
NEBA News

NORTH EAST BERKELEY ASSOCIATION

Spring 2016

★★★★★ *BERKELEY CITY EDITION* ★★★★★

Message on behalf of NEBA President Isabelle Gaston:

First, a huge *THANK YOU* to those of you who have renewed your membership or have joined NEBA! Without your support, we would not be able to print and mail the *NEBA News*!

Big News: NEBA president, Isabelle Gaston, whose insightful and informative articles have appeared in the NEBA News and elsewhere, is a candidate for Berkeley City Councilmember for District 6! While NEBA does not endorse candidates for office, we will say that the NEBA board thinks very highly of Isabelle. We have re-elected her year after year to be our president for her understanding of Berkeley city issues that affect us all and for her balance of compassion for people along with her concern for taxpayers. In the words of fellow board member Dan McDunn, Isabelle “has an unbelievable grasp of the city budget, and as evidenced in the recent Q&A with new city manager, Dee Williams-Ridley, has the chops to go toe to toe with her on the details about everything from employee compensation to deferred maintenance at our city landmarks.” Sharon Eige

FISHING IN SACRAMENTO by Dan McDunn

I was cleaning up the garage today, and came across the fishing poles that my eight-year-old and I used to take down to the Berkeley Pier to “fish” with every few weeks. I am not sure what we’d have done if we ever caught one, given the health risks of Bay fish, and the fact that my entire family has been eating a vegan diet for 15 years, but I sure do miss weekend mornings with my middle son at the pier. After I was done cleaning up, it occurred to me that Berkeleyside reported back in July that the pier was closed because it was unsafe to drive heavy trucks on for the 4th of July fireworks celebration, and that further testing would be done to evaluate its safety for vehicular and pedestrian traffic. That article can be found here - <http://www.berkeleyside.com/2015/07/23/citing-structural-problems-berkeley-closes-historic-pier/>. This closure also came right on the heels of the Library Gardens tragedy, and to me it sure felt like an effort on the part of the city to appear proactive in its inspection regimen about town. Seemingly, the pier was less of a political hot potato than closing all the Senior Centers, and having to have an honest discussion about the calamity that awaits us after an earthquake if these emergency shelter sites aren’t made seismically safe. By the way, there is no money for that either.

Here it is almost 9 months later, and as far as anyone I’ve spoken with knows there has been no effort to reevaluate the safety of the pier for pedestrian traffic, and so my middle son and I are left without a permit free place to “fish.” Aside from jumping off the docks at the Cal Sailing Club with my six-year-old a few times back in August, I have not been West of Tom Bates Regional Sports Complex since the pier was closed. I can’t imagine I am alone in that behavior change, and sure do wish it would reopen. I understand that the pier may be unsafe for “heavy trucks” but unless it is at risk of imminent collapse, and the reporting did not leave me with that impression, I have to imagine that a modest amount of daily pedestrian traffic does not really pose a great threat to the structure or the pedestrians that choose to walk on it. It seems that we really ought to get an update on that structural report and get the pier reopened to pedestrian traffic. My hunch is that will never happen as no rational structural engineer would stamp a letter contradicting the original report without some pretty extensive analysis. The die was cast the second the city requested the original analysis, and now here we are.

By the way, why are we picking on the pier? You can barely throw a stone in Berkeley without hitting a public resource that poses at least as much risk to our residents as the pier. Someone in a high paid position with the ability to redeploy city funds away from gold plated perks and salaries and toward deferred maintenance should

really do something about this! I guess for now my kids and I will just spend our weekends at the Rose Garden. No. I mean Willard Pool. Wait, not that either. I mean John Hinkel Park. Ah, forget it. Perhaps I will just head up to Sacramento. I have been told you can't see any of Berkeley's problems from there and the Sacramento residents don't seem to mind them either.

CITY-DESIGNATED EARTHQUAKE SHELTERS DEEMED SEISMICALLY HAZARDOUS AND DON'T COVER DISTRICT 6 by Isabelle Gaston

City care and shelter sites are community buildings (such as Senior Centers) that provide regular day-to-day services but also may provide care and shelter in times of catastrophe, such as an earthquake. This issue has come to the forefront recently in conjunction with the work of Timothy Burroughs, the City's Chief Resilience Officer, the ongoing frequency of earthquakes in California and elsewhere, and the increasing odds of a local quake.

On January 19th, Mr. Burroughs delivered a presentation to City Council on the seismic upgrade needs of the City's seven such sites. According to Mr. Burroughs none of the existing sites would be able to function in the event of a major earthquake without significant and costly repairs, since recent seismic evaluations by structural engineers had concluded that all of the seven sites are at high risk from earthquake damage.

It is estimated that between 3,000-12,000 households in Berkeley will be displaced after a major earthquake. Of those, it is assumed that approximately 1,000-4,000 households will seek temporary shelter provided by the Red Cross or the City, with the rest staying with relatives, friends, or in a hotel. Cost estimates for the seismic upgrades for Berkeley's seven designated shelters were presented as (see Table 1):

Table 1. City of Berkeley's Designated Earthquake Shelters and Associated Seismic Upgrade Costs

Frances Albrier Community Center	\$883,000
Live Oak Community Center	\$916,000
North Berkeley Senior Center	\$3,289,000
MLK Jr. Youth Services Center	\$1,360,000
South Berkeley Senior Center	\$1,735,000
West Berkeley Service Center	\$1,508,000
James Kenney Community Center	+
COST	\$9,691,1,000++

+Note: James Kenney will be seismically upgraded in FY2016-FY2017.

++Note: The total cost of seismic upgrades PLUS deferred maintenance is \$16.8 million dollars.

In response to a question by Councilmember Wengraf about shelters available for residents living east of the Hayward Fault, staff responded that there are no City-owned shelters east of the fault. (Note: the fault runs through the center of the UC Berkeley football field, and then generally north through the hills.) Ms. Wengraf then asked, "Do we have an agreement with the school district to use Cragmont Elementary?" Fire Chief Dave Brannigan responded that it was "a possibility...but the last line of defense" for a variety of reasons (lack of locker rooms and showers). Thus, there is no formal agreement or plan at this point with regard to Cragmont

School. Residents east of the fault would be evacuated to facilities in Contra Costa County or to EBRPD facilities such as Tilden Golf Course or the Brazil Room.

The City also coordinates with UC in disaster planning so would look to them for assistance.

Councilmember Capitelli recommended that staff look into financing seismic upgrades through new bonds. Councilmember Arreguin pointed out that the poor condition of the shelters is just the "tip of the iceberg" when it comes to Berkeley's infrastructure and also supported staff looking into the City's bonding capacity. A bond measure including these seismic upgrades may be on the November 2016 ballot.

Mayor Bates wrapped up the discussion by asking staff to come back with details on the City's bonding capacity so that the issue could be part of a community survey with the thought of putting a bond measure on November's ballot. He concluded "I don't know how else we're going to do it".

After numerous combined years in office, it is unfortunate that our representatives never chose to prioritize the upgrading of our City infrastructure, including these shelters. Let's hope the Council will create a plan soon before the Big Quake hits and our "shelters" collapse.

UPDATE ON THE “BERKELEY ROSE GARDEN TRELLIS REHABILITATION PROJECT” by Isabelle Gaston

After several years of inaction, the Berkeley City Council finally approved initial funding for the Berkeley Rose Garden Trellis Rehabilitation Project on March 8, 2016. A contract with HM Construction (in the amount of \$391,620) will begin the first phase of a two-phase project. In the first phase, which is set to commence this summer, the existing trellis will be torn down and a small section (middle third) of the new trellis reconstructed.

It is anticipated that the start of the second, and much larger phase of the project, will occur in late 2017 or early 2018. This assumes that more than \$1,000,000 is designated in the budget to not only complete the trellis but also improve the adjacent tennis courts and pathways. According to the City Council March 8, 2016 annotated agenda, “the completion of this project as soon as feasible is a critical priority for the Council.”

What may turn out to be an accelerated timeline for funding of the second phase of the project (estimates a year ago were for it to start in 2019) is thanks to a recommendation by the Parks and Waterfront Commission to Council to designate surplus transfer tax funds for parks capital improvement projects at the rate of \$2 million per year. (Note: there is no mention about how the original allocation of \$1,050,000 for the second phase of the project from the Parks Tax, Measure F, will now be spent.) City Council has directed the City Manager to provide an updated timeline for completion of the project in the FY2018 budget.

CONDOS FOR THE UBER-RICH AT THE CLAREMONT HOTEL?

by Barbara Gilbert

The splendor and integrity of one of the region's (and Berkeley's) great heritage sites, along with our public health and safety, is once again up for grabs.

As did prior owners (unsuccessfully), the Fairmont hoteliers, the new owners of the Claremont Hotel complex, have a development plan that would change and intensify uses at the site, this time by adding approximately forty-five super-luxury condos with 90 parking places on now undeveloped Hotel grounds. (There is also a plan to extensively upgrade the existing Health Club operations, but this is not so much an issue as it is far less disruptive, far more necessary, and not especially controversial.)

If it goes forward, the condo development would have disastrous health and safety effects both during construction and in the long-term. This is one of the busiest and most dangerous intersections in Berkeley, especially during commute hours and when there are Cal games and special events. Neighboring residential streets are already adversely affected by traffic using them as an alternative to the major streets. During construction and subsequently there will be: significant added noise, traffic and pollution; disruption of the peace and quiet of the neighbors, Health Club members and Berkeley Tennis Club members (who are all locals); and negative commercial impacts on Domingo Street and for other local businesses at the College/Ashby commercial area. While development detriments can sometimes be “mitigated”, there is no conceivable way to mitigate these detriments at this particular site.

Some local empty-nesters have fantasized that they could “downsize” to these new condos. However, given the likely cost of the condos (my guess is at least \$2.5M) and the huge cost-of-sale for greatly appreciated local homes (state and federal capital gains alone about 40%), it is unlikely that the numbers would work for most of us. Why, after all, exchange a beautiful residence in a desirable neighborhood, in what would at best be an even trade, for what is being proposed? The most likely buyers are in fact the same super-rich who are buying up luxury properties around the world. Do we want our shared local heritage damaged for their sake?

The Claremont complex is, to use a somewhat belabored term, “iconic”. It was miraculously saved from the devastating 1991 fire with the help of many regional stakeholders. Although it is technically in Oakland's jurisdiction, it has always been viewed as a Berkeley and shared regional treasure. The hotel building is landmarked, although the magnificent grounds somehow escaped this designation, and this empowers developers to try to exploit the grounds.

If you are interested in joining or supporting a group of concerned Berkeley and Oakland residents, please contact Rani Marx at r_marx@pacbell.net.

BERKELEY'S FISCAL CONDITION IS NOT GOOD! REALLY!

by Barbara Gilbert

Berkeley's fiscal condition is analogous to the global climate condition—not at all good, moving in the wrong direction, and portending eventual disaster. The City however, has somehow managed to develop a comprehensive and intricate Climate Action Plan (!) but not a Fiscal Action Plan.

For the last ten years at least, there have been numerous fiscal warnings and analyses from a wide variety of sources—City Managers Kamlarz and Daniel, the City Auditor, concerned citizens including myself, Zelda Bronstein and Isabelle Gaston, outside consultants and auditors, the Committee for FACTS and Berkeley Budget SOS, and the NEBA Newsletter, among others. Yet nothing has substantively improved and many aspects have worsened.

The City has about \$1 billion in unfunded liabilities (half for employees and half for infrastructure), no meaningful way to pay these down, and, in the most recent labor negotiations (discussed below) has worsened the situation dramatically by awarding very large employee compensation increases. As former City Manager Phil Kamlarz stated, way back when, in the City's 2008-2009 Budget Book cover letter "...the only method to effectively eliminate the City's structural deficit is through cost reductions—primarily through controlling labor costs, since employee salary and benefits make up 77% of the City's operating budget".

How has our worsening fiscal situation impacted the community? There are far fewer amenities and services available in our town. We have lost swimming pools, the pier, much of the Rose Garden, Iceland, swathes of John Hinkel Park, use of the landmarked Old City Hall, and the West Berkeley Senior Center. Most other public structures are in seriously deteriorated condition and too dangerous to use in an earthquake. At the rate we are going it will take many many years and dollars to upgrade our street infrastructure, by which point we'll have to start all over again as the "new" streets age. Since there are fewer City employees (with the cost per remaining employee having grown astronomically), less service is necessarily being provided in each service category, such as police, fire, social services, public works, etc., despite some purported marginal increases in so-called service efficiency and customer care. The worsening fiscal situation, while not being addressed in a meaningful way through controlling labor costs, has nevertheless incentivized our officials to nickel and dime residents with annoyingly higher costs to park a car, pay off a parking ticket, get a permit, and get rid of trash, and to justify this constant money-grabbing with climate change and spurious fiscal rhetoric. Many non-profit agencies serving needy community members have to literally beg for tiny \$ amounts just to keep afloat, while the City gives incredible perks to its own employees.

Berkeley's fiscal condition encompasses many diverse but inter-related causes, summarized below.

The Demographics of Unlimited Demand

The City has limited space and money, but, unlike most other local cities, is subject to unlimited and vociferous demands. There is a large and growing population of "dependents", i.e. those who need, want, and/or demand goods and services, but do not or cannot pay toward their provision. In this category are about 45,000 college level students, close to 1,000 regular homeless persons, low-income residents, and housing-poor renters. One might also add the University of California itself which receives about \$20 million in free services, the hundreds of local non-profit organizations and NGO's which pay no property taxes and often receive City money to operate and to build (where are all the philanthropists who used to fund such groups?), and for-profit property developers who sometimes receive dubious subsidies.

Excessive and Irresponsible Labor Contracts

This subject is hard to discuss rationally without being labeled anti-union. For the record I would like to see reasonable achievable universal benefits for all Americans a la Bernie Sanders and Scandinavia--but the City's compensation levels, especially regarding benefits, are so high that they dwarf those of most other Berkeley

residents and middle-class Americans, starve out other public goods and services, and make unachievable a workable long-term fiscal remedy that is fair to all stakeholders. City unions and their enablers spout their own version of “trickle down” economics—just give us everything and somehow the benefits will eventually trickle down to the rest of us.

For an enlightening list of compensation for each City employee in 2014 (now much higher!), I refer readers to <http://www.mercurynews.com/salaries/bay-area/2014> To give a few examples: a Building Maintenance Mechanic then had a base salary of \$70,117, City-paid benefits of \$64,347, for a total compensation of \$134,464. A Psychiatrist Supervisor had a base salary of \$198,082, City-paid benefits of \$95,461, for a total compensation of \$293,543. For a real shocker, check out the total compensation of Fire Department employees and remember that these employees work one 48 hour shift and then get 96 hours off (four 24 hour days off) for a total working month of ten days on and twenty days off.+

Note that these City employee benefits are not taxable, so each City employee is effectively shorting the State of California and the IRS of substantial tax revenue. Not Donald Trump perhaps, but a pretty special deal unavailable to the rest of us, and one that has been extended in the most recent contract deals. It should also be noted that City employees have deluxe “cradle to grave” benefits—free or just about free health care for life (e.g. \$5 co-pay on prescriptions), guaranteed inflation-adjusted retirement, employer paid life insurance, almost 100% job security, health club membership, disability insurance, plenty of leave and vacation time, counselling.

The most recent round of labor contracts covers various one to three year periods between fiscal years 2015 and 2018. Frankly, they are presented in such a confusing way (another issue, Fiscal Non-Transparency!) that I am hard-pressed to describe them. Suffice it to say that these contracts include: no contributions to health care premiums and no new co-pays, substantial salary increases, some payment increases by employees toward their PERS benefits (previously paid in full or in part by City) that are, however, set up to start only at the last year of the contract term and also to avoid state and federal taxation. Some examples: over three fiscal years ending June 2018, SEIU manual, clerical and paraprofessional workers, excluding refuse workers, will receive a compounding salary increase of about 14% plus a one-time \$723 bonus; refuse workers will get about an 18% salary increase plus a \$723 bonus; in year 3, all these employees will start to contribute 8% to the Employer Share of City's CALPERS cost; by having employees contribute to the Employer rather than the Employee portion, I believe this enables qualification of the contribution as a further tax-free benefit. Berkeley firefighters will receive over the two fiscal years ending June 2017, a compounding 4.5% salary increase with larger increases (about 7%) to those trained in water rescue and to long-term employees with over 24 years of service; starting in the last year only, firefighters to contribute 2% toward the Employer PERS cost.

Here is a shocking and revealing tidbit. With respect to SEIU employees, the City was able to re-negotiate its health insurance contract to provide the same level of insurance at a \$3 million saving. Great! However, instead of putting that saving in our General Fund to pay for vital municipal needs, in a special “side-letter” agreement between City and SEIU Local 1021, \$1,672,000 was paid out as immediate \$4000 bonuses to over 400 SEIU members and \$1,359,587 was put toward unfunded SEIU retirement health plan liabilities.

The net budget effect of the most recent round of labor contracts (excluding however two as-yet unfinalized contracts, which will unquestionably make matters worse) is a General Fund projected deficit of \$4.6 million plus in 2018 rising to \$7.6 million plus in 2020. There will also be similar negative effects on the \$200 million “special fund” budgets (explained below).

Other Fiscal Irregularities

Aside from our \$1 billion in unfunded liabilities, excessive labor costs, and shrinking provision of City goods and services, there are other related fiscal problems.

Inadequate \$ Reserve and No Reserve Policy

The total City all-funds annual budget (General Fund plus so-called Special Funds) approaches \$362 million

annually. The General Fund encompasses about \$162 million annually and the Special Funds encompass the remaining \$200 million. Although the General and Special Funds are often identified and treated separately, together they are needed and integral to funding ongoing City services, employees, and functions. The main difference is that police and fire services are paid via the General Fund while most other services operate via special “accounts” with caches of funds “reserved” for various functions, such as streetlights, refuse, park maintenance, etc. Basically, the distinction between the General and Special Funds is spurious when it comes to understanding the City's finances, and many other local governments have no such distinction and fund most everything through their General Fund.

A municipal “Reserve Fund” , or “rainy day fund” is money set aside to ensure government's ability to maintain vital community services during times of economic uncertainty or decline, emergencies, catastrophes (such as earthquake, flooding, or fire), or an extreme special pressing need that may unexpectedly arise. When Reserve funds are spent down, the expectation is that they will be replaced as soon as possible. The Reserve Fund is supposed to be distinctly separate from moneys set-aside for unfunded liabilities (pensions, infrastructure).

By professional municipal finance standards (Government Association of Finance Officers, GFOA), a minimum reserve level of 16.7% of the General Fund budget is recommended even when there are no special risks, such as earthquakes. (When the total municipal budget vastly exceeds the General Fund budget, as in Berkeley, one must assume that the reserve level should apply to the total budget). Right now, Berkeley's target reserve level is only 8% of the General Fund, or \$13 million. At the minimum recommended 16.7% level, it would be \$27 million; to cover the entire \$362 million City budget, we would need to set aside \$60.5 million for minimum coverage.

According to the City Auditor, “Berkeley's general fund reserve policy lacks all of the core elements recommended by the GFOA”. Further, our City officials have barely begun the necessary discussion of the Reserve situation, and at Council meetings of February 23, 2016 and March 15, 2016 effectively cut short the excellent report of the City Auditor and referred the matter for further study. I have long noticed that the City Auditor is not a particularly welcome presence at Council meetings, since she is usually a bearer of (truthful) bad news.

City Credit Rating Not at the Top

Berkeley's bond rating at AA+ is Good, but could be better (Strong, AAA). The rating will affect the City's cost to finance new bonds (and hence the cost to taxpayers), especially important this year as the City is likely to float a \$100M infrastructure bond in November. Per the City Auditor, to get the top AAA rating, the City would absolutely have to have a formal policy and plan to address our unfunded pension liabilities, which of course is needed anyway to plan our fiscal future. Needless to say, there is no formal policy or plan in the works.

Uncertainty as to Future PERS Contribution Requirements

The PERS system operates on the assumption of a 7.5% rate of return on investments, and bases its required City contributions on this estimate. Given the sluggish performance of the stock market over the last two years and the possibility of a downturn, it is likely that the actual returns will be much lower and a compensatory required City contribution will be instituted. Many experts have suggested that a 4.5% rate of return would be a more appropriate assumption. Further, it is unclear if the City has factored in the PERS cost of recent increases in City employee PERSable salaries.

Lack of Clarity and Transparency in Presentation of Fiscal Issues

I have been closely following City matters for almost twenty years, especially fiscal matters, and I can still barely decipher the City budget, Council reports, and labor contracts with respect to the global impact on our City's fiscal condition. The best of these reports occur only every two years, Projections of Future Liabilities, with the next one due in early 2017. (We can thank Berkeley Budget SOS and the Committee for FACTS for spurring the production of these reports, with a ballot measure that secured almost 40% approval and incentivized Council to ask for such a report). Reports from the City Auditor and the City's Finance Manager are also occasionally helpful. But for the most part, contracts are signed, money is spent, deals are made without any simultaneous information and projections as to how they affect the City's overall fiscal condition.

No Citizen Oversight

The City has about fifty citizen boards and commissions. We once had a Citizens Budget Review Commission but this was summarily eliminated by Council in April 2005 after it had questioned aspects of the November 2004 City tax measures. We still need, more than ever, a panel composed of citizens and experts to receive pertinent fiscal information on an ongoing basis, work through issues, inform and advise our Council and residents, and provide community education and leadership.

Voters Apathetic and Disinterested in Fiscal Matters

In the recent voter survey conducted in conjunction with potential November tax measures, an amazing 64% of likely voters felt that things in Berkeley are going in the right direction and that City services are good to excellent. Only 4% felt that managing the City budget was an important issue. With numbers like this it is no wonder that our officials don't feel pressed to take any serious fiscal action. I can only conclude that our residents want to believe that we are "the best" in "the best of all possible worlds". Pessimism and doomsaying is apparently not an acceptable attitude, a la Herbert Hoover. Many newcomers and younger folks do not miss the disappeared amenities and services they never even knew and their standards for the good life in a good community with good government must simply be lower. Understanding budgets is not fun nor easy nor necessarily "progressive", particularly if understanding will indicate the necessity for difficult actions. It is much more acceptable to Berkeley voters to generically support public education, climate action, and labor unions without thinking much about taxes, costs, reserves, unfunded liabilities, credit ratings, and running out of City money.

The Growth Bailout Fantasy

Smart-growthers, developers, and their political alter-egos believe that increased population, density, growth and development will be the magic cure for all of our social, climate and fiscal woes. Somehow developer fee and other mitigations along with new resident and visitor spending will not only pay for the new needs being created but will be adequate to bail us out of our current fiscal hole. This is clearly self-serving magical thinking, and there is not a shred of evidence that such growth will ipso facto make anything better. It is simply a value/lifestyle choice disguised as necessity that is being foisted on a gullible public. Even were Berkeley's growth to continue on its current course, there is no direct connection to real sustained improvement in the way Berkeley addresses its fiscal issues.

No Leadership from Council or Officials

There is not one sitting Council member who approaches the City's fiscal condition with any level of leadership, knowledge or seriousness. The only current Council candidate so far with any credibility on this issue is Isabelle Gaston (running in District 6); I am watching, but not at all optimistic, that other fiscally credible candidates will emerge. There are some rare occasions on Council of lip service to the enormity of the fiscal problem (thank you Councilmember Maio), but mostly our Councilmembers are "full of lip". Especially in election years, our elected officials and candidates want the endorsements, contributions, and PACs from our City unions, numerous local NGO's and interest groups; they certainly don't want to face angry people who claim, for example, that the City Reserve Fund is really just a fund for the local rich, set up to deprive residents of all the goods and services to which they feel entitled (I have actually heard this statement from a regular Council attendee). Most of the people regularly faced by Council are perforce angry, alienated, and self-righteous supplicants for more public funds, and they are pandered to by several Council members.

Our City Council and the City Manager are supposed to be the prime stewards of our City's money and assets and to provide leadership on important substantive issues. They have failed miserably with respect to our fiscal condition. We are spending more money than we have, what money we have is mostly being spent on a shrinking number of active City employees and a growing number of retired City employees, and there is no workable plan or path to save us from fiscal decline and disaster.

+For a discussion of firefighter political clout, see "Firefighters' Union Owes Clout to Its Free-Spending Chief", Noam Scheiber, New York Times, October 18, 2015.

