



## ALBANY CITY COUNCIL – MINUTES

City Hall Council Chambers  
1000 San Pablo Avenue, Albany, CA  
Monday, December 3, 2018

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**6:00 p.m.**

### **SPECIAL MEETING – CITY COUNCIL STUDY SESSION**

The Council will hold a study session regarding a proposed ordinance to prohibit the sale of flavored tobacco within the City of Albany.

Bonnie Halpern-Felsher, Professor of Pediatrics and Health Research and Policy and Co-Principal Investigator for the FDA and NIH-funded Tobacco Centers of Regulatory Science, Stanford University, reported the landscape of tobacco products has changed in the last 10-15 years with the addition of houkas and electronic cigarettes. The 2009 Family Smoking Prevention and Tobacco Control Act (Act) gave the Food and Drug Administration (FDA) the authority to regulate tobacco products, particularly cigarettes. Regulations for flavored tobacco products do not exist. Youth report that they are more attracted to flavored tobacco products than adults. Overwhelmingly, study participants felt advertising of flavored tobacco products is targeted toward their own or younger age groups. When vaping, users inhale nicotine and other contaminants. Inhaled flavorings are attributed to respiratory illnesses and life-threatening respiratory failure. Many flavorings are considered safe for oral consumption but not for inhalation. Adults who use flavored tobacco products are less likely to stop smoking cigarettes and more likely to use both cigarettes and electronic cigarettes.

Ms. Halpern-Felsher recommended the City eliminate all favored tobacco products and promote the data showing that electronic cigarettes and flavored tobacco products do not help adults quit smoking. The FDA is considering a ban of flavored tobacco products with the exception of mint and menthol flavors. Some tobacco products contain more nicotine than stated on the product materials. Funding is available to educate the public and medical professionals about the effects of liquid tobacco products. The cost of liquid tobacco products typically is less than the cost of cigarettes.

Phillip Gardiner, Senior Program Officer, Tobacco Related Disease Research Program, University of California Office of the President, and Co-Chair of the African-American Tobacco Control Leadership Council (AATCLC), reported 85 percent of adult African-American smokers and 94 percent of teenage African-American smokers use menthol cigarettes. A 2018 study reported electronic cigarettes are the most common tobacco product used by all racial and ethnic groups. While cigarette use decreases, the number of smokers of all ages using menthol cigarettes is increasing. Across all racial and ethnic groups, mainly women and less experienced smokers in middle and high school smoke menthol cigarettes. Menthol masks the harsh flavor of cigarettes; provides anesthetic effects; increases inhalation of smoke; inhibits nicotine metabolism; activates more nicotine receptors in the brain; increases transbuccal absorption; and increases cell penetration. Smokers of menthol products attempt to quit more often and fail more often than smokers of non-menthol cigarettes. The Act eliminated 13 flavors from tobacco products but not menthol. The FDA is considering removing menthol from cigarettes but not from electronic cigarettes.

The following persons spoke: an unidentified male, Wendy Muratas and Rachel Bernard-Pearl, Albany Unified School District (AUSD) Superintendent Val Williams, Brian Davis, Paul Cummings, Pauline Bondonno, Irene Nikkah, Lisa Schneider, Monika Eisenbud, Rachel Gratz-Lazarus, Natalie Gaysinsky, Tamara Borgfeldt, Annie Tegen, Berrin Yavvzer.

A summary of the comments is as follows: encouragement for the Council to adhere to federal regulations; support for a ban or regulation of flavored tobacco products; statistical data regarding Albany



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students' use of tobacco products; information regarding LGBT use of tobacco products; young people are not educated regarding the effects of tobacco use; the mixing of marijuana with tobacco products is a concern; tobacco use is a social justice issue; support for restricting new tobacco retailers from locating near sensitive areas; local actions are needed to stop children from using tobacco products; pricing is the most effective strategy to reduce smoking; as students become less engaged socially and academically, they use more tobacco products; youth do not care that tobacco products negatively affect their health; state and federal regulation of tobacco products will not occur for many years.

A summary of Council comments is as follows: campaigns opposing the use of liquid tobacco products can be effective; an ordinance should be comprehensive and legally defensible.

**7:30 p.m.**

### REGULAR MEETING

**1. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Council Member Pilch led the Pledge of Allegiance.

**2. ROLL CALL**

Present: Council Members Barnes, Maass, and Pilch, Vice Mayor Nason, Mayor McQuaid  
Absent: None

**3. CEREMONIAL MATTERS**

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

**5. CONSENT CALENDAR**

**5-1.** Minutes, November 19, 2018

Staff recommendation: Approve

**5-2.** Ratification of Payrolls - Payroll Period: 11/21/2018; Net Payroll: \$354,871.91; Taxes, Benefits, Withholdings: \$345,492.89; Total: \$700,364.80

Staff recommendation: Ratify

**5-3.** Ratification of Bills, Claims and Demands - Ratification of bills, claims and demands against the City of Albany in the amount of \$308,320.96 (11/16/18)

Staff recommendation: Ratify

**5-4.** Proclamation Designating December 2018 as Human Rights Month

Mayor McQuaid recommendation: that the Council adopt the proclamation designating December 2018 as Human Rights Month



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### 5-5. Proclamation Designating December 2018 as AIDS Awareness Month

Mayor McQuaid recommendation: that the Council adopt the proclamation designating December 2018 as AIDS Awareness Month

### 5-6. Proclamation in Celebration of Rosa Parks Day

Mayor McQuaid recommendation: that the Council adopt the proclamation in celebration of Rosa Parks Day

Mayor McQuaid asked if anyone wishes to remove an item from the consent calendar. No one requested an item be removed from the consent calendar.

#### **MOTION:**

Moved by Vice Mayor Nason, seconded by Council Member Maass, to approve the consent calendar.

AYES: Council Members Barnes, Maass, and Pilch, Vice Mayor Nason, Mayor McQuaid

NOES: None

The motion carries and is so ordered.

### 6. **GOOD OF THE CITY/PUBLIC COMMENT**

Mayor McQuaid opened the Good of the City.

The following persons spoke: Brian Beall, Susan Schwartz, Anne Ogonowski, Allan Maris, Julie Winkelstein, Peter Goodman.

A summary of the comments is as follows: appreciation for the community's involvement in government and community issues; ongoing maintenance along Codornices Creek is needed; appreciation for two City Council candidates spending less than \$6,000 for their campaigns; the City could propose a bond measure for low-income housing similar to the proposal Berkeley voters approved; a request for an update on the affordable housing project in Albany; broken cement at the northeast corner of Marin and Ventura needs to be repaired; a request for the public to repair and/or replace signs for Fall into Haiku.

### 7. **COUNCIL MEMBER REPORTS ON STATE/REGIONAL LOCAL MEETINGS ATTENDED AND ANNOUNCEMENT OF FUTURE MEETINGS/CITY MANAGER REPORT/COMMENTS**

Mayor McQuaid reported Council Member Pilch and she attended a Community Emergency Response Team (CERT) meeting. She also attended a conference call with Assembly Member Thurmond's staff regarding an anti-hate coalition, the Senior Center's holiday craft fair, the sandbag distribution, and the Alta Bates Task Force meeting.

City Manager Nicole Almaguer reported the Albany Police Department provided active shooter training to the YMCA and a local church. The training is available to Albany organizations. Police Department patrol staff received training in the use of Narcan. The Fire Department attended the AUSD Board of Education meeting to ensure the public's safety. Public Works staff continue to address the effects of the recent storm. During the sandbag filling event, staff filled 81 bags. The event will be held again on January 5 and February 9 at Ocean View Park. Rent review



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workshops are scheduled for December 11 and January 12 at the Senior Center. The City Council will hold a special meeting on December 10 to certify election results, administer the oath of office, and reorganize the City Council. The Council's annual retreat is planned for January 7. A date to complete the landscaping around the Albany public art sign has not been determined.

- 8. **PRESENTATION**
- 9. **PUBLIC HEARING**
- 10. **UNFINISHED BUSINESS**
- 11. **NEW BUSINESS**

### 11-1. Review of Advisory Bodies to the City Council

Staff recommendation: that the Council receive information regarding the current status of the City's Advisory Bodies and provide direction to staff regarding any changes to the Advisory Bodies to the City Council

City Manager Almaguer presented the staff report. In 2016, the Council directed staff to conduct a review of Advisory Bodies as needed. The current review of the Advisory Bodies focused on the relevancy and effectiveness of Advisory Bodies. Additional questions for Council consideration are should all Advisory Bodies be comprised of five members and should the City Council be responsible for making all appointments. Staff proposes a matrix of possible changes for the Council's consideration. The term of the current Advisory Bodies will expire with the City Council term, and the Council may make appointments to the Advisory Bodies after December 10 for the next two-year term.

Possible changes to Advisory Bodies include: mandatory training for the Chair and Vice Chair of all Advisory Bodies; Arts Committee's charge; Charter Review Committee meeting initiated by request of the Council in advance of any upcoming election; Economic Development Committee's charge; Social & Economic Justice Commission (SEJC) name updated to a Human Services Commission in order to refine the overall scope to advise the Council on matters related to aging in place and human services programs; Sustainability Committee's charge and changing the name to Climate Action Plan Technical Advisory Committee; and changing the name of the Traffic & Safety Commission to Transportation Commission.

The following persons spoke: Brian Beall, Margie Marks, Julie Winkelstein, Jim Beller, Amy Smolens, Peter Goodman, Kathy Diehl, Brian Parsley, Allan Maris, David Danby.

A summary of the comments is as follows: the number of Committee and Commission members and meetings should increase; the Charter Review Committee should continue meeting quarterly; Economic Development Committee should meet as often as possible; the AUSD BOE should appoint two members of the SEJC; Albany needs a Housing Commission; Sustainability Committee could be renamed the Environmental Protection Committee; opposition to removing safety from the name of the Traffic & Safety Commission; opposition to revising the SEJC's charge; the name or description of the Traffic & Safety Commission should include Active Transportation Advisory Committee and refer to greenhouse gas emission goals; support for



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retaining seven members for the Arts Committee; Art in Public Places funding should support non-stationary and performance art; all public art should be displayed on the City website; the Arts Committee should be responsive to all art concepts not only those mandated by the Public Arts Project Plan; the Arts Master Plan needs updating; concerns about the survey questions; Advisory Body members were not notified regarding this item being on the Council's agenda; the Economic Development Committee's 5:00 pm meeting time constrains public participation; support for changing to Transportation Commission; the description for the SEJC should include housing and income disparity.

A summary of Council comments is as follows: the Council would need to know the rationale for the selection process to determine if current selection process is appropriate; support for seven Arts Committee members with two Council at large appointees; support for BOE continuing to name appointees as long as the BOE is a part of the City Charter; support for the appointment of high school students; solicit the BOE's opinion; opposition to the proposed revisions for the Economic Development Committee; the Economic Development Committee should oversee implementation of the Economic Development Strategic Plan; a suggestion for the Economic Development Committee to comment regarding the economic impact of staff and Advisory Body proposals; Economic Development Committee should be reconfigured as a business outreach committee; Economic Development Committee members could provide feedback on the Committee's focus; Council Member Pilch offered to work with staff to develop concepts for the Economic Development Committee; a Human Services Commission could be separate from the SEJC; the focus of the SEJC could be limited through its Work Plan; retain the SEJC name and focus the Commission's Work Plan on aging in place and human services; adding a section for social and economic justice impacts to staff reports; support for the proposed revisions to the Sustainability Committee; the Albany Strollers & Rollers expressed interest in replacing transportation with mobility for Traffic & Safety Commission's name; Traffic & Safety Commission could be Transportation Safety Commission, the Safe Transportation Commission, or the Diverse Transportation Commission; safety may be removed from the name but not the mission of the Traffic & Safety Commission; a suggestion to include natural areas, which include creeks and the Albany Waterfront Park, in the name and charge of the Parks & Recreation Commission.

The Council reached consensus regarding more training for Advisory Body members; the Arts Committee will continue to be comprised of seven members. focus as proposed; maintaining the Economic Development Committee and the SEJC as is; revising the Sustainability Committee as proposed; and renaming the Traffic & Safety Commission to the Transportation Commission.

City Manager Almaguer advised that staff will return to the Council on December 17 with a resolution with Council authorized changes except for ones requiring an Ordinance. An ordinance regarding the Transportation & Safety Commission will return to the Council at a future meeting.

### **12. OTHER BUSINESS, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS**

Mayor McQuaid noted the next City Council meeting will be a special meeting on December 10.

#### **12-1. Upcoming City Events**

Holiday Children's Puzzle, Books & Toy Swap, Sunday, December 9, 2018, 9 AM-11 AM,  
Albany Community Center



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Rent Review Ordinance Community Workshop, Tuesday, December 11, 7 PM, Albany Senior Center

Song on Solano, Friday, December 14, 2018, 6:30 PM-7:30 PM-1 PM, Corner of Solano & Stannage

### 12-2. Upcoming City Meetings

Social & Economic Justice Commission, Tuesday, December 4, 7:30 PM, City Hall Council Chambers

Sustainability Committee Special Meeting, Wednesday, December 5, 7:30 PM, City Hall Council Chambers

Economic Development Committee, Thursday, December 6, 5 PM, City Hall Council Chambers

City Council Special Meeting, Monday, December 10, 6 PM, City Hall Council Chambers

Arts Committee, Monday, December 10, 7 PM, City Hall Council Chambers

Planning & Zoning Commission, Wednesday, December 12, 7 PM, City Hall Council Chambers

Parks & Recreation Commission, Thursday, December 13, 7 PM, City Hall Council Chambers

City Council Meeting, Monday, December 17, 7:30 PM, City Hall Council Chambers

### 12-3. City Hall Holiday Closure: December 24, 2018 – January 1, 2019

## 13. ADJOURNMENT

9:50 p.m. There being no further business before the City Council, Mayor McQuaid adjourned the meeting in memory of Sarah Zimmerman and George H. W. Bush.

Minutes submitted by Anne Hsu, City Clerk.

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Peggy McQuaid  
Mayor

Attest:

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Anne Hsu, City Clerk