALS FOR A.A.O. ONE AND TWO SHOULD BE. AS ONE TIME OR SENSITIVE NEEDS.

THAT I THINK WOULD BE REALLY POSITIVE.

AND I CALLED TOGETHER A LIST OF THINGS I WOULDN'T EVEN SAY I'M OPPOSED TO BUT THINGS I WORRY A LITTLE ABOUT.

IN CONTEMPLATING SORT OF THE IDEA OF A SESSION.

OBVIOUSLY THAT WORKS AT A LOT OF OTHER LEVELS OF GOVERNMENTS.

I FIND MYSELF BEING ANXIOUS THE SURGES OF CERTAIN TYPES OF WORKLOAD AT CERTAIN TIMES MIGHT BE UNTENABLE.

I THINK OF THE WORK THAT OUR COMMITTEES ARE DOING RIGHT NOW SOMETIMES THEY EBB AND FLOW, SOMETIMES THEY HAVE SWELLS, SOMETIMES A LITTLE BACK LOG THAT TAKES MONTHS, SOMETIMES I GO FOUR MONTHS WITHOUT A LAND USE MEETING.

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TO DO THAT AT ONCE, TO HAVE PACKED AGENDAS FOR THAT COMMITTEE, WE HAVE A HARD TIME GETTING TO TWO AGENDA ITEMS AT THE COMMITTEE LEVEL.

I THINK AT OUR TUESDAY EVENING COUNCIL MEETINGS THERE IS OFTEN A LOT ON THE AGENDA AND WE HAVE AN INCENTIVE TO BE BRISK AND MAKE SURE WE GET TO WHATEVER ELSE WE HAVE.

Unofficial Text File

I THINK THE BEAUTIFUL THING ABOUT THE POLICY COMMITTEE, WE CAN RUN IN CIRCLES AND ASK ALL SORTS TECHNICAL SMALL QUESTIONS TO REALLY VET SOMETHING AND SPEND THREE HOURS WITH ONE ITEM WORKSHOPPING IT.

AND SO I THINK I HAVE LOGISTICAL WORRIES ABOUT WHAT IT WOULD LOOK LIKE TO PACK THAT STAGE TO HAVE THE POLICY VETTING PROCESS FOR THE WHOLE CYCLE INTO A FEW MONTHS.

I SHARE AND WANT TO RESONATE WITH COMMENTS MADE ABOUT A ROLE FOR COMMITTEES PRIORITIZING OR SCORING ITEMS.

I THINK IT'S VERY VALUABLE THAT IS COMING FROM THE FULL COUNCIL.

AND ALSO, WANTS US TO STIR AWAY FROM BEING LIMITED TO ONLY HAVING AUTHORS NOT CO-SPONSORS AT THE PRE-SUBMISSION STAGE.

I FLOAT AROUND A LOT OF IDEAS WITH COLLEAGUES AND I THINK HAVING THE OPPORTUNITY TO BRAINSTORM AND VET SOMETHING WITH OTHER COUNCILMEMBERS BEFORE I BRING IT FORWARD IS VALUABLE AND OFTEN RESULTS IN ME NOT INTRODUCING THINGS BECAUSE THERE IS A BETTER WAY TO GO ABOUT IT OR SOMETHING I DIDN'T KNOW.

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THAT IS VALUABLE AND I DON'T WANT TO MAKE THAT HARDER TO DO.

IN SUMMATION, THANK YOU TO EVERYONE WHO PUT ITEMS ON THE TABLE.

I DO NOT ENVY THE COMMITTEE TO FIGURE OUT A PATH FORWARD.

THANK YOU.

Unofficial Text File

>> MAYOR J. ARREGUIN: COUNCIL WENGRAF.

>> S. WENGRAF: YEAH, THANK YOU VERY MUCH.

FIRST, I WANT TO THANK COUNCILMEMBER HAHN FOR DOING ALL OF THE HARD WORK.

AND TAKING ON THE BURDEN OF FORMULATING THIS WITH THE CLERK, CITY MANAGER AND PRESENTING IT TO US.

I THINK IT WAS A HUGE TASK.

AND I'M VERY GRATEFUL TO HER FOR DOING IT.

AND AS SHE EXPLAINED, THE MAYOR AND I COULD NOT PARTICIPATE BECAUSE OF THE BROWN ACT.

SO THANK YOU VERY MUCH, COUNCILMEMBER HAHN.

I ALSO WANT TO THANK COUNCILMEMBER HARRISON FOR PUTTING FORWARD AN ALTERNATIVE.

BUT THESE ARE NOT THE ONLY TWO THINGS THAT ARE BEFORE US.

WE CAN, BOTH OF THESE THINGS I CONSIDER JUMPING OFF POINTS FOR THE DISCUSSION.

AND I WOULD LIKE TO SUGGEST WE TAKE A STEP BACK AND THINK ABOUT WHAT OUR GOAL IS.

IT'S BEEN YEARS YOU KNOW, WE'VE HAD SO MANY PROPOSALS.

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WHAT IS THE PROBLEM WE'RE TRYING TO SOLVE.

AND BOTH PROPOSALS BEFORE US ARE PRETTY COMPLEX.

I'M NOT SURE THAT LEVEL OF COMPLEXITY IS NECESSARY.

I THINK IT WAS COUNCIL HUMBERT WHO BROUGHT UP THE IDEA OF LIMITING THE NUMBER OF ITEMS.

Unofficial Text File

ORIGINALLY, YOU KNOW, I REMEMBER THE CITY MANAGER COMING TO US AND BASICALLY BEGGING US TO STOP DOING MAJOR ITEMS BECAUSE STAFF WAS SO OVERWHELMED.

AND I THINK THERE IS STILL A BACKLOG.

I DON'T KNOW WHAT IT IS.

BUT MAYBE 90 ITEMS OR SOMETHING LIKE THAT.

YOU KNOW, GIVEN THE STAFFING SITUATION MAYBE WHAT WE DECIDE TO DO WILL BE TEMPORARY.

MAYBE WE CAN LINK IT TO STAFFING.

BUT I THINK THERE IS AN URGENCY IN US DOING SOMETHING RIGHT NOW TO ALLEVIATE THE PROBLEM THAT STAFF IS FACING, WHICH IS THAT THEY JUST CAN'T DEAL WITH EVERYTHING WE'RE GIVING THEM.

SO I WOULD LIKE TO AT OUR NEXT, WHEN WE DISCUSS THIS AGAIN, I DON'T THINK WE'RE GOING TO BE ABLE TO MAKE A DECISION TONIGHT, ARE WE MAYOR?

>> MAYOR J. ARREGUIN: WE'RE NOT MAKING A DECISION TONIGHT.

>> S. WENGRAF: YEAH, OKAY.

SO I WOULD LIKE TO REVISIT THE GOAL.

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AND REVISIT THE PROBLEM THAT WE'RE TRYING TO SOLVE.

BECAUSE I CERTAINLY DON'T WANT TO REPLACE A NEW BUNCH OF BUREAUCRATIC AND VERY COMPLICATED PROCEDURES WITH WHAT WE HAVE NOW.

Unofficial Text File

I'M NOT SURE THAT IS GOING TO FIX ANYTHING.

SO THAT'S MY SUGGESTION FOR TONIGHT.

THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

VICE MAYOR BARTLETT.

>> B. BARTLETT: THANK YOU, MR. MAYOR.

I WANT TO THANK COUNCILMEMBER HAHN FOR YOUR DILIGENT WORK.

DEEP, DEEP WORK HERE.

SCHEMATICS OF A MICROCHIP.

[LAUGHTER]

>> B. BARTLETT: AND THANK YOU, AS WELL, COUNCILMEMBER HARRISON FOR YOUR APPROACH, COUNCILMEMBER ROBINSON, COAUTHORING.

WE TALKED ABOUT THIS THROUGH THERE YEARS.

AND YOU KNOW, A COUPLE OF THINGS COME TO MIND.

ONE, YOU KNOW, I THINK JUST A KNEE JERK I HAVE A KNEE JERK RESPONSE WHEN I FUNDAMENTALLY TEND NOT TO SUPPORT LIMITATIONS ON DEMOCRACY AND REPRESENTATION.

BUT YOU HAVE ANSWERS SOME OF THE ISSUES WITH THE EXCEPTIONS YOU PROVIDE TO TIME CRITICAL MEASURES.

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BUT I GUESS THE REAL QUESTION IS, AND IT'S THIS KIND OF HARKENS TO WHAT COUNCILMEMBER WENGRAF JUST MENTIONED.

DOES ANYONE KNOW HOW MANY MAJOR ITEMS THE COUNCIL PRODUCED IN THE LAST YEAR?

Unofficial Text File

I CAN'T THINK OF TOO MANY.

THERE ANY DATA ON THAT?

>> I'LL SAY I THINK JUST GOING OFF OF THE FLOW THROUGH THE AGENDA COMMITTEE, OBVIOUSLY NOTHING SCIENTIFIC, BUT I THINK DURING THE PANDEMIC WE SORT OF HAD A UNSPOKEN AGREEMENT.

THAT WE WERE GOING TO LEAVE THE

>> S. HAHN: CITY MANAGER TO ADDRESS THE PANDEMIC.

SO THE FLOW WENT DOWN.

AND SINCE THAT IS LIFTED I WOULD SAY THE FLOW OF MAJOR ITEMS IS LOWER THAN IT WAS BEFORE THE PANDEMIC.

MAYOR, WOULD THAT?

I MEAN, IF YOU LOOK AT FOR EXAMPLE OUR AGENDA TONIGHT, I THINK IT'S THE FIRST TIME IN MY TIME ON THE AGENDA COMMITTEE THAT WE ACTUALLY DON'T HAVE AN ACTION ITEM EITHER FROM STAFF OR FROM THE COUNCIL --

I THINK PEOPLE ARE BEING MORE I DON'T KNOW, RESTRAINED.

>> B. BARTLETT: THAT WAS MY ANECDOTAL OBSERVATION AS WELL.

IT SEEMS WE UNDERSTAND THE STAFF IS OVERWHELMED.

WE LOST MANY MEMBERS OF OUR TRANSPORTATION DIVISION.

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I SEE US WITHHOLDING AND WAITING FOR THINGS TO NORMALIZE.

I FOR ONE HAVE TAKEN MUCH TIME TO WORK WITH CITY STAFF ON MAJOR ITEMS THAT ARE IN DEVELOPMENT.

AND MAYBE DO ONE THIS YEAR.

Unofficial Text File

WHICH SHOULD BE AMAZING TOO.

I CAN'T WAIT TO SHARE WITH YOU ALL.

[LAUGHTER]

>> B. BARTLETT: YOU KNOW, BUT THE YOU KNOW, THE LEANING INTO LEGISLATION THAT IS, AND THIS IS WHAT WE DO THROUGH THE PROCESS, THROUGH THE COMMITTEE PROCESS, WHICH I'M A FAN OF, IT HELPS YOU THINK IT THROUGH.

WE HELP OTHERS COME WITH THEIR -- WE LEND OUR EXPERTISE AND GROUP KNOWLEDGE AND HELP AUTHOR REFINE THEIR WORK.

WE HELP THEM SIMPLIFY THEIR WORK.

AND SO I THINK THIS MEASURE WE'RE TALKING ABOUT TO UNDERSTAND IS PRIORITIZATIONS, THEY KIND OF NEED THE SAME PROCESS, THEY NEED TO BECOME SIMPLIFIED.

THIS IS TOO COMPLEX.

THERE IS A MORE ELEGANT WAY.

PARTICULARLY IN THE LIGHT OF THE FACT THAT THE COUNCIL APPEARS TO BE RESPONSIVE TO THE NEEDS OF THE BUREAUCRACY.

BUT NOT GIVING THEM ANYTHING TO DO.

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IT SEEMS LIKE WE MAY NOT NEED TO OVERLAY THIS MUCH BUREAUCRATIC TO SOMETHING THAT IS NOT EXISTING RIGHT NOW.

WITH ALSO ANOTHER QUESTION, DOES THIS KEEP THE R.V. V. PROCESS AS WELL OR SUPPLANT IT?

Unofficial Text File

>> S. HAHN: I THINK THE IDEA WAS THAT WHEN YOU DON'T HAVE A BIG BACK LOG OF OLD ITEMS THAT HAVEN'T BEEN IMPLEMENTED AND YOU HAVE A RESTRICTED FLOW BASICALLY MORE BASED ON QUALITY THEN ON QUOTAS, BY RAISING OUR STANDARDS, THE IDEA WOULD BE THAT LESS WOULD BE GOING FORWARD.

THEN THE PRIORITIZATION BECOMES MUCH EASIER.

YOU ARE NOT PRIORITIZING 100 ITEMS, MAYBE 15 OR 20.

AND MAYBE YOU USE R.R.V. OR MAYBE THERE IS ANOTHER PROCESS.

IT DEFINITELY DID NOT RECOMMEND GETTING RID OF IT.

BUT THE IDEA WAS THAT IT WOULD ESSENTIALLY BECOME LARGELY MOOT.

>> B. BARTLETT: IF UNDER THIS PROPOSAL YOU HAVE TO WAIT 16 MONTHS TO SUBMIT SOMETHING OR THEN YOU GET R.R.V.ED TO THE BOTTOM OF THE LIST, YOU EFFECTIVELY DENIED THE RESIDENTS WHO PAY EXORBITANT PROPERTY TAXES AND RENTED, THE OPPORTUNITY TO HAVE SOMETHING THEY CARE ABOUT SEEN BY THE COUNCIL.

FOR NEXT, THAT PERSON IS OUT OF OFFICE.

IT'S OVER.

YOU ARE TALKING SEVEN YEARS LATER.

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AND TRUST ME, I LIVED HERE SEVEN YEARS CYCLES OF LEGISLATION AND IT TAKES DILIGENCE TO SEE IT THROUGH.

AGAIN, I DON'T THINK -- I DON'T SEE THE NEED TO KEEP ADDING SO MUCH TIME AND DISTANCE BETWEEN PEOPLE AND THEIR ASPIRATIONS.

AND THEN, THE CO-SPONSOR'S MEASURE, COUNCILMEMBER ROBINSON BROUGHT IT UP.

I THINK IT'S IMPORTANT FOR COLLEAGUES AND COUNCILMEMBERS TO THINK THROUGH THE STRATEGIES AND YOU KNOW, IT'S PART OF THE KEY TO SUCCESS.

YOU KNOW, NEWER COUNCILMEMBERS COME ON AND TEAM UP WITH OTHERS AND FIGURE OUT HOW TO WIN THE RIGHT COMBINATIONS, I THINK IT'S A GOOD PROVING GROUND FOR LEGISLATION BECAUSE IN THE DAY THE AUTHORS GOAL IS TO GET IT PASSED ON BEHALF OF THE CONSTITUENTS WHO REQUESTED IT OR BENEFIT FROM THEM.

SO I THINK WE NEED TO BAN THEIR ABILITY TO STRATEGIZE ESSENTIALLY.

RIGHT?

AND GET HELP TOO. RIGHT?

AND THEN, LASTLY, I DO SUPPORT ATTACKING THE BACKLOG QUEUE.

SPECIAL TOPIC NUMBER FOUR.

I THINK THAT'S IMPORTANT.

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SITTING ON THIS DEEP BENCH OF MATERIALS THAT IS RAPIDLY TURNING FROM COAL INTO DIAMONDS AS IT SITS THE TECTONIC PRESSURE OF BUREAUCRATIC TIME, RIGHT?

YES, ABSOLUTELY, I THINK THAT'S IMPORTANT.

Unofficial Text File

WE SHOULD GO THROUGH THIS AND GET THESE THINGS DEALT WITH.

THOSE ARE MY POINTS.

THAT'S ALL.

I THINK ULTIMATELY, I DON'T THINK ANY OF THIS IS NECESSARY.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON, AGAIN.

>> K HARRISON: I WANT TO ANSWER COUNCILMEMBER BARTLETT'S QUESTION ABOUT MY PROPOSAL DOES NOT GET RID OF R.R.V.

IT'S STILL THERE.

I DON'T THINK WE SHOULD DO IT AT THE COMMITTEE LEVEL.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU.

ARE THERE ANY OTHER CITY COUNCIL MEMBERS THAT HAVE COMMENTS?

COUNCILMEMBER WENGRAF?

>> S. WENGRAF: YES.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

>> S. WENGRAF: YEAH, I JUST WANT TO SAY THAT YOU KNOW, THE STAFF ISN'T JUST WORKING ON OUR ITEMS.

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I MEAN, THEY HAVE TO WORK ON ALL KINDS OF OTHER STUFF AS WELL.
AND THEY HAVE PARTNERS, THE SCHOOL BOARD, THE RENT BOARD, YOU KNOW, ALL OF THESE STATE AGENCIES THAT THEY HAVE TO WORK WITH.
SO I THINK WE'RE BEING A LITTLE NEAR SIGHTED WHEN WE THINK THAT STAFF ONLY WORKS WITH OUR ITEMS.
I THINK THEIR WORKLOAD IS HUGE.
AND WE'RE ONLY THINKING OF A LITTLE PART OF IT.
SO MAYBE IT WOULD BE ACTUALLY HELPFUL FOR US TO KNOW MORE ABOUT WHAT THE DEMANDS ARE ON THE DEPARTMENTS FROM ALL OF OUR PARTNERING AGENCIES.
SO THAT WE WOULD HAVE A BETTER UNDERSTANDING AND A BETTER PERSPECTIVE ON THE WORKLOAD.
THANK YOU.
>> MAYOR J. ARREGUIN: THANK YOU.
SO FOLLOWING UP ON THAT POINT, I RECALL I THINK IT WAS THE LAST BIENNIAL BUDGET PROCESS, WE GOT A COMPREHENSIVE LIST OF OUTSTANDING COUNCIL REFERRALS THAT HAD NOT BEEN PRIORITIZED I BELIEVE.
AND WE DO GET STATUS UPDATES FROM THE CITY MANAGER ON THE IMPLEMENTATION OF COUNCIL REFERRALS, SHORT TERM AND LONG TERM.
AND WE HAD THAT DATABASE.
BUT I DO THINK, YOU KNOW, AT SOME POINT YOU KNOW PROBABLY LEADING UP TO THE NEXT BUDGET DEVELOPMENT, I THINK GOING OVER

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THAT LIST AGAIN WOULD BE HELPFUL BECAUSE THINGS MAYBE OBSOLETE OR REDUNDANT.

I SEEM TO RECALL MULTIPLE REFERRALS ABOUT ADU POLICY OR HOUSING POLICY, MULTIPLE FIRE SAFETY RECOMMENDATIONS.

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AND YOU KNOW, WE MAY BE ABLE TO FIND A WAY TO CONSOLIDATE OR ELIMINATE REDUNDANT OR OBSOLETE COUNCIL REFERS SO WE CAN FOCUS ON THE THINGS WE THINK ARE RELEVANT AND WE WANT TO HAVE STAFF DEDICATE TIME TO ADDRESS.

SO I HEAR THAT AS AN OVERARCHING AGREEMENT AMONGST COUNCIL WE NEED TO LOOK AT DEALING WITH THE QUOTE, BACK LOG.

I HOPE WE CAN WHETHER IT'S THROUGH NEW PROCESS OR JUST LEADING UP TO THE BUDGET ADOPTION, WE CAN DO THAT.

I THOUGHT THAT WAS VERY HELPFUL.

SO MAYBE IN ALIGNMENT WITH THE R.R.V. PROCESS THAT MAYBE ONE WAY TO DO IT BEFORE THE R.R.V. PROCESS.

I'M SURE ASSOCIATION WITH THE APPRECIATE IF WE CAN CLARIFY AND REDUCE THE OUTSTANDING NUMBER OF ITEMS.

SO WITH THAT, WHY DON'T WE PROCEED TO PUBLIC COMMENT.

ANY MEMBER HERE THAT WOULD LIKE TO SPEAK TO THE ITEM ON OUR 4:00 P.M. SPECIAL CITY COUNCIL MEETING AGENDA, THE CITY COUNCIL LEGISLATIVE SYSTEMS REDESIGN?

YES, MISS MOROSOVIC.

>> THANK YOU.

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I ATTENDED THE JUNE 29THRETREAT.

AND I HEARD THE CITY MANAGER'S FRUSTRATION, AND TOTALLY UNDERSTOOD IT.

HOW THERE WERE TOO MANY ITEMS THAT WERE POSSIBLE FOR STAFF TO POSSIBLY IMPLEMENT PROPERLY.

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AND IT SEEMED AS IF SOME ITEMS COULD BE CONSOLIDATED AS THE MAYOR JUST MENTIONED AND SOME COULD BE FOLDED INTO ONE ANOTHER.

I UNDERSTAND THAT'S CHANGED THAT THERE AROUND AS MANY ITEMS COMING BEFORE COUNCIL BUT THERE ARE STILL OUTSTANDING ITEMS THAT ARE OUT THERE.

THERE IS A NEED FOR TIME CRITICAL ITEMS FOR OBVIOUS REASONS, STATE LAWS CHANGE, FEDERAL LAWS CHANGE, AND FUNDING CHANGES THAT COMES IN.

AND SO YOU ARE GOING TO HAVE TO HAVE TIME CRITICAL ITEMS THAT CANNOT BE LIMITED IN NUMBER IF THEY ARE GENERALLY TIME CRITICAL ITEMS.

THERE IS A NEED TO WORK WITH COMMISSIONS.

NOT ONLY HAS TO REFERRALS TO THEM, BUT ALSO REFERRALS FROM THEM.

NOW, THIS IS PERHAPS A SEPARATE ITEM.

BUT I BELIEVE IT'S IMPORTANT TO HAVE TRANSPARENCY TO THE PUBLIC SO THE PUBLIC NEEDS TO SEE WHAT STAFF IS DOING.

OR RATHER WHAT COUNCIL IS DOING, BUT ALSO WHAT STAFF IS DOING IN TERMS OF IMPLEMENTATION OF THE ITEMS THAT PASSED BEFORE YOU.

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I'M GOING TO RAISE THAT THE AGENDA, HOMELESS COMMISSION BROUGHT AN ITEM BEFORE THE AGENDA COMMITTEE THAT WAS PASSED IN EARLY 2020.

AND IT SOMEHOW STAYED AT THE AGENDA COMMITTEE LEVEL.

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AND THAT WAS THAT ALL THE COMMISSION RECOMMENDATIONS FROM VARIOUS COMMISSIONS BECOME COMPILED ONLINE AND IN A BINDER SO THEY COULD BE TRACKED HOW THEY GO TO COUNCIL.

AND ALSO, IN TERMS OF IMPLEMENTATION.

AND THIS IS IMPORTANT, NOT ONLY FOR INFORMATION SHARING BETWEEN COMMISSIONS BUT ALSO FOR COUNCIL TO KNOW WHAT COMMISSIONS IS DOING, FOR STAFF TO FOLLOW IT, AND ALSO FOR TRANSPARENCY TO THE PUBLIC.

AND I HOPE THAT THIS IS ACTED ON.

EDIS GOING TO GIVE ME HIS TWO MINUTES, RIGHT?

THANK YOU. SO LET ME GIVE YOU AN EXAMPLE HOW DIFFICULT IT IS TO RESEARCH AN ITEM.

AND I THINK THE SAME THING HAPPENS WITH COUNCIL ITEMS THAT, AGAIN, THERE HAS TO BE THIS TRANSPARENCY TO THE PUBLIC.

ON THE COMMISSION OF STATUS OF WOMEN, I WANTED TO RESEARCH WHAT IS HAPPENING WITH PREVIOUS ITEMS THAT I WOULD NOT HAVE EVEN KNOWN THESE ITEMS EXISTED EXCEPT I'VE BEEN ATTENDING COUNCIL MEETINGS GENERALLY FOR THE LAST 17 YEARS.

SO I RECALLED SOMETHING ABOUT SMALL BUSINESSES AND WOMEN.

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I RECALLED IT PASSED BEFORE COUNCIL SEVERAL YEARS AGO.

I RECALLED OVER 10 YEARS AGO, THIS WAS SOMETHING ON SEX TRAFFICKING THAT CAME FROM THE STATUS OF WOMEN.

I WOULDN'T HAVE KNOWN HAD I NOT ATTENDED THOSE ITEMS.

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I WENT TO THE CITY CLERK'S OFFICE, WHO IS EXCELLENT AT DOING THE RESEARCH.

BUT I AM VERY RESPONSIVE.

HAD TO KEEP GOING BACK AND SAY WHAT HAPPENED TO THAT AFTER THAT.

WHERE IS SETTING, DID IT JUST DIE?

AND IT'S REALLY IMPORTANT WE HAVE THIS INFORMATION, AGAIN, FOR COMMISSIONS, FOR COUNCIL, FOR STAFF, AND FOR THE PUBLIC.

WE HAVE TO BE TRANSPARENT ABOUT WHAT HAPPENS.

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU VERY MUCH.

ARE THERE ANY OTHER MEMBERS OF THE PUBLIC HERE IN THE BOARDROOM AT 1231 ADDISON THAT WOULD LIKE TO SPEAK TO ITEM ONE, THE COUNCIL'S REDESIGN.

I'LL ASK ARE THERE SPEAKERS ON ZOOM, PLEASE RAISE YOUR HAND.

MONI LAW.

>> GOOD EVENING, MAYOR AND COUNCIL AND COMMUNITY.

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I AM JUST VERY THANKFUL FOR EVERYONE'S HARD WORK AND MY COUNCILMEMBER, KATE HARRISON AND OTHERS WHO MAY HAVE PROPOSED AMENDMENTS.

I UNDERSTAND THIS IS GOING BACK TO AGENDA COMMITTEE FOR REVIEW.

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I WANTED TO MAKE A QUICK REFLECTION AND IMPORTANCE OF THE OPENNESS OF CONTINUED DEMOCRACY.

AND I APPRECIATE COUNCILMEMBER BARTLETT'S COMMENT ABOUT NOT DISTANCING THE PEOPLE FROM THE PROCESS.

AND TO ENSURE THIS OPEN SPACE FOR OUR ASPIRATIONS TO GROW.

WITH THAT IN MIND, I'M THINKING OF THE MAYOR'S FAIR AND IMPARTIAL POLICING WORK GROUP THAT I'M THANKFUL FOR THE MAYOR HAVE APPOINTED ME TO THAT.

AND ALL THE WORK THAT PEOPLE ON THE REIMAGINING TASK FORCE FOR CONSTRUCTIVE IDEAS, POLICIES AND PROGRAMS TO PREVENT VIOLENCE AND KEEP US SAFE IN ALL WAYS FROM EDUCATION, ECONOMIC SECURITY, AND POLICE ACCOUNTABILITY.

THOSE PROPOSALS ARE IMPORTANT AND TIME SENSITIVE AND SHOULDN'T BE CONSTRAINED OR PUSHED OUT TO A YEAR LATER.

OR YEAR AND A HALF LATER.

SO TIME LOST IS -- JUSTICE AND GOOD POLICY AND BASIC GOVERNANCE AS DELAYED.

AND SO WE REALLY HAVE A BEAUTIFUL COMMUNITY IN BERKELEY.

I DON'T WANT IT PUT TO THE SIDE AND TOO MANY BITS AND PIECES.

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WE SHOULD HAVE A HOLISTIC CONSTRUCTIVE PROCESS THAT IS OPEN AND OTHERS SAID, TRANSPARENT AND AVAILABLE.

FINALLY, I WANT TO KIND OF SAY THAT WITH REGARD TO BUDGETS AND ALL THE OTHER THINGS THAT WAS SAID, SHE WOULD POINT OUT TO THE BUDGET AND FINANCING ISSUES THAT COME UP.

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AND FINALLY, THERE ARE SO MANY THINGS WE HAD AN EXHIBIT "D" WAS CALLED, PART OF THE CITY MANAGER'S ATTACHMENT, AS I RECALL OF THE THINGS THAT HAD NOT BEEN COMPLETED.

I THINK WE COULD HAVE CONTINUED TO CHISEL ON THAT.

I BELIEVE IT'S WORKED ON I HOPE BECAUSE THERE ARE A NUMBER OF IMPORTANT PARTS OF GOVERNANCE AND COMMUNITY ACTIVITIES THAT NEED TO BE COMPLETED IN THAT EXHIBIT "D" AS I BELIEVE IT WAS REFERENCED FOR ALL OF THE BACK UP WORK THAT NEEDED TO BE DONE STILL.

I HOPE AS A CITY WORKER MYSELF, WE DO WORK HARD BUT WE ALSO WANTED TO MAKE THE BEST CITY WE CAN.

THANK YOU SO MUCH.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

ARE THERE ANY OTHER MEMBERS OF THE PUBLIC ON ZOOM WHO WOULD LIKE TO SPEAK TO ITEM ONE, THE CITY COUNCIL LEGISLATIVE SYSTEMS REDESIGN?

ANY OTHER MEMBERS OF THE PUBLIC?

THIS IS THE LAST CALL.

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OKAY.

THANK YOU.

WE'LL CLOSE PUBLIC COMMENT.

AND COLLEAGUES, I'LL ASK ARE THERE ADDITIONAL QUESTIONS OR COMMENTS?

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COUNCILMEMBER KESARWANI.

>> R. KESARWANI: THANK YOU VERY MUCH, MR. MAYOR.

AND THANK YOU, COUNCILMEMBER HAHN, FOR YOUR PROPOSAL.

AND COUNCILMEMBERS HARRISON, ROBINSON, AND TAPLIN, FOR YOUR PROPOSAL AS WELL.

I DID WANT TO JUST TURN TO THE CITY MANAGER.

BECAUSE I WAS LOOKING BACK AT THE AUDITOR'S RECORD REPORT ON THE STAFFING.

SHE DID NOTE WORKLOAD ISSUES.

DRIVEN IN PART BY COUNCIL ITEMS BUT ALSO BY UNDERSTAFFING AND VACANCIES AS WELL.

AND SO I WANTED TO ASK THE CITY MANAGER FROM WHERE YOU SIT TODAY, COULD YOU HELP US JUST HONE IN ON WHAT YOU SEE AS THE MAJOR PROBLEMS IN TERMS OF MANAGING WORKLOAD IN TERMS OF WHAT IS RECEIVED BY COUNCIL.

>> THANK YOU, COUNCILMEMBER KESARWANI.

THERE ARE A NUMBER OF THE THINGS THAT INFLUENCE HOW QUICKLY WE CAN IMPLEMENT TURN AROUND LEGISLATION AND PRODUCT.

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THERE ARE LOTS OF THINGS.

BUT I THINK HALL MARK TO WHAT WE DO HERE AT THE CITY IS THE MATH WE WANT TO BE THOUGHTFUL ABOUT THE WORK WE'RE DOING FOR YOU ALL AND FOR THE COMMUNITY.

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SO THERE IS A BIG COMMUNITY PIECE THAT IS THERE FOR US AS WELL.

I THINK THAT DRIVES US LOTS OF WHAT WE DO AS IN TERMS OF STAFF AND HOW WE PROCESS INFORMATION AND GATHER INFORMATION.

STAFFING, WE ARE IN A STAFFING CRISIS.

WE'VE KNOWN THAT FOR QUITE SOME TIME.

WE'RE CHIPPING AWAY AT IT AND DOING WELL AT CHIPPING AWAY AT GETTING NEW HIRES ONBOARD.

ADDRESSING ISSUES WHERE WE HAVE DIFFICULT TO FILL POSITIONS.

WE'RE DOING A GREAT JOB IN THAT REGARD.

WHEN IT COMES TO THE NUMBER, THIS IS ABOUT VOLUME FOR US TRULY.

WE MAKE OUR OWN WORK TOO.

SO LET'S TALK ABOUT THAT A LITTLE BIT.

BECAUSE WE DEVELOP A STRATEGIC PLAN.

WHERE DEPARTMENTS PUT IN 30 OR 40 TYPES OF PROGRAMS THEY WANTED TO DO TO IMPROVE COMMUNITY SERVICE, AND TO WORK HARDER, WHETHER THAT IS ABOUT HOW WE DEVELOP ADMINISTRATIVE REGULATIONS, TO HIRE THE BEST EMPLOYEES, TO TRAINING, TO WHATEVER IT IS, WE HAD OUR OWN SET OF INITIATIVES COMING THROUGH THE STRATEGIC PLAN AS WELL.

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ON TOP OF THAT WE HAD REFERRALS.

SO WE AT ONE POINT WE HAD OVER 300 REFERRALS.

AND I WOULD PROBABLY REDUCE THAT TO ABOUT 250.

NOW WE'RE DOWN TO 80 TO 90 REFERRALS.

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I THINK THE OTHER THING THAT KIND OF CHALLENGED US IS THAT THESE THINGS WOULD COME IN AT VARIOUS TIMES THROUGH THE YEAR AND IT WILL BE A START STOP FOR US.

WE WOULD START THE WORK ON A PROJECT.

AND THEN WE WOULD GET TWO OR THREE NEW PROJECTS THAT WOULD REQUIRE US TO STOP AND RESTART.

SO THAT CREATED BACK LOG FOR THOSE PRIOR AS WE START LIFTING UP NEW.

WE WERE UNABLE TO SHIFT AND BE AS FLEXIBILITY AS WE WOULD LIKE TO BE IN TERMS OF ADDRESSING AND IMPLEMENTING THAT POLICY.

WHOLE STAFFING HAS BEEN AN ISSUE FOR US, I THINK PRIORITIES KNOWING WHAT THEY ARE FOR THE CITY HAS BEEN SOMETHING I'VE BEEN CHALLENGED WITH IN TRYING TO ADDRESS WHAT ARE OUR TRUE PRIORITIES ACROSS-THE-BOARD AND HOW DO I GET TO WHAT IS MOST IMPORTANT TO THIS COUNCIL FIRST, SECOND AND THIRD SO I HAVE THAT IN MY QUEUE.

SO WE'VE USED R.R.V. TO TRY AND GATHER THAT AS A PRIORITY BASE FOR US TO LAUNCH AND COMPLETE INITIATIVES AND WORK.

I THINK WE'VE DONE WELL WITH THAT.

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WE'VE NOT ALWAYS BEEN ABLE TO ADDRESS THE NUMBER-ONE PRIORITY BECAUSE BEEN, REMEMBER THE YEAR PRIOR WE WORKED ON NEW INITIATIVE SAID.

THOSE ARE EITHER UNDERWAY OR NOT STARTED.

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ESPECIALLY IF YOU ARE A DEPARTMENT WITH FIVE OR 10 REFERRALS THAT COME TO YOU.

SO IT'S NOT ONLY THE AMOUNT AND NUMBERS.

WE ALSO GET LOTS OF PROJECTS FROM STATE AGENCIES, OUR LOCAL PARTNERS, OUR COMMISSIONS, AND OF COURSER, WITH POLICY COMMITTEES WE'RE DOING WORK WITH THEM AS WELL.

OUR PLATES ARE EXTREMELY FULL GENERALLY.

BUT WHAT I THINK IS HELPFUL FOR US IS NOT GOING TO BE THE A CONVOLUTED OR COMPLEX PROCESS.

I AGREE.

I THINK WE DON'T WANT TO PUT IN SOME COMPLICATED OR YOU KNOW, PROCESS THAT IS GOING TO RENDER US PARALLELIZED IN TERMS OF INITIATIVES I'M NOT SAYING THESE ARE DOING THAT.

MY POINT IS WE DON'T WANT TO PUT TOO MUCH IN THERE.

WHAT IS HELPFUL FOR ME AS THE CITY MANAGER WHICH I SHARED BEFORE IS HAVING CORE PRIORITIES.

EVERYTHING CAN'T BE AN EMERGENCY OR AT THE SAME LEVEL OF PRIORITY AS -- THEY ALL CAN'T HAVE EQUAL PRIORITY FOR US.

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BECAUSE AND WE DON'T WANT TO SHIFT EVERY TIME THERE IS A NEW THING.

BUT WE'RE SHIFTING AND WE PUT SOMETHING ON THE BACK BURNER, WE START ANEW.

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WHAT IS HELP IF ME, IF WE TRULY HAVE A PROCESS, WE CAN LEAN IN AND SAY, YOU GOT THESE 30 MAJOR INITIATIVES OR THINGS YOU ARE WORKING ON, THESE 20 WE WANT YOU TO PUT ON HOLD SO YOU CAN GET THEM DONE AND COME BACK TO THESE.

WE KNOW WHAT WE'RE PUTTING ON HOLD, WE KNOW WHAT IS STOPPED OR YIELDED.

RIGHT NOW WE TRY TO PECK AT ALL OF THEM AND NEVER GET ALL YOU HAVE THEM DONE.

IT WOULD BE GOOD TO KNOW IF WE HAVE A PROCESS TO ALLOW US TO COME TO YOU AND SAY, WE'VE GOT THIS SIX YOU HAVE GIVEN US TO WORK ON, WE NEED TO MOVE THESE FIVE TO THE BACK BURNER.

THAT IS HELPFUL SO EXPECTATIONS FOR THE COMMUNITY AND COUNCIL AND STAFF ARE CLEAR.

SO WHENEVER WE HAVE NEW THINGS THAT ARE GOING TO IMPACT OLD THINGS, WE NEED TO PUT SOMETHING ON HOLD.

AND I THINK A CLEAR PROCESS TO DO SO WOULD BE HELPFUL.

I THINK THE COMPLEXITY OF THE WORK THAT WE DO IS SOMETIMES NOT SEEN.

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THE WORK THAT COMES FROM NOT ONLY THE COUNCIL BUT OUR DEPARTMENTS AS WELL, OUR COMMISSIONS AND PARTNERS OUT THERE, STATE AGENCIES, THAT WORK IS COMPLICATED, DETAILED AND IT'S HARD.

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SO AS WE'RE TRYING TO CHALLENGE OUR WAY THROUGH ALL OF THAT IT TAKES TIME.

TO ME THOSE ARE THE THINGS THAT KIND OF IMPACT THIS WORK.

AND THE WORKLOAD FOR ME AS CITY MANAGER.

THANK YOU FOR GIVING ME A MOMENT TO SAY ALL OF THAT.

I APPRECIATE IT.

>> R. KESARWANI: THANK YOU, MADAM CITY MANAGER.

I APPRECIATE HEARING THAT.

I THINK IT'S NOT ALWAYS CLEAR TO ME AND PERHAPS NOT TO MY COLLEAGUES WHAT EXACTLY IS ON YOUR PLATE.

AND I DO KNOW SOME OF THE MY COLLEAGUES TALKED ABOUT EXAMPLES, THINKING ABOUT THE ACCESSORY DWELLING ORDINANCE THE OTHER NIGHT.

WE DID ADD TWO REFERRAL SAID AND PART OF WHAT I UNDERSTOOD FROM THE PLANNING DIRECTOR WAS DOING THAT SURVEY YOU KNOW THAT'S ADDITIONAL STAFF TIME POTENTIALLY, MAYBE NOT SO MUCH IF WE USE PUBLICLY AVAILABLE DATA.

I WAS THINKING ABOUT STATE MANDATES AS IT RELATES TO THE HOUSING ELEMENT AND DEADLINES WE HAVE TO ATTEMPT TO LIVE UP TO.

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AND SO I THINK THAT'S AN EXAMPLE WHERE WE HAVE GIVEN MORE REFERRALS NOW TO THAT DEPARTMENT BUT THAT DOESN'T TAKE AWAY THE STATE MANDATES AND THINGS THAT ARE CURRENTLY IN PROCESS THAT HAVE TO BE COMPLETED.

Unofficial Text File

SO I KNOW OUR AGENDAS IS GOING TO TAKE THIS BACK.

AND SOLVE IT ALL IN THE NEXT MEETING PROBABLY IN SHORT ORDER.

SO IN ANY CASE, I WANT TO THANK THOSE WHO THOUGHT ABOUT THIS AND YEAH, I DO, I JUST WANT TO SAY GENERALLY AM A LITTLE BIT CONCERNED ABOUT A LENGTHY BUREAUCRATIC PROCESS.

BUT I DO THINK WE HAVE TO GIVE OUR CITY STAFF CLEAR PRIORITIES THAT ARE ACHIEVABLE SO THAT MEANS THERE DOES HAVE TO BE SOME KIND OF LIMIT TO IT THAT WE DO HAVE THINK ABOUT.

AND I THINK THE BIGGEST CONCERN THAT I HAVE AS A MEMBER OF THIS BODY IS WHEN WE GET A LARGE NEW PROGRAM THAT THE CITY HAS NEVER DONE BEFORE THAT WOULD REQUIRE YOU KNOW NEW STAFF, NEW SIGNIFICANT BUDGET ON AN ONGOING BASIS.

THOSE ARE THE THINGS THAT YOU KNOW, I JUST WANT US TO BE AWARE OF THOSE COMMITMENTS WHEN WE MAKE THEM.

BECAUSE THOSE ARE THINGS WE HAVE TO PLAN FOR ON AN ONGOING BASIS.

SO THERE IS SOME WAY, YOU KNOW, IF WE'RE GOING TO TAKE THOSE THINGS ON, WE HAVE TO THINK ABOUT WHAT ARE WE NOT GOING TO DO.

IN SOME CASES I THINK ABOUT DEPARTMENTS LIKE H.H.C.S.

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HOUSING HEALTH AND COMMUNITY SERVICES, A LOT OF WHAT THEY DO IS MANDATED.

THESE ARE REQUIRED PROGRAMS THAT WE'RE ADMINISTERING, WE RUN A PUBLIC HEALTH DEPARTMENT, WE HAVE A MENTAL HEALTH DIVISION, WE HAVE TO RUN THESE PROGRAMS.

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AND SO, YOU KNOW, WE HAVE TO FIGURE OUT WHAT DOES IT MEAN WHEN WE GIVE THAT DEPARTMENT A WHOLE NEW PROGRAM TO LIFT UP AND HOW IS THAT GOING TO HAPPEN WITH A STAFFING SITUATION WE'RE IN.

AND YOU KNOW, I THINK IT MAY BE A NEW NORMAL BECAUSE I'M HEARING A LOT ABOUT GOVERNMENT AGENCIES THAT HAVE HIGH VACANCY AND YOU KNOW, IT'S A CHALLENGE BECAUSE ALL OF THESE ENTITIES ARE RECRUITING AND IT'S A CHALLENGING LABOR SITUATION RIGHT NOW.

SO IN ANY CASE, I WILL LEAVE IT AT THAT AND THANK EVERYONE FOR THE THEIR CONTRIBUTIONS TO THIS ITEM.

THANK YOU.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON, THEN WRAP IT UP.

>> K HARRISON: MADAM CITY MANAGER, THAT WAS HELPFUL.

I THINK WE INSTITUTE THE R. R.V. TO DO WHAT YOU ARE TALKING ABOUT.

I WOULD LOVE FOR YOU TO DISCUSS WITH THE AGENDA COMMITTEE WHY THAT DOESN'T FUNCTION THAT WAY.

I THOUGHT THAT'S WHY WE HAD IT.

THERE IS SOMETHING MISSING WE NEED TO DEAL WITH.

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I WANTED TO MAKE SURE ALL OF US RECOGNIZE THERE IS SOMETHING NOT QUITE RIGHT ABOUT THE R.R.V. AND IT'S NOT GETTING THE CITY MANAGER WHAT SHE NEEDS.

HOWEVER WE CAN GET THAT RESOLVED WOULD BE GREAT.

Unofficial Text File

THANK YOU.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU VERY MUCH.

I THINK THIS WAS A GOOD DISCUSSION.

I APPRECIATE WE HAD THIS FORUM TO HEAR EVERYONE'S INPUT.

SO WE'LL TAKE ALL THIS FEEDBACK BACK TO THE COMMITTEE.

AND TRY TO IDENTIFY THE AREAS WHERE THERE IS CONSENSUS.

FIRST AND FOREMOST, I HEARD CONSENSUS THAT STAFF INPUT INTO THE PROCESS OF DRAFTING LEGISLATION IS IMPORTANT EARLIER IN THE PROCESS.

I THINK EVERYONE IS IN AGREEMENT ON THAT.

THAT WE NEED TO DEVELOP SOME CLEAR CRITERION FOR DETERMINING WHAT IS A MAJOR ITEM.

I THINK- AND THE CITY MANAGER ACTUALLY PROVIDED SOME SUGGESTED LANGUAGE FOR DEFINITION CANNOT BE OPERATIONALIZED OVER TIME, NOT IMPLEMENTABLE WITH EXISTING RESOURCES.

ADDITIONAL AND NEW FTE NEEDED.

ADDITIONAL COSTS.

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SOME METRIC BY WHICH THIS CAN'T BE ABSORBED BY EXISTING RESOURCES WE NEED TO DEDICATE NEW RESOURCES AND THAT IS NOT A PROBLEM.

AND I HAVE TO SAY THAT, YOU KNOW, WE'RE BERKELEY.

YOU KNOW, WE'RE ALWAYS AT THE CUTTING EDGE.

YES WE HAVE TO PROVIDE BASELINE SERVICES BUT WE ALSO ARE REALLY AT THE FOREFRONT OF INNOVATIVE PUBLIC POLICY.

AND RESPONDING TO A LARGE MACRO ISSUES.

THAT ARE FACING THIS COUNTRY AND THIS REGION.

AND THAT WE'RE RESPONDING TO AND PROGRESS WE'RE MAKING IN BERKELEY TO ADDRESS THE HOUSING CRISIS, HOMELESSNESS, PUBLIC SAFETY.

AND MODELING BEST PRACTICES THAT OTHER CITIES CAN FOLLOW IN THE STATE.

AND THAT DOES MEAN WE HAVE TO THINK OUTSIDE THE BOX AND DO NEW THINGS.

AND TAKE ON NEW LEVELS OF RESPONSIBILITY AND ADAPT AND EVOLVE IN THE WAY WE SERVE THE COMMUNITY.

THERE IS ONLY SO MUCH STAFF AND BUDGET.

HAVING A CLEAR PROCESS AND WAY TO PRIORITIZE, AND MAKING SURE WE HAVE FLEXIBILITY TO BE RESPONSIVE TO WHAT IS HAPPENING IN THE COMMUNITY AND WHAT THE COMMUNITY WANTS.

THAT'S WHAT THE PEOPLE OF BERKELEY WANT FROM US.

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GOING BACK TO A FEW OTHER THINGS.

WE NEED TO DEAL WITH THE BACKLOG.

I THINK AS WE GO BACK TO THE AGENDA COMMITTEE, DEFINITELY LOVE TO HEAR MORE FROM THE CITY MANAGER, CITY CLERK AND OTHER STAFF ABOUT YOUR THOUGHTS TOXIC THIS INPUT INTO CONSIDERATION.

Unofficial Text File

WE'LL TRYING TO SUMMARIZE THE FEEDBACK AND NOTES TO THE COMMITTEE THAT WILL BE IN THE PACKET.

SO I THINK THERE IS AREAS OF AGREEMENT.

LOOKING AT USING A TEMPLATE WITH MORE REQUIRING MORE SPECIFIC INFORMATION ABOUT WHAT SHOULD BE IN AN ITEM TO MAKE SURE WE HAVE THE RELEVANT INFORMATION AND MAKE A DECISION THAT WE SHOULD TRY TO ALIGN IT WITH THE BUDGET PROCESS.

WE NEED TO FIGURE OUT THE TIMING OF THAT.

IS IT ONE TIME LINE, IS IT A ROLLING TIMELINE, WHAT IS THE TIMELINE FOR WHERE THE INPUTS ARE COMING IN AND OUTPUTS ARE COMING OUT.

AND REALLY SORT OF HELPING STRENGTHEN THE ROLE OF THE POLICY COMMITTEE TO REVIEW ITEMS IS ONE THING I HEARD AS WELL AND MAKING SURE WE HAVE CITY ATTORNEY REVIEW AND WE'RE ABLE TO HAVE THINGS OUT OF THE PROCESS IN ORDER FOR US TO BUDGET FOR THEM AND IMPLEMENT THEM.

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SO I THINK WE HAVE SOME COMMONALITY FROM THE FEEDBACK WE'VE GOTTEN AND WE'LL TRY TO CONSOLIDATE THIS INPUT AND COME BACK WITH A FRAMEWORK FOR THE COUNCIL TO CONSIDER.

WE DO NEED TO MOVE ON.

Unofficial Text File

WE'RE PAST DUE FOR OUR 6:00 MEETING.

UNLESS IT IS CRITICAL, I WOULD LIKE TO WRAP UP THE DISCUSSION.

THANK YOU FOR YOUR COMMENTS.

I MAKE A MOTION TO ADJOURN THE 4:00 P.M. MEETING.

>> SECOND.

>> MAYOR J. ARREGUIN: IF WE CAN PLEASE CALL THE ROLL.

[ROLL CALL]

>> R. KESARWANI: YES.

>> T. TAPLIN: YES.

>> B. BARTLETT: YES.

>> K HARRISON: YES.

>> S. HAHN: YES.

>> S. WENGRAF: YES.

>> R. ROBINSON: YES.

>> M. HUMBERT: YES.

>> MAYOR J. ARREGUIN: YES.

There is no material for this item.

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