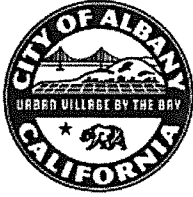


Date Approved April 16, 2018



CITY OF ALBANY

**MINUTES OF THE
ALBANY CITY COUNCIL
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, APRIL 2, 2018**

6:30 p.m. 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:

1. Conference with Real Property Negotiators - Satellite Affordable Housing Property: Northeast corner of Washington Avenue and Cleveland Avenue

City Negotiators: City Manager, Community Development Director, and Planning and Building Manager

Negotiating Parties: Satellite Affordable Housing Associates

Under negotiation: Exclusive Negotiation Agreement for Sale of City Property

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

A summary of the comments is as follows: the need for affordable housing for the homeless and the working homeless; a list of suggested items to include in the report; a suggestion to prioritize assistance for senior citizens who are homeless; the homeless consider Albany their home and want to remain in Albany.

ADJOURNMENT

7:30 p.m. - REGULAR MEETING

CALL TO ORDER

1. **PLEDGE OF ALLEGIANCE**
Council Member Barnes led the Pledge of Allegiance.

2. ROLL CALL

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

3. CEREMONIAL MATTERS

3.1 Mayor's Statement – Lighting of the Albany Hill Cross

Mayor McQuaid read the following statement:

The cross on Albany Hill was recently lit by the Albany Lions Club to celebrate the Easter season.

I want to reiterate that the neither City Council nor the City of Albany endorses in any way the lighting of the cross for any occasion, religious or nationalistic, or supports its continued presence on public property. The Lions Club filed suit in federal court on September 11 against the City of Albany and several employees and Council Members individually. This civil action seeks damages and injunctive relief for deprivation of due process, equal protection, interference with the right of free speech, and interference with the free exercise of religion. The City is responding to the Lions Club's claims through the judicial process.

We appreciate the input and support we have received to date from the public and encourage you to continue respectfully sharing your concerns with the Lions Club as well as the City of Albany.

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

Mayor McQuaid reported an Exclusive Negotiation Agreement with Satellite Affordable Housing Associates Incorporated for an affordable housing project will be brought forward for public discussion at a future City Council meeting. There will be numerous opportunities for community involvement in the planning process for this project.

5. CONSENT CALENDAR

5-1. Minutes, March 19, 2018

Staff recommendation: Approve

5-2. Ratification of Payroll - Payroll Period: 3/30/2018; Net Payroll: \$295,796.89; Taxes, Benefits, Withholdings: \$226,971.08; Total: \$522,767.97

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: \$66,406.57 (1/26/18); \$181,012.00 (2/2/18); \$181,012.00 (2/9/18); \$41,439.32 (2/16/18); \$753,526.78

(2/23/18); \$121,086.45 (3/2/18); \$50,164.61 (3/9/18); \$98,792.84 (3/9/18);
\$335,149.48 (3/16/18)

Staff recommendation: Ratify

5-4. Letters of Support – AB 2808 (Muratsuchi)

Mayor McQuaid recommendation: that the Council authorize submittal of letters of support regarding education funding to Assemblymembers O'Donnell and Thurmond

5-5. Resolution No. 2018-43 in support of Schools and Local Communities Funding Act

Mayor McQuaid & Council Member Pilch recommendation: that the Council adopt Resolution No. 2018-43 in support of Schools and Local Communities Funding Act

5-6. Resolution No. 2018-42, adopting the updated City Council Rules of Procedure and Order, City Council Administrative Policies, and City Council 2017-2019 Strategic Plan

Staff recommendation: that the Council adopt Resolution No. 2018-42, approving the updated City Council Rules of Procedure & Order, Administrative Policies, and 2017-2019 Strategic Plan

5-7. Parks & Recreation Commission Work Plan Amendment Request

Staff recommendation: that the Council approve the request to amend the Parks and Recreation Commission Work Plan to include: “Identify options for establishment of a dog park in Albany—examine the alternatives and make recommendations regarding location options and a pro/con analysis for each location”

5-8. Waste Management of Alameda County Annual Rate Adjustment Request

Staff recommendation: that the Council authorize the Annual Rate Adjustment of 1.48%, pursuant to the terms of the Collection Services Franchise Agreement with Waste Management of Alameda County

5-9. CIP No. 35000 - 2018 Storm Drain Rehab Project – Award of Design Contract (C18-42)

Staff recommendation: that the Council adopt Resolution No. 2018-40 authorizing the City Manager to award Contract C18-42 to HydroScience Engineers in the amount of \$78,437 for engineering design services to design repairs and improvements to the stormwater system at multiple locations throughout the City

5-10. CIP No. 41004 Ohlone-Masonic Improvements Project-Project Close Out (C17-8)

Staff recommendation: that the Council adopt Resolution No. 2018-38 accepting the improvements completed in the Ohlone-Masonic Improvements Project

(Contract No. C17-8) and authorizing the filing of the Notice of Completion with the County Recorder's Office

5-11. Proclamation – National Crime Victims' Rights Week

Mayor McQuaid recommendation: that the Council adopt the proclamation in honor of National Crime Victims' Rights Week

Mayor McQuaid asked if anyone wished to remove an item from the Consent Calendar. Council Member Maass pulled Items 5-6 and 5-7.

Item 5-6: Council Member Maass wished to add to the City Council Strategic Plan Item 3.1.C, to develop plans for an all-weather turf field at Pierce Street Park and to explore funding options. After discussion with the City Attorney, Council Member Maass withdrew his proposal.

Item 5-7: Council Member Maass wished to amend the Parks and Recreation Commission Work Plan to consider a turf field at Pierce Street Park. Vice Mayor Nason asked whether the Parks and Recreation Commission will be looking at the current site in Memorial Park as a dog park or only at alternative locations; Recreation & Recreation Community Services Director Chelle Putzer said the Commission may examine the current site. Vice Mayor Nason commented (1) that staff might examine the use of hedges as a way of mitigating park noise impacts, and (2) that planning for the right-of-way, which is presently un-zoned land, should be undertaken, rather than using the area as a potential location for desired projects without any plan.

MOTION:

Moved by Council Member Maass, seconded by Vice Mayor Nason, to amend the Parks and Recreation Commission Work Plan to include consideration of a turf field at Pierce Street Park.

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

NOES: none

Motion carried and so ordered.

MOTION:

Moved by Council Member Maass, seconded by Council Member Pilch, to approve the Consent Calendar.

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

NOES: none

Motion carried and so ordered.

6. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor McQuaid opened the Good of the City.

The following persons spoke: Jeremiah, Brian Beall, Peter Campbell, Julie Winkelstein.

A summary of the comments is as follows: a request for a speed survey on Pierce Street at the park and a crosswalk on Pierce Street closer to the park; Civics Academy should not have been canceled; the City needs school zones; the City should explore district elections and public campaign financing; thanks for developing a new housing project; the HAWK signal at San Pablo and Monroe is confusing motorists.

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

Council Member Maass reported he attended the Alameda County Transportation Commission meeting. The Commission allocated funding to complete plans for the east-west connector in Union City with a strong recommendation that the project include more usable bike lanes. Council Member Maass attended the Waste Management Board meeting where the Board decided to pay down the CalPERS liability with a lump-sum payment and met in closed session to discuss existing and anticipated litigation.

Council Member Barnes reported the Mayor and he attended a League of California Cities where the topics of discussion were emergency procedures and coordinating resources between cities and regions.

Mayor McQuaid reported Council Member Barnes and she participated in a conference call with staff of the League of California Cities and other elected officials regarding SB 827. Mayor McQuaid thanked staff and volunteers for their work on Albany FilmFest.

Council Member Pilch reported the East Bay Community Energy Executive Committee met recently. East Bay Community Energy held a community engagement symposium for the Local Development Business Plan. The Mayor and he met with the Chairman of the Community Advisory Committee of East Bay Community Energy. East Bay Community Energy Board Members will receive a stipend at the next meeting of the Board. The Board approved the request by the Cities of Albany and Hayward to opt-up nonresidential accounts to Brilliant 100.

Vice Mayor Nason reported a new report has been published, and it states hospitalization costs in Northern California are vastly higher than in other areas of the state. The California Attorney General has filed a lawsuit against Sutter Health Foundation for its anti-competition practices.

City Manager Nicole Almaguer reported GIG Car Share is coming to Albany in April. The Traffic and Safety Commission meeting has been rescheduled from

April 26 to April 30. On April 21, the Earth Day shoreline cleanup will begin at 9:00 a.m. and Citizens for East Shore Parks' sea level rise educational event will begin at 11:00 a.m. Children's summer camp preview will be held April 22 at 10:00 a.m. at the Community Center. Coffee with a Cop is scheduled for Hal's Coffee on Solano on April 24 at 8:00 a.m.

8. PRESENTATION

9. PUBLIC HEARING

9-1. Rent Review Ordinance – 1st Reading

Staff recommendation: that the Council:

- a) Receive an update regarding outcome of the task force meeting to discuss the draft Rent Review Ordinance;
- b) Introduce Ordinance No. 2018-02, An Ordinance of the City Council Adding Chapter 5-25 "Rent Review" to the City of Albany Municipal Code – first reading

Council Member Pilch recused himself from this item and left the meeting.

Assistant City Manager Isabelle Leduc presented the staff report. On January 8, 2018, the Council directed staff to develop a draft ordinance for review by a task force comprised of two Social and Economic Justice Commissioners, two members of Albany Property Rights Advocates, and two members of the Diverse Housing Working Group. Staff was to collect input and report to Council on areas of consensus and disagreement and to provide a staff recommendation. In a March 18 meeting, the task force reviewed and provided input on all key program elements proposed in the ordinance. The task force expressed interest in meeting a second time to discuss tenant protections, just causes for eviction, and funding for the Rent Review Program. Staff recommends the Council move forward with a Rent Review Ordinance given that the task force has discussed major key elements.

The draft ordinance incorporates references to existing State law regarding retaliatory evictions. If the implementation phase demonstrates that additional issues regarding just cause eviction and/or tenant protection need to be resolved, the Council may direct the Social and Economic Justice Commission or designate another short-term task force to conduct further analysis and provide a recommendation to Council.

Staff researched local Rent Review Programs to understand the opportunities for tailoring a Rent Review Program in order to provide Albany's landlords and tenants with a forum to discuss and resolve disputed rent increases. Several key elements were considered in the writing of the Rent Review Ordinance, and Staff is recommending the Council follow current trends in Rent Review Programs. The draft ordinance includes items to which the task force's three entities agreed;

staff analysis of existing Rent Review Ordinances from Union City, San Leandro, and Fremont; and customized components to ensure appropriateness for Albany.

Funding for implementation of the program will be incorporated into the draft fiscal year 2018/2019 operating budget. Estimated expenses are contracting services for administration of a Rent Review Program and conciliation and mediation services in the amount of \$50,000 and staff costs to implement the program and act as liaison between residents and contractors in the amount of \$45,000. The draft ordinance discusses cost reimbursement for the program. A current count found 2,004 rental units within the City of Albany. Staff proposes a fee of \$15 per unit be imposed to cover costs associated with a Rent Review Program. Staff estimates this fee will fund approximately one-third of the overall program costs. The fee was set at \$15 to prevent obligating any one group to fund the entire program. Including the fee per unit amount in the City's Master Fee Schedule, which is adopted annually, will provide an ongoing opportunity for amendments.

Pending direction from the Council, staff will prepare a Rent Review Ordinance for second reading and outline steps for development and implementation of a Rent Review Program. Based on discussions of other Rent Review Programs, staff anticipates implementation will require approximately five months.

The following persons spoke: Margie Marks, Leah Burrell, Kirk Schumacher, David Hertzler, Karen Gordon, Kathy Diehl, Benny Fong, Moshe, Jane Lundin, Bryan Marten, Peter J Pan, Julie Winkelstein, Jim Beller, Dave Minoggio, Brian Beall, Francesco Papalia, Elaine Stelton, Peter Campbell, Peng Cao, Hanna, Lisa Larkins, Janet Linn, Reza Sirafinejad, Ian Bennett, Yvonne Tom, Anthony Wang, Shane Yang, Jean Lee, Kiran Shenoy, Sam Hoffman, Michelle Lifshire, Nasig Souk.

A summary of the comments is as follows: the 7% trigger is too high; excluding pass-throughs makes the ordinance more confusing; tenants should be allowed the same extenuating circumstances as the landlord; the stated number of rental units is low based on census data; market rent should be a factor in determining a fair rent; the trigger should be 4% or 5%; just-cause eviction has not been addressed in meetings and 150 days too long; rent review will divide the community; developers will not build apartments in a city with rent control; the 7% trigger is a good starting point; amend the ordinance to add notice to tenants by email and to add "including the right to rent review" to the language of notices; Orientation Center for the Blind may need to be excluded from the program; the fee should be split between the landlord and tenant; the estimated costs of the Rent Review Program are too low; the trigger amount should be the Consumer Price Index (CPI) or a percentage of CPI; landlords have to charge market rates to cover their expenses; concern that rent review is becoming rent control; the use of CPI is rent control; the City's Rent Review Program should not follow the untested model of Union City; additional regulation could be too cumbersome and cause housing

providers to go out of business; the definition of residential unit needs clarification; both the landlord and tenant should pay fees; a request to explain the calculation for rate of return; this program will reduce housing supply and increase rental costs; a question of whether landlords should be required to check units for maintenance needs; a suggestion to exempt individual landlords who own four or fewer units; staff or the task force should evaluate the success of programs in other cities; a need for additional inquiry into important issues such as application of certain binding elements of the program; opposition to rent control; the program should focus on fostering communication and, depending on the success of communications, imposing limits could be prudent.

A summary of Council comments is as follows: include the exclusion of UC Village in Section 5-25.2K; in Section 5-25.4D3, add "without good cause" for both tenant and landlord; fair market value should be the only criterion in determining the appropriate rent amount; a Rent Review Program will provide accurate data, which is needed to make good decisions; the Council is not proposing rent control; the Council does not want to harm good relationships between landlords and tenants; the 7% trigger is reasonable; this program will not support housing availability as much as housing stability; concern about the program slowing production of accessory dwelling units and extra housing; the number for triggering rent review spreads rent increases over time; support for the staff proposal; staff should consider whether the Rent Review Program needs to include maintenance issues; a suggestion to revise Section 5-25.1A to "the City has an interest in continuing and increasing certainty, stability, and fairness within the residential market;" storage, parking, gardening service, and such costs should be included with the base rent; the notice of availability should be given to the tenant when he moves in and again when rent is raised; financial information should be provided to the mediator only; the 7% trigger is high, 5% may be a good compromise; add a provision to allow notice by email; the landlord and tenant should split the \$15 fee; a suggestion for the tenant to pay a one-time fee when he initiates rent review; a suggestion to delete mortgage payment and add a history of charging fair market rate in the factors to consider during mediation.

Assistant City Manager Leduc explained that the calculation of number of rental units was based on the business license fee collected on rental properties. A unit is a single residence available for rental, whether single-family home, apartment, or condominium. In Section 5-25.5B1, "other information" is the same type of information required for a business license. ECHO Housing assists tenants with maintenance issues.

City Attorney Craig Labadie reported the Costa-Hawkins Rental Housing Act preempt local rent control regulation as applied to single-family homes or condominiums or units constructed after February 1, 1995. The draft ordinance as presented does not constitute rent control. Provisions of the draft ordinance void rent increases if a landlord does not follow a certain process in terms of providing

a specified notice or participating in good faith in conciliation and mediation. The City would not regulate the amount of any allowable rent increase. The ordinance as presented does not conflict with Costa-Hawkins. State laws provide tenant protections with respect to habitability of a rental unit. Perhaps the condition of the rental unit can be added to the list of factors that the rent review officer considers when recommending a fair rent increase.

MOTION:

Moved by Mayor McQuaid, seconded by Council Member Maass, to direct Staff to prepare and present at the second reading of the ordinance a resolution setting the trigger at 5%.

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

RECUSED: Council Member Pilch

NOES: none

Motion carried and so ordered.

MOTION:

Moved by Mayor McQuaid, seconded by Council Member Barnes, to introduce Ordinance No. 2018-02, An Ordinance of the City Council Adding Chapter 5-25 "Rent Review" to the City of Albany Municipal Code, for first reading.

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

RECUSED: Council Member Pilch

NOES: none

Motion carried and so ordered.

10. UNFINISHED BUSINESS

11. NEW BUSINESS

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

12-1. Upcoming City Events

Friends of Albany Parks Clean-Up Day, Saturday, April 7, 9:00 AM, Albany Bulb

Art Gallery Opening, Sunday, April 15, 4:00 PM, Community Center

12-2. Upcoming City Meetings

Social & Economic Justice Commission, Tuesday, April 3, 7:30 PM, Council Chambers, City Hall

Economic Development Committee, Thursday, April 5, 5:00 PM, Council Chambers, City Hall

Arts Committee, Monday, April 9, 7 PM, Council Chambers, City Hall

Planning & Zoning Commission, Wednesday, April 11, 7 PM, Council Chambers, City Hall

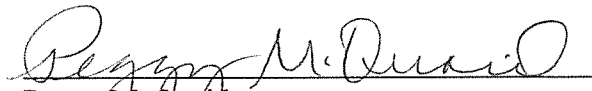
Park & Recreation Commission, Thursday, April 12, 7:00 PM, Council Chambers, City Hall

City Council Meeting, Monday, April 16, 7:30 PM, Council Chambers, City Hall

13. ADJOURNMENT

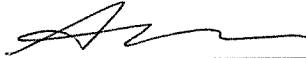
10:09 p.m. There being no further business before the City Council, Mayor McQuaid adjourned the meeting.

Minutes submitted by Anne Hsu, City Clerk.



Peggy McQuaid
Mayor

Attest:



Anne Hsu, City Clerk