

## **CITY OF ALBANY**

**MINUTES OF THE ALBANY CITY COUNCIL AND THE SUCCESSOR  
AGENCY TO THE ALBANY COMMUNITY REINVESTMENT AGENCY  
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE  
TUESDAY, SEPTEMBER 8, 2015**

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### **6:30 p.m.- SPECIAL MEETING**

ALBANY CITY COUNCIL AND THE SUCCESSOR AGENCY TO THE ALBANY  
COMMUNITY REINVESTMENT AGENCY

### **CLOSED SESSION**

### **CALL TO ORDER**

### **OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS**

City Council convenes in the Council Chamber and then adjourns to Closed Session to discuss the following items:

- 1) Conference with legal counsel to discuss existing litigation pursuant to Government Code Section 54956.9(d)(1): Successor Agency to the Albany Community Reinvestment Agency and City of Albany v. California Department of Finance et al., California Court of Appeal Case No. A144699.
- 2) Conference with legal counsel to discuss significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Claim of Charles Oewel arising out of process for selecting Design-Build Entity for City of Albany Public Works Service Center Project.

ADJOURNMENT

**7:30 p.m. - REGULAR MEETING**

**CALL TO ORDER**

Mayor Maass called the meeting to order at 7:30 pm.

**1. PLEDGE OF ALLEGIANCE**

Mayor Maass led the Pledge of Allegiance to the Flag.

**2. ROLL CALL**

Present: Council Members McQuaid, Council Member Pilch, Vice Mayor Barnes  
Mayor Maass

Absent: Council Member Nason

**3. REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**

1) Conference with legal counsel to discuss existing litigation pursuant to Government Code Section 54956.9(d)(1): Successor Agency to the Albany Community Reinvestment Agency and City of Albany v. California Department of Finance et al., California Court of Appeal Case No. A144699. City Attorney Craig Labadie reported that the Council unanimously approved a settlement agreement and that the document will be a public document once signatures have been obtained.

2) Conference with legal counsel to discuss significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Claim of Charles Oewel arising out of process for selecting Design-Build Entity for City of Albany Public Works Service Center Project. City Attorney Craig Labadie reported that the Council received information from legal counsel and provided direction.

**4. CONSENT CALENDAR**

**4-1. Minutes, July 20, 2015**

Staff recommendation: Approve

**4-2. Ratification of Payroll – City of Albany: ( a ) Payroll Period: 7/24/2015 Net Payroll: \$203,619.80 Taxes, Benefits, Withholdings: \$270,255.12 Total: \$473,874.92; ( b ) Payroll Period: 8/7/2015 Net Payroll: \$202,467.80 Taxes, Benefits, Withholdings: \$165,790.87 Total: \$368,258.67; ( c ) Payroll Period: 8/21/2015 Net Payroll: \$245,243.90 Taxes, Benefits, Withholdings: \$295,677.78 Total: \$540,921.68**

Staff recommendation: Ratify

- 4-3.** Ratification of Payroll – Albany Municipal Services JPA: ( a ) Payroll Period: 7/24/2015 Net Payroll: \$66,043.22 Taxes, Benefits, Withholdings: \$65,336.23 Total: \$131,379.45; ( b ) Payroll Period: 8/7/2015 Net Payroll: \$64,590.69 Taxes, Benefits, Withholdings: \$39,095.21 Total: \$103,685.90; ( c ) Payroll Period: 8/21/2015 Net Payroll: \$63,987.28 Taxes, Benefits, Withholdings: \$63,186.36 Total: \$127,173.64

Staff recommendation: Ratify

- 4-4.** Ratification of Bills, Claims and Demands: Ratification of bills, claims and demands against the City of Albany in the amount of: \$86,532.94 ( 7/10/15 ); \$217,887.09 ( 7/17/15 ); \$808,487.83 ( 7/22/15 ); \$1,038.64 ( 7/24/15 ); \$500.00 ( 7/24/15 ); \$69,699.23 ( 7/31/15 ); \$94,060.54 ( 8/7/15 ); \$39,955.20 ( 8/7/15 ); \$185,301.37 ( 8/14/15 ); \$255,874.10 ( 8/21/15 )

Staff recommendation: Ratify

- 4-5.** Ratification of Police & Fire Pension Plan payments in the amount of:  
( a ) \$118,891.23 for the month of July, 2015  
( b ) \$134,943.57 for the month of August, 2015

Staff recommendation: Ratify.

- 4-6.** Council Member Nason appointed Jim Lindsay to the Charter Review Committee. Council Member Pilch appointed Roman Kaludi to the Social & Economic Justice Commission.  
Mayor Maass appointed Dirk Larsen to the Park & Recreation Commission.

Staff recommendation: Information only

- 4-7.** Contract for Construction and a contract for material testing services for Adams Street Sanitary Sewer Rehabilitation Project (C15-17)

Staff recommendation: that the Council:

1. Adopt Resolution No. 2015-60, awarding a construction contract in the amount of \$371,050 to Bay Pacific Pipelines, Inc.
2. Award a material testing service contract in the amount of \$10,185 to Ninyo & Moore, Inc.

- 4-8.** Contract with the Board of Equalization for Collection of Local Charges on Prepaid Mobile Telephony Services (MTS)

Staff recommendation: that the Council:

1. Adopt Resolution 2015-52, Authorizing Agreement with the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act
2. Authorize the City Manager to sign the Agreement for State Collection and Administration of Local Charges
3. Adopt Resolution 2015-57, Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records
4. Authorize the City Manager to sign the Certification form

**4-9.** Gift to the City of a Mural at Albany Preschool

Staff recommendation: that the Council approve Resolution No. 2015-53, A Gift to the City of a mural to be installed in the North Yard play area of the Albany Preschool located at 850 Masonic Avenue

**4-10.** Resolution No. 2015-56, Accepting additional bequest funds from the estate of Shirley Parr to the Albany Senior Center

Staff recommendation: that the Council adopt Resolution No. 2015-56, accepting the additional bequest funds from the estate of Shirley Parr to the Albany Senior Center in the amount of \$112,845.82

**4-11.** Confirmation of Proposed Authorized Adjustments to Local Taxes and Fees Collected on the Property Tax Bill (Library Services Act of 1994; Supplemental Library Services Act of 2006; Emergency Medical Services Program; Paramedic Advanced Life Support Tax; 2006 Street Paving and Storm Drain Improvement Tax; and Sewer Service Charges)

Staff recommendation: that the Council adopt Resolution No. 2015-58 confirming the Fiscal Year 2015-2016 rates applied to City of Albany Special Taxes and fees collected on the annual property tax bill.

**4-12.** East Bay Infiltration/Inflow Correction Program funds for FY16

Staff recommendation: that the Council adopt Resolution No. 2015-61, Approving the City's contribution to the East Bay Infiltration/Inflow Correction Program (ICP) funds for FY16 in the amount of \$66,348

**4-13.** Waiver of Formal Bids, and Authorization to Purchase Microsoft Office 365 Government Plan Subscription License Directly From SADA Systems, Inc.

Staff recommendation: that the Council adopt Resolution No. 2015-55:

1. Authorizing the waiver of formal bids,
  2. Approving the purchase and installation of Microsoft Office 365 Government Plan Subscription License from SADA Systems, Inc. in an amount not to exceed \$110,274
  3. Approving a Budget Change to appropriate \$16,314 Fund 849 – Equipment Replacement Reserve, which will be expended in Department 0821- Information Systems in Fiscal Year 2015/2016
- 4-14.** Variance from Normal Construction Hours to Allow the Renovation of the Safeway Store at 1500 Solano to Occur At Night

Staff recommendation: that the Council authorize a variance from normal construction hours to allow the renovation of the Safeway store at 1500 Solano to occur at night, subject to conditions of approval

- 4-15.** Request for Proposals for a Landscape Architecture firm for the Ohlone Greenway Concept Plan

Staff recommendation: that the Council authorize the release of a Request for Proposals (RFP) for a Landscape Architecture firm to prepare a detailed concept design plan for the Ohlone Greenway

- 4-16.** Resolution and Letter Urging the State to Provide New Sustainable Funding for State and Local Transportation Infrastructure

Staff recommendation: that the Council adopt Resolution No. 2015-63 Urging the State to Provide New Sustainable Funding for State and Local Transportation Infrastructure

Mayor Maass asked if anyone would like to remove an item. Items 4-4, 4-10, 4-11, 4-12, 4-14, 4-15 and 4-16 were pulled from the Consent Calendar.

4-4: Council Member Pilch noted that there were a few items listed without detail, and Pilch would like the details to be provided.

4-10: Council Member Pilch expressed appreciation for the bequest. Mayor Maass asked if there would be a commemoration to recognize the bequest. City Manager Leach confirmed that there is consideration for a plaque to be placed at the Senior Center, and that the matter would return to the Council in the near future as part of the Capital Improvement Program plan regarding planned

improvements at the Senior Center.

4-11: Council Member Pilch confirmed that this is a routine item and that rates apply to resident's tax bills.

4-12: Council Member Pilch asked about the City's contribution to the program. City Manager Leach reported that it is based on a per capita allocation. Public Works Director Ray Chan reported that EBMUD administers the program.

4-14: Council Member McQuaid asked about noise monitoring, dispute mediation, what the working schedule will be, and why the project has been delayed.

Community Development Director Jeff Bond reported that the contractors are available to respond to Council questions. The Community Development Department has a noise level meter that can be provided to residents on loan. Community Development would respond to any issues raised and utilize the Municipal Code requirements when issues arise.

The contractor, Grant Parker from Tilton Pacific Construction reported that they are currently working during the day. They will work at night for safety reasons and to help keep the store operating. All night work would be limited to inside the store. Safeway is a 24-hour store, occasional generator work will be done during the day, work is scheduled to be done by the end of October, and there is no change to the exterior except for a new sign, painting, slurry seal and striping of the parking lot.

4-15: Council Member Pilch asked for detail regarding the item.

City Manager Leach reported that planning work has been ongoing since 2008, and the consultant will work with the Park & Recreation Commission to develop a concept design and work towards 100% design plans. The project can be funded by Measure WW funds, including 20% for soft costs.

4-16: City Manager Leach reported that the letter has been updated to reflect recent activity by Governor Brown.

**MOTION:**

Moved by Council Member Pilch, seconded by Council Member McQuaid to approve the Consent Calendar as submitted.

AYES: Council Members McQuaid, Pilch, Vice Mayor Barnes, Mayor Maass.

NOES: none.

ABSENT: Council Member Nason.

Motion carried and so ordered.

**5. PRESENTATION**

- 5-1. Proclamation in Honor of Alan Riffer’s Service to the Bay Area Community, the Albany Schools, the Albany Community and the City of Albany

Mayor Maass presented the Proclamation to Alan Riffer.

The following people spoke: Winkie Campbell-Notar; Fran Gallati; Cindy Chadwick; Ronnie Davis; Alexa Hauser; Winston Teitler; Julie Winklestein.

A summary of comments is as follows: expressed appreciation for Alan’s service to the Chamber of Commerce, the Chamber of Commerce has awarded Alan Riffer Citizen of the Year for 2015; expressed appreciation for Alan’s service to the YMCA; expressed appreciation for Alan’s service to the Albany Library and County Library System; expressed appreciation for Alan’s service to the community.

- 5-2. Presentation by Police Chief Mike McQuiston – Albany Police Department Biennial Report

Police Chief Mike McQuiston presented the Police Department’s Biennial Report. This is the first biennial report, and the intention is to prepare a report every two years. The report provides an overview of the Police Department, including community engagement, data, and recent accomplishments. The report is to help inform the community, and is available on the City’s website.

The following people spoke: Allan Maris

A summary of comments is as follows: expressed appreciation to the Police Department.

A summary of Council comments is as follows: expressed appreciation to the Police Department for their hard work, and for developing the report, asked about the community engagement staff position.

Police Chief Mike McQuiston reported that the Police Department is rethinking the community engagement specialist position and other staff in the department have also been trained in community engagement tasks.

## 6. **GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS**

Mayor Maass opened the Good of the City/Public Forum/Announcements.

The following people spoke: Allen Cain; Beth Pun; Allan Maris

A summary of comments is as follows: announced the Solano Stroll on September 13, 2015, and thanked the Council for their support of the event; expressed concern with bus access from North Berkeley BART; thanked the Council for pulling consent items, announced the Albany Triathlon on Sunday, September 27<sup>th</sup> from 7AM - Noon.

**7. PUBLIC HEARING**

- 7-1.** Resolution No. 2015-54 to amend the contract between the City of Albany and the California Public Employees' Retirement System to adjust the "Employee Sharing Cost of Additional Benefits" provision (§20516) for classic local sworn police members and classic local non-sworn police members in collective bargaining unit 01 APOA.

Ordinance No. 2015-05 to amend the contract between the City of Albany and the California Public Employees' Retirement System to adjust the "Employee Sharing Cost of Additional Benefits" provision (§20516) for classic local sworn police members and classic local non-sworn police members in collective bargaining unit 01 APOA – First Reading

Staff recommendation: that the Council:

1. Adopt Resolution No. 2015-54, a resolution of intention to approve an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System
2. Introduce Ordinance No. 2015-05, an ordinance of the Albany City Council authorizing an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System – First Reading

Human Resources Manager Gene Boucher delivered the staff report.

The City has contracted with the California Public Employees' Retirement System (PERS) for its police employees to receive retirement benefits. The cost of these benefits is factored into the employer rate, a portion of which is paid by the employer and a portion of which is paid by the employee. PERS permits a covered agency to amend its contract to change the Cost Sharing arrangement between employer and employee.

The Albany Peace Officers' Association (APOA) and the City negotiated a three-year Memorandum of Understanding (MOU) that was approved by City Council on January 20, 2015. The MOU includes provisions for changes in cost sharing related to the City's pension costs.

The contract was previously amended in April 2015 to increase the cost sharing by 1.0% for each of the groups. The new amendment will increase the cost sharing component by an additional 1.0% for each of the groups. This ordinance is required to amend the retirement plan contract.

There was no comment on this item.



MOTION:

Moved by Council Member McQuaid, seconded by Council Member Barnes to:

1. Adopt Resolution No. 2015-54, a resolution of intention to approve an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System

2. Introduce Ordinance No. 2015-05, an ordinance of the Albany City Council authorizing an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System – First Reading.

AYES: Council Members McQuaid, Pilch, Vice Mayor Barnes, Mayor Maass.

NOES: none.

ABSENT: Council Member Nason.

Motion carried and so ordered.

**7-2. Ordinance No. 2015-09 - Establishing an Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems**

Staff recommendation: that the Council introduce Ordinance No. 2015-09 establishing an expedited, streamlined permitting process for small residential rooftop solar systems – First Reading

Community Development Director Jeff Bond delivered the staff report. In 2014, the State of California enacted AB 2188, requiring cities to adopt an ordinance which establishes an expedited, streamlined process for permitting small residential rooftop solar energy systems. The Planning & Zoning Commission reviewed the draft ordinance at their July 22, 2015 meeting and recommends approval of the draft ordinance.

MOTION:

Moved by Council Member McQuaid, seconded by Council Member Pilch to introduce Ordinance No. 2015-09 establishing an expedited, streamlined permitting process for small residential rooftop solar systems – First Reading.

AYES: Council Members McQuaid, Pilch, Vice Mayor Barnes, Mayor Maass.

NOES: none.

ABSENT: Council Member Nason.

Motion carried and so ordered.

**8. UNFINISHED BUSINESS**

**8-1. Strategic Plan Update**

Staff recommendation: Information only

City Manager Penelope Leach delivered the staff report, and noted that City staff is available to respond to any questions raised by the Council.

A summary of Council comments is as follows: the format of the update is helpful for review and well presented, noted significant progress has been made to implement the strategic plan, noted the City has been progressive in implementing greenhouse gas emissions reduction measures.

- 8-2.** Resolution No. 2015-59 - Amending the Elected Officials Benefits Booklet as it pertains to Health Insurance Benefits to Cap the City's Contribution at the Kaiser Premium

Staff recommendation: that the Council consider adoption of Resolution No. 2015-59 Amending the Elected Officials Benefit Booklet as it pertains to Health Insurance Benefits to Cap the City's Contribution at the Kaiser Premium. If the Resolution is adopted, the change will be incorporated into the Elected Officials Benefit Booklet, which is maintained administratively and posted on the City's website

City Attorney Craig Labadie delivered the staff report. Currently, City Council Members are eligible to receive health insurance benefits consisting of the full premium for the coverage chosen by an individual Council Member, in addition to their monthly salary. Council Members who declined coverage were eligible to receive an in-lieu benefit consisting of a payment equal to the premium cost for Kaiser Employee coverage. In February 2014, the City Council voted to eliminate the in-lieu benefit for elected officials. The City's contributions to health insurance benefits for management and confidential employees are capped at the Kaiser premium.

State law provides that the health and welfare benefits provided to members of a city council cannot be more generous than the benefits received by any group of non-safety employees within that city. (Government Code Section 53200(b).) Although this code section states that it is applicable to charter cities, other legal authorities suggest that statutes enacted by the State Legislature cannot control the compensation of local officials and employees in a charter city. (California Constitution Article XI, Section 5(b); 57 Opinions California Attorney General 11 (1974).) In other situations where there is legal uncertainty regarding which State laws apply to charter cities Albany, has often chosen to follow State law. If approved, the changes would take effect October 2015.

The following people spoke: Brian Parsley; Allan Maris

A summary of comments is as follows: encouraged the Council to amend current benefits to match the benefits of City employees in line with State law.

A summary of Council comments is as follows: expressed concern that Council Members would be receiving benefits lower than City employees, expressed concern that the in-lieu benefits are not available to the Council; Council

Members are not employees and do not need to have the same benefits as employees, suggested taking the in-lieu benefits to the voters if there is an interest in having in-lieu benefits restated; suggested that if discussion of benefits and in-lieu benefits continue, the Council should take action that applies to future Councils to avoid personal benefits to the existing Council Members; encouraged matching the benefits to the City employees Kaiser Premium rate in line with State law, noting that the City would be in a legal gray area if action is not taken on this item; expressed concern with attracting candidates for the City Council and whether changes in benefits would impact the number of candidates.

**MOTION:**

Moved by Council Member McQuaid, seconded by Vice Mayor Barnes to adopt Resolution No. 2015-59 Amending the Elected Officials Benefit Booklet as it pertains to Health Insurance Benefits to Cap the City's Contribution at the Kaiser Premium, with the change incorporated into the Elected Officials Benefit Booklet, which is maintained administratively and posted on the City's website.

AYES: Council Members McQuaid, Vice Mayor Barnes, Mayor Maass.

NOES: Council Member Pilch.

ABSENT: Council Member Nason

Motion carried and so ordered.

**SUBSTITUTE MOTION:**

Moved by Council Member Pilch, seconded by Mayor Maass to adopt Resolution No. 2015-59 Amending the Elected Officials Benefit Booklet as it pertains to Health Insurance Benefits to Cap the City's Contribution at the Kaiser Premium, with the change incorporated into the Elected Officials Benefit Booklet, which is maintained administratively and posted on the City's website, and that the in-lieu benefits be reinstated.

City Attorney Labadie noted that the in-lieu benefit is not agendaized for the meeting and that this would need to be properly placed on a future agenda for discussion and action.

Substitute Motion withdrawn by Council Member Pilch.

**9. NEW BUSINESS**

**10. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS**

Council Member McQuaid announced that she attended an Every One Home workshop, a forum on Race and Injustice presented by Congresswoman Barbara Lee, and Council Member McQuaid invited Congresswoman Lee to present the information in Albany, Council Member McQuaid also attended the League of California Cities meeting, National Night Out, the Stroll Kick Off event, and

listened to a presentation by the Department of Housing and Urban Development (HUD) regarding veterans housing.

Council Member Pilch reported that he and Mayor Maass attended the Alameda County Transportation Commission retreat.

**10-1. Economic Development Committee Application Period Open**

City Manager Leach reported that a total of nine applications have been received to date, one is a representative recommended by the Solano Avenue Association, and one is a representative recommended by the Chamber of Commerce. Leach expressed appreciation to the Chamber of Commerce and the Solano Avenue Association for their assistance in encouraging people to send in applications. Staff will have an item on the September 21, 2015 agenda regarding appointment of members to the Committee, with a recommendation that each Member of the Council identify an appointee to the Committee.

**10-2. Upcoming City Events**

Music in the Park – Wednesdays in September, 6:30 PM, Memorial Park

Run Around Town – Every Sunday, 8:00 AM, Suzette’s Crepe Café, 1226 Solano Avenue

Solano Stroll – Sunday, September 13, 2015, 10 AM

Local Garden Swap – Every Tuesday, 6:30 PM, Community Center

Bike About Town – Friday, September 18, 6:30 PM, Wheels of Justice - 1554 Solano Avenue

Creekside Park Cleanup – Saturday, September 19, 9:00 AM, Creekside Park – Albany Hill

Coastal Cleanup Day – Saturday, September 19, 9:00 AM, Albany Waterfront

Marin Monster 10K Fun Run – Sunday, September 20, 8:00 AM, Community Center

Clothing Swap – Sunday, September 20, 12:00 PM, Community Center

Senior Center Open House – Thursday, September 24, 9:00 AM, Albany Senior Center

Pizza & Wine Block Party – Thursday, September 24, 6:00 PM, Solano Cellars – 1580 Solano Avenue

Block Movie Night: Back to the Future – Saturday, September 26, 7:15 PM, Intersection of Solano & Stannage Avenues

Albany Community Triathlon, Sunday, September 27, 8:00 AM – Memorial Park

**10-3. Upcoming City Meetings**

Planning & Zoning Commission, Wednesdays, September 9 & 23, 7:00 PM, City Hall Council Chambers

Parks & Recreation Commission, Thursday, September 10, 7:00 PM, City Hall Council Chambers

Arts Committee, Monday, September 14, 7:00 PM, City Hall Council Chambers

Library Board, Tuesday, September 15, 7:00 PM, Albany Library – Edith Stone Room

Sustainability Committee, Wednesday, September 16, 7:30 PM, City Hall Council Chambers

City Council, Monday, September 21, 7:00 PM, City Hall Council Chambers

Traffic & Safety Commission, Thursday, September 24, 7:00 PM, City Hall Council Chambers

**11. ADJOURNMENT**

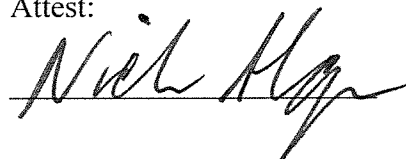
9:16 p.m. There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Nicole Almaguer, City Clerk.



Peter Maass  
Mayor

Attest:



Nicole Almaguer, City Clerk