[Meeting Date (MM dd, yyyy)]

To: Environment and Climate Commission
From: Community Environmental Advisory Commission
Submitted by: Ben Gould, Chairperson, Community Environmental Advisory Commission
Subject: CEAC Past Projects & Future Recommendations for ECC

RECOMMENDATION
Review the attached record of major CEAC projects over the past 8 years, and consider the suggested areas of follow-up and new initiatives for the new commission's work plan.

BACKGROUND
The Community Environmental Advisory Commission (CEAC) was first established in 1991, with an emphasis on pollution prevention and addressing toxic and hazardous waste from both households and businesses (such as Lawrence Berkeley National Laboratory and Bayer). Over the decades, as local, state, and federal laws have effectively reduced the prevalence, and improved control, of hazardous chemicals, CEAC's work has shifted to cover a broader range of pollutants – such CO_2 and other greenhouse gases, air pollution, stormwater runoff, lead paint, and more – as well as other general environmental topics.

CURRENT SITUATION AND ITS EFFECTS
With the dissolution of CEAC effective March 31st, 2022, these responsibilities will transfer to the newly established Environment and Climate Commission (ECC). The ECC will also take on responsibilities from the former Energy Commission, with a full set of responsibilities spanning buildings, transportation, plant & animal welfare, greenhouse gas emissions and other pollutants, environmental justice, and community engagement.

This transition document is intended to highlight the breadth of work CEAC has undertaken in the past 8 years, providing context and background for new ECC commissioners, and to help provide concrete examples of how the new commission's responsibilities have been fulfilled in practice by CEAC in the past.

Historically, many of CEAC's work items were initiated via council referral. However, with the advent of standing Council policy subcommittees – particularly the Facilities, Infrastructure, Transportation, Environment, & Sustainability (FITES) Committee, launched in 2019 – many Council items have been directed to the FITES committee instead of CEAC. As a result, CEAC has had to create many of its own initiatives, and the new ECC will likely need to do the same.

CEAC was unable to meet during the COVID-19 pandemic. After February 2020, CEAC met once in December 2020 to adopt a work plan, and resumed regular meetings in October 2021 with the knowledge of a pending commission consolidation. With some turnover during the same period, CEAC only has a few outstanding items requiring additional follow-up (discussed in the attached notes), and no new projects currently in progress.

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Attachments:
1: CEAC Transition Notes

CEAC Transition Notes

Major Past Projects (2014-2022)

Cigarette Butts

In 2015, Save The Bay approached City Council asking Berkeley to take action to reduce tobacco litter flowing into the Bay. CEAC devised a pilot program to place receptacles for collecting cigarette butts in key locations in Downtown Berkeley where many smokers congregate and cigarette butt litter could be readily observed. A partnership was developed with the Downtown Berkeley Association for their Ambassadors to empty the receptacles and recycle collected cigarette butts, to minimize costs to the city. The program also included a signage requirement to discourage smoking in this non-smoking area, and to remind the public about stormwater pollution. The pilot program was intended as a one-year test to see if it worked.

City Council approved the pilot program, but it was slow getting started. There was some pushback from community members who argued that placing receptacles invited smoking in these non-smoking areas. (The sites recommended by CEAC were ones where smokers were already leaving cigarette butts on the sidewalk – while there was an ordinance was in place, it was not enforced). Several receptacles were installed at modest cost (less than $3,000 total) in multiple locations in and around downtown Berkeley, and maintained by Ambassadors for several months. The Downtown Business Association reported that the receptacles filled up regularly, though measured waste data were never sent to CEAC. Following the launch of the pilot program, but prior to its completion, Council sent another referral to CEAC suggesting that similar receptacles be installed in South Berkeley.

Turnover by Downtown Berkeley Association staff and CEAC commissioners have made it difficult to sustain the pilot program. In addition, pushback from public health experts and Save The Bay itself have made cigarette butt receptacles unpopular going forward. Fortunately, since the pilot was launched, the City of Berkeley has installed more effective stormwater trash collectors under the City's compliance with its municipal NPDES stormwater permit from the State Regional Water Quality Control Board. As a result, cigarette butts no longer must be collected prior to entering the stormwater system – these new trash capture devices are effective at capturing waste in the stormwater stream and preventing the pollution from entering the Bay.

A South Berkeley pilot program was never recommended, due to the lack of a business association capable of maintaining the receptacles, the unpopularity of putting cigarette butt receptacles in non-smoking zones (regardless of actual smoking behavior), and the ability of the trash capture devices to effectively prevent pollution from entering the Bay.

This item would fall under the new ECC's core responsibility to address reduce toxins in the environment and prevent pollution. Better signage would also raise awareness of tobacco waste polluting our oceans, and fall under community engagement efforts.

Bee City

CALPIRG students at UC Berkeley mobilized to urge the City to sign on as a *Bee City* under the Xerces Society. Such a program communicates City support of outreach activities that raise public awareness about the threats to and importance of insect pollinators in our region, and supports the establishment of pollinator landscaping throughout the City. UC Berkeley has already signed on to their campus program. CEAC partnered with the Parks and Waterfront Commission for advocacy with Scott Walker, head of the City's Department of Parks, Recreation and Waterfront. However as of March 2020, the City Department was reluctant to commit City personnel to this program or the $500 annual membership fee. The Adopt-A-Spot concept, partnering with volunteers in various Berkeley neighborhoods to establish and manage pollinator gardens on City land, never got sufficient traction despite the urging of Commission members and the CalPIRG students. Councilmember Kate Harrison has been helpful. Meanwhile, pollinator gardens have been established anyway in cooperation with a non profit community group, *Transition Berkeley* despite the dearth of support by the City. As such, CEAC ultimately tabled this effort.

This item would fall under the new ECC's core responsibility engage and educate the community and address the welfare of important insect populations.

Green Stormwater Infrastructure (Public & Private)

Throughout the years, CEAC has been active advocating for green stormwater infrastructure. CEAC worked closely with the Public Works Commission to allocate more funding to offsetting the impacts of having such a dense impermeable urban landscape with seasonal flooding in the lower elevations. CEAC commissioners helped formulate green stormwater commitments in Measure M, and commented on the proposed Measure T1 bond that came several years later as well.

In response to a Council referral in 2015, CEAC developed recommendations to minimize stormwater runoff from both new and existing properties. The recommendation went through several iterations at CEAC, from the City Manager, from the Mayor, and the FITES committee, but was ultimately adopted and referred to staff for finalization in 2019.

These items would fall under the new ECC's core responsibility for promoting green buildings and resource efficiency, and preventing pollution.

Artificial Turf Health Effects

Members of the public voiced concerns to CEAC regarding potential detrimental health effects from synthetic turf made from recycled vehicle tires used on sports playing fields.

The fields on the west side of I-80, in particular, make use of these recycled materials. The complaints were timely and the State Office of Environmental Health Hazard Assessment (OEHHA) appointed a Synthetic Turf Advisory Panel which launched a four-year study on the health effects on humans from playing sports on this kind of synthetic turf. CEAC commissioners attended the initial public meetings for this study in 2015. We note that the environmental effects to water quality from the runoff of these fields was not included as part of the study, but may be consequential to marine life.

This item would fall under the new ECC's core responsibility of reducing toxins and preventing pollution to downstream waters. While the OEHHA may not be able to gather enough data to confirm short term health effects, more apparent effects and complaints may continue to surface.

Letter to Bayer

Ever since Bayer took over Chiron's pharmaceutical campus, CEAC has been a watchdog for changes that have been taking place on that property. At one point, Bayer was obligated to provide annual reports to CEAC on activities and hazardous waste generation. Presently, Bayer is going through public disclosure and planning steps with the City in preparation for a substantial expansion of their facilities on their West Coast Berkeley campus. Bayer's Berkeley facility is focused on producing medication for hemophiliacs. However, outside of Berkeley, Bayer is also the main producer of neonicotinoid pesticides, one of the most widely used type of pesticides in the word and a major culprit suspected of causing the demise of bee populations. In March 2016, CEAC drafted a letter to Bayer to be submitted by the City Council, pointing out that while Bayer claims to be "committed to human rights, labor standards, environmental protection and anti-corruption," they were still major producers of neonicotinoids. The letter asked why toxicity to bees is not considered a serious environmental problem by Bayer, but received no response.

This item would fall under the new ECC's core responsibility to address the impacts and welfare of all species.

Safe Urban Gardening

In June 2015, at the request of City Council, CEAC developed and shared a brochure for prospective Berkeley gardeners that would encourage backyard gardening as a healthy activity, but raise awareness of two of the common toxins found in Berkeley soils, namely lead and arsenic. 300 copies of the tri-folded brochure were printed. However, the subcommittee never completed its intended distribution of these brochures to local nurseries and community gardens, and staff was unable to take the time to support. Instead, copies of the brochure were made available in City offices. The brochure can be viewed here.

This item would fall under the new ECC's core responsibility to engage and educate the community.

Lead Paint

Lead paint is a persistent and recurring problem in Berkeley. Lead-based paint was used up until 1978, and as a result most buildings in Berkeley likely still have some lead paint in them. Dust and debris from lead paint can contaminate soil, air, and indoor environments, where it can be inhaled or ingested by children, or remain in the soil indefinitely.

State and federal law impose certain requirements for the handling of lead paint during construction and renovation efforts, but these are often not followed by contractors, leading to lead paint contamination risks or events. Violation of these practices falls under the City's jurisdiction to enforce; however, the cost of enforcement (in staff time) exceeds the punitive fines extracted from a violation. As a result, city staff generally does not take action to enforce reported lead paint violations.

CEAC developed an item, which went to Council with a companion report, recommending that the City establish an administrative fee to supplement the punitive fine to cover the cost of enforcement. The companion report recommended that staff study the matter to identify the appropriate level of fee (as required under state law), and was adopted by Council shortly before the pandemic. There has been no action taken since, due to pandemic-imposed staffing challenges.

This item falls under the new ECC's core responsibility to reduce toxics and prevent pollution.

Indoor Air Quality

In 2014-17, CEAC developed recommendations for new standard conditions of approval (SCAs) for development projects in areas potentially prone to elevated levels of outdoor air pollution. These SCAs would require additional indoor air quality mitigation measures to be included, such as utilizing a higher-grade filtration system (eg MERV 13) for building ventilation and/or other design features to mitigate outdoor air quality. Council referred the recommendation to the Planning Commission on July 11, 2017; it is unclear if there has been any further action.

This item falls under the new ECC's core responsibilities to reduce toxics and prevent pollution, and support environmental justice.

Bird Safe Buildings

In 2019, at the prompting of the Golden Gate Audubon Society, CEAC developed recommendations to require new development above a certain size install bird-safe glass on larger windows, and to require external lighting to be pointed downwards (not up). The proposal was approved by Council and first discussed at the Planning Commission in March 2022.

This item falls under the new ECC's core responsibility to address the impacts and welfare of all species.

Fire Foam

In 2019, a methane-fueled recycling truck caught fire while in service and the firefighting foams used to put out the fire washed into Cordonices Creek, killing more than 60 local steelhead trout and threatening the creek's ecosystem. CEAC wrote a letter to staff urging improved communication and coordination between departments to ensure public works cleanup staff can arrive sooner to better mitigate the impact of the foam in future evets.

This item falls under the new ECC's core responsibility to reduce toxics and prevent pollution, and to address the impacts and welfare of all species.

Natural Gas

In 2016, CEAC recommended that Council refer to CEAC and the Energy Commission to explore eliminating natural gas in new construction. A series of joint subcommittee meetings led to an analysis shared with the California Energy Commission that changes to Title 24 were required to ban natural gas in new construction; title 24 was subsequently amended beginning with the 2020 code cycle and in 2019 Berkeley was first in the nation to adopt an ordinance banning natural gas hookups in new construction.

This item falls under the new ECC's core responsibilities to reduce greenhouse gas emissions, advance green buildings and resource efficiency, decarbonize buildings, and reduce toxics and prevent pollution.

Zero Emission Vehicles

In 2018-19, CEAC worked on several projects related to zero-emission vehicles for the City of Berkeley.

In response to the climate emergency declaration and fossil free city goal, CEAC recommended that the City Manager develop a timeline to replace all existing city-owned light-duty passenger vehicles with ZEV alternatives by mid-to-late 2020s (eg 2027). The City Council and City Manager concurred, and the fleet replacement program has begun (subject to available funding).

CEAC also developed a recommendation that Berkeley set a target of 100% sustainable transportation by 2045; i.e. no gas-powered vehicles are used to get to or from anywhere in Berkeley. At the suggestion of the FITES subcommittee, Council adopted a more aggressive target, aiming to achieve 100% sustainable transportation by 2040 and a 50% improvement by 2030.

CEAC developed proposals to ban the resale of used gas cars by 2040, ban the sale of carbon-based fuels (ie gasoline and diesel) by 2045, and ban the operation and parking of gas cars on city streets by 2045. (Banning the sale of new gas cars is preempted under the Clean Air Act). Council adopted the recommendation to ban the resale of used gas cars and referred the language to the City Attorney for finalization; no action appears to have been taken since. The City Attorney found that a ban on the sale of gasoline is preempted under federal law prohibiting regulation based on the content of a fuel; and that a ban on the operation and parking of gas cars on city streets is implicitly preempted by the California Vehicle Code, which must be strictly interpreted to *only* permit those activities which it expressly authorizes. Banning gas cars from parking – or creating ZEV-only parking spaces – would require an amendment to state law; draft language has been prepared pending an author.

These items fall under the new ECC's responsibilities to reduce greenhouse gas emissions, decarbonize buildings and transportation, and support environmental justice.

Gas Station CO_2 Labeling
CEAC recommended that the City require gas station operators to add labels to pumps warning that the use of fossil fuels contributes to climate change. The City Attorney deferred action on the item pending the outcome of another First Amendment lawsuit related to cell phone warning labels. Berkeley was successful in the cell phone warning label requirements, and as such should be in the clear to implement gas station CO_2 labeling; however, no action has been taken.

General environmental hazards
Wooden power poles are coated in a carcinogenic preservative, dioxin, which leaches out into the soil and surrounding area over time. Unfortunately, CEAC has been unable to identify any action the city could take on this issue.

Dryer sheets (sometimes added to clothes dryers when drying a load of laundry) are laden with toxic chemicals and powerful perfumes that can irritate or harm sensitive individuals. Unfortunately, CEAC has been unable to identify any potential remedies that the City could take.

Berkeley Asphalt periodically leads to complaints of fumes and smells from neighbors. Berkeley Asphalt emissions are regulated by BAAQMD and are outside the City's jurisdiction.

Items to follow up on
Bird Safe Buildings
The bird-safe building recommendations are currently being discussed before the Planning Commission. This item should be tracked and public comment given at Planning Commission and Council meetings.

Gas Station CO_2 Labeling
The new ECC should ask staff to follow up with the City Attorney's office and inquire about the status of the item. Draft signage language was already developed, and it should be straightforward to complete this referral and return to Council with an ordinance.

Ban sale of used gas cars
The new ECC should ask staff to follow up with the City Attorney's office and inquire about the status of the item. Draft ordinance language was already developed, and it should be straightforward to complete this referral and return to Council.

Ideas for the ECC

Liaisons
CEAC has had a longstanding tradition of appointing individual commissioners to act as liaisons to other relevant commissions, including Energy, Parks & Waterfront, Public Works, Planning, and others. A liaison's responsibility is to serve as the commission's expert on the activities of the sister commission: generally, the liaison will review agendas and meeting minutes for the other commission, as well as serve as the primary point of contact if discussion is required between commissions. This practice has been effective at helping ensure CEAC is aligned with work being developed by other commissions, and would be good to continue.

Hazardous Waste
CEAC received multiple recent emails asking about how to dispose of household hazardous waste. Currently, there are no household hazardous waste drop-off sites within City limits. BMC 11.50 makes it extremely difficult, if not virtually impossible, for any agency other than the City or Alameda County Waste Management Authority to collect household hazardous waste; further study of this section of code is needed to understand the constraints and what should be done to improve household hazardous waste disposal / collection in the city.

Transportation
The City of Berkeley is currently likely behind on its target to achieve a 50% improvement in sustainable transportation usage and 100% sustainable trips by 2040. The new ECC could suggest policies to more aggressively move the city in this direction. Potential opportunities include:

- Setting specific, measurable VMT reduction targets and identifying and implementing strategies to achieve them
- Adopting a "sidewalk condition index" metric, similar to pavement condition index, to quantify the quality of Berkeley's sidewalks and measure improvements in pedestrian infrastructure
- Re-allocate public street space away from auto-centric uses towards pedestrians, bicyclists, and buses, even more than currently envisioned in the bicycle and pedestrian master plans. Berkeley faces a significant shortfall in paving funds;

eliminating entire lanes of traffic on low-volume residential streets could provide new space for alternative public uses (such as linear parks and/or stormwater retention). Fiscal analysis should be done to compare costs of alternative uses.

Buildings

Berkeley's building decarbonization plan is only a start; more work is needed to identify and effectively implement strategies to decarbonize:

- Single-family ownership residences
- Single-family rental residences
- Rent-controlled multifamily residences
- Non-rent-controlled multifamily residences
- Commercial spaces

Nexus Work

Berkeley has separate goals in climate (Climate Action Plan), housing (Regional Housing Needs Allocation), and transportation (sustainable trips, bicycle & pedestrian master plans). Analyzing the way(s) these three areas intersect could help illuminate strategies (or trade-offs) for advancing along multiple fronts at once.

De-zoning Gas Stations

Berkeley should remove gas stations as a permitted use from all City zoning codes.

Banning gas-powered delivery vehicles

The ECC should explore opportunities to require last-mile delivery vehicles to use zero-emission alternatives.