



Office of the City Manager

ACTION CALENDAR
November 27, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Lauren Lempert, Senior Management Analyst

Subject: Public Commons for Everyone Initiative

RECOMMENDATION

Council approve the following plan to improve Berkeley's public areas to make them safer and healthier environments for everyone:

1. Direct City Manager to raise parking meter fees \$.25/hour to support services and capital improvements.
2. Contingent upon funding approval, direct City Manager to implement services and capital improvements that include: increasing accessibility to public toilets; providing for additional permanent supportive housing and outreach, transition age youth programs, SSI benefits advocacy, and centralized homeless intake system; developing a Berkeley Host Program; providing additional public seating and trash receptacles; and investigating future development of a community court.
3. Discussion and possible adoption which would include first reading of ordinances and amendment to a resolution as follows:
 1. Amend BMC 13.36.015 to extend restriction on lying on certain commercial sidewalks during daytime hours to all commercial zones; and
 2. Amend BMC 12.70 to ban smoking in various locations in the City, including sections of commercial zones, recreation areas, and near health facilities; and
 3. Amend Resolution 61,042 to require one warning and no complaint to enforce public lodging provision of Penal Code 647j, with enforcement to remain a low priority between 10:00 p.m. and 6:00 a.m.

SUMMARY

The goal of the Public Commons for Everyone Initiative (PCEI) is to make the public areas of Berkeley – such as its parks, cultural venues, city sidewalks, and commercial districts – clean, safe, healthy, and welcoming environments for everyone who uses them. Despite the fact that the City of Berkeley allotted \$2.89 million from the General Fund in FY 2008 for social services, which represents a 7% increase over the previous year's funding and a disproportionate percentage of the county's funding for these purposes, there is a growing perception among many Berkeley residents, visitors, and merchants that these public commons areas are not inviting due to problematic behavior. This "problematic behavior" has been described in various ways, for example: behaving aggressively or anti-socially; urinating and defecating in public; defacing parks and sidewalks with needles and trash; using offensive, loud, or threatening language; and blocking use and access on sidewalks by lying on the sidewalks, sometimes with bulky items. Much of the behavior that is considered problematic could probably be attributed to a relatively small number of people, possibly including transition age youth (ages 18-25) who hang out on Berkeley's streets and in Berkeley's parks. A number of the individuals who cause problems suffer from mental disabilities, have alcohol or other drug addictions (AOD), or have a dual diagnosis of both mental illness and AOD additions, and some may also be homeless.

In an effort to improve the quality of life for all people in Berkeley's public commons, this report makes recommendations for: (1) addressing the underlying causes of problematic behaviors, and (2) regulating specific objectionable behaviors.

To address potential causes, this report discusses:

- increasing the accessibility to public toilets;
- expanding supportive housing and outreach;
- expanding services to transition age youth;
- expanding assistance to those seeking SSI, Medi-Cal, and Food Stamps benefits;
- developing a centralized intake system for shelter beds to maximize use and efficiency
- supporting job training and peer outreach programs; and
- providing additional public seating and trash receptacles.

To regulate specific objectionable behaviors, the report recommends:

- developing a Berkeley Host Program;
- adopting modifications to existing laws on lying on sidewalks and public lodging;
- expanding smoking restrictions; and
- continuing enforcement of existing local and state laws that prohibit public alcohol consumption and intoxication, coercive or intimidating solicitation, public sex, drug dealing and use, and assault.

In order to address the objectionable behavior of public urination and defecation, this report recommends that Council first increase the number, availability, accessibility, and hygiene of public toilets. After these new services are in place, the report recommends that Council adopt a local ordinance prohibiting public urination and defecation. Further,

staff proposes that the effectiveness of the programs recommended in this report be evaluated in 6-9 months to determine whether course corrections need to be made. Additionally, this report recommends that the City investigate future development of a non-traditional community court designed to help defendants solve the problems that underlie their criminal behavior while at the same time holding them accountable for specific "quality of life" low-level offenses. Coordination with the County and funding associated with a community court program has not yet been explored.

BACKGROUND

This is a follow-up report to Council's action on June 12, 2007 that requested the City Manager to recommend services and draft or modify laws for improving the physical, social and economic conditions of public areas in the city of Berkeley. The Council identified eight different areas for the City Manager to undertake as a new work plan project for the City.

A great deal of work and research has been accomplished since the end of August, and an extensive public process was undertaken which included soliciting feedback from the following organizations and individuals, among others:

- community members
 - Public Town Hall Meeting held on September 29 (see attachment 5)
 - letters, emails, and phone calls
- service providers, including:
 - Berkeley Food & Housing Project
 - Bonita House
 - BOSS
 - Homeless Action Center
 - LifeLong Medical Care
 - Options Recovery Services
 - Rubicon
 - YEAH
 - System of Care Committee
 - Tobacco Prevention Coalition
- commissions and other organizations
 - Community Health Commission
 - Homeless Commission
 - Housing Advisory Commission
 - Human Welfare & Community Action Commission
 - Labor Commission
 - Mental Health Commission
 - Parks & Recreation Commission
 - Peace and Justice Commission
 - Police Review Commission
 - Berkeley Safe Neighborhoods Association
 - Downtown Business Association
 - Telegraph Business Improvement District
 - Berkeley Chamber of Commerce

- community advocates and activists
- City staff and agencies
 - Berkeley Mental Health
 - Homeless Outreach
 - Housing
 - Libraries
 - Mobile Crisis Team
 - Office of Economic Development
 - Parks and Recreation
 - Police
 - Public Works
- City Council members and staff
- other cities
 - Santa Cruz
 - San Francisco
 - Santa Barbara

This report incorporates input and lessons learned from this extensive public process, will address the Council's eight areas of interest, and will provide options for the Council to consider for implementation, as referenced in the recommendation above.

It is unclear whether the behaviors that are considered "problematic" are caused by homeless individuals. What is clear, however, is that many individuals who are homeless are struggling to overcome many difficulties – economic, social, psychological, and physical – that might be addressed and ultimately resolved by additional services including permanent supportive housing. The City increased its funding by 7% over the previous year to \$2.89 million from the General Fund in FY 2008 to support numerous services designed to help the homeless population, including prevention services, drop-in centers, emergency shelters, meals, addiction recovery services, SSI advocacy services, mental and physical health care, job training and placement, transition housing, and supportive permanent housing services. (Community Development Block Grant - \$367,000; Community Services Block Grant - \$173,000, Emergency Shelter Grant - \$130,000; General Fund - \$1.997 million; Other - \$223,000.) Nevertheless, there is still a shortage of permanent supportive housing. It is widely recognized that permanent supportive housing for a previously homeless individual is a stabilizing force that leads to better behavior, and thus the quality of a community's life is better when people are permanently housed. See the Alameda County Homeless and Special Needs Plan ("Everyone Home") adopted by the Council on May 16, 2006 by Resolution 63,301 N.S.

The literature and evidence from California's programs, and from several cities outside of California that have similar issues with homelessness (e.g., Philadelphia and Seattle), suggest that interventions targeted to particular individuals, supported by intensive services and permanent housing, has demonstrated remarkable improvements in the quality of life for not only the individuals receiving the services and housing, but also for the community as a whole. Particular attention must be paid to transition age youth (18-25 years old) who, due to emancipation from foster care or other reasons, find

themselves on the streets with no homes or financial or emotional support. Expanding accessibility to public toilets, creating a host program on the streets, and improving the streetscape with additional public seating and trash receptacles will serve to improve the public commons of Berkeley for everyone who uses them.

FISCAL IMPLICATIONS

In order to support expanded services that would improve the public commons of Berkeley, this report recommends returning to Council by January 15, 2008 with a resolution to approve a parking meter fee increase of \$.25 per hour. Based on budget projections, this fee increase would generate additional annual revenues of \$1,000,000.

One-time costs are identified as approximately \$70,000 for the installation of signage and public seating. On-going annual costs for leasing of porta-potties and maintenance of bathrooms, supportive housing and outreach, a Berkeley Host Program, transition age youth programs, SSI benefits advocacy, and maintaining a centralized homeless intake system, are identified as approximately \$930,000.

Summary of fiscal impact of expanding services and capital improvements:

Approximate Revenues:

Increased fees at parking meters:	\$1,000,000
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Approximate Expenses:

Public toilets:	\$ 142,000
Supportive housing and outreach:	\$ 350,000
Transition age youth program:	\$ 100,000
SSI Benefits advocacy:	\$ 78,000
Centralized homeless intake system:	\$ 60,000
Public seating:	\$ 60,000
Host program:	\$ 200,000
Signage, outreach for smoking ban:	\$ 10,000

Total expenses:	\$1,000,000
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(See attached PCEI Phase I Budget.)

CURRENT SITUATION AND ITS EFFECTS

A. Generating Revenue

City staff has explored ways to raise revenue to support the expanded services recommended to improve the public commons, and has determined that raising parking meter fees by \$.25 per hour would be most efficacious. Raising parking meter fees by \$.25 per hour would raise the total fees at City parking meters to \$1.25 per hour, which is significantly less than the parking meter fees in San Francisco (\$3.00/hour downtown, \$2.50/hour in the downtown periphery and Fisherman's Wharf, and \$1.50/hour in all other areas), and is the same rate currently charged in Oakland.

City staff is investigating installing meters for 400 additional parking spaces in late 2008, which would be expected to generate \$520,000 additional annual revenues. As part of its research, staff will analyze purchasing and installing Pay and Display meters for existing and/or new parking space sites.

B. Addressing Underlying Conditions

1. Increase accessibility to public toilets

While there has been disagreement about other components of the PCEI, City staff received universal support for providing more access to public toilets. Although public toilets are currently available at the Civic Center, the Center Street Garage, the Telegraph/Channing Garage, and People's Park, and restrooms and/or porta-potties are available at many city parks, individuals of every stripe expressed the need for more toilets in the public commons, including mothers with children, the elderly, movie-goers, shoppers, avenue strollers of every age, and homeless individuals and advocates. Adding public toilets, encouraging businesses to make their toilets available to the public, expanding the hours that existing public toilets are open, increasing maintenance on public toilets and porta-potties, and improving the signage to make it easier to locate toilets helps all people visiting Berkeley's public commons to maintain personal hygiene and dignity. Additionally, public toilets provide options for homeless individuals who do not have access to a home toilet and are often not able to gain access to toilets in private businesses. As a matter of fairness, before the City drafts and enforces new laws prohibiting public urination and defecation, it needs to provide public toilets for individuals who have no other options.

The City Manager recommends that all of the following steps be taken:

a. Expand hours of public toilets at the Civic Center and at the Telegraph/Channing garage.

In addition to the porta-potty at Civic Center Park which is currently available 24/7, we recommend that the public toilets at the Civic Center (2180 Milvia Street) remain open until midnight, seven days per week. It is important to have a public toilet available late at night, especially for those individuals whose only other option would be to urinate or defecate on the sidewalk or in the park.

Annual maintenance cost: \$24,655

The Telegraph/Channing garage closes at 1:00 a.m. Monday-Thursday, 2:00 a.m. Friday-Saturday, and 10:00 p.m. on Sunday. However, the public bathrooms close at 11:00 p.m. Monday-Saturday. We recommend keeping the bathroom open the same hours that the garage is open. Although it would be preferable to have the bathroom stay open 24 hours, seven days per week, the personnel, maintenance, security, and supply costs of \$98,500 per year make this 24/7 option prohibitively expensive.

Annual Maintenance: \$18,000

b. Lease four additional ADA compliant porta-potties

Porta-potties are a relatively inexpensive solution that can be implemented immediately. Because of the severe shortage of toilet facilities, we recommend that four additional porta-potties be leased, and possible locations for placement for placement include:

- Civic Center Park and Ohlone Park – These parks are popular with both housed and homeless populations, and are also relatively close to downtown Berkeley.
- Willard Park – This is also a very popular park, and is close to Telegraph Avenue.
- Shattuck Avenue at Dwight Way – There is a small public area with benches on the corner of Shattuck Avenue and Dwight Way that is large enough to accommodate a portable toilet and would provide more toilet access in downtown Berkeley.

Annual rental cost for 4 ADA compliant units: \$4,320; Annual maintenance cost for 4 units: \$6,240

c. Develop a work program with a job training and placement service provider to maintain portable toilets

In order to ensure that porta-potties are hygienic and inviting to everyone using the public commons, the City needs to provide for very frequent maintenance. In addition to routine maintenance provided by the porta-potty vendor, the need for additional services should be met by issuing a Request for Proposal to develop a program that would train and employ currently unemployed individuals to maintain the public toilets.

Annual cost for RFP program contract: \$70,000

d. Develop Visitor Restroom Program on Telegraph Avenue and Shattuck Ave

In order to provide even more toilet options, we recommend adopting a Visitor Restroom Program similar to one that has been successfully implemented in Santa Barbara. Under this program, the City provides a monthly stipend to business owners who agree to keep their restroom facilities open to the public. The stipend is intended to help defray maintenance and supply costs.

Annual cost to support four participating businesses (\$350/month stipend): \$16,800

e. Provide additional signage for public toilets

The City Manager recommends that the City installs signs at several locations in the downtown Shattuck Avenue and Telegraph Avenue areas providing clear guidance to nearby public toilets. Currently, the signs are inadequate.

One-time capital cost: \$2,000

f. Investigate other public toilet options

City staff will continue to investigate other options for expanding accessibility to public toilets, including working with the University of California to keep the toilets at People's Park open, and working with BART to keep the bathrooms at the Downtown BART station open.

2. Provide rental housing subsidies with coordinated intensive support services to identify and serve 10-15 chronically homeless adults who are hardest to reach and most likely to cause problematic street behavior.

Permanent supportive housing is a proven strategy to move people from chronic homelessness to stable tenancy. Permanent supportive housing links intensive supportive services and case management to individuals with disabilities who are placed in permanent housing units. Berkeley's Shelter Plus Care program, which is federally funded by the U.S. Department of Housing and Urban Development (HUD), has demonstrated the success of a permanent supportive housing model, with 91% of 181 formerly homeless people retaining their housing for at least one year, and 78% retaining housing at least two years.

Ongoing case management to support housing retention and personal recovery is essential to the success of the Shelter Plus Care Program. Local non-profits and the City's Mental Health Division provide the support services to Berkeley's Shelter Plus Care clients at varying levels of service intensity. The population identified in this report would require a service level that is higher than most Shelter Plus Care recipients currently receive, and would dictate a team approach with very low caseloads.

City staff recommends funding a local program modeled after Shelter Plus Care, which would fund rental subsidies for qualified participants, allowing them to rent existing housing which otherwise would be unaffordable, combined with intensive supportive services. This program would be based on the City's AB 2034 and COACH programs, both of which provide very intensive services to high-risk homeless populations. These models require a dollar-for-dollar match of services to housing subsidy in order to help keep this high-risk population housed.

Annual cost for rental housing subsidies: \$112,500

Annual cost for intensive supportive services team: \$112,500

Initially, the program would provide rental housing assistance and intensive supportive services for 10-15 chronically homeless adults with disabilities. Homeless adults would

be able to start moving into existing housing units after the program was put into place, and services could be provided by a collaboration of multiple service providers. This recommendation is consistent with the goals of the countywide Everyone Home 10-year program to address homelessness (also known as the Alameda County Homeless and Special Needs Plan), and with the Action Steps adopted by Council on May 16, 2006 by Resolution 63,301 N.S. to implement this program. (See Strategy 5, Action Step: "Target a portion of Housing Trust Fund projects to house the Multi-Plan's target population and link them to services appropriate to their needs.")

A critical component of this program would be identifying and targeting the 10-15 chronically homeless adults who have previously been the hardest to reach, but who are probably the most likely to cause problematic street behavior. Philadelphia has received national recognition for their development of a similar supportive housing program paired with intensive street outreach. Philadelphia city officials estimated that before the program was started in 1997, it had 4,500 homeless people, with half of them on the street at any given time. By 1998, there were 850 chronically homeless people on the streets, and today about 150.

Seattle has used a similar approach by creating a list of 200 "chronic public inebriates" who had cost the most in jail, medical, and sobering expenses, and placing 75 of them in permanent housing with services.

San Francisco has also modeled its Homeless Outreach Team on Philadelphia's model, but recognizes that you need to have supportive housing available to accommodate the people who are reached on the street.

Berkeley's Mobile Crisis Team responds immediately to crisis situations at the street level. However, dedicated homeless outreach and service engagement are needed to prevent conditions on the street from becoming crises that need emergency intervention. Currently there is only one FTE in the City who provides homeless outreach. It is recommended that Council approve the hiring of an additional outreach worker who could both help identify and engage individuals on the street to facilitate their entry to supportive housing, and also flexibly respond to ad hoc service and case management demands that emerge on a routine basis.

Annual cost for outreach: \$75,000

Additionally, in order to implement this program and manage program delivery, we recommend providing funding for a .5 FTE for program administration.

Annual cost for .5 FTE for program administration: \$50,000

Annual cost for permanent supportive housing for 10-15, including rental subsidies, intensive case management, outreach, and a .5 FTE for program administration: \$350,000

This program would be ongoing. Once tenants move into housing, they would need City funding for subsidies and supportive services from year to year to remain housed. Even if an individual receives the maximum SSI income of \$856 per month, this amount is inadequate to afford housing at fair market rates without a subsidy. While this

approach serves a limited number of individuals at any one time and at significant cost, some attrition and turnover in rental subsidies is assumed and over time a larger number of people will benefit. This small project should also be viewed in the context of the City's overall approach to homeless services, which includes leveraging multiple funding sources to achieve common goals and recognizing that California AB 2034 funding may no longer exist.

3. Develop centralized intake system for homeless individuals

The city of Berkeley currently has about 200 emergency shelter beds available year-round, and about 300 available in winter months. However, because there is no centralized intake system, it is difficult for service providers and outreach workers, as well as for individuals needing assistance, to find out whether and where vacancies exist. We recommend issuing a Request for Proposal to develop a centralized intake system that would not only keep track of available resources, but would also coordinate city services through a central office so that outreach workers and service providers could keep track of the needs of homeless individuals and whether those needs have been met, and could link individuals to resources. With such a program in place, the city also would be better able to identify and target those individuals who need the most immediate attention, with the ultimate goal of getting these people into permanent supportive housing.

Annual cost: \$60,000

4. Address under-served transition age youth at risk of becoming chronically homeless

It is estimated that about 225 of Berkeley's homeless population are transition aged youth between 18 and 25 years old. About 73% of these youth have active drug or alcohol use issues, 36% self-report mental health problems, 50% have not graduated from high school, and 79% have no source of income. Without intensive intervention and support, these individuals are likely to join the ranks of the chronically homeless population. Staff recommends issuing a Request for Proposal to create innovative partnerships between service providers and the business community to develop programs for supportive daytime activities such as educational programs (e.g., GED classes) and job training and work opportunities.

Annual cost: \$100,000

5. Assist eligible homeless individuals to receive federally-funded Social Security Disability, Medi-Cal, and Food Stamps benefits

Currently, only about 250 individuals of Berkeley's homeless population of 836 receive federal Social Security Disability Benefits (SSI) as a source of income and healthcare, although about 250 more are eligible to receive these benefits. Getting homeless individuals on SSI benefits has enormous ripple effects. In addition to the monthly SSI benefit of \$856 that could be used for housing and other necessities, SSI benefits are coupled with MediCal coverage, a publicly funded health insurance program. Large

cost savings accrue to healthcare providers, with the Homeless Action Center (HAC) estimating savings of \$40,000 from MediCal reimbursements for every client approved for SSI benefits. As people get the money they need to become self-sufficient and get off the street, savings are also realized in other service areas and in law enforcement. Unfortunately, however, the application process to receive SSI and Food Stamp benefits is daunting, and can take between 6 months and three years, including appeals. Compounding the difficulty is the requirement to produce a disability analysis with supporting medical records. Currently, the HAC provides advocacy to 150 individuals to help them navigate the process from initial application through the many levels of appeal, and also provides the psychological assessment necessary to produce the required disability analysis. The City Manager recommends supporting HAC so that it will be able to staff an additional advocate and provide disability assessments to serve 40 additional Berkeley clients. This financial support would dovetail other recommendations that are focused on moving more chronically homeless individuals into permanent supportive housing.

Annual cost for an additional advocate (\$58,000) plus disability screenings (\$20,000) to serve 40 Berkeley clients: \$78,000

6. Provide additional public seating and trash receptacles on Telegraph Avenue, downtown, and other commercial areas

There is a shortage of public seating in many commercial areas in the City, including on Telegraph Avenue, and many of the benches in the City need a face-lift. Additionally, more garbage cans are necessary on Telegraph Avenue, and perhaps other areas. With attractive public seating and additional trash receptacles, commercial areas will be more inviting and people will enjoy visiting these avenues knowing that the streets will be cleaner and that they can take a break.

One time capital cost: \$60,000.

C. Addressing Symptoms

In order to improve the public commons areas in Berkeley, and in particular to address problematic behaviors that have been identified as degrading those public areas, we need to find ways to regulate behaviors that are deemed objectionable by standards accepted by the greater community, as well as to find ways to address the underlying conditions that might cause or contribute to these behaviors to begin with. Many problematic behaviors that occur in parks as well as on sidewalks are related to the use and abuse of alcohol and drugs in the public commons. Local and state laws that regulate open containers, public intoxication, sale of alcohol to minors, and the sale and use of illegal drugs must be strictly enforced. Laws that prohibit inappropriate sexual activity in public areas must also be strictly enforced. Aggressive, violent, and anti-social behaviors such as assaults, strong-arm robberies, and other violent crimes must be halted by strict enforcement. Existing laws that prohibit coercive, threatening, or intimidating solicitation must also be enforced. Enforcement of all state and local laws can be enhanced through increased vigilance by neighborhood watch groups, community involved policing, a new host program, and peer outreach.

1. Address public urination and defecation

Public urination and defecation is a public health hazard, as well as an unpleasant and objectionable behavior. It is recommended that as soon as possible, the City immediately increase the number of public toilets, expand the hours that existing toilets are open, incentivize businesses to make their toilets available to the public, and improve the maintenance, cleanliness, and accessibility to all public toilets as described above. Once accessibility to toilets is improved in early 2008, the Council may consider adopting a local ordinance that would prohibit public urination and defecation, and which would allow a violation to be charged as an infraction enforceable in traffic court. Currently, state Penal Code section 372, charged as a misdemeanor, prohibits creating a “public nuisance,” which includes urination and defecation. This state law cannot be charged as an infraction (a lesser offense), and therefore, is not the best tool to enforce a prohibition on public urination and defecation. A local ordinance prohibiting public urination and defecation would make enforcement more realistic and efficient, and with a more appropriate penalty; however, it is recommended that the Council not take any immediate action on implementing such an ordinance.

2. Issue a Request for Proposal for a Pilot Berkeley Host Program.

City staff made a site visit to Santa Cruz in August, 2007 to observe and discuss that city’s approaches to improving their public commons and downtown areas. One of the programs that has proved to be particularly successful in Santa Cruz is a “Host” program that employs individuals to be the eyes and ears in the main downtown area, refer visitors and tourists to points of interest, assist individuals to obtain available services when needed or requested, and urge appropriate behavior by modeling and education. A Request for Proposal (RFP) to develop a similar pilot Berkeley Host Program for Berkeley will be issued, and staff will return to Council with a plan to develop this program in conjunction with local service providers and business associations. It is envisioned that there would be two separate teams – one on Telegraph Avenue and one on Shattuck Avenue downtown – and that these teams would collaborate with community service agencies, the Berkeley Police Department, and business owners to assist in promoting a clean, safe, and friendly atmosphere on the avenues for residents, visitors, and employees. The Hosts would accomplish this by providing a visible presence on the avenues, helping to maintain compliance with laws by providing information and educational outreach, and assisting community members and merchants in dealing with low-level offenses. Essential components of this pilot program would include attentive supervision, careful selection of mature individuals to serve as Host team employees, and outstanding training.

Annual cost: \$200,000

Additionally, City staff recommends that Council adopt the following revisions to the Berkeley Municipal Code (BMC) and to previous resolutions regarding enforcement of certain quality of life violations.

3. Amend BMC 13.36.015 to extend the current restriction on lying on sidewalks on Telegraph and Downtown during daytime hours to sidewalks in all commercial zones. (See attached draft ordinance.)

4. Amend Resolution 61,042 to provide that one warning and no complaint is necessary to enforce the public lodging provision of Penal Code 647j, and that enforcement of 647j remains a low priority between 10:00 p.m. and 6:00 a.m. (See attached draft resolution.)

Currently, BMC 13.36.015 restricts lying on sidewalks during the day on certain designated sections of Shattuck Avenue, Telegraph Avenue, Durant Street, and Dana Street. It requires one warning be given prior to citation. We recommend expanding the ordinance to cover all commercial zones. This modification would provide for equal treatment across all commercial areas in the City.

Additionally, California Penal Code section 647j prohibits lodging without permission on public or private property, and requires no warnings and no complaints for enforcement. Council Resolution 61,042 directed that a complaint and two warnings should be required to enforce 647j. Staff recommends revising Resolution 61,042 so that no complaint is required, and one warning is required, rather than two. This modification would make the enforcement of 647j consistent with the prerequisites to enforcement of BMC 13.36.015, the local ordinance prohibiting lying on certain regulated sidewalks, and would provide consistent direction to Berkeley police. However, recognizing the severe shortage of shelter beds and other housing options in Berkeley, and considering the human necessity to sleep, as a matter of policy and fairness the Resolution reaffirms the City's long-standing policy that enforcement of Penal Code 647j remains a "low priority" between 10:00 p.m. and 6:00 a.m.

5. Amend BMC 12.70 to:

a. ban smoking on certain designated streets in commercial zones and in service areas such as at ATMs, ticket lines, and cab stands;

Designated "Commercial Area Sidewalks" where smoking is prohibited include: (1) Shattuck Avenue between Rose Street and Dwight Way; (2) Telegraph Avenue between Bancroft Way and Parker Street; (3) College Avenue between Russell Street and Webster Street; (4) Solano Avenue between The Alameda and Tulare Avenue, (5) 4th Street between Virginia Street and Addison Street; (6) Bancroft Way between College Avenue and Shattuck Avenue; (7) San Pablo Avenue between Channing Way and Parker Street; (8) Adeline Street between Fairview Street and 62nd Street; (9) Euclid Avenue between Hearst Avenue and Ridge Road; (10) Gilman Street between San Pablo Avenue and 4th Street; and (11) 10th Street between Gilman Street and Camelia Street, (12) University Avenue between Oxford Street and 4th Street, (13) Addison Street between Oxford Street and Milvia Street, (14) Center Street between Oxford Street and Milvia Street, (15) Allston Way between Oxford Street and Milvia Street, and (16) Kittredge Street between Oxford Street and Milvia Street. "Service areas" where smoking is prohibited include: any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public

place, or make a transaction, whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, waiting rooms, and cab stands.

b. ban smoking in recreation areas, such as parks, athletic fields, hiking trails, and bike paths;

“Recreation areas” where smoking is prohibited include: any outdoor area, owned or operated by the City of Berkeley, open to the general public for recreational purposes, regardless of any fee or age requirement, including, but not limited to: parklands, including portions of parks, such as picnic areas, tot play areas, playgrounds, or sports fields, walking paths, gardens, hiking trails, bike paths, athletic fields, skateboard parks and amusement parks.

c. ban smoking within 50 feet of entryways and operational windows of any building used as a health care facility, licensed child or adult care facility, or senior centers;

“Health facilities” where smoking is prohibited include: all public and private health care facilities, including hospitals, health clinics, mental health clinics, physician’s offices, and dentist’s offices.

d. ban smoking within 25 feet of entryways, exits, operational windows, and intake vents to public buildings, and within 25 feet of bus stops.

The significant adverse impact of secondhand smoke is an indisputable public health concern. The current law prohibits smoking within 20 feet of a doorway, air vent, or bus stop. There have been practical problems with enforcing this regulation, and thus many Berkeley residents and visitors are subjected to the dangers and discomfort of secondhand smoke. Moreover, children, the elderly, and people who already have compromised health conditions are particularly vulnerable to the harmful effects of secondhand smoke. We recommend that Council modify BMC 12.70 so that the smoking ban is expanded to include designated streets within Berkeley’s commercial zones and parks. This modification would extend the protected area, while still giving smokers an opportunity to “take it outside” by walking away from the designated streets where smoking is banned, and thus to not subject their children or others in their homes to secondhand smoke. Additionally, the ordinance would ban smoking within 50 feet of health centers, mental health centers, senior centers, and licensed child care centers. This would protect the people most vulnerable to the hazards of secondhand smoke. Banning smoking within 25 feet of doorways and windows would also protect individuals from smoke wafting into open windows. (See attached draft ordinance.)

e. Provide community education and outreach for new smoking prohibitions

In order to inform Berkeley residents about where smoking is prohibited under the new amended ordinance, staff recommends that the City conduct an educational outreach campaign to inform and educate City residents and employees about the new smoking prohibitions and the health benefits of ceasing tobacco use.

One-time cost: \$10,000

6. Council request to compile information on number of citations issued, prosecuted, and convicted on quality of life citations in Berkeley and adjoining jurisdictions.

The data requested is either unavailable or is incomplete, and the system was not designed to collect or store these kinds of data. Therefore, it is impossible to draw any conclusions from the data that was available and produced.

POSSIBLE FUTURE ACTION

Future plans should include efforts to develop a Community Court program. The concept of a Community Court is an innovative, non-traditional, problem-solving court that combines criminal justice and social service agencies under one roof for a comprehensive response to “quality-of-life” crimes. The goal of Community Courts is to help defendants to solve the problems that underlie their criminal behavior, while holding them accountable for the specific incidents that brought them to court. The courts consult with local stakeholders to set and accomplish priorities, and to take a proactive approach to preventing crime. Defendants receive expedited hearings, and on-site social service staff provides professional screenings to the judge prior to sentencing.

In lieu of jail time, Community Courts emphasize community service sentences and behavior treatment programs for low-level offenses such as public urination or drinking alcohol in public, and they help to cut repeat offenses by addressing the defendants’ underlying social or medical service needs. Community Court sentences emphasize restitution to the community by requiring that offenders perform community service in the neighborhoods where the crimes were committed. Defendants who comply with the orders of the Community Court avoid a criminal conviction. This is significant for individuals who are trying to obtain SSI benefits, which a conviction or warrant would preclude. The courts also provide on-site services for alcohol and other drug problems, education, job training, health screenings, and other programs.

New York’s Midtown Community Court has served as a model for about 30 other Community Courts that have opened in the United States and the United Kingdom, including courts in San Diego, Seattle, two courts in Oregon, Philadelphia, Denver, and other cities. The City Manager recommends that Council direct staff to research, develop, and implement a Community Court program in Berkeley.

In addition to development of a Community Court, other future action Council might consider includes authorizing additional support for job-training and placement programs which could be coordinated with the intensive services component recommended, and provide individuals with a better chance of successfully maintaining their housing. Until there is enough permanent housing, vouchers for medical respite and transportation to alternative shelters and motels should be offered. When more permanent supportive housing units are available, Council might consider funding a dedicated homeless outreach team, modeled on the successful program in Philadelphia. Part of an outreach program should include peer outreach and counseling.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts are unknown at this time. More research is needed to further develop these program ideas, determine realistic budgets, and explore additional leveraging opportunities. Key elements in the success of any new service package will be accurate assessment and adequate funding of program infrastructure and critical review of outcomes to support future policy and funding decisions.

CONTACT PERSONS

Lauren Lempert, 510-981-7000

Jim Hynes, 510-981-7000

ATTACHMENTS

- 1: PCEI Phase 1 Budget
- 2: Draft Ordinance amendment to BMC section 13.36.015
- 3: Draft Amendment to Resolution No. 61,042–N.S.
- 4: Draft Ordinance amendment to BMC section 12.70
5. Public Comments – Town Hall Meeting, September 29, 2007

PCEI Phase 1 Budget

Attachment 1

APPROXIMATE REVENUES

Parking Meters

Annual revenues from increasing parking meter fees \$.25/hour \$1,000,000

TOTAL REVENUES

\$1,000,000

APPROXIMATE EXPENSES

Bathrooms

Expand hours of public toilets - annual maintenance costs

Telegraph/Channing Garage \$18,000

Civic Center - 24/7 \$25,000

Porta-potties

Annual lease costs for 4 units \$4,000

Annual service costs for 4 units \$6,000

Toilet maintenance and jobs program - RFP

Annual cost for contract with job placement provider \$70,000

Visitor Restroom Program

Annual costs for stipends for 4 business \$17,000

Signage

One-time cost for purchase & installation \$2,000

Sub-total for Bathrooms \$142,000

Supportive Housing

Rental subsidies for permanent housing \$112,500

Intensive supportive services \$112,500

Homeless outreach \$75,000

Program delivery - .5 FTE \$50,000

Sub-total for Supportive Housing \$350,000

Centralized Homeless Intake System - RFP

\$60,000

Transition Age Youth Programs - RFP

\$100,000

SSI Benefits Advocacy

1 FTE advocate - serve 40 clients \$58,000

1 consultant - 40 disability screenings \$20,000

Sub-total for SSI Advocacy \$78,000

Public Seating and Trash Receptacles

\$60,000

Pilot Host Program - RFP

\$200,000

Signage and Educational Outreach for Smoking Ordinance

\$10,000

TOTAL EXPENSES

\$1,000,000

ORDINANCE NO. - N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 13.36.015
REGULATING LYING ON SIDEWALKS AND THE NUMBER OF DOGS ON
SIDEWALKS AT CERTAIN TIMES AND PLACES

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

Section 1. That Berkeley Municipal Code Section 13.36.015 is amended to read as follows:

Section 13.36.015 Creation of accessibility on ~~certain public sidewalks on Telegraph Avenue and downtown commercial sidewalks~~ areas--Related restrictions.

A. Applicability. The accessibility created and related restrictions on stationary dogs and persons lying on the sidewalk imposed by this section shall apply to all commercial sidewalks ~~on: (1) Shattuck Avenue between Hearst Avenue on the north and Dwight Way on the south; (2) Telegraph Avenue between Bancroft Avenue on the north and Parker Street on the south; and (3) Durant and Haste Streets between Dana Street on the west and Bowditch Avenue on the east,~~ between 7:00 a.m. and 10:00 p.m., Monday through Saturday, ~~or~~ and between 10:00 a.m. and 6:00 p.m., on Sundays and holidays. Commercial sidewalks as used in this section means all sidewalks in front of or adjoining any property designated on the City's Official Zoning Map appended to the City's Zoning Ordinance with a "C" prefix, which are listed on the Map as General Commercial, Central Commercial, Elmwood Commercial, North Shattuck Commercial, South Area Commercial, Solano Avenue Commercial, Telegraph Commercial, and West Berkeley Commercial. The sidewalks in such areas shall be hereinafter referred to as "regulated sidewalks".

B. Sidewalk Accessibility Created--Regulation of Stationary Dogs and Persons Lying On Regulated-Commercial Sidewalks. This section is designed to create accessible areas on regulated-commercial sidewalks in order to ensure that the public can move freely about such sidewalks. To accomplish this end, the following prohibitions shall apply to regulated-commercial sidewalks:

1. No person shall lie upon regulated-a commercial sidewalks or upon any object on such sidewalk.
2. No more than two stationary dogs shall be permitted in any ten-foot area on regulated-a commercial sidewalk, ~~s~~ except ~~of-for~~ guide dogs, signal dogs, or service dogs, as provided by state law.

C. Exceptions. The prohibition in subsection (B)(1) shall not apply under the following circumstances:

1. To any person lying down on a public-commercial sidewalk due to a medical emergency;

2. To any person utilizing an object, placed on ~~the a commercial~~ sidewalk by the City or other public agency, in the manner in which it is intended, such as sitting on a bus stop bench or downtown plaza benches.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by any other provision of law. Nor shall anything in this ordinance be construed to prohibit the City from exercising its prosecutorial discretion to create tailored amnesty programs to allow persons to obtain necessary City permits.

D. Authority to Disperse Stationary Dogs in Excess of Ceiling, in Violation of Ceiling when Voluntary Compliance Declined. Whenever more than two stationary dogs are within a ten-foot area of ~~the a commercial~~ sidewalk, the persons in control of them shall be informed of the ordinance's requirements limiting the number of stationary dogs. Unless the persons in control of all stationary dogs cumulatively exceeding the ceiling required by this ordinance voluntarily limit the number of stationary dogs to that ceiling, they may be required to remove those stationary dogs.

E. Necessity of Warning Prior to Citation. No person may be cited for a violation of this ordinance until that person has first been warned that his or her conduct is in violation hereof.

F. Violation--Infraction or Misdemeanor. Violation of this section shall be either an infraction or a misdemeanor, in the discretion of the prosecutor. (Ord. 6531-NS § 1, 2000: Ord. 6466-NS §§ 1--3, 5, 1998)

Section 2. Copies of this Bill shall be posted for two days prior to adoption in the glass case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen 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.

AMENDING BERKELEY MUNICIPAL CODE SECTION 13.36.015
REGULATING LYING ON SIDEWALKS AND THE NUMBER OF DOGS ON
SIDEWALKS AT CERTAIN TIMES AND PLACES

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

Section 1. That Berkeley Municipal Code Section 13.36.015 is amended to read as follows:

**Section 13.36.015 Creation of accessibility on commercial sidewalks--
Related restrictions.**

A. Applicability. The accessibility created and related restrictions on stationary dogs and persons lying on the sidewalk imposed by this section shall apply to all commercial sidewalks between 7:00 a.m. and 10:00 p.m. Monday through Saturday, and between 10:00 a.m. and 6:00 p.m. on Sundays and holidays. Commercial sidewalks as used in this section means all sidewalks in front of or adjoining any property designated on the City's Official Zoning Map appended to the City's Zoning Ordinance with a "C" prefix, which are listed on the Map as General Commercial, Central Commercial, Elmwood Commercial, North Shattuck Commercial, South Area Commercial, Solano Avenue Commercial, Telegraph Commercial, and West Berkeley Commercial.

B. Sidewalk Accessibility Created--Regulation of Stationary Dogs and Persons Lying On Commercial Sidewalks. This section is designed to create accessible areas on commercial sidewalks in order to ensure that the public can move freely about such sidewalks. To accomplish this end, the following prohibitions shall apply to commercial sidewalks:

1. No person shall lie upon a commercial sidewalk or upon any object on such sidewalk.

2. No more than two stationary dogs shall be permitted in any ten-foot area on a commercial sidewalk, except for guide dogs, signal dogs, or service dogs, as provided by state law.

C. Exceptions. The prohibition in subsection (B)(1) shall not apply under the following circumstances:

1. To any person lying down on a commercial sidewalk due to a medical emergency;

2. To any person utilizing an object, placed on a commercial sidewalk by the City or other public agency, in the manner in which it is intended, such as sitting on a bus stop bench or downtown plaza benches.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by any other provision of law. Nor shall anything in this

ordinance be construed to prohibit the City from exercising its prosecutorial discretion to create tailored amnesty programs to allow persons to obtain necessary City permits.

D. Authority to Disperse Stationary Dogs in Excess of Ceiling, in Violation of Ceiling when Voluntary Compliance Declined. Whenever more than two stationary dogs are within a ten-foot area of a commercial sidewalk, the persons in control of them shall be informed of the ordinance's requirements limiting the number of stationary dogs. Unless the persons in control of all stationary dogs cumulatively exceeding the ceiling required by this ordinance voluntarily limit the number of stationary dogs to that ceiling, they may be required to remove those stationary dogs.

E. Necessity of Warning Prior to Citation. No person may be cited for a violation of this ordinance until that person has first been warned that his or her conduct is in violation hereof.

F. Violation--Infraction or Misdemeanor. Violation of this section shall be either an infraction or a misdemeanor, in the discretion of the prosecutor. (Ord. 6531-NS § 1, 2000: Ord. 6466-NS §§ 1--3, 5, 1998)

Section 2. Copies of this Bill shall be posted for two days prior to adoption in the glass case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen 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.

Attachment 3

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

AMENDING RESOLUTION NO. 61,042-N.S.
REAFFIRMING HOMELESS HUMAN AND CIVIL RIGHTS (HHCRR)

WHEREAS, the Universal Declaration of Human Rights declares that everyone has the human right to life, liberty, and security of person; as well as to housing and to necessary social services; and

WHEREAS, the City of Berkeley Municipal Code Chapter 1.22.010 states that the City of Berkeley shall promote universal respect for, and observance of, human rights and fundamental freedoms for all; and

WHEREAS, the City of Berkeley has declared itself a Human Rights City and adopted the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights; and

WHEREAS, the County of Alameda Board of Supervisor's has declared a housing state of emergency for extremely low income people; and

WHEREAS, there are an insufficient number of emergency shelter beds and permanent supportive housing units in Berkeley; and

WHEREAS, policies of citing, fining, incarcerating, and harassing individuals for sleeping outside only complicate the personal struggle for self-sufficiency and exacerbate the social problem and costs of homelessness.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley:

- 1) Reaffirms our commitment to guaranteeing and protecting the civil and human rights of all homeless families and individuals who reside in Berkeley, and
- 2) Adopts as standard operating procedure for the Berkeley Police Department that enforcement of Penal Code 647j shall be a low priority between the hours of 10:00 p.m. and 6:00 a.m., except when the City is notified of persons lodging without consent, or there is a history of chronic problems of persons lodging without consent at a specific location. There shall be one (1) verbal warning before any enforcement under Penal Code 647j.

Attachment 4

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY MUNICIPAL CODE, SECTION 12.70.010, LEGISLATIVE FINDINGS, SECTION 12.70.020, DEFINITIONS, 12.70.030, LOCATIONS WHERE SMOKING IS PROHIBITED, AND SECTION 12.70.120, ENFORCEMENT, EXPANDING THE LOCATIONS AT WHICH SMOKING IS PROHIBITED AND CLARIFYING ENFORCEMENT RESPONSIBILITIES

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

Section 1. That Berkeley Municipal Code Section 12.70.010 is hereby amended to read as follows:

Section 12.70.010 Legislative findings.

The City Council does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, broncho-constriction, and broncho-spasm.

Accordingly, the City Council finds and declares that the purposes of this chapter are (1) to protect the public health and welfare by prohibiting smoking in public places, places of employment, and specially designated public play areas where small children are at risk of choking on or ingesting cigarette butts and other toxic tobacco litter, ~~and~~ (2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke-, and (3) to promote self-enforcement through educational outreach regarding smoking prohibitions.

Section 2. That Berkeley Municipal Code Section 12.70.020 is hereby amended to read as follows:

Section 12.70.020 Definitions.

A. "Bar" means any area or a room utilized primarily for the sale of alcoholic beverages for consumption by patrons on the premises and in which the serving of food and the provision of entertainment is merely incidental to the sale of alcoholic beverages. Although a restaurant may contain a bar, the term bar shall not include a restaurant or any dining area. Although a nightclub may contain a bar, the term bar shall not include a place of entertainment commonly known as a nightclub irrespective of the fact that payment for entertainment may be made through the purchase of alcoholic beverages.

B. "Business" means a sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

C. "Commercial Area Sidewalk" means all sidewalks on: (1) Shattuck Avenue between Rose Street and Dwight Way; (2) Telegraph Avenue between Bancroft Way and Parker

Street; (3) College Avenue between Russell Street and Webster Street; (4) Solano Avenue between The Alameda and Tulare Avenue, (5) 4th Street between Virginia Street and Addison Street; (6) Bancroft Way between College Avenue and Shattuck Avenue; (7) San Pablo Avenue between Channing Way and Parker Street; (8) Adeline Street between Fairview Street and 62nd Street; (9) Euclid Avenue between Hearst Avenue and Ridge Road; (10) Gilman Street between San Pablo Avenue and 4th Street; and (11) 10th Street between Gilman Street and Camelia Street, (12) University Avenue between Oxford Street and 4th Street, (13) Addison Street between Oxford Street and Milvia Street, (14) Center Street between Oxford Street and Milvia Street, (15) Allston Way between Oxford Street and Milvia Street, and (16) Kittredge Street between Oxford Street and Milvia Street.

D. — C.—"Contract employee" means any person who performs work for a business or non-profit entity, but who is paid by an agency which contracts with said business or non-profit entity to supply such workers.

E. D.—"Dining area" means an enclosed area containing a counter or table upon which meals are served.

EE. "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity. Employees include those employed full-time, part-time, temporary or contracted for from a third party.

G. F. "Employer" means any person, partnership, corporation, including a municipal corporation, business entity or non-profit entity, who employs the services of one or more individual persons.

H. G. "Enclosed" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.

I. "Health care facility" means all public and private health care facilities, including, but not limited to, hospitals, health clinics, mental health clinics, physician's offices, and dentist's offices.

J. — H.—"Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.

K. I.—"Non-profit entity" means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character building, political social or other similar purposes, the net proceeds of which are committed to the portion of objects or purposes of the organization and not for private gain.

L. — J.—"Open to the public" means available for use by or accessible to the general public during the normal course of business conducted by either private or public entities.

M. K. "Place of employment" means any area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, conference and class rooms, employee cafeterias, employee lounges and restrooms, hallways, and work areas. A private residence is not a place of employment unless it is used as a child care or health care facility.

N. L. "Public place" means any enclosed or designated outdoor areas in Section 12.70.030 to which the public is invited or in which the public is permitted, including but not limited to:

1. Banks.
2. Educational facilities.

3. Health care facilities.
4. Public transportation facilities.
5. Reception areas.
6. Restaurants.
7. Retail stores.
8. Retail service establishments.
9. Retail food production and marketing establishments.
10. Waiting rooms.
11. A private residence is not a public place unless used as a licensed child care, licensed adult care or health care facility.

O. "Recreational Area" means any outdoor area, owned or operated by the City of Berkeley, open to the general public for recreational purposes, regardless of any fee or age requirement, including, but not limited to: parklands, including portions of parks, such as picnic areas, tot play areas, playgrounds, or sports fields, walking paths, gardens, hiking trails, bike paths, athletic fields, skateboard parks and amusement parks;

PM. "Restaurant" means any coffee shop, cafeteria, short order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or catering establishment, and any other eating establishment, organization, club (including veterans club), boardinghouse, guest house or political subdivision, the primary function of which is to give, sell or offer for sale, food to the public, guests, patrons, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions, except that the term restaurant shall not include a tavern or cocktail lounge if said tavern or cocktail lounge is a "bar" as defined in subsection A of this section.

QN. "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and tobacco accessories and in which the sale of other products is merely incidental.

R. — O. "Semiprivate room" means a room in a ~~public or private~~ health care facility containing two beds for patients of the facility.

~~SP. — "Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.~~
area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction, whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, waiting rooms, and cab stands.

IQ. "Smoke" or "smoking" means and includes inhaling or exhaling upon, burning or carrying any lighted smoking equipment for tobacco, or any other plant or product used for personal habit commonly known as smoking.

UR. "Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble to either engage in physical exercise, participate in athletic competition or witness sports events.

~~S. "Work area" or "workplace" means any area of a place of employment, including outdoor construction sites, in which two or more employees are assigned to perform work for an employer.~~

VF. "Senior citizen residence" means an apartment house, retirement home, boarding house, or residence hall which is developed for or substantially rehabilitated or

renovated for senior citizens.

UU. "Tot play area" means a designated play area within a public park designed for use by children under five years of age. Where such areas are not contained by a fence, the boundary of a tot play area shall be considered ten feet from the perimeter of the play area as defined by the edge of the resilient surface safety material surrounding the sand area.

X. "Work area" or "workplace" means any area of a place of employment, including outdoor construction sites, in which two or more employees are assigned to perform work for an employer.

Section 3. That Berkeley Municipal Code Section 12.70.030 is hereby amended to read as follows:

Section 12.70.030 Locations where smoking is prohibited.

Smoking shall be prohibited in all public places including but not limited to the following unless otherwise provided and in all places where the owner or person in charge of the establishment has posted a nonsmoking sign:

A. Restaurants, including any outdoor seating area provided by or attached to a restaurant;

B. Elevators in buildings generally open to the public, including elevators in apartment buildings, irrespective of the number of living units in such apartment buildings;

C. In semiprivate rooms, wards, waiting rooms, lobbies and public hallways of every ~~public and private~~ health care facility, ~~including, but not limited to, hospitals, clinics and physicians and dentists offices.~~ The exemptions set forth in Section 12.70.050 shall not apply to this subsection;

D. Within every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the City during such time as a public meeting is in progress;

E. In waiting rooms, lobbies, public hallways and all other areas of every building under direct or indirect control of the City;

F. Within all parts of any buildings which are primarily used for exhibiting any motion picture, stage drama, dance, musical performance or other similar performance, including nightclubs, and within any room, hall or auditorium that is occasionally used for exhibiting any motion picture, stage drama, dance, musical performance or other similar performance during the time that said room, hall or auditorium is open to the public for such exhibition; provided, however, that smoking is permitted on a stage when such smoking is part of a stage production;

G. In museums, libraries, aquariums and galleries;

H. In all enclosed parts of hotels, motels and resorts open to the general public, including, but not limited to guest rooms, registration areas, lobbies, hallways and conference rooms; provided, however, that 25 percent of the rooms rented to guests may be maintained as fixed smoking rooms;

I. In buses, trains, taxicabs and other means of public transit while operating within the boundaries of the City, and in ticket areas and waiting rooms of transit terminals and stations;

J. In sports arenas and outdoor theaters;

K. Within all areas open to the public in business establishments dealing in goods or services and not otherwise mentioned in this section, including, but not limited to food and

grocery stores, drugstores, supermarkets, automobile showrooms, banks, savings and loan offices, insurance offices, and attorneys offices;

L. Public restrooms;

M. ~~Indoor~~ Service areas;

N. All enclosed areas available to and customarily used by the general public in all businesses or non-profit entities patronized by the public, including, but not limited to, attorney offices and other offices, banks, laundromats, hotels and motels;

O. In all enclosed common areas in senior citizen residences, including but not limited to, laundry rooms, lobbies, lounges, hallways, waiting rooms, television rooms and dining areas; provided further, that this prohibition does not prevent the designation of a separate room or area where smoking is permitted so long as said smoking rooms are not common passages through the senior citizen residence. The City Council finds that smoking should be prohibited in senior citizen residences in particular in light of the increased health risks and discomfort which secondhand smoke may create for senior citizens who may be confined to limited areas within their residences;

P. Bars;

Q. Video arcades, card rooms, game rooms, pool halls, dance halls, bingo parlors and other amusement centers;

R. Parking garages;

S. All outdoor areas used for public seating in conjunction with any retail or food establishment in an exclusively pedestrian area that is enclosed on at least three sides, whether or not provided by or attached to a restaurant;

T. ~~Tot play areas~~ Recreational areas;

U. Within 50 feet of any entrance, exit, operational window, or air intake vent to any building that is used as a health care facility, licensed child or adult care facility, or senior center, and w~~W~~ithin 2520 feet of any entrance, exit, operational window, or air intake vent to any other building that is open to the public, except while passing on the way to another destination. For purposes of this section, entrance or exit shall mean an opening into a building from a contiguous street, sidewalk, walkway or parking area, and "air intake vent" shall mean an opening into a building that draws in air from the outside as part of a building ventilation system ~~but shall not include windows, entrances or exits~~;

~~—V.—~~ Within 2520 feet of any bus stop;

W. Commercial area sidewalks;

X. Licensed child and adult care facilities;

Y. Senior centers.

Section 4. That Berkeley Municipal Code Section 12.70.120 is hereby amended to read as follows:

Section 12.70.120 Enforcement.

~~—A. The Department of Health and Human Services shall be responsible for enforcing the provisions of this chapter.~~ The Health and Human Services Department shall enforce the provisions of this chapter as to facilities inspected and permitted by the Division of Environmental Health.

~~—B.— Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Department of Health and Human Services.~~

~~—BG.—~~ The Public Safety Department or Health and Human Services Department shall perform a checklist evaluation for compliance with all requirements of this chapter while an establishment is undergoing otherwise mandated inspections.

—~~CD.~~—Any owner, manager, operator or employee of any establishment controlled by this chapter ~~may~~ shall have the right to inform persons violating this chapter of the appropriate provisions thereof.

—~~DE.~~—Notwithstanding any provision of this chapter, a private citizen may bring legal action to enforce this chapter.

~~EF.~~ Nothing in this chapter shall be construed to preclude enforcement of any provision by the Police Department or by any other law enforcement agency.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 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.

Town Hall Meeting
September 29, 2007
10:00 a.m. – 1:00 p.m.

Attachment 5

Public Comments

Taj Johns – Facilitator. Welcome and intro. Facilitated process of receiving public comment.

Kriss Worthington – Vice Mayor. Welcome, introduced elected officials and city staff who were present. Council Members Laurie Capitelli, Linda Maio, Darryl Moore, Gordon Wozniak; Aides Linda Perry (Capitelli) and Julie Sinai (Mayor Tom Bates); Claudette Ford, Director of Public Works; Doug Hambleton, Chief of Police; Fred Medrano, Director of Health & Human Services; Harvey Tureck, Director of Berkeley Mental Health; Lisa Caronna, Deputy City Manager; Jim Hynes, Assistant to City Manager; Angela Gallegos-Castillo, Assistant to the City Manager; Lauren Lempert, City Manager's Office.

Lauren Lempert – City Manager's Office. Presentation on PCEI. Q&A, and then recorded public comments.

- Legal questions about time, place, and manner restrictions on aggressive solicitation.
- Sitting vs. lodging -- Still concern even though no council action for 1 year. Senior citizens concerned if ban on sitting were to pass.
- Becky O'Malley. Infraction -- less legal protection for people who are cited. Especially mistaken identity. Not legal to ban content of speech in constitution – how are we to get around this? Panhandling rules. How much is the city paying for research?
- Zachary Running Wolf -- PRC: increasing rules and laws but no accountability b/c PRC is powerless.
- David Isaac Tam. Estimate of people sleeping on street and in cars? How many homeless people are here at the meeting? [Answer: two people raised their hands.]
- Want more access to police thru Police Review Commission.
- Concerned about restrictions on hitching bicycles to meters.
- Look at issue thru the eyes of a child. People need to rest, lie down on sidewalk. Second hand smoke is a problem. Restricting only some areas, and not others, doesn't help people with asthma.
- What is most current city estimate of people sleeping in the outdoors? [Answer: about 850]
- Two people present who identify themselves as homeless. Zachary Running Wolf is/was here, too. Need to get more input from homeless.
- Who would want to lie on sidewalk in very hot or cold weather, unless they have severe mental problems. What services are available? What can the work force do to help reach these people? Problem to add extra clients on work force?

Process discussion: Will allow minute and a half; people lined up at mics. Comments will be recorded, posted on the web. Many folks don't have access to web. How can we get info to them? Pile hard copies at Quarter Meal; send to Daily Planet. Give Lauren mailing address, and will send hard copies.

Process: Taj Johns (facilitator) will also read written comments.

- Merrilie Mitchell: Public spaces should be clean for everybody. Litter cans are spilling over. Rats in Ohlone Park. Telegraph Ave. now being cleaned 24/7. Why not downtown Berkeley? PCEI passed, good for most people. Public health good for everyone, but have to get clean to make it happen. Kriss has been cleaning up Telegraph, looks much better. Extra peace officers. Broken glass, dangerous things. Homeless folks moving towards senior center, spread out in parks. City should clean up downtown for everyone, and parks, and show their stuff, before they start bothering homeless.
- Diana Hembree: Own a house on Spruce St. Strongly oppose initiative, esp. part on sleeping on sidewalk. Homeless man was burnt to death, trying to sleep at night. People are afraid to sleep in dark. Never had problem-maneuvering mom in wheelchair. Don't know how to explain to child why police would rouse someone who is sleeping. Public toilets are good idea, also showers, multi-service centers, and Alcohol and Drug treatment. Try living on streets for week w/out money.
- David Isaac Tam: Homeless 12 ½ years. Psychotic landlady, large number of books threatened landlady. On Section 8 waiting list. Got citation for sleeping under deck. Two points: short term solution to homelessness – slow day until adequate housing for homeless people. Would like to see all 850 housed. Towed vehicles, should become homeless auto park, guarded by city police. Second point: anger is righteous. Notion in Victorian society. “Social History of Anger” by Sterns. Expression of disagreement w/ social injustice. We are all human beings, autonomous, members of Berkeley community.
- Anger is also motivating.
- John Caner : Derby St. in Willard neighborhood. Telegraph needs special attention. Feels uncomfortable walking along Telegraph, as does his children. Also, walks dog in morning. Sees increased numbers of people sleeping on strips. Need to increase housing so no need to sleep outside. Third, talk to people in Alta Bates emergency room who deal with lots of people. Fourth, talk to Neighborhood Associations.
- Judith – lives on Alameda since 1958. Until these 850 people are housed, fed, provided with jobs, etc, then PCEI is inhumane. Need one restroom in every commercial district. Employ folks 24/7 to maintain bathrooms. We do have visitor restroom program if well dressed, but not available for everyone. Have never had a problem with problematic street behavior. We should all assume the positive, engage in conversation we encounter on the street. Make a point of buying Street Spirit. OK to have law to not block sidewalk, but don't worry about lying down, bicycles, etc.
- Taj reads written comment: hit by cyclist on corner of University and MLK.
- Steve Kessler – longtime resident, has run homeless shelters, case management. Not comfortable with argument of civil liberties and services vs. police repression and catering to folks fearful of “problematic street behavior.” Need more rigorous discussion. Can't end or limit homelessness in one city. Draconian approach? Mistake to consider this middle class concerns only. Would not minimize concerns around fearfulness. Look at more positive ways at looking at this.
- Tom Gorham – formally homeless, lived on streets for more than 10 years. Got clean and sober, went back to school, now works with peers. Have been on both sides, lived with homeless. Saw the causes, now into solutions. People with illness or addiction can't get services they need. Until they get services, still have problem. Many are unable to get services, psychotic, addicted, etc. Worse problem is/was in NYC, but now housed and getting services they need. Have Community Court to sort out matters, get services they need. For Tom, needed more trips to jail to get clarity they folks were trying to help. Need everyone to work together.
- Zachary Running Wolf – Native American leader. Mayor and wife sponsored bills that cut back funds, increased prisons. Directed attack by Mayor Bates on the homeless. Will run for mayor again. Wants to close Telegraph to traffic. Get more bathrooms. Don't punish someone if you don't provide service. This week, looking to recall Mayor Bates because of these issues. Should be concerned about global warming,

reducing traffic, rather than attacking homeless.

- Taj reads written comment – would city provide more bathrooms with signage before criminalizing poverty.
- Michael Diehl – lots of people from streets are not here. Problem with PCEI – it keeps shifting, changing. Worried about warnings on sleeping outside. Taking away warnings for people who are sleeping? Even Jim Hynes talked about sleeping on streets at night. Any night, see people wandering around because no place to go. Telling people they can't sit, can't panhandle. Police know there is no accountability. Street people not here because if they speak up, they will get targeted. Want housing, but no concrete talk, or funding. Housing First, Everyone Home – way down the way, don't trust it will come. That's why people from streets aren't here – don't trust this process – afraid they will go to jail or John George. That's what reality is.
- Taj: city is asking for input on something they have. With that input comes criticism, but how about also giving suggestions? Such as Zach suggested closing Telegraph to traffic. Let's try to look at ideas that were proposed, and offer options that city can work with.
- Evelyn Baugh -- showed picture of parents sitting on bench in Berkeley, when they were around 80 years old. Comments have not yet touched on active, out and about elderly. 102,740 Berkeley residents, about 10,000 are elderly or about 10% of Berkeley population. Picture of elderly parents on daily walk in Berkeley. Along routes, would stop and rest on bench. Would sit near Shattuck branch of Bank of America. Soon the street people appropriated these benches full time for their exclusive use. Used as toilet, sleep, etc. Eventually, BofA removed benches because of anti-social behavior. Many folks – older, etc, -- wish to share public commons. Want safe place to regroup, without being harassed. Urge city to move forward with PCEI. Can benefit the majority of all Berkeley residents, including frail, children.
- Ena Aguirre – lives near circle. Doesn't think new ordinances are needed yet, until we see how current ordinances are being implemented. Important that we all understand what comprehensive report is available on homeless, what kind of services are available to them. City needs to concentrate on supportive services. Need to have enough services available so people can move inside in hotel or someplace, not enough available for senior citizens. Cannot go to bathroom unless I have money. Only for customers or employees. City needs to do survey of businesses that in fact have available bathrooms for everyone who needs them. Should not allow restaurants, etc. without public bathrooms. All services available for homeless, showers, etc, needs to be done. Berkeley needs to buy whatever hotels are available, can be used for supportive services for homeless or anyone else who needs them.
- Taj – thanks for offering suggestions.
- Did PCEI originate for commercial interests, rather than human reasons?
- Andrew Phelps – not right to criticize Michael for comments. Homeless, mental health, people almost tortured for their comments. There is serious major policy problem here. Policy that exists is called “compassion and repression.” A policy to get people to behave. Berkeley Mental Health (BMH) does not behave right, people at top don't behave right. Process is not right. For Lauren to say we need more services, will actually cause more repression because bad behavior and process in city. Policy is to make behavior respond to values of community, rather than to mental health ideology. People get stopped. Main thing that has to be done, these initiatives about respecting people. 40% of people on street incorrigible? That isn't it. Should build culture of responsibility, move city forward.
- Terry Kalahar – Works for city of Berkeley, but not getting paid [to be at Town Hall meeting]. Works with homeless older adults, before that, worked for BMH, before that Berkeley Emergency Food Project (BEFP), and other jobs. Some concrete proposals: Ask city to ask or require Health & Human Services (HHS) to have expanded hours. Basic services shut down at 5:00, but problems don't end at 5:00. Need social workers, case managers, peer support after hours. Not even talking about more money; rather, new hires should work swing shifts. Wouldn't require more money, just different hours. New hires should have part

of job description that they work out on the street after 5:00. Senior Centers, BMH should be open later. Citing infractions is short-sighted, will take more people to court, waste time.

- Taj reads comment: will the city install adequate public seating before increasing penalties for sitting on sidewalk?
- Bonnie Hughes – suggestion for city: stop fear-mongering. Lives near Shattuck for 17 years, and no problem. Not afraid to go to concerts. For 17 years, Downtown Business Association (DBA) is making people afraid to go to downtown Berkeley. “Make it clean and safe” gives bad message, makes people fearful. Let’s make downtown Berkeley a place people want to come to, because there are features there they could enjoy.
- Fred Dodsworth. Doesn’t have any solutions. Economy is not good, war is expanding, many will become homeless and land on streets. He has been intimidated on street. But doesn’t support PCEI. Worried about inequitable enforcement, which he’s seen in Berkeley. Will be used to harass people, which is wrong focus. As community, we can do better.
- Taj: issue of accountability has been coming up.
- Maxine – “Other people’s crap.” We need not to take unto ourselves other people’s problems. Has come about because people are scared of homeless people, don’t want to see them. But don’t care about them. As parent, as part of responsibility, try not to make kids fearful. Rather, interact w/ everyone around us. Goes to People’s Park frequently. Aware of inequities, that we all have responsibility. People’s Park is a beautiful park, grassy area, especially since volleyball courts gone. No bathrooms, because UC bulldozed them. Bathrooms needed all over the place. Should not even be question. Challenges every parent, people who deal with kids, change the culture, make it a culture of responsibility, take it upon ourselves.
- George Beier. 6 suggestions. 1) all the same under skin. 2) can’t ban what we don’t provide. Bathrooms should be free, as well as mental health, Alcohol and Other Drugs (AOD) services 3) need rules re behavior outside. 4) first 5 blocks of Telegraph, shouldn’t be able to lie on streets, hurts business. 5) look at Santa Cruz – can learn from there. 6) look around room, many city folks are compassionate people, trust them to do right compassionate thing, give them benefit of the doubt.
- Carol Denney – don’t trust public officials. But this room could house lots of people tonight. Could use city hall to house people. Could have public bathrooms, since there are porta-potties when needed. Could happen tonight. Don’t be fooled – DBA met privately with Lauren. Carol writes political comedy. We have no accountability. If you make stuff an infraction, you make matters worse for people on street. Practical solution: don’t have police accountability, make them take DNA samples of feces and urine they collect, and make connection to people they send to jail.
- Linda Smith – formerly homeless about 5 years ago. Many in room, politicians, case managers saved my life. I’m standing here because they helped me. Berkeley has problems we need to work out. But normally proud to be part of the process, we’re doing better than others across the state. The mayor, Kriss – when I was homeless, they helped me. I got into permanent housing. Don’t say what they don’t do, because I know what they do. I know a lot of people who are getting a lot of services, who know which way is up because of help. Berkeley Mental Health is an excellent resource, need more people. But need more services like the case manager I had, Mr. Kalahar. I didn’t have to worry about not having a support system. Comments about war in Iraq.
- Patty Marcks – Not homeless at the moment, but like many, there have been many times that I’m one pay check or one husband or one yard sale away from being out on the street. Something I think about every day. Feel fortunate to be homeowner, don’t take it for granted. Focus on narrow aspect. Support idea of free public bathrooms, and more of them, open and accessible all the time. Oppose concept to make criminal penalty to have to relieve oneself in public. Even infraction is over the top. Ridiculous to talk about making it a crime. Maybe public urination and defecation are not the same, tremendously different re public health

concerns. Many times, so desperate to urinate, will sneak into backyard to pee. Very stressful, so have compassion.

- Davida Coady – Director of Options, native Berkeleyite. Solutions for drug and alcohol addiction. Helped over 2,000 people get clean and sober in last 10 years. Help people get services, housing. They maintain their housing, get services, jobs, SSI if they don't have it. They maintain housing and services, no matter how mentally ill, if they stay clean and sober. Great community court a few years ago who saved lives of many, helped people get into services. Would help people get into services. Would help protect clients from being harassed by drug dealers. Hope that City will talk to Options, get input from clean and sober folks.
- Jill? Dunner – Bicycles are part of the solution for downtown Berkeley. Lived at Y, was homeless at one time. Air pollution, parking problems, could be solved by better access for bicycles. So ticketing people for tying bikes to meters is wrong. If something that's on books, Berkeley Police Department can do it. Should eliminate that law. Need more benches to sit on. Took away most seats at Allston near bus. Should have public bathrooms – a disgrace that we don't have place.
- Taj – make sure you leave info so city can get information to you. Pass word to others so they're in communications circle.
- Problem is giving ticket to folks who are lying on the street. Would cause aggressive panhandling to pay off tickets. Pat used to work for library. Library works with many people who are homeless, mental health issues. Don't need more protective laws, already too many on books. Has never been "aggressively panhandled". Marine recruiting office, and armed ticket taker at Cinema – seems like growing police state. Need to feed and house people who need it, not jail people.
- Phoebe Sorgen – Peace & Justice commissioner. Monday P&J Commission +will have public comment on this. Has never had problem with street behavior in Berkeley. It's OK to cite someone who blocks passage after being warned twice. Don't scapegoat most vulnerable residents – including youth. No harm in people panhandling, if they don't block passage, and not overly aggressive. Yes to bathrooms, signage, hire homeless to attend them. Paid "public commons guardian." PCEI, except those who need it most. Didn't start for humane reasons, but with business community. Misguided. Berkeley business hurting because of high rent and parking issues. Instead of spending quarter million dollars on PCEI, spend on increasing services and facilities, not on criminalizing poverty.
- Osha Neumann – attorney, spends lots of time defending homeless thru East Bay Community Law Center. Not clear on PCEI, keeps changing, makes little sense. Not what Council passed. Increased parking meter revenue – what about other means of raising revenue? Council didn't pass urination ordinance; what passed was not until bathrooms in place. Council did not pass request to advise strict enforcement of all laws or to provide warnings. What did pass was to compile what citations were issued on quality of life matters. Community policing was passed, but not here. Ordinances part: no conflict between Berkeley Municipal Code re lying on street at night, and 647j – police not confused. Why is panhandling near ATM here, since already ordinance? After council passed, police took their marching orders, have been enforcing laws that don't exist. Believe they got orders from council to clear people out of time that you can't sit, you can't lie. They should "stop beating your wife," stop beating homeless people.
- Pat Wall – lives in Berkeley, works at Homeless Action Center with homeless people who need benefits. Just wants Lauren Lempert to remember: if money is generating, please buy housing for homeless people, because that's what causes most problems that is causing big froth. 1) Definition of insanity is doing everything over again, with no results. City has already tried this, Measure O, collective memory is fading. 2) if nothing changes, nothing changes. May 2006 plan inconsistent with PCEI. Increased enforcement doesn't work. Berkeley Mental Health is full all the time. If we were serious about increasing services, would fully fund it. Homeless people on psychiatry waiting list for 6 months. Anger is fear in a party dress. Plan has a retaliatory feel, based on fear and frustration. Plan based on barely concealed fear of homeless. Housing would solve many of these problems.

- Debra Badhia from Downtown Business Association (DBA)– 549-2230, ext. 12. Represent businesses in downtown Shattuck area from Channing to Delaware, Oxford to MLK. Mainly here to listen to comment. Have thousands who visit every day. Rely on city officials to keep eye on streets. Respect city for putting together package of services. Get complaints from business owners. This is just part of the work. Don't single out homeless as problem population. Others such as high school kids, others, cause problems. Want to improve environment. Places to sit, restrooms are important. 549-2230, ext. 12.
- Adrienne Bank – founder of YEAH. Homeless shelter for transitional youth. Open only 20 weeks/year, need more funding. Want more weeks open, more activities during the day. 50 volunteers. Trying to help people get through the system, which is daunting. Even more difficult if not so well or strong, to deal with bureaucracy, red tape, etc. Would like to provide 18-25 year old folks to get services, housing they need to get them off the street.
- Mark McLeod – Downtown Business Association. Anyone who has participated today deserves to be congratulated. No simple solution, very complex problem. All deserve congratulations.
- Roland Peterson – Telegraph Business Improvement District (TBID) – believes that this is not nearly the fearful thing that people think. Wants Council and city staff to move this forward. Wants to remove all warnings. Compare to speeding tickets, that's not how laws are generally written. Not about homelessness, never has been. Rather, about people who behave problematically. Individualized about a person's behavior, not about homeless status. People have substance abuse, mental health, aggression problems, not about housing. Increased enforcement does work. When Council approved increased enforcement, noticed improvement right away. All of a sudden, the shopping district felt safer. Money well spent, keep it up, moving forward in right direction.
- Becky O'Malley – Would like to thank Roland and Osha for documenting that there is a lot more enforcement on Telegraph. Bad news is they're now in Elmwood, where I live. Can't just move people around. Can't make laws against people; rather, make laws against behavior. Support having public bathrooms, but won't solve all the problems. Will have children peeing in wrong places. As you get older, have to pee other places. Can be realistic, or can spend everyone's time and money to do the same dumb drill again. Would rather be at Farmer's Market on Saturday. Nothing changes. Wasting our time and city's money doing stupid stuff, and I'm sick of it.
- Ted Garrett – CEO of Berkeley Chamber of Commerce. This is my welcome to the community. Would like to be at Farmers Market, too. Have visited all the BOSS programs, Burton is member of Board of Directors. New YMCA teen center, opens Oct. 19. Recently toured B-Tech high school. Believes that strong businesses help build a strong community. We're all in this today, can count on Berkeley Chamber of Commerce to help work on problem. We'll try to be a part of the solution.
- Taj – acknowledges Council Member Linda Maio [arrived after Kriss's initial welcome].
- Taj – Wrap up. Getting, seeing other perspectives. World-view that may be different from city staff and government perspective. Process will continue. Not a period, but a comma. More to come. Mental illness is doing same thing over and over. Can't solve problem with same mind-set that created it. (Einstein) Let's shift a little, so solution satisfies entire citizenry, not just one group. Report will be delivered to Council on November 20. Report should sent out in mail, email, libraries, other places.
- Three carts, three people currently sleeping in Ohlone Park. Places meant for parks, places meant for recreation, kids.
- Taj- would someone, staff person, bring her up to date. We're at a conclusion.

Taj – Thanks, bless everyone.

Meeting adjourned.

