



7:30 p.m.

REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Council Member Barnes led the Pledge of Allegiance.

2. ROLL CALL

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

Absent: None

3. CEREMONIAL MATTERS

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

5. CONSENT CALENDAR

5-1. Minutes, June 17, 2019

Staff recommendation: Approve

5-2. Ratification of Payroll - Payroll Period: 6/21/19; Net Payroll: \$322,212.02; Taxes, Benefits, Withholdings: \$321,270.16; Total: \$643,482.18

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: \$65,022.16 (6/14/19), \$257,710.33 (6/21/19)

Staff recommendation: Ratify

5-4. Advisory Body Resignation: Stephanie Siehr of the Climate Action Committee resigned (Mayor Nason appointment)

Staff recommendation: Informational only

5-5. Fiscal Year 2019-2020 Community Development Block Grant Project Applications and Agreement with Alameda County

Staff recommendation: that the Council adopt Resolution No. 2019-60 authorizing:

1. The submission of FY 2019-20 Community Development Block Grant project applications to Alameda County; and,
2. The City Manager to enter into an Agreement with Alameda County for the use of FY 2019-20 Community Development Block Grant funds, in the amount of \$588,741



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- 5-6.** Contract with Berkeley Food and Housing Project for Albany Project HOPE – Housing Opportunities Expanded

Staff recommendation: that the Council adopt Resolution No. 2019-61 authorizing the City Manager to enter into a contract with Berkeley Food and Housing Project for the provision of services for Albany Project HOPE - Housing Opportunities Expanded, the City's homeless outreach, engagement and housing navigation program at a cost not to exceed \$466,212

- 5-7.** Adoption of Update to the Appropriations Limit - Resolution No. 2019-58 Establishing the Appropriations Limit for the 2019-2020 Fiscal Year

Staff recommendation: that the Council adopt Resolution No. 2019-58 establishing the Fiscal Year 2019-2020 Appropriations Limit at \$22,850,643

- 5-8.** Letters of Support SB 54 (Allen) and AB 1080 (Gonzalez) – California Circular Economy and Plastic Pollution Reduction Act

Council Member Pilch recommendation: that the Council authorize submittal of the letters of support for SB 54 and AB 1080

- 5-9.** Letter of Opposition AB 56 (E. Garcia) – Electricity: Procurement by the California Alternative Energy and Advanced Transportation Financing Authority

Council Member Pilch recommendation: that the Council authorize submittal of the letter of opposition to AB 56

- 5-10.** Updated Salary Schedule

Staff recommendation: that the Council adopt Resolution No. 2019-62 approving the updated salary schedule

Mayor Nason asked if anyone wishes to remove an item from the consent calendar. Council Member Maass and Vice Mayor McQuaid requested Items 5-5, 5-6, and 5-9 be removed from the consent calendar.

Item 5-5: Assistant City Manager Isabelle Leduc reported restrictions on the expenditure of Community Development Block Grant (CDBG) funding prevent their use for the affordable housing project at the current time. CDBG funding may be considered when the developer is compiling funding sources for the project. CDBG funding should cover improvements to most of the ramps.

Item 5-6: Assistant City Manager Leduc reported a survey of clients was conducted in April, and results will be included in the fourth quarter report, which should be available in July. The Council may amend the contract with the Berkeley Food and Housing Project in response to concerns generated by the survey.



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Item 5-9: Vice Mayor McQuaid proposed the first and last paragraphs of the letter be revised to state, "[o]n behalf of the Albany City Council, I want to express Albany's strong opposition to Assembly Bill 56 (E. Garcia)" and "[t]he City of Albany opposes AB 56 for the reasons shown above, and we hope you work to accelerate rather than impede the clean energy investment California needs," respectively.

The following persons spoke: Leah Burrell, Allan Maris, and Jeremiah.

A summary of the comments is as follows: support for approving the contract as long as the current case manager remains with the program and for increasing funding to hire another case manager (Item 5-6); encouragement for the Council to request the State consider continuing HEAP funding and to increase the services offered by the Albany CARES program (Item 5-6); more assistance is needed for the homeless population (Item 5-6).

A summary of Council comments is as follows: the League of California Cities has not taken a position on AB 56; the alternative energy community appears to be split with respect to AB 56; East Bay Community Energy (EBCE) believes AB 56 will be detrimental to its functioning.

MOTION Item 5-9:

Moved by Vice Mayor McQuaid, seconded by Council Member Pilch, to authorize submittal of the letter of opposition to AB 56 as amended by Vice Mayor McQuaid.

AYES: Council Members Maass and Pilch, Vice Mayor McQuaid

NOES: Council Member Barnes

ABSTAIN: Mayor Nason

Motion carried and so ordered.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, to approve the consent calendar with the exception of Item 5-9.

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

NOES: None

Motion carried and so ordered.

6. GOOD OF THE CITY/PUBLIC COMMENT

Mayor Nason opened the Good of the City.

The following persons spoke: Allan Maris, Leah Burrell, and Jeremiah.

A summary of the comments is as follows: the State should provide local governments with funding to support programs for the homeless; a suggestion for the City to work with Satellite Affordable Housing Associates to streamline its application process; the address of the Police Department should be posted on or in front of the building; the citations and community's comments to recreational vehicle (RV) dwellers are harassment.

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



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7-1. City Council Subcommittees

- A. Community Inclusivity Subcommittee Report: Pride Flag Raising, June 28, 2019

Mayor Nason reported the raising of the Pride Flag at the Shrine of Freedom was festive. The Council has received a good deal of positive feedback regarding the event.

| Council Subcommittees | Subcommittee Members |
|--------------------------------------|----------------------|
| Albany Waterfront Park (Albany Bulb) | Nason & McQuaid |
| Alta Bates Hospital | Nason & McQuaid |
| Community Inclusivity | Nason & McQuaid |
| San Pablo Avenue Corridor Project | Nason & Pilch |
| Youth Engagement | McQuaid & Maass |

7-2. City Council Regional Bodies

- A. Mayor Nason Report: Alameda County Waste Management Authority, June 26, 2019
- B. Vice Mayor McQuaid Reports: League of California Cities for June 13/14, June 19/20 & June 21, 2019

Mayor Nason reported the property tax assessment for household hazardous waste will decrease slightly in the coming year. In reply to Council Member Pilch's question, Mayor Nason advised that the decrease resulted from Alameda County Waste Management Authority staff's proposal to evaluate the fee amount every five years rather than annually.

Council Member Pilch reported EBCE adopted its budget for the coming fiscal year. He remarked during the meeting that EBCE should have a goal to be more aggressive in setting targets to reduce greenhouse gas emissions. More programming for local development projects will likely occur in the future. In addition, Council Member Pilch indicated he participated in ceremonies for the signing of clean energy contracts and for the opening of the peaker facility.

| Bodies | Appointee | Alternate |
|--|----------------------------|-----------|
| Alameda County Mayors' Conference | Nason | McQuaid |
| Alameda County Transportation Commission | Nason | Pilch |
| Alameda County Waste Management Authority | Nason | Maass |
| Association of Bay Area Government | Pilch | Barnes |
| East Bay Community Energy JPA Board | Pilch | McQuaid |
| East Bay Sports Field Recreational Authority JPA | Maass | Barnes |
| Housing Authority of Alameda County | McQuaid | N/A |
| League of California Cities (East Bay) | McQuaid | Barnes |
| Alameda County Library Advisory Commission | Amy Apel | |
| Berkeley/Albany Mental Health Board | Erlinda Castro & Ben Ludke | |
| City/AUSD/UC - 2X2X2 | Nason | McQuaid |
| Police & Fire Pension Fund Board | Nason | McQuaid |



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8. CITY MANAGER REPORT

Assistant City Manager Leduc reported the 4th of July fair will feature great food and activities for families. The Alameda County Office of Emergency Services will host a community training regarding reducing the risks of nonstructural earthquake damage on July 10 in Dublin. Auditors successfully conducted their pre-audit work recently in the Finance Department. A draft Climate Action and Adaptation Plan is available for public review through July 19. A Council study session for the draft plan will be held in September. The Memorial Park restroom renovation project is complete, and the restroom will be open on July 2. Sewer rehabilitation work along Solano is nearing completion. The Alameda County Public Works Department has made temporary repairs to the traffic signal controller at the intersection of Buchanan Street and Pierce Street. The extension of Cleveland Avenue to eastbound Buchanan will be closed to through traffic until repairs are completed later in the week. Effective July 1, Falk is the ambulance provider for Alameda County. The Fire Department and Public Works are working on vegetation management to improve fire safety on Albany Hill. Upgrades to the 9-1-1 CAD servers to increase efficiency are nearly complete. The Albany Fire Department participated in a water rescue training with Berkeley Fire.

9. PRESENTATION

10. PUBLIC HEARING

10-1. Public Hearing to Consider Collection of Delinquent Garbage Bills by Placement on the County Tax Rolls

Staff recommendation: that the Council adopt Resolution No. 2019-59 confirming the special assessment list for delinquent residential garbage bills, and authorizing the delinquent charges be placed on the County tax rolls

Sustainability & Resilience Manager Claire Griffing presented the staff report. In 2013, the Council adopted an ordinance that authorized the collection of delinquent garbage bills through their placement on the Alameda County tax rolls. Accounts more than 90 days past due in January 2019 received a minimum of four delinquency notices from Waste Management and a final request for payment and a notice of the public hearing from the City. Accounts with unpaid balances less than \$20 are not included in the list. Multifamily and commercial properties are exempt from the process. If the Council adopts the resolution, the Finance Department will send a list of delinquent accounts to the County, and the County will place the amounts on the appropriate tax bills. Staff mailed Albany CARES flyers to each of the properties the prior week. A majority of past-due accounts have been paid through their placement on the tax rolls.

A summary of Council comments is as follows: appreciation for staff mailing the Albany CARES flyers to the delinquent accounts.

MOTION:

Moved by Council Member Pilch, seconded by Council Member Maass, to adopt Resolution No. 2019-59 confirming the special assessment list for delinquent residential garbage bills, and authorizing the delinquent charges be placed on the County tax rolls.



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

NOES: None

Motion carried and so ordered.

10-2. Appeal of PA #19-022 Design Review and Parking Reduction for a Second-Story Addition at 1115 Neilson Street

Staff recommendation: that the City Council approve Resolution No. 2019-54 upholding the Planning & Zoning Commission decision approving Design Review and a Parking Reduction (PA# 19-022) at 1115 Neilson Street

CEQA: the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which exempts small additions

Planning & Zoning Commission Action: the Planning and Zoning Commission voted 5-0 to approve Design Review and a Parking Reduction for 1115 Neilson on April 10, 2019

Associate Planner Christopher Tan presented the staff report. On April 10, 2019, the Planning & Zoning Commission (Commission) unanimously approved PA 19-022, which includes Design Review for a 76-square-foot, first-floor addition, a 673-square-foot, second-story addition, and modifications to the facades of 1111 and 1113 Neilson, and a parking reduction of one off-street parking space. An appeal of the Commission's decision was filed on April 24, 2019. The subject property has an existing, nonconforming single-family home with two apartment units that are located in the R-1 Zoning District. As proposed in the application, the building envelope of the front units will not expand, the density onsite will not increase, and the number of units will be maintained. For units 1111 and 1113, the applicant proposes to construct balconies atop the existing garages and to remodel the kitchens and bathrooms. For unit 1115, the applicant proposes to add 76 square feet of living area to the first floor, relocate one bedroom from the first floor to the second floor, accommodate 1.5 bathrooms on the first floor, construct a second-floor addition, and construct a covered deck off the second-floor addition.

Per the appellant filing, the grounds for the appeal are the Commission's misinterpretation of the Zoning Code, abuse of discretion in granting the parking reduction, and error in calculating the floor area ratio (FAR). Pursuant to Section 20.44.030(D), additions and enlargements of nonconforming structures are permitted if the use is residential and the degree of existing nonconformity is not proposed to increase. Staff determined that the continued usage and landscaping of the courtyard are compatible with neighboring residential development. Pursuant to Section 20.24.040(A)(2), additions greater than 240 square feet require an additional off-street parking space. The applicant proposes to increase the depth of both garages to provide two Code-compliant, off-street parking spaces and seeks a waiver for one off-street parking space.

Mark Wolfe of M.R. Wolfe & Associates, appellant's representative, reported the use of the property is a multifamily dwelling because the property was built as a triplex and has three mailing addresses. Characterizing the use as a single-family residence with two accessory dwelling units not entirely accurate. Multifamily uses are not permitted in the R-1 Zoning District. As a nonconforming use, the project is subject to the strictures contained in Section 20.44.030 of the



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Zoning Code. Pursuant to subsection B, a nonconforming use shall not be enlarged or extended in such a way as to occupy any part of the structure or site. The applicant proposes to enlarge the structure by adding a second story. Pursuant to subsection C, a structure, the use of which is nonconforming, shall not be moved, altered or enlarged unless required by law or unless the purpose of the enlargement is to remove the nonconforming aspect of the use. The fact that other nonconforming, multifamily structures and uses are located in R-1 Zoning Districts is legally irrelevant. His letter of June 14 addresses subsidiary questions regarding inclusion of the courtyard in FAR, nonconforming structures versus nonconforming uses, and findings in support of granting a parking reduction. Under the existing Zoning Code, the project is not allowed.

Kerstin Hellmann of Kerstin Hellmann Architecture, applicant's representative, advised that neighbors have complained about deferred maintenance of the property. The property owner's grandson proposes to move into the main dwelling unit in order to better manage the property. The owner proposes to remodel the units and to update the courtyard and landscaping, which will benefit the tenants and the neighborhood. During the design process, the appellant/neighbor to the south provided some input to the project; however, the input could not be incorporated into the project because it did not take into account the existing architecture and best use of the property. The neighbor to the north, who will be most impacted by the project, supports the project. At a monthly neighborhood meeting, the project was presented to neighbors, and neighbors did not voice any significant concerns or strong opposition to the project. At the Commission hearing of the project, neighbors on Tevlin voiced strong concerns regarding the second-story addition even though they own two-story homes. Parking counts conducted from June 12 to 23 found 44-69 percent of on-street parking spaces was available at any given time. The project proposes upgrades to the two existing garages to provide two off-street parking spaces, no net increase in the number of dwelling units, and no increase in parking demand.

The following persons spoke: Steve Miura, Tanya Noda, Cat Chang, Doug Donaldson, and Barry Kamil.

A summary of the comments is as follows: the applicant proposes to improve the property after 40 years of deferring maintenance; support for the project; the three units are compatible with and well-integrated into the neighborhood; the attorney for the appellant omitted subsection D, which allows the expansion of a nonconforming residential use; improvements to the two garages will likely remove two vehicles from the competition for on-street parking spaces; prior to their eviction, tenants of the project often parked five and six vehicles on the street.

Associate Planner Tan explained that Section 20.44.030(D) applies to the project and states if such structure is used for residential purposes, it may be enlarged or extended.

City Attorney Craig Labadie concurred with staff's interpretation provided the project does not expand the lot coverage and does not create any additional units.

A summary of Council comments is as follows: usable garages will benefit the tenants and neighborhood; the special conditions of approval address some of the neighbors' concerns; a report of observing open parking spaces between 8:00 and 9:00 a.m. on a Saturday; support for upholding the Commission's approval of the project; the Commission granting a parking reduction is not unusual.



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MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, to approve Resolution No. 2019-54 upholding the Planning & Zoning Commission decision approving Design Review and a Parking Reduction (PA# 19-022) at 1111-1115 Neilson Street.

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

NOES: None

Motion carried and so ordered.

11. UNFINISHED BUSINESS

11-1. Resolution No. 2019-56 Amending the City Council Rules of Procedure and Order and Policies

Mayor Nason recommendation: that the Council authorize amending the Council Rules of Procedure and Order to (1) improve reporting on the work of both Council Subcommittees and State/Regional bodies on which Albany is represented, and (2) create distinct agenda items for reports from the City Manager Report, reports of local and community meetings and events, and the identification of future agenda items

Mayor Nason reported revisions to the Council procedures based on Council Member comments as well as revisions proposed by Vice Mayor McQuaid and Council Member Pilch were included in the packet. A listing of subcommittees will provide transparency as to the existing subcommittees and their actions. Many Albany residents are not aware that Council Members represent the City on state and regional bodies. Perhaps Item 7 could be Council Member Reports on Appointed Representation of Albany at State and Regional Meetings.

Vice Mayor McQuaid advised that a standalone item for the City Manager Report is appropriate. A section for reports of state and regional meetings could be good. Longer reports should be written rather than verbal. Quarterly reports from subcommittees and a rotation of reports are logical. She suggested Item 7 be divided into subcommittee reports, state and regional body reports, and community meeting and activity reports. The description of Future Agenda Items should state the Council and City Manager note upcoming agenda items. Vice Mayor McQuaid proposed the first sentence of the description for Future Agenda Items be split into two sentences.

City Attorney Labadie clarified that public comment is not taken on Future Agenda Items because the public can comment when the item appears on the agenda.

A summary of Council comments is as follows: staff's revisions based on Council comments is accurate; support for additional transparency; a suggestion to move reports towards the end of the agenda so that members of the public do not have to wait quite so long; a preference for written reports over verbal reports; the public should hear reports of Council Members' representation of the City.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Pilch, to authorize amending the Council Rules of Procedure and Order to (1) improve reporting on the work of both Council Subcommittees and State/Regional bodies on which Albany is represented, and (2) create distinct



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agenda items for reports from the City Manager Report, reports of local and community meetings and events, and the identification of future agenda items as amended during the Council discussion.

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

NOES: None

Motion carried and so ordered.

12. NEW BUSINESS

12-1. Designation of Voting Delegates and Alternates for the League of California Cities Annual Conference

Staff recommendation: that the Council designate a voting delegate and alternates for the League of California Cities Annual Conference

Council Member Pilch proposed Vice Mayor McQuaid as delegate and himself as alternate delegate.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Pilch, to designate Vice Mayor McQuaid as the City's voting delegate and Mayor Nason and Council Member Pilch as alternates for the League of California Cities Annual Conference.

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

NOES: None

Motion carried and so ordered.

12-2. Letter of Opposition to SB 330 (Skinner) – Housing Crisis Action of 2019

Vice Mayor McQuaid recommendation: that the Council authorize submittal of the letter of opposition to SB 330

Vice Mayor McQuaid reported SB 330 should include parking requirements and a guaranty that affordable housing will be built but not include a freeze on impact fees.

A summary of Council comments is as follows: the preamble of the bill states the bill applies to very low, low, and moderate-income housing; State requirements for handicap parking will remain in effect; the first paragraph should state the City of Albany opposes rather than continues to oppose; the bill is designed to spur action by cities that typically take no action.

Mayor Nason announced the letter of opposition will be deferred pending amendments to SB 330.

13. COUNCIL MEMBER REPORTS ON MEETINGS AND EVENTS

13-1. Mayor Nason Reports:

- A. Outstanding Dedication Award to the Albany City Council on Behalf of the Alameda County Tobacco Control Coalition



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- B. Letters Submitted to Ninth Circuit Court of Appeal Regarding United States Supreme Court Decision in American Legion v. American Humanist Association, in preparation for oral argument before the Ninth Circuit Court of Appeal in Albany Lions Club v. City of Albany on July 18, 2019.

Council Member Pilch reported the Mayor and he attended a meeting regarding the foam spill in Codornices Creek. He commented during the meeting that the City of Albany cared deeply about Codornices Creek.

Mayor Nason noted Codornices Creek will not be restocked with fish in the hopes that some survivors of the spill will repopulate Codornices Creek.

Vice Mayor McQuaid reported Mayor Nason and she attended the Juneteenth celebration.

Mayor Nason reported the Alameda County Tobacco Control Coalition recognized the Council for its efforts to control tobacco products. She attended a session of the Albany CARES program, a plastic reduction working group meet-up, Belmont Village's Alzheimer's Disease fundraiser, the hazardous waste drop-off event, a meeting of the Park Advisory Committee of the East Bay Regional Park District, a ballot measure training event, and the meeting regarding Codornices Creek.

Council Member Maass reported he participated in the hazardous waste drop-off.

The following person spoke: Bryan Marten.

A summary of comments is as follows: hopefully the court will recognize the cross on Albany Hill as a religious symbol.

In response to Vice Mayor McQuaid's inquiry, Mayor Nason reported she did not place the award and letters on the consent calendar because they accompany her report and because routine and noncontroversial items should be placed on the consent calendar.

14. FUTURE AGENDA ITEMS

None.

15. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS

15-1. Upcoming City Events

4th of July – A Green, Red, White & Blue Celebration!, Thursday, July 4, 12:00 PM – 4:00 PM, Memorial Park

Art Gallery Opening, Sunday, July 14, 4:00 PM – 6:00 PM, Albany Community Center

15-2. Upcoming City Meetings

Social & Economic Justice Commission, Tuesday, July 2, 7:30 PM, City Hall Council Chambers



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2X2X2 Meeting, Monday, July 8, 10:00 AM, City Hall Council Chambers

Arts Committee, Monday, July 8, 7:00 PM, City Hall Council Chambers

Planning & Zoning Commission, Wednesday, July 10, 7:00 PM, City Hall Council Chambers

Parks, Recreation & Open Space Commission, Thursday, July 11, 7:00 PM, City Hall Council Chambers

City Council, Monday, July 15, 7:30 PM, City Hall Council Chambers

16. ADJOURNMENT

9:17 p.m. There being no further business before the City Council, Mayor Nason adjourned the meeting.

Minutes submitted by Anne Hsu, City Clerk.

A handwritten signature in cursive script that reads "Rochelle Nason".

Rochelle Nason
Mayor

Attest:

A handwritten signature in cursive script that reads "Anne Hsu".

Anne Hsu, City Clerk