



ALBANY CITY COUNCIL – MINUTES

Virtual Meeting
Albany, CA 94706
Monday, May 18, 2020

6:00 p.m.

SPECIAL MEETING

1. STUDY SESSION

1-1. Annual Sugar Sweetened Beverage Tax Study Session

Staff recommendation: that the Council:

1. Receive an update on the FY2020 Sugar Sweetened Beverage Tax expenditure plan
2. Conduct a study session to receive input and recommendations for the expenditure of proceeds from the Sugar Sweetened Beverage Tax
3. Provide a preliminary prioritization of items to be funded with the tax proceeds in FY2021

City Manager Nicole Almaguer reported staff has engaged the Transportation Commission (TC), the Social & Economic Justice Commission (SEJC), the Parks, Recreation & Open Space Commission (PROSC), and affiliated agencies and health experts regarding use of the tax revenues. Due to the COVID-19 pandemic, implementation of programming in fiscal year (FY) 2021 is uncertain. Staff will return to the Council frequently in the coming months to present any new information or circumstances.

Assistant City Manager Isabelle Leduc presented the staff report. In FY 2020, Sugar-Sweetened Beverage (SSB) Tax revenues funded a bottle filler in City Hall, for a total of eight in the City; water bottles with the SSB logo; free fitness, nutrition, and cooking classes; the crossing guard program; the Bike Safety program; and the Healthy Me Music and Movement program. Staff has prepared a summary table of program suggestions received from Advisory Bodies and the public. Suggestions overlap with respect to continuing funding for the crossing guard program, the Bike Safety program, and the Healthy Me Music and Movement program and to funding activities at the Bulb. Since April 2017, the City has received more than \$828,000 in SSB tax revenues and expended \$567,000 and expects to expend another \$5,000 before the end of the fiscal year. Slightly more than \$500,000 in tax revenues are available for expenditure in FY 2021.

Ben Noble, PROSC Chair, reported the PROSC unanimously supported funding the crossing guard program, generally agreed that programs for youth are a priority, and expressed interest in activating the Bulb and planting street trees. Individual Commissioners expressed interest in capital projects and extending water service to the Bulb.

Amy Paulsen, TC Chair, reported the TC prioritized the crossing guard program and proposed the Bike Safety program, a bulb-out at the southeast corner of Talbot and Marin Avenues, installation of a flashing beacon on Marin Avenue east of Peralta Avenue, and additional bicycle parking for Albany High School.

Gregory Downs, SEJC Chair, reported the SEJC prioritized alleviation of food insecurity and the crossing guard program.



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A summary of public comments is as follows: the Albany Strollers & Rollers supports the Transportation Commission's recommendation, activation of the Bulb, and the Healthy Me Music and Movement program; in light of the pandemic, the Albany Strollers & Rollers proposes funds support the City's core functions, the crossing guard program, and the Bike Safety program; support for activities, programs, bike racks, and benches at the Bulb and signage to the Bulb.

A summary of Council comments is as follows: a proposal to fund the crossing guard program up to \$140,000 and the Healthy Me Music and Movement program and to reserve the remaining funds for programming at a later time; Albany Unified School District (AUSD) should contribute funding to the crossing guard program; support for reserving as much funding as possible for future needs; if the City funds the crossing guard program, bike racks, and the Bike Safety program, AUSD should administer the programs; support for funding the crossing guard, Bike Safety, and the Healthy Me Music and Movement programs; some funding should be set aside for future identified food needs and business survival; support for funding the crossing guard program with a cap on the amount of funding and possibly AUSD contributing to it and the Bike Safety and Healthy Me Music and Movement programs and reserving funds for future needs; support for AUSD administering the crossing guard program if not contributing funds to it; support for funding the Healthy Me Music and Movement and Bike Safety programs and reserving funds for food insecurity and business support; perhaps funding for the Bike Safety program should be limited to in-person instruction rather than virtual instruction.

2. ADJOURNMENT OF STUDY SESSION

7:11 p.m. Mayor Pilch adjourned the study session.

7:30 p.m.

REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Vice Mayor McQuaid led the Pledge of Allegiance.

2. ROLL CALL

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

Absent: None

3. CEREMONIAL MATTERS

Mayor Pilch and Vice Mayor McQuaid read statements regarding the COVID-19 crisis.

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

5. CONSENT CALENDAR

5-1. Minutes, May 4, 2020



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Staff recommendation: Approve

- 5-2.** Ratification of Payroll – Payroll Period: 5/8/2020; Net Payroll: \$282,357.44; Taxes, Benefits, Withholdings: \$314,580.00; Total: \$596,937.44

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: \$116,572.57 (5/1/2020); \$262,154.11 (5/8/2020)

Staff recommendation: Ratify

- 5-4.** Proclamation – National Emergency Medical Services (EMS) Week and Emergency Medical Services for Children Day

Staff recommendation: that the Council adopt the proclamation to recognize the week of May 17-23, 2020 as National Emergency Medical Services Week and May 20, 2020 as Emergency Medical Services for Children Day

- 5-5.** Proclamation – Older Americans Month

Staff recommendation: that the Council recognize older adults in Albany and the people who support them as essential members of our community by proclaiming May 2020 as Older Americans Month

- 5-6.** Lease Agreement with Kids Speaking Spanish Preschool for the Use of the City Building at Memorial Park

Staff recommendation: that the Council adopt Resolution No. 2020-42 authorizing the City Manager to execute a 5-year lease agreement with Kids Speaking Spanish Preschool (Contract C20-52) for the use of the City building at Memorial Park for the operation of a preschool

- 5-7.** Ratification of Police and Fire Pension Board Payments – \$104,997.29 (February 2020), \$104,997.29 (March 2020), \$104,997.29 (April 2020)

Staff recommendation: Ratify

- 5-8.** Letter of Support for Amendments to AB 2377

Mayor Pilch recommendation: that the Council approve and submit the Letter of Support for amendments to AB 2377

- 5-9.** City Events Postponement and Cancellation Due to COVID-19 Pandemic

Staff recommendation: informational item



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- 5-10.** CIP No. 32000 Annual Sewer Rehabilitation – Award of Construction Contract No. C20-46 and Construction Management Services Contract No. C20-55

Staff recommendation: that the Council adopt Resolution No. 2020-41:

1. Authorizing the City Manager to award and execute Contract No. C20-46 with Bay Pacific Pipelines, Inc. to construct the 2020 Sanitary Sewer Rehabilitation Project (Phase B), in the not-to-exceed amount of \$2,173,736.00 from combination of previously appropriated funds and new funding appropriated as part of this resolution in CIP 32000 – Annual Sewer Rehabilitation; and
2. Authorizing the City Manager to award and execute Contract No. C20-55 with Zoon Engineering to provide construction management support for the 2020 Sanitary Sewer Rehabilitation Project (Phase B), in the not-to-exceed amount of \$381,600 from previously appropriated funds in CIP 32000 – Annual Sewer Rehabilitation; and
3. Appropriate the FY20 budget for the Annual Sewer Rehabilitation Project (CIP No. 32000) in the amount of \$1,105,000

- 5-11.** Call for Bids for the Washington Avenue Pavement Rehabilitation Project (Contract No. C20-48)

Staff recommendation: that the Council adopt Resolution No. 2020-31 authorizing the City Manager to approve a Call for Bids for the Washington Avenue Pavement Rehabilitation Project, Contract No. C20-48

- 5-12.** Letter to Governor Newsom for Support Local Recovery

Mayor Pilch recommendation: that the Council approve and submit the letter to Governor Newsom for Support Local Recovery

Mayor Pilch asked if anyone wishes to remove an item from the consent calendar. Vice Mayor McQuaid removed Item 5-5; City Clerk Anne Hsu removed Item 5-7; and Council Member Nason removed Item 5-8.

Item 5-5: Vice Mayor McQuaid commended Senior Center and Neighborhood Services staff for honoring older Americans.

Item 5-7: City Clerk Hsu reported the correct amount for the April payment is \$104,997.29.

Item 5-8: Council Member Nason suggested the Council eliminate parking requirements for facilities that care for elderly residents.

A summary of Council comments is as follows: a preference to eliminate all parking requirements, and support for eliminating parking requirements for residential care facilities.

MOTION:

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



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AYES: Council Members Barnes, Maass, and Nason, Vice Mayor McQuaid, Mayor Pilch
 NOES: None
 Motion carried and so ordered.

6. GOOD OF THE CITY/PUBLIC COMMENT

Mayor Pilch opened the Good of the City.

A summary of public comments is as follows: the City needs to provide shower facilities; Friends of Five Creeks would like to pay for and install a portable toilet and, when available, a hand-washing station near Codornices Creek; school shower and restroom facilities should be opened to the public during the pandemic; a suggestion to close parking spaces and to allow the public to utilize the spaces in order to maintain social distancing; concern about unsecured boulders atop Albany Hill.

7. COUNCIL SUBCOMMITTEE REPORTS, COUNCIL MEMBER REPORTS ON APPOINTED REPRESENTATION OF ALBANY AND OTHER MTGS AND EVENTS

7-1. City Council Subcommittees:

Council Subcommittees	Subcommittee Members	Last Report Date
Albany Waterfront Park (Albany Bulb)	Nason & McQuaid	12/02/2019
Alta Bates Hospital	Pilch & McQuaid	11/18/2019
Cannabis Ordinance	Maass & Pilch	3/2/2020
Community Inclusivity	Pilch & McQuaid	10/21/2019
San Pablo Avenue Corridor Project	Nason & Pilch	10/07/2019
Youth Engagement	McQuaid & Maass	02/18/2020

7-2. City Council Appointed Representation of Albany:

Bodies	Appointee	Alternate
Alameda County Mayors' Conference	Pilch	McQuaid
Alameda County Transportation Commission	Pilch	Nason
Alameda County Waste Management Authority	Pilch	Maass
Association of Bay Area Government	Maass	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	Sarah Levin
Berkeley/Albany Mental Health Board	(Vacant)	
City/AUSD/UC - 2X2X2	Pilch	McQuaid
Police & Fire Pension Fund Board	Pilch	McQuaid
Alameda County Paratransit Advisory & Planning Committee (PAPCO)	Margaret Patterson	N/A



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7-3. City Council Meetings and Events

Council Member Nason reported individuals are encouraging the East Bay Regional Park District to reopen Point Isabel, which would relieve some pressure on the Albany waterfront.

Vice Mayor McQuaid reported the Housing Authority of the County of Alameda has hired Kurt Wiest as its Executive Director. She has been working with the business community and attended the Mayors' Conference meeting, an Everyone Home meeting, and a virtual Film Festival event.

Mayor Pilch reported he attended the Film Festival Gala, a Climate Mayors conference call, a Mayors' Conference meeting, and the Alameda County Transportation Commission's (ACTC) public policy committee meeting. A group of elected officials has formed a transportation agency to promote rail service between Pleasanton/Dublin and the Central Valley.

8. CITY MANAGER REPORT

City Manager Almaguer reported staff is working on a long-term economic recovery strategy and partnering with the Solano Avenue Association and the Chamber of Commerce to survey the needs of local businesses. The Economic Development Committee will review the survey results and discuss potential recovery support programs on June 4. The City is partnering with the Frew Group and the Chamber of Commerce to offer a virtual forum where businesses can connect with existing resources. A virtual meeting to launch the San Pablo Avenue Specific Plan is scheduled for May 27. Sewer rehabilitation work began on Peralta and should be complete in three weeks. Installation of a rectangular rapid-flashing beacon at Marin and Talbot will begin June 1 and should be complete in two weeks. Since March 13, the Senior Center has delivered almost 3,000 meals, approximately 200 grocery bags, and essential supplies to 52 people and engaged with 2,000 people. The Senior Center will hold a virtual chat on May 10 and a virtual trivia extravaganza on May 27. The City's virtual community center is live and offers a robust number of classes. Staff is exploring virtual summer camps and working to reopen tennis courts.

9. PRESENTATION

10. PUBLIC HEARING

10-1. Repeal and Replacement of Section 20.20.080 "Secondary Residential Units" of the Albany Municipal Code – First Reading

Staff recommendation: that the Council introduce Ordinance No. 2020-04 for first reading, repealing and replacing Section 20.20.080 "Secondary Residential Units" of the Albany Municipal Code

Associate Planner Christopher Tan presented the staff report. Accessory dwelling units (ADU) provide opportunities for in-fill housing development, multigenerational living, and rental units. City ADU regulations were amended in 2014, which resulted in an increase in applications. State laws have dramatically changed ADU regulations since 2014, and the City's ADU regulations no longer comply with State laws. Key issues include removal of a substantial amount of local control over site regulations and development standards and the allowance of ADU and junior accessory



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dwelling units (JADU) in single-family residential, multifamily residential, and mixed-use residential projects. Staff proposes amendments that will replace the term "secondary residential unit" with the term "accessory dwelling unit;" define JADU; implement maximum ADU sizes; require a building permit only process for ADU projects that meet a specific criterion; exempt ADUs from all off-street parking requirements; prohibit short-term rentals for ADUs and JADUs through deed restriction; remove owner occupancy requirements for ADUS; and require owner occupancy for JADUs. On April 29, 2020, the Planning & Zoning Commission reviewed draft Code amendments and recommended the City Council amend the Municipal Code. Proposed amendments comply with the City Council Strategic Plan and the General Plan. If the Council approves the ordinance, a second reading will be scheduled for June 1, and the ordinance will become effective 30 days following the second reading. Once the California Department of Housing and Community Development (HCD) reviews and approves the adopted ordinance, it can be implemented.

A summary of public comments is as follows: an inquiry regarding construction of an ADU at the lot line; support for the proposed amendments; fire safety should be a priority for ADUs.

Planning Manager Anne Hersch advised that a 0-6-inch setback for ADUs will be allowed with requirements for window openings and fire-rated walls. In addition, a certification regarding the foundation will have to be submitted to the Building Inspector to ensure the form and wall are located on the appropriate property.

A summary of Council comments is as follows: requiring a 4-foot setback for a 1,000-square-foot ADU is reasonable; support for the proposed amendments.

MOTION:

Moved by Council Member Maass, seconded by Council Member Nason, to introduce Ordinance No. 2020-04 for first reading, repealing and replacing Section 20.20.080 "Secondary Residential Units" of the Albany Municipal Code.

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

NOES: None

Motion carried and so ordered.

10-2. Proposed Code Amendments to Section 20.20.040 "Home Occupations" of the Albany Municipal Code – First Reading

Planning & Zoning Commission recommendation: that the Council introduce for first reading Ordinance No. 2020-05 amending Section 20.20.040 "Home Occupations: of the Albany Municipal Code, the Planning & Zoning Commission adopted the following resolutions:

1. Planning & Zoning Resolution No. 2020-02, a Resolution of Intention to initiate Code amendments in Section 20.20.040 "Home Occupations: of the Albany Municipal Code on March 11, 2020
2. Planning & Zoning Resolution No. 2020-03 forwarding a recommendation to the City Council to adopt Code Amendments in Section 20.20.040 "Home Occupations" of the Albany Municipal Code on April 29, 2020



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Staff recommendation: that the Council introduce for first reading Ordinance No. 2020-05 amending Section 20.20.040 "Home Occupations" of the Albany Municipal Code

Planning Manager Hersch presented the staff report. Home occupation regulations were originally established to prevent inappropriate and incompatible uses. Enforcement of home occupation requirements is broad and outdated. Changes in State law limit the use of independent contractors and require contractors to obtain local business licenses. The City's permit process does not meet the current situation of many professional independent contractors. Based on direction from the City Attorney, staff proposes to eliminate requirements for a home occupation permit; however, performance standards, prohibited uses, and allowable uses will be retained. The City will require a business license and a clearance form for home-based businesses. The Planning & Zoning Commission recommended the City Council amend the Municipal Code. If the Council approves the ordinance, a second reading will be scheduled for June 1, and the ordinance will become effective 30 days following the second reading.

A summary of Council comments is as follows: without analysis, opposition to requiring soundproofing for home-based businesses providing music lessons; existing ordinances may regulate noise and odors; perhaps staff can research noise regulations.

MOTION:

Moved by Council Member Maass, seconded by Council Member Nason, to introduce for first reading Ordinance No. 2020-05 amending Section 20.20.040 "Home Occupations" of the Albany Municipal Code.

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

NOES: None

Motion carried and so ordered.

11. UNFINISHED BUSINESS

11-1. Consideration of Ballot Measures for the November 2020 General Municipal Election

Staff recommendation: that the Council receive information regarding possible revenue measures for the November 2020 ballot and provide direction to staff regarding development of ballot measures

City Manager Almaguer presented the staff report, which contains a substantive review of the public opinion poll and advantages, disadvantages, and cost scenarios of tax proposals.

Finance Director Heather Rowden reported a ballot measure is needed because of budgeted deficits, increasing pension payments, and revenue losses resulting from the COVID-19 pandemic. The first proposal is an increase in the real property transfer tax from \$11.50 to \$15 per thousand on full value, which would increase revenues by approximately \$392,000. The poll found 65.2% of voters support an increase in the real property transfer tax. A tiered tax of \$13 per thousand on full value of \$700,000 or less and \$15 per thousand on full value greater than \$700,000 would increase revenues by approximately \$241,000 annually. The second proposal is an increase in the Advanced Life Support (ALS) parcel tax from \$22.90 to \$68 or \$88 per residential unit, which would increase revenues by approximately \$365,761 and \$527,961



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respectively. The poll found 67.3% of voters support an increase to \$68 and 60.3% support an increase to \$88. A low-income exemption could reduce the amount of tax collected by approximately \$5,500 per year. The third proposal is to increase the Utility User's Taxes (UUT) to 8% for telecommunications, electric, and gas service and implement an 8% tax on water service, which would increase revenues by approximately \$929,279.58 annually. The poll found 62.5% support for increasing the UUT. A fourth proposal is to increase the Pension Tax Override from \$8.05 to \$9.93 per \$1,000 of valuation, which would increase revenues by approximately \$680,000 annually.

A summary of public comments is as follows: the maximum ALS rate would probably decrease if the Consumer Price Index (CPI) decreases; a recommendation for the Council to refer an increase in the UUT to the Climate Action Committee; an increase in the UUT can fund programs that benefit climate change and improve quality of life; support for increasing the Pension Tax Override, using Berkeley's model for property tax tiers, basing the ALS parcel tax on square footage, Albany Climate Action Coalition's suggested structure for the UUT.

A summary of Council comments is as follows: support for increasing the real property transfer tax to \$15; according to the poll, voters did not support a tiered real property transfer tax; reluctance to increase any tax because Albany's taxes are higher than Berkeley's and Oakland's and the City needs a long-term financial plan; recent ad valorem tax increases have supported AUSD rather than the City; support for a progressive real property transfer tax; concern that voters will not support increasing the ALS parcel tax; support for increasing the ALS property tax because with the impending closure of Alta Bates, advanced medical care during the first minutes of illness or injury will be important; support for increasing the ALS parcel tax to \$68; support for increasing the ALS property tax if it ensures the cost of ambulance use will not rise to unreasonable levels; support for increasing the ALS property tax and imposing a greater tax on more valuable parcels; support for increasing the UUT to 8% for telecommunications, water, gas, and electric; opposition to promoting the UUT tax increase for environmental purposes; opposition to increasing the UUT for telecommunications to 8%; a suggestion to delay increasing the UUT until the COVID-19 situation is clear and the City has a long-term financial plan; hope that a recreational cannabis tax will return to the Council for discussion; support for increasing the Pension Tax Override to the maximum amount.

The Council reached consensus to further consider ballot measures that increase the real property transfer tax to \$15, the ALS parcel tax to \$68, and the UUT tax to 8% for all utilities and to the percentages suggested by the Albany Climate Action Coalition.

12. NEW BUSINESS

12-1. Possible Charter Amendment to Transition Voting Method to Ranked Choice Voting (RCV) at Large

Staff recommendation: that the Council provide direction to staff regarding a possible ballot measure for the November 2020 election to amend the voting method within the City Charter to Ranked Choice Voting at Large



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City Clerk Hsu presented the staff report. On January 26, the City Clerk's Office received a notice of intent to petition voters regarding a Ranked Choice Voting (RCV) initiative. Public speakers have requested the Council place a measure for RCV on the November ballot. Costs include implementation of RCV for Albany and RCV expense-sharing with Berkeley, San Leandro, and Oakland. The election equipment vendor is certified to handle RCV district and at-large elections but is dependent on the County handling three types of elections simultaneously. The election of Board of Education members is included in the City Charter, and the Council should consider the interests of the Board of Education.

A summary of public comments is as follows: concern that not proceeding with an RCV ballot measure will be equivalent to disenfranchisement; support for a ballot measure regarding RCV; the election equipment can handle at-large and district RCV elections, and a suggestion to include an escape clause or a trigger clause in the ballot language.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, to extend the meeting to 11:15 p.m.

Council reached a consensus to extend the meeting to 11:15 p.m.

A summary of Council comments is as follows: the City should discuss election costs with AUSD; the City should engage the Asian Law Caucus regarding RCV at-large elections; having the support of a major voting rights organization would reduce the City's risk of receiving a threat letter; RCV at-large elections are unusual; RCV will not prevent the City from receiving a California Voting Rights Act (CVRA) threat letter; the issue in Albany is a lack of candidates, and RCV will not resolve the issue; now is not a good time to add RCV to the tasks of the Registrar of Voter's Office; the petition did not receive the requisite number of signatures.

MOTION:

Moved by Council Member Barnes, seconded by Council Member Nason, to extend the meeting to 12 a.m.

Council reached a consensus to extend the meeting to 12 a.m.

A summary of additional Council comments is as follows: support for an RCV ballot measure; the issue before the Council is whether to place a measure for RCV on the ballot; the petition would have received the requisite number of signatures if the pandemic had not occurred; a proposal to include an escape clause and costs in ballot language; concern that there is not time to meet with the Asian Law Caucus before the deadline to submit a ballot measure.

MOTION:

Moved by Council Member Nason, seconded by Council Member Barnes, to form a Council subcommittee to meet with Voter Choice Albany and the Asian Law Caucus to discuss a ballot measure for Ranked Choice Voting at large.

AYES: Council Members Barnes and Nason, Vice Mayor McQuaid

NOES: Council Member Maass, Mayor Pilch

Motion carried and so ordered.



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Vice Mayor McQuaid and Council Member Nason volunteered to serve on the subcommittee, and the Council concurred with their service.

13. FUTURE AGENDA ITEMS

Council Member Nason requested a discussion of closing portions of Solano Avenue when businesses are allowed to reopen. Vice Mayor McQuaid suggested staff work with the business community and report to the Council.

Mayor Pilch requested staff provide information regarding Friends of Five Creeks' offer to place a portable toilet near Codornices Creek.

14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS

14-1. Upcoming City Events – None

14-2. Upcoming City Meetings

- A. Library Board Meeting, Tuesday, May 19, 7:00 PM, Virtual Meeting via phone/video conferencing
- B. Climate Action Committee Meeting, Wednesday, May 20, 7:30 PM, Virtual Meeting via phone/videoconferencing
- C. Transportation Commission Special Meeting, Thursday, May 21, 7:30 PM, Virtual Meeting via phone/video conferencing
- D. Planning & Zoning Commission Special & Regular Meeting, Wednesday, May 27, 5:00 PM & 7 PM, Virtual Meeting via phone/video conferencing
- E. City Council Meeting, Monday, June 1, 7:30 PM, City Hall Council Chambers of Virtual Meeting via phone/video conferencing

14. ADJOURNMENT


11:56 p.m. There being no further business before the City Council, Mayor Pilch adjourned the meeting.

Minutes submitted by Anne Hsu, City Clerk.



Nick Pilch
Mayor

Attest:



Anne Hsu, City Clerk