



ALBANY CITY COUNCIL – MINUTES

Virtual Meeting

Albany, CA 94706

Monday, September 21, 2020

6:00 p.m.

SPECIAL MEETING

1. CALL TO ORDER

2. STUDY SESSION

2-1. Social & Economic Justice Commission Equity Impact Plan Interim Update

Staff recommendation: that the Council receive the Equity Impact Plan Interim update and provide direction to the Social & Economic Justice Commission

Assistant City Manager Isabelle Leduc presented the staff report. On June 15, 2020, the Council directed the Social & Economic Justice Commission (SEJC) to add institutional racism to its work plan and staff to provide recommendations for a consultant to assist the SEJC. On July 6, the Council approved a contract with Nicole Anderson and Associates. Ms. Anderson met with the SEJC on July 7, and a community dialog was held on July 16. The SEJC created three subcommittees that have met with City and Albany Unified School District (AUSD) staff to discuss an Equity Impact Plan and to collect data on racial equity.

Nicole Anderson, Nicole Anderson & Associates Consulting, LLC, acknowledged the Council for taking on a difficult task. In talking about racial equity, a safe space is necessary so that everyone can participate and speak their truth, even when they feel discomfort. Resolving hundreds of years of racism takes time. The process includes creating a racial equity statement, defining the work, and collecting data and information. A Racial Equity Impact Plan will provide a historical context, a vision for the future, an equity statement, common language, and a framework for addressing racial equity.

Dr. Shelley Holt, Leadership Legacy, LLC, reported the SEJC has identified four areas of work and created a subcommittee for each area. The subcommittees have dispelled assumptions, created shared understanding, developed ideas, and identified next steps.

A summary of the SEJC Commissioners comments is as follows: subcommittees are developing the components of a Racial Equity Impact Plan; the work is difficult, but the community, staff, and the consultants have shared their time and energy; AUSD and Superintendent Wells are supporting and aiding the subcommittee's work, and the subcommittee wants to include youth who attend private schools; the subcommittee and AUSD staff have discussed AUSD preparing its own Equity Impact Plan.

A summary of public comments is as follows: questions about Police Department data and demographics and meeting attendance; undoing racism will require purposeful actions and extensive self-examination.

The Council shared appreciation for work done.

3. ADJOURNMENT OF SPECIAL MEETING – 6:55 p.m.



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REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Pilch 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 read a statement regarding the death of Supreme Court Justice Ruth Bader Ginsburg, voting in November, and the pandemic.

Vice Mayor McQuaid read a statement regarding Justice Ginsburg.

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

5. CONSENT CALENDAR

5-1. Minutes, September 8, 2020

Staff recommendation: Approve

5-2. Ratification of Payroll – Payroll Period: 9/11/20; Net Payroll: \$343,455.24; Taxes, Benefits, Withholdings: \$364,001.34; Total: 707,456.58

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: \$ 111,967.17 (9/4/20); \$79,089.15 (9/11/20)

Staff recommendation: Ratify

5-4. Recommendation for the League of California Cities 2020 Annual Conference Resolutions

Vice Mayor McQuaid recommendation: that the Council authorize Vice Mayor McQuaid to use her discretion to vote at the League of California Cities Annual Conference when all information is available

5-5. CIP No. 32000 – 2020 and 2021 Sanitary Sewer Rehabilitation Project: Award of Contract C21-07 for Engineering Design Services



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Staff recommendation: that the Council adopt Resolution No. 2020-92, authorizing the City Manager to execute Contract No. C21-07 with Nute Engineering in the not-to-exceed amount of \$288,500 for a two year contract for preliminary and final sewer rehabilitation design services, using previously appropriated funds for the Annual Sewer Rehabilitation Program (CIP No. 32000)

- 5-6.** CIP No. 21000 Adams Street Paving Rehabilitation Project – Award of Construction Contract No. C20-47

Staff recommendation: that the Council adopt Resolution No. 2020-91 authorizing the City Manager to award Contract No. C20-47 to HM Construction to construct the Adams Street Paving Project for the not-to-exceed amount of \$414,992.87 from previously appropriated funds in the Annual Street Rehabilitation Program budget (CIP No. 21000)

- 5-7.** CIP Project No. 25011 – Lower Solano Avenue Curb Ramps Project, Award Contract No. C20-65

Staff recommendation: that the Council adopt Resolution No. 2020-94 to:

1. Reject Burch Construction's bid for the Lower Solano Ave Curb Ramps Project as non-responsive; and
2. Ratify the Public Works Director's determination that Burch Construction's bid protest is baseless; and
3. Authorize Staff to spend Community Development Block Grant (CDBG) funding assigned to the project in the amount of \$571,705.50; and
4. Authorize the City Manager to award Contract No. C20-65 – Lower Solano Ave Curb Ramps Project to Villalobos & Associates in the amount of \$401,928

- 5-8.** Resolution Adopting a Code of Conduct for the 2020/2021 Solid Waste Collection Procurement Process

Staff recommendation: that the Council adopt Resolution No. 2020-93 adopting a Code of Conduct for the upcoming solid waste collection procurement process

- 5-9.** Advisory Body Appointment

Aaron Gach appointed to Arts Committee by Mayor Pilch

Staff recommendation: Informational only

Mayor Pilch reported Proposition 16, if passed in November, would repeal Proposition 209 and allow agencies to establish preferences for competitive bidders. He asked if anyone wishes to remove an item from the consent calendar. Mayor Pilch pulled Item 5-4. Council Member Maass pulled Item 5-8.

Item 5-4: Vice Mayor McQuaid reported she will include Ms. Dostie's comments in her consideration of resolutions at the League of California Cities 2020 Annual Conference.

Item 5-8: Rob Hilton, HF&H Consultants, LLC, reported the State Code provides a specific procurement process for solid waste, and a code of conduct manages the integrity of the process.



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A summary of Council comments is as follows: a request for Vice Mayor McQuaid to include the tenets of free speech in her consideration of resolutions before the League of California Cities.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, 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: a suggestion to clean the streets and sidewalks for the Stroll; a creek update; a request for speakers to use the correct pronouns.

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	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

Vice Mayor McQuaid reported Mayor Arreguin and Vice Mayor Hahn are arranging a meeting with the CEO of Sutter Health. A media campaign for Alta Bates has been postponed due to the pandemic. The task force will meet in November. Union representatives have expressed concerns about personal protective equipment (PPE) shortages and a lack of communication to staff regarding COVID patients. Youth in Government is meeting virtually and has moved to a regional model.

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



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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
City/AUSD/UC - 2X2X2	Pilch	McQuaid
Police & Fire Pension Fund Board	Pilch	McQuaid
Alameda County Paratransit Advisory & Planning Committee (PAPCO)	Margaret Patterson	N/A

Mayor Pilch reported he has attended virtual Mayors' Conferences; a StopWaste meeting; an Alameda County Transportation Commission (ACTC) committee meeting where he abstained from a vote on Valley Link; and an East Bay Community Energy (EBCE) meeting where a discussion of the Brilliant 100 product and nuclear energy occurred.

Vice Mayor McQuaid reported she attended a Housing Authority of Alameda County (HACA) Board meeting where she met the scholarship recipient and employees and learned about Albany's contracts. HACA held a drive-through backpack event for school children and a webinar about the Clean Driving Assistance program. Weekly meetings with the local business community are ongoing.

A summary of public comments is as follows: long commutes should not be encouraged.

7-3. City Council Meetings and Events

None.

8. CITY MANAGER REPORT

City Manager Almaguer reported two more people experiencing homelessness have found housing. A Fire Department crew has been deployed to the Creek Fire. The community may register with the Evacuation Assistance Registry, which will notify public safety emergency response personnel of individuals' needs in the event of an emergency. Staff has delivered more than 8,000 meals and 500 bags of groceries to vulnerable residents. Residents who need assistance with shopping can schedule trips through the Senior Center. More than 30 trips have been completed since July. Rapid-flashing beacons have been installed at Marin and Talbot. The sewer project on Jackson Street is nearing completion.

9. PRESENTATION

9-1. Consultant Presentation on Solid Waste Procurement Process

Staff recommendation: that the Council receive a presentation from solid waste consultant HF&H and authorizes staff to begin discussions with Waste Management of Alameda County regarding negotiation of an extension to the current Collection Services Agreement to include additional services

Sustainability & Resilience Manager Claire Griffing presented the staff report. The Council adopted the current franchise agreements with Waste Management of Alameda County in 2011.



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The disposal agreement is effective through October 31, 2031. The collection agreement expires on October 31, 2021. The City may extend the collection agreement a maximum of two times with each extension effective for five years. Staff believes the contract and its provisions are current and may not need major revisions. A new contract or an extension of the existing contract will need to incorporate obligations required by SB 1383.

Rob Hilton, HF&H Consultants, LLC, reported the recommended procurement approach begins with negotiations with Waste Management. The goal of negotiations is to achieve reasonable implementation costs for new programs required by SB 1383 and to gain additional community benefits. If the goal cannot be achieved, the City may exercise its option for extension and initiate the Request for Proposals (RFP) process. Negotiations have to consider the requirements of the Climate Action and Adaptation Plan (CAAP), the Albany 2035 General Plan, (National Pollutant Discharge Elimination System (NPDES) compliance, AB 939, AB 1826, AB 341, SB 1383, and the Alameda County MRO. The upcoming negotiations will focus on the requirements of SB 1383, under which the State will regulate the City and expects the City to regulate customers, haulers, edible food generators, and food recovery organizations.

The City has anticipated many of the programs required by SB 1383 but needs to implement a variety of programs, purchase a specified quantity of recovered organic waste products, adopt a series of ordinances, provide outreach and education to all generators, and report to CalRecycle. Recommendations for the upcoming negotiations include adding periodic performance and billing evaluations and disposal and processing arrangements; restructuring rates for new services; utilizing an action-oriented approach to diversion; expanding reporting requirements; increasing the outreach budget; expanding outreach to schools and activities around SB 1383 compliance; and staffing a recycling coordinator position. Next steps are to obtain community input and schedule updates and/or study sessions for the Council. With Council approval, staff will provide Waste Management with a draft franchise agreement in November, begin negotiations in January 2021, and present the results of negotiations in March or April 2021.

A summary of public comments is as follows: questions about electric garbage trucks, nonpayment of accounts, and Bigbelly trash cans; Waste Management of Alameda County looks forward to working with the City's designee; the service to pickup bulky trash should be publicized and available to tenants of multifamily buildings; perhaps the City can negotiate on-call bulk trash pickup for Public Works; staff may want to compare rates negotiated in cities across Alameda and Contra Costa Counties; a request for a community presentation about the senior rate reduction program.

Mayor Pilch clarified that the City does not pay past-due bills for residential and commercial customers. Unpaid amounts are placed on the tax rolls.

Mr. Hilton advised that Waste Management uses trucks powered by natural gas rather than diesel. The term for the collection agreement will be five or ten years. Staff will talk with Waste Management about expanding the availability of the program to reduce illegal dumping. There is some complexity to expanding the program to tenants in addition to landlords. He will provide the Council with rate and cost comparisons for solid waste companies.



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A summary of Council comments is as follows: a desire to negotiate a special rate for low-income residents; low-income residents who live in multifamily buildings may not have accounts in their names.

MOTION:

Moved by Vice Mayor McQuaid, seconded by Council Member Barnes, to authorize staff to begin discussions with Waste Management of Alameda County regarding negotiation of an extension to the current Collection Services Agreement to include additional services.

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

NOES: None

Motion carried and so ordered.

10. PUBLIC HEARING

10-1. Update on Residential and Commercial Moratorium on Evictions for Nonpayment of Rent and Rent Increases during COVID-19 Pandemic

Staff recommendation: that the Council let the commercial and residential eviction moratorium lapse on September 30, 2020 per the terms of Ordinance No. 2020-12

City Attorney Mala Subramanian presented the staff report. The Governor's last Executive Order that authorizes local urgency ordinances prohibiting evictions expires on September 30. The City's urgency ordinance will also expire on September 30. The Governor has not extended his Executive Order but has signed AB 3088, which enacts the COVID-19 Tenant Relief Act of 2020 (Act) and became effective on August 31, 2020. The Act applies to residential tenancies statewide and charter cities and provides uniformity to the eviction and rent repayment processes for residential tenancies. Between September 1, 2020 and January 31, 2021, residential tenants must pay at least 25 percent of rents due during the period in order to avoid eviction. All rents due and payable as of March 1, 2021 must be paid in full by March 31, 2022. The Act does not prohibit a landlord and tenant from negotiating an alternate payment schedule. The Judicial Council has voted to sunset emergency rules suspending eviction and foreclosure actions effective September 1, 2020. Evictions can begin as early as February 1, 2021. The bill does not apply to commercial tenancies. The City is not allowed to adopt an extension of its residential eviction ordinance. If the Council wishes to extend the commercial tenancy ordinance, it will provide stronger protections for commercial tenants than State law provides for residential tenants.

A summary of public comments is as follows: AB 3088 appears to preempt only the dates contained in the County's eviction moratorium, which expires at the end of December or the end of the local health emergency; a suggestion for the Council to seek clarification of AB 3088; support for extending the commercial eviction moratorium; an analysis of the differences between the City's residential eviction moratorium and AB 3088; businesses that have paid their rent should receive some benefit.

A summary of Council comments is as follows: a vacancy tax could disincentivize commercial evictions; staff is communicating with property owners about their long-term plans for vacant



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properties; support for continuing the commercial eviction moratorium; a request for data regarding the status of local businesses;

The Council reached consensus to extend the moratorium on commercial evictions as currently written.

11. UNFINISHED BUSINESS

11-1. Updated Request by the Social & Economic Justice Commission to add demographic categories to the City Advisory Body Application

Social & Economic Justice Commission recommendation: that the Council:

1. Review the introductory text and categories of race and gender suggested in the resolution (Attachment 1) provided by the SEJC, and
2. Direct staff to create a voluntary self-disclosure of gender and racial characteristics that is either 1) included at the bottom of the application form (as done by Berkeley, Richmond, and San Francisco) or 2) is managed through a link to an offsite Google Form where applicants can fill in their information without it being attached to a specific application but only legible as a data point (which is the default Google Form setting), and
3. Direct staff to present this information to SEJC and to the Council in early 2021, to focus discussions for improved recruitment of people from any under-represented categories

Staff recommendation: that the Council provide direction to staff on the Social & Economic Justice Commission's suggested addition of text and categories of race and gender to the City Advisory Body application and the development of a system to report the information collected

Assistant City Manager Leduc presented the staff report. The SEJC is requesting the Council implement a system to collect demographic data from Advisory Body members and use an extended list of demographic categories.

SEJC Chair Downs reported SEJC's recommendation, the Council approved the publication of Equal Employment Opportunity (EEO) demographic data for City employees. The Council has inquired regarding a requirement to utilize EEO categories for race and gender; the SEJC's recommendation for additional categories; and a method to collect data without increasing staff's workload. The Cities of San Francisco, Berkeley, and Richmond utilize different demographic categories for Advisory Body members. With the input of interested residents, the SEJC developed categories that are more inclusive than the EEO categories and provide options for self-disclosure and non-disclosure. The SEJC proposes two methods for collecting the data. One is to create a link in the online Advisory Body application to a Google form, which defaults to hiding individual identity. A second method is to include a form with the application; however, staff would have to protect confidential data and compile data from the forms.

A summary of public comments is as follows: a suggestion to provide specific categories and allow respondents to check multiple categories and self-identify; support for self-identification.



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A summary of Council comments is as follows: support for collecting data from Advisory Body applicants and members; if the purpose is to collect data only, then the Google form method would be advantageous; Council Members can communicate or meet with applicants, at which time they can observe demographic data; support for anonymously collecting demographic data and not providing the data to Council Members during the appointment process; a preference for self-identification only; someone must interpret and categorize self-identifications in order to report data; support for categories and self-identification; a preference for not collecting demographic data.

The Council directed staff to work with the City Attorney to work on the application to collect data through an anonymous process and to provide check boxes and free form blank lines for each data point.

11-2. Request by the Social and Economic Justice Commission to increase Commission membership

Social & Economic Justice Commission recommendation:

Whereas, the Social and Economic Justice Commission has taken on additional work in response to the Council's charge to devise an equity action plan to address systemic racism in Albany, and

Whereas, the SEJC would benefit not only from additional members but particularly from members with a diverse range of experiences, and

Whereas, the SEJC particularly wishes to ensure that younger voices are represented in its discussions,

We ask Council to authorize an increase to the Social and Economic Justice Commission membership to include 2 at-large members with emphasis on appointing members that represent the diversity of the City and a student-age member.

Assistant City Manager Leduc presented the staff report. The SEJC consists of five members appointed by the City Council. Subcommittees are limited to two members, and SEJC members serve on multiple subcommittees. The SEJC requests an increase in the number of seats so that it can accomplish more work and have greater diversity. The SEJC recommends the membership include a student-age member.

SEJC Chair Downs noted the SEJC's increased workload due to its work on the Equity Action Plan. Greater diversity within the SEJC will benefit its work on the Equity Action Plan.

A summary of public comments is as follows: support for increasing the SEJC membership; encouragement for AUSD to appoint a member of the SEJC.

A summary of Council comments is as follows: a suggestion to allow the new Council to determine the number of members; a preference for AUSD to appoint two members.

MOTION:

Moved by Council Member Maass, seconded by Council Member Nason, to increase the number of SEJC members with two additional Council at-large appointments effective January 2021.



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AYES: Council Members Maass and Nason, Mayor Pilch

NOES: Council Member Barnes, Vice Mayor McQuaid

Motion carried and so ordered.

By acclamation, the Council extended the meeting to 11:15 p.m.

12. NEW BUSINESS

12-1. Recommendations from Working Group to Develop a Community Task Force on Policing

Staff recommendation: that the Council review the draft framework to develop a Community Task Force on Policing framework as recommended by the working group and provide direction to staff on next steps

City Manager Almaguer presented the staff report. The Working Group met several times and discussed the complexities of developing a task force regarding policing. The Working Group's recommendation is more formal than the Council is accustomed to reviewing because this is a new type of group. Council Members should review the recommendation carefully.

Mayor Pilch reported the Working Group had a lengthy discussion of the appropriate body to appoint members to the Task Force.

A summary of public comments is as follows: the consultants should address the Council's concerns; the SEJC Chair and Vice Chair advocated for the appointing body to include at least one member of the SEJC and the consultants; the application does not include the age group 25-65; a suggestion for the consultants to provide a presentation regarding the Task Force; the SEJC's work on policing and the Task Force have different goals, roles, and timeframes.

A summary of Council comments is as follows: concern regarding the number of Task Force members; there should be only one process for discussion of policing issues; a preference not to allow self-selection of members; a preference for a concrete charge and concrete timeline; concern about the application soliciting confidential information; support for the consultants' presence at the next discussion of the Task Force; the Council is responsible for creating the Task Force and directing its work, and the Council should appoint the members; the Task Force's work can be incorporated into the Equity Action Plan.

City Manager Almaguer advised that the City Attorney will review the documents and revise as needed. Having only one group working on policing issues would benefit staff by providing consistency and removing the possibility of contradictory information. Staff will discuss the questions about the application with the City Attorney and return the item to the Council at a future meeting.

12-2. Threatened Litigation under the California Voting Rights Act

Staff recommendation: that the Council receive and file this report



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City Attorney Subramanian presented the staff report. In July, the City received a letter from Mr. Shenkman threatening litigation if the City did not institute by-district elections. She recommended the City move to by-district elections given the cost of defending this type of lawsuit. Staff has worked with Mr. Shenkman to extend the deadline to move to by-district elections. The Council should adopt a resolution of intention by the end of January 2021 and adopt an ordinance instituting by-district elections by the end of September 2021. By-district elections would begin in November 2022.

A summary of public comments is as follows: the Governor has suspended deadlines for responding to threat letters regarding the California Voting Rights Act (CVRA); ranked-choice voting is the right choice and will address representation issues better than by-district elections; a request for the case number and court for the lawsuit.

City Attorney Subramanian clarified that the City agreed to the deadlines because Mr. Shenkman could bring a lawsuit disputing the effectiveness of the Governor's order and the Governor's authority to issue the order.

A summary of Council comments is as follows: ranked choice voting can be used with at-large and by-district elections, but ranked choice voting is rarely used with at-large elections; by-district elections are not a good choice due to the geography and populace of Albany.

13. FUTURE AGENDA ITEMS

Mayor Pilch requested agenda items for letters supporting ballot measures.

Council Member Nason requested a discussion of traffic calming measures for outdoor dining on Solano Avenue.

14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS

14-1. Upcoming City Events – Please check the City website, www.albanyca.org, under City Calendar webpage for up-to-date information

14-2. Upcoming City Meetings

- A. Planning & Zoning Commission Special & Regular Meeting, Wednesday, September 23, 5:00 PM, Virtual Meeting via phone/video conferencing
- B. Transportation Commission Meeting, Thursday, September 24, 7:00 PM, Virtual Meeting via phone/video conferencing
- C. Climate Action Committee Special Meeting, Wednesday, September 30, 5:30 PM, Virtual Meeting via phone/video conferencing
- D. Economic Development Committee Meeting, Thursday, October 1, 5:00 PM, Virtual Meeting via phone/video conferencing



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- E. City Council Meeting, Monday, October 5, 7:30 PM, Virtual Meeting via phone/video conferencing

15. ADJOURNMENT

11:10 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