



## ALBANY CITY COUNCIL – MINUTES

Virtual Meeting

Albany, CA 94706

Monday, July 20, 2020

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**6:00 p.m.**

### **SPECIAL MEETING**

#### **1. STUDY SESSION**

##### **1-1. Overview of Police Department Budget and Policies**

Staff recommendation: that the Council:

1. Receive a presentation regarding the Albany Police Department's current budget and policies; and
2. Authorize an ad hoc subcommittee of the Mayor and Vice Mayor to work with the Police Chief and City Manager to develop the framework for a working group to serve as advisory to the Police Chief to review and recommend updates to Police Department policies and procedures related to use of force, bias-based policing, standards of conduct, and complaint investigations.

City Manager Nicole Almaguer presented the staff report. Staff envisions an iterative process for providing details of the Police Department's budget and discussing policy issues and data needs. The Council may wish to form an ad hoc subcommittee to work with staff in developing a framework for a working group that will review policies and procedures related to use of force and bias-based policing. Staff will return to the Council in September for discussion of potential reductions in the budget.

Finance Director Heather Rowden reported the majority of Police Department expenses are salaries and benefits. While 18 police officer positions and eight public safety dispatcher positions have been authorized, 14 police officer and five dispatcher positions are filled. The average salaries include incentive pay but not overtime. The salary budget is based on the actual cost of each filled position and the top step of each vacant position. The amount budgeted for overtime is an estimate based on the number of vacant positions. The majority of benefits costs is health and dental benefits. Retirement benefits are California Public Employees' Retirement System (CalPERS) costs. Other benefits include payroll taxes and small miscellaneous benefits. All other expenses include the costs of training, dues, memberships, publications, and software subscriptions. Administrative and office expenses include copier leases and supplies. The supplies expense is primarily safety clothing and gear and the annual clothing allowance prescribed by the labor contract. Professional services include the costs for the crossing guard contract, animal control services, and crime lab services. \$84,500 is budgeted for crime lab services even though total costs average \$30,000-\$40,000 annually. The additional funds are available if a major crime occurs within the City. Rental expense is the cost for two offsite storage units and equipment and three-leased vehicles. Safety supplies are composed of range rental, munitions, equipment, ammunition, Taser equipment, targets and other range supplies, and custodial supplies. The budgeted amount for equipment historically has not been used. Vehicle/equipment maintenance is fuel and maintenance for police vehicles. Some budgeted expense amounts will be adjusted to reflect more accurate amounts.

A summary of public comments is as follows: concern that form letters submitted as public comment are not from Albany residents; law enforcement should be demilitarized; some police



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services can be performed by other public workers, which will reduce police salaries and improve services; a request for comparisons of the budget with other cities' budgets and projections for fiscal year 2020-2021; an advisory group does not provide oversight; concern that an advisory task force would be used to block any discussion of oversight; the City needs a permanent and public police oversight commission; questions about total salary costs and the use of unspent funds; residents who are calling for the defunding of the Police Department do not feel the Council is taking their request seriously; many calls for service could be handled better by other parties; the intent of defunding is to transition some police duties to other individuals; requests for the Council to remove the District Attorney from investigation of misconduct allegations against police officers; request for the percentage of crime attributed to nonresidents; traffic stops should be handled by unarmed public workers rather than police officers; the Police Department's budget should be thoroughly reevaluated; the Council should delegate preparation of a plan to the Social & Economic Justice Commission (SEJC).

Finance Director Rowden explained that General Fund spending is authorized for one year. Funds not spent during the year are returned to the General Fund Reserve. Public safety positions generally are not subject to the Fair Labor Standards Act .

Police Chief John Geissberger advised that the City Protect site has been available sporadically, and resources have not been available to work on it. He referred the public to the daily bulletin for information about daily police activities.

A summary of Council comments is as follows: a request for additional information about the vehicle fleet; data for officers' contacts with the public and types of crimes could inform a decision about forming an ad hoc or oversight committee; people calling for defunding appear to want some services handled by non-police personnel; a suggestion for the Police Department to provide information similar to the old police blotter and to make it easily accessible on the City website; a suggestion for staff to explore police oversight commissions in small towns across California and the country; a suggestion for the SEJC to prepare a statistically valid community survey; the gap between budgeted expenditures and actual expenditures has increased by approximately \$500,000 in each of the last four years; functions that can be filled with non-sworn personnel should be; perhaps staff can propose a different way to handle unfilled positions in the budget; the City of Davis utilizes an independent police auditor to review complaints against police officers and a citizens' commission to review police policies; opposition to forming an ad hoc committee; an ad hoc committee could gather data and public input in order to recommend next steps to the Council; finding and hiring candidates who meet the City's standards for police officers is difficult; the Police Department needs tools to encourage employees to move on if the employment relationship ceases to be beneficial; an ad hoc committee could discuss tools to improve or end employment relationships; the ad hoc committee should be advisory to the Council; the ad hoc committee would design the scope of work for a greater advisory body; the City and Council are responding to calls for defunding the Police Department; interest in the Police Department's use of deadly force committee; support for an ad hoc committee if it can meet in August and present ideas to the Council in September; the Council could seek the opinions of Sid Schoenfeld and Berkeley Food & Housing regarding the effectiveness of transitioning some police functions to non-police personnel; the Council should refer the matter to the SEJC or form a new committee.



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### **MOTION:**

Moved by Vice Mayor McQuaid, seconded by Council Member Barnes, to authorize a committee comprised of the Mayor, Vice Mayor, City Manager, Police Chief, Nicole Anderson & Associates, and members of the SEJC to develop the framework for a working group to review and recommend updates to the Albany Police Department's policies and procedures related to the use of force, bias-based policing, standards of conduct, and complaint investigations; to direct the SEJC to create and implement a community survey and to return to the Council with recommendations for next steps; and.

AYES: Council Members Barnes and Maass, Vice Mayor McQuaid

NOES: Council Member Nason, Mayor Pilch

Motion carried and so ordered.

## **2. ADJOURNMENT OF STUDY SESSION**

8:11 p.m.. There being no further business before the City Council, Mayor Pilch adjourned the special meeting.

**7:30 p.m.**

## **REGULAR MEETING**

### **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Council Member Maass 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 noted the increase in COVID cases and hospitalizations and requirements for face coverings. Vice Mayor McQuaid commented regarding the deaths of civil rights activists Rev. C.T. Vivian and Congressman John Lewis. Council Member Nason remarked on the COVID deaths of incarcerated persons.

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

### **5. CONSENT CALENDAR**

#### **5-1. Minutes, July 6, 2020**

Staff recommendation: Approve

#### **5-2. Ratification of Bills, Claims and Demands - Ratification of bills, claims and demands against the City of Albany in the amount of: \$571,666.52 (7/3/20); \$878,558.34 (7/10/20)**



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Staff recommendation: Ratify

**5-3.** Proclamation – 100<sup>th</sup> Anniversary of the 19<sup>th</sup> Amendment & Women’s Equality Day

Vice Mayor McQuaid recommendation: that the Council proclaim and recognize the 100<sup>th</sup> Anniversary of the 19<sup>th</sup> Amendment & Women’s Equality Day

**5-4.** Repealing of Albany Municipal Code Section 4-4 “Telephone, Gas and Electricity Users Tax” – Second Reading, Pass-to-Print

Staff recommendation: that the Council adopt Ordinance No. 2020-08, repealing Section 4-4 “Telephone, Gas and Electricity Users Tax” of the Albany Municipal Code – Second Reading, Pass-to-Print

**5-5.** Resolution of Support for Satellite Affordable Housing Associates Grant Application for the Infill Infrastructure Grant Program of 2019

Staff recommendation: that the Council:

1. Adopt Resolution No. 2020-79 approving to file a joint grant application with Satellite Affordable Housing Associates for the Transit Oriented Housing Program for the Albany Family Housing Project; and
2. Authorize the City Manager to execute the joint application on the City’s behalf

**5-6.** CIP No. 21000 Washington Avenue Rehabilitation Project – Award of Construction Contract No. C20-48 and Construction Management Services Contract No. C20-71

Staff recommendation: that the Council adopt Resolution No. 2020-80, authorizing the City Manager to award Contract No. C20-48 to MVC Enterprises to construct the Washington Avenue Rehabilitation Project for the not-to-exceed amount of \$1,148,849.50 and execute Contract No. C20-71 with Zoon Engineering to provide construction management services for the not-to-exceed amount of \$144,500 from previously appropriated funds in CIP 21000 – Annual Street Rehabilitation

**5-7.** CIP Project No. 41009 – Albany Hill Access Improvements Project (Grade Tech Inc. Contract No. C19-43), Accepting Improvements and Filing of Notice of Completion

Staff recommendation: that the Council adopt Resolution No. 2020-82, accepting the improvements completed in the Albany Hill Access Improvements Project (Contract No. C19-43) and authorizing the filing of the Notice of Completion with the County Recorder’s Office

**5-8.** Authorization to Submit Grant Application to the State of California Active Transportation Program Cycle 5 Program

Staff recommendation: that the Council adopt Resolution No. 2020-81 authorizing the City Manager to submit Phase 2 of San Pablo/Buchanan Complete Street Improvements for funding from Cycle 5 of the State of California Active Transportation Program



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- 5-9.** Ordinance No. 2019-11, Amendments to Chapter 11, Fire Prevention, and Chapter 12, Building and Housing, of the Municipal Code related to the Adoption and Local Amendments of the 2019 California Building Standards Code

Staff recommendation: that the Council adopt Ordinance No. 2019-11, amendments to the Building & Housing and Fire Prevention Chapters of the Municipal Code related to the Adoption and Local Amendments of the 2019 California Building Standards Code – Second Reading, Pass-to-Print

Mayor Pilch asked if anyone wishes to remove an item from the consent calendar. Council Member Nason removed Item 5-7, and Mayor Pilch removed Item 5-3.

Item 5-3: Mayor Pilch recognized the importance of the 19<sup>th</sup> Amendment.

Item 5-7: Capital Improvement Program Manager Robert Gonzales reported professional landscape services and volunteers have planted more than 1,000 plants on Albany Hill. Revegetation was removed from the original agreement with the contractor. Staff was satisfied with the contractor's construction of the steps, but staff learned the contractor typically worked with paving and concrete and felt the contractor may have performed the work reluctantly. Staff has approached some smaller local contractors, who are a better fit for the project, about completing the work. The contractor was paid only for the work he completed.

**MOTION:**

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

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 Police Department has no records or knowledge of towing a recreational vehicle; the Council should implement a hiring freeze for all departments; the Council should do what is right for the community whether or not that coincides with public comment; support for Ranked Choice Voting; the City should fund schools rather than the Police Department; Ranked Choice Voting will lead to better representation for communities of color, renters, and low-income people; the Police Department's filling vacant positions at this time will look bad to the community; the Council should discuss forming a citizens' committee to investigate complaints against police officers and review Police Department policies and practices; a suggestion for members of the public to be visible and have access to the chat feature during public comment.

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



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## 7-1. City Council Subcommittees:

<b>Council Subcommittees</b>	<b>Subcommittee Members</b>	<b>Last Report Date</b>
Albany Waterfront Park (Albany Bulb)	Nason & McQuaid	6/01/2020
Alta Bates Hospital	Pilch & McQuaid	7/6/2020
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	2/18/2020

Mayor Pilch reported the Alameda County Transportation Commission (ACTC) has contacted him regarding the San Pablo Avenue Corridor Project, and he will meet with Council Member Nason to schedule a meeting with ACTC.

## 7-2. City Council Appointed Representation of Albany:

<b>Bodies</b>	<b>Appointee</b>	<b>Alternate</b>
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

Vice Mayor McQuaid reported she attended the Housing Authority of Alameda County meeting during which administrative procedures were updated.

Mayor Pilch reported he attended the Mayors' Conference, where he heard a presentation regarding racism; StopWaste's Programs and Administration Subcommittee meeting, where he learned about allowed uses of reusable bags and repurposing food; and ACTC's Programs and Legislative Committee meeting.

## 7-3. City Council Meetings and Events

Council Member Nason reported she attended the ribbon cutting for a new segment of the Bay Trail.



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Vice Mayor McQuaid reported she continues to participate in weekly phone conferences with the business community; participated in several webinars, including one by the Chamber of Commerce; and attended the Mayor's Conference, a 2x2x2 meeting, and the City forum on race.

Mayor Pilch reported he participated in the Chamber of Commerce's webinar and attended the City forum on race.

### 8. CITY MANAGER REPORT

City Manager Nicole Almaguer reported vegetation management work at Albany Hill and Codornices Creek is complete. Public Works has completed sidewalk shaving and crack filling along San Pablo and Solano Avenues and other key streets. East Bay Municipal Utility District (EBMUD) plans to begin work on a water line replacement on Washington Avenue in mid to late July. A contractor will begin replacing a 100-foot section of sewer line in the 500 block of Adams. The Recreation Department is offering in-person and virtual camps and classes. On July 30<sup>th</sup>, 2020, the virtual Senior Center program will host a singing high school senior. Staff has delivered 5,437 meals, distributed 317 brown bags, engaged with 4,000 residents, and delivered more than 100 essential items. The City has received a letter alleging the City has violated the California Voting Rights Act, and staff is consulting the City Attorney regarding next steps.

Council Member Nason noted suggestions for the installation of mask signage and suggested the City's e-news include an update about work on lower Marin.

### 9. PRESENTATION

### 10. PUBLIC HEARING

### 11. UNFINISHED BUSINESS

#### 11-1. Second Extension of Temporary Moratorium on Residential and Commercial Evictions for Nonpayment of Rent and Rent Increases during COVID-19 Pandemic

Staff recommendation: that the Council adopt Urgency Ordinance No. 2020-12, entitled: AN URGENCY ORDINANCE OF THE CITY OF ALBANY AMENDING URGENCY ORDINANCE NO. 2020-03, AS AMENDED BY URGENCY ORDINANCE NO. 2020-06, TO REPEAL THE RESIDENTIAL EVICTION MORATORIUM AND TO EXTEND THE TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT AND RENT INCREASES FOR CERTAIN COMMERCIAL TENANTS DURING THE COVID-19 PANDEMIC AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

City Attorney Mala Subramanian presented the staff report. In March 2020, the Council adopted the original Urgency Ordinance prohibiting both residential and commercial evictions due to failure to pay rent. The Governor has extended the timeframe of his Executive Orders for this topic. Consequently, staff has prepared an amended ordinance to extend the timeframe to September 30, 2020 for commercial evictions only. Staff recommends the Council allow the prohibition for residential evictions to lapse, at which time residential evictions will be governed by the County of Alameda's ordinance. The County's ordinance for commercial evictions does



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not apply to cities within Alameda County. The County's ordinance that provides residential protections supersedes the City's ordinance unless it is more restrictive than the County ordinance.

A summary of public comments is as follows: the Council should not allow residential protections to lapse; lawsuits are being filed to contest these ordinances.

A summary of Council comments is as follows: landlords can apply for Small Business Administration (SBA) loans during COVID; messaging to the community should clearly state the residential moratorium will continue under the County's order; support for continuing the City's residential moratorium; concern about the County's shorter period for rents to be paid; landlords need to be paid, but they are usually in a better financial situation than their tenants; a small risk of a lawsuit should not prevent the Council from doing the right thing for disadvantaged people; a suggestion to defer a decision regarding residential protections to February 2021;

### **MOTION:**

Moved by Council Member Nason, seconded by Council Member Maass, to adopt Urgency Ordinance No. 2020-12, entitled an Urgency Ordinance of the City of Albany Amending Urgency Ordinance No. 2020-03, as Amended by Urgency Ordinance No. 2020-06, to Repeal the Residential Eviction Moratorium and to Extend the Temporary Moratorium on Evictions Due to Nonpayment of Rent and Rent Increases for Certain Commercial Tenants During the COVID-19 Pandemic and Setting Forth the Facts Constituting Such Urgency with revisions to include residential tenants.

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

NOES: None

Motion carried and so ordered.

Council Member Maass requested staff assist residential and commercial landlords with obtaining SBA loans.

### **11-2. Request by the Social & Economic Justice Commission to Add Demographic Categories to the Application for City Advisory Bodies**

Social & Economic Justice Commission recommendation: that the Council:

1. Provide direction to staff to work with SEJC to develop questions about demographic categories to add to the City's application for boards and commissions;
2. Ask staff to develop systems for separating those answers from any personal identification and to report that information in the aggregate for City Commissions

Staff recommendation: that the Council provide direction to staff on the Social & Economic Justice Commission's request to add demographic categories to the application for City Advisory Bodies and the development of a system to report the information collected

Assistant City Manager Isabelle Leduc presented the staff report. In February 2020, the Council did not approve the SEJC's request to obtain demographic data for Advisory Bodies due to the lack of a system for collecting data and ensuring the confidentiality of personal data. The City





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Attorney has advised that any data collected from Advisory Bodies should be the same as data collected from the City's workforce.

Greg Downs, SEJC Chair, reported the SEJC has provided additional information that should lead the Council to reconsider its earlier decision. The SEJC's resolution asks the Council to direct staff to implement a system to collect demographic data from applicants for Advisory Bodies in time for the appointments effective in January 2021. Applicants should be given access to an online form for voluntary disclosure of this data. If the Council wishes, a second collection of data can provide information about the composition of Advisory Bodies. Aggregating the data across the Advisory Bodies will maintain the anonymity of applicants. Collection of data can be implemented easily. With this information, outreach to potential applicants can be assessed for effectiveness. Commissioner Kerr has suggested the data include language proficiencies.

A summary of public comment is as follows: the standards for the EEO-4 form are outdated and do not serve the goals of the Council or the community; the EEO-4 categories do not reflect current gender and race options.

A summary of Council comment is as follows: a suggestion to refer the item to the SEJC for a recommendation of appropriate options for each category; the current options are insufficient; a question of whether confidentiality can be guaranteed.

### **MOTION:**

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, to refer the request back to the SEJC for guidance on the categories to be selected.

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

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

Vice Mayor McQuaid advised that she plans to attend the virtual conference and volunteered to serve as the City's voting delegate. Mayor Pilch volunteered to serve as alternate.

### **MOTION:**

Moved by Mayor Pilch, seconded by Vice Mayor McQuaid, to select Vice Mayor McQuaid as voting delegate and Mayor Pilch as alternate for the League of California Cities Annual Conference.

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

NOES: None

Motion carried and so ordered.



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### 13. FUTURE AGENDA ITEMS

Mayor Pilch requested discussion of a hiring freeze. Council Member Nason requested a report of the last tax measure's impact on maintenance.

### 14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS

**14-1.** Upcoming City Events – Please check the City website, [www.albanyca.org](http://www.albanyca.org), under City Calendar webpage for up-to-date information

**14-2.** Upcoming City Meetings

- A. Planning & Zoning Commission Meeting, Wednesday, July 22, 7:00 PM, Virtual Meeting via phone/video conferencing
- B. Transportation Commission Meeting, Thursday, July 23, 7:00 PM, Virtual Meeting via phone/video conferencing
- C. Social & Economic Justice Commission Special Meeting, Tuesday, August 4, 7:00 PM, Virtual Meeting via phone/video conferencing
- D. Social & Economic Justice Commission Special Meeting, Thursday, August 20, 7:00 PM, Virtual Meeting via phone/video conferencing
- E. Social & Economic Justice Commission Meeting, Tuesday, September 1, 7:30 PM, Virtual Meeting via phone/video conferencing
- F. Economic Development Committee Meeting, Thursday, September 3, 5:00 PM, Virtual Meeting via phone/video conferencing
- G. City Council Meeting, Tuesday, September 8, 7:30 PM, City Hall Council Chambers or Virtual Meeting via phone/video conferencing

### 15. ADJOURNMENT

10:01 p.m. There being no further business before the City Council, Mayor Pilch adjourned the meeting in memory of C.T. Vivian, Congressman John Lewis, and incarcerated individuals who have passed away from COVID-19.

Minutes submitted by Anne Hsu, City Clerk.

  
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Nick Pilch  
Mayor

Attest:

  
\_\_\_\_\_  
Anne Hsu, City Clerk