



## ALBANY CITY COUNCIL – MINUTES

Virtual Meeting

Albany, CA 94706

Monday, November 16, 2020

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**6:00 p.m.**

### **SPECIAL MEETING**

**1. CALL TO ORDER**

**2. CLOSED SESSION**

**2-1.** Executive Session Pursuant to Government Code Section 54957 to Discuss Public Employee Performance Evaluation:

Public Employee: Nicole Almaguer, City Manager

**2-2.** Conference with Labor Negotiators Pursuant to Government Code Section 54957.6.

City Negotiator: Mayor Nick Pilch

Unrepresented Employee: City Manager Nicole Almaguer

**3. ADJOURNMENT OF SPECIAL MEETING**

**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 noted Alameda County has regressed to the purple tier, discouraged gatherings, and announced a County grant program for small business relief, Transgender Awareness Week November 13-19, 2020, and Transgender Remembrance Day on November 20, 2020.

**MOTION:**

Moved by Council Member Nason, seconded by Council Member Barnes, to hear Agenda Item 12-2 prior to all remaining agenda items.

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

NOES: Mayor Pilch

Motion carried and so ordered.

**[NOTE:** Agenda reordered per motion above to place Item 12-2 to be heard before the rest of the agenda items]



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### **12-2. Recommended Actions Regarding a Council Members' Disclosure of Information from a Closed Session**

Mayor Pilch recommendation: that the Council:

1. Authorize the City Attorney to file a complaint with the Grand Jury; and
2. Pass a resolution of censure against Council Member Michael Barnes

Mayor Pilch presented his report and recommendation and noted that a Council policy for censure is not required for the Council to pass a resolution of censure.

A summary of public comments is as follows: Council Members are allowed to seek legal advice; while details of the allegation are sparse, a Council Member should not use their knowledge of confidential information to alter an outcome of the democratic process; details of the allegation and a full Council discussion would benefit the public; a resolution of censure is inappropriate; the Council should not pass the resolution or should continue it indefinitely; a question of whether Mayor Pilch as an individual may file a complaint with the Grand Jury.

Mayor Pilch advised that filing a complaint with the Grand Jury is one remedy provided by the Brown Act. The City Council does not necessarily have to file the complaint. City Attorney Mala Subramanian added that any individual can file a complaint with the Grand Jury.

A summary of Council comments is as follows: seeking an opinion from the California lawyer most knowledgeable about the CVRA is logical; the accusation does not indicate that the release of confidential information was intentional; this item appears to be an opportunity for the Mayor to express his disapproval, in which case he should pursue a complaint; this item feels like retaliation; Council Member Barnes' actions may have been a mistake, but they will cost the City money.

#### **MOTION:**

Moved by Council Member Nason, seconded by Council Member Barnes, to continue this item indefinitely.

Motion withdrawn by the maker.

#### **MOTION:**

Moved by Council Member Nason, seconded by Council Member Barnes, to deny both recommendations.

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

NOES: Mayor Pilch

Motion carried and so ordered.

**[NOTE: The Council returned to Agenda Item 4.]**

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

Mayor Pilch announced the Council took no reportable action.



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### 5. CONSENT CALENDAR

#### 5-1. Minutes

A. October 29, 2020

B. November 2, 2020

Staff recommendation: Approve

#### 5-2. Ratification of Payroll – Date Paid: 11/6/20, Net Amount: 299,587.70, Withholding, Deductions: \$309,504.80, Gross Payroll: \$609,892.50

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: \$72,919.75 (10/30/20); \$62,757.49 (11/6/20)

Staff recommendation: Ratify

#### 5-4. Ratification of Police & Fire Pension Board Disbursement

Ratification of Disbursements of: \$107,571.33 (August, 2020), \$107,571.33 (September, 2020) and \$107,571.33 (October, 2020)

Staff recommendation: Ratify

#### 5-5. Proclamation – United Against Hate Week

Vice Mayor McQuaid recommendation: that the Council adopt the Proclamation to recognize United Against Hate Week November 30 – December 6, 2020

#### 5-6. Updated Salary Schedule for City of Albany Employees

Staff recommendation: that the Council adopt Resolution No. 2020-106 approving an updated salary schedule for City employees.

#### 5-7. Adoption of the Capital Improvement Plan FY2019/20 – FY2023/24 and Appropriation of Funds for Fiscal Years 2019/20, 2020/21, and 2021/22

Staff recommendation: that the Council adopt Resolution No. 2020-108 authorizing the adoption of the Capital Improvement Plan for FY2019/20 – FY2023/24 and appropriating funds for FY2019/20, FY2020/21, and FY2021/22 projects

#### 5-8. CIP No. 25007 Masonic Intersections (Ohlone Trail Safety Improvements): Award of Contract No. C21-14 for Professional Engineering Design Services



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Staff recommendation: that the Council adopt Resolution No. 2020-109 authorizing the City Manager to execute Contract No. C21-14 to Oberkamper & Associates Civil Engineers, Inc. in the not-to-exceed amount of \$74,720 for a one-year contract for professional engineering design services from previously appropriated funds for CIP No. 25007 – Masonic Intersections (Ohlone Trail Safety Improvements)

**5-9.** Resolution No. 2020-110 Authorizing the City Manager to Provide Default Energy Product Preferences to East Bay Community Energy

Staff recommendation: that the Council adopt Resolution No. 2020-110 identifying:

1. A ranking of preferred electricity products for the default product for Albany customer categories; and
2. Selection of Renewable 100 as the electricity product for the City's municipal accounts; and
3. Requesting that a potential electricity option that would include nuclear power be available to Albany customers interested in opting into the product

**5-10.** Disposition and Development Agreement (DDA) & Categorical Exemption Pursuant to the California Environmental Quality Act (CEQA) Guidelines with Satellite Affordable Housing Associates (SAHA) for Real Property Located at 755 Cleveland Avenue

Staff recommendation: that the Council:

1. Adopt Resolution No. 2020-103 finding that the Satellite Affordable Housing Associates 62-Unit affordable housing development located at 755 Cleveland Avenue is exempt from the requirements of the California Environmental Quality Act (CEQA) Under a Class 32 Categorical Exemption; and
2. Adopt Resolution No. 2020-104 authorizing the City Manager to execute the Disposition and Development Agreement (DDA) between Satellite Affordable Housing Associates (SAHA) and the City of Albany for the development of the Albany Family Housing Project located at 755 Cleveland Avenue and approving findings pursuant to Section 33433 of the California Health and Safety Code

**5-11.** Mayors' Measure W Letter

Mayor Pilch recommendation: that the Council note and file the letter as submitted

Mayor Pilch asked if anyone wishes to remove an item from the consent calendar. Vice Mayor McQuaid requested the removal of Items 5-5, 5-7, and 5-9. Council Member Nason removed Items 5-10 and 5-11. A member of the public removed Items 5-6 and 5-8.

Item 5-5: Vice Mayor McQuaid wished to revise the proclamation as suggested in an email from the public, but United Against Hate Week would pass before the Council could approve it at a subsequent meeting. She requested the Council pass the proclamation at the current time, and she would submit a revised proclamation to staff and the Mayor the following day.

Item 5-7: Public Works Director Mark Hurley reported the time horizon for the Solano Avenue Complete Streets Project is more than five years. A study of back-in angle parking can be



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conducted closer to implementation of the project, but the study may benefit the upcoming striping project.

Item 5-9: Sustainability Coordinator Elizabeth Carrade reported East Bay Community Energy (EBCE) is no longer offering an option with nuclear power, but staff retained the option in the resolution in the event it becomes available in the future.

Item 5-10: Council Member Nason commended staff for their work on this project.

Item 5-11: Council Member Nason hoped the discussion of spending Measure W funds would include a realistic approach to ending homelessness.

A summary of public comments is as follows: a note of the City Manager's, Police Chief's, Fire Chief's and Recreation Aide's hourly wages (Item 5-6); an inquiry about the City's actions against hate crimes in addition to the proclamation (Item 5-5); a request to replace street signs for schools (Item 5-7); support for improving pedestrian safety (Item 5-8); the Renewable 100 product will reduce the production of greenhouse gas, and support for option 3 (Item 5-9); a question of whether the Council believes nuclear power is safe and sustainable (Item 5-9); opposition to nuclear power (Item 5-9); support for staff's work on the housing project (Item 5-10).

A summary of Council comments is as follows: staff may want to contact the city of Bridgeport about their experiences with back-in angle parking (Item 5-7); the new Council should review the Capital Improvement Plan (CIP) and apply their policy perspective to it (Item 5-7); the nuclear power option raised an outcry from the public (Item 5-9); a suggestion to send a letter to EBCE supporting a subsidy of the Brilliant 100 product and expressing disappointment with EBCE's handling of the issue (Item 5-9).

### **MOTION:**

Moved by Council Member Maass, seconded by Council Member Nason, 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: appreciation for Margie Marks' work on the laundry program; a suggestion to move Good of the City to earlier in the meeting; November is Native American Heritage Month; vandalism and hate crimes, such as those perpetrated at Gill Tract Farm, have to be stopped; encouragement for the Council to form a committee of community members to develop new methods for distributing City news; a suggestion for the Council to agendaize discussions of the Pledge of Allegiance and the order of agenda items.



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## 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	11/02/2020
Alta Bates Hospital	Pilch & McQuaid	9/21/2020
Cannabis Ordinance	Maass & Pilch	3/2/2020
Community Inclusivity	Pilch & McQuaid	10/21/2019
San Pablo Avenue Corridor Project	Nason & Pilch	9/8/2020
Youth Engagement	McQuaid & Maass	9/21/2020

None

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

### 7-3. City Council Meetings and Events

Vice Mayor McQuaid reported she attended the Mayors' Conference with Mayor Pilch and the City Manager, the Climate Mayors call, conference calls with the business community, United Against Hate meetings, and the National League of Cities Summit.

Mayor Pilch reported he attended a meeting of the Alameda County Transportation Commission (ACTC) Planning, Policy and Legislation Committee (PPLC), which reviewed the Transportation Plan and recommended revisions.

## 8. CITY MANAGER REPORT

City Manager Nicole Almaguer reported the City website has a list of future agenda items and the expected dates of their presentation to the Council. Phase 3 of the sidewalk repair program is



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substantially complete. Public Works will begin cleaning the storm drain system in November. The Albany YMCA will host a free flu shot clinic on November 30, 2020. Recreation and Community Service staff has delivered more than 11,000 meals during the pandemic. Residents should call 510-524-9122 to obtain assistance with meals, groceries, essential items, and shopping trips. Staff will distribute information from Alameda County Public Health regarding the transition to the purple tier. During the week, staff will participate in training on inclusion, equity, and institutional racism.

### 9. PRESENTATION

### 10. PUBLIC HEARING

#### 10-1. Proposed Code Amendment to Albany Municipal Code Section 2-28.1, Claims for Money or Damage – First Reading

Staff recommendation: that the Council introduce for first reading Ordinance No. 2020-14 amending Albany Municipal Code Section 2-28.1, Claims for Money or Damage

City Clerk Anne Hsu presented the staff report. In 2012, the Council adopted a policy authorizing the City Manager to settle or reject liability and workers' compensation insurance claims in amounts up to \$25,000. The proposed ordinance will align the Municipal Code with the current policy and practice.

A summary of public comments is as follows: the Police Department illegally took his recreational vehicle (RV).

#### **MOTION:**

Moved by Vice Mayor McQuaid, seconded by Council Member Maass, to introduce for first reading Ordinance No. 2020-14 amending Albany Municipal Code Section 2-28.1, Claims for Money or Damage.

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

NOES: None

Motion carried and so ordered.

### 11. UNFINISHED BUSINESS

#### 11-1. Resolution Establishing a Community Task Force on Policing

Staff recommendation: that the Council

1. Adopt Resolution No. 2020-107, establishing a Community Task Force on Policing, and
2. Determine preferred language for the introductory letter to accompany the Community Task Force on Policing application materials

City Manager Almaguer presented the staff report. The draft resolution formalizes the establishment of a Community Task Force on Policing composed of 12 members appointed by the City Council. As directed by the Council, a subcommittee composed of two Council Members



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and two Social & Economic Justice Commission (SEJC) members will provide recommendations for the appointment of members to the Task Force. Staff proposes a deadline of January 7, 2021 for the submission of applications. Staff will coordinate the appointment of Council Members and SEJC members to the subcommittee and subcommittee meeting dates.

A summary of public comments is as follows: Police Officers should be tested for drugs monthly; suggestions for the Council to utilize the original introductory letter; hope that the Task Force will redistribute funding from the Police Department to a crisis team of social workers; the introductory letter should note that police officers may participate in Task Force meetings; questions about the number of Task Force members and the anticipated duration of the Task Force.

A summary of Council comments is as follows: the introductory letter and the survey need revisions; a smaller group could move faster to provide recommendations; the Task Force should make the statement contained at the end of the introductory letter; the alternative letter does not capture the motivation for creating a Task Force; support for Council Member Barnes to revise and combine the two letters; in the letter, the number of Task Force members should be 12; support for utilizing the original letter; a suggestion to form a subcommittee of two Council Members or two SEJC members and two community members selected by the Council Members or SEJC members to review applications and recommend 12 applicants for appointment to the Task Force; a desire to determine the parameters for the subcommittee and application process before new Council Members take office; a desire for the introductory letter, whichever one is used, to include the statement "all members of the Task Force and support staff will come to this process ready and able to honestly and objectively discuss, listen, and learn from one another;" the letter should include a goal; public safety is a broader term than police department; a preference to utilize the original letter with clerical errors corrected and with the understanding that the Council and the Task Force may refine it as needed.

### **MOTION:**

Moved by Mayor Pilch, seconded by Council Member Maass, to adopt Resolution No. 2020-107 establishing a Community Task Force on Policing with amendments to correct clerical errors.

AYES: Council Members Maass and Nason, Mayor Pilch

NOES: Vice Mayor McQuaid

ABSTAIN: Council Member Barnes

Motion carried and so ordered.

## **12. NEW BUSINESS**

### **12-1. Proposed Changes on City Council Rules of Procedure and Order**

Mayor Pilch recommendation: that the Council give feedback as to desired changes to the proposal or adopt the proposed changes

Mayor Pilch presented his proposed changes. A predetermined succession to Mayor will provide staff with some certainty and the incoming Mayor with experience. If the Council selects the Mayor by vote, citizens have little power and no votes to select the Mayor. A two-year term for Mayor may allow the Mayor to accomplish more; although, some Council Members may not have an opportunity to serve as Mayor. Multiyear appointments to regional bodies would allow Council





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Members to gain knowledge, experience, and relationships that would make their work more effective.

A summary of public comments is as follows: the Mayor should be elected by the people; support for establishing a rotation for Mayor; all Council Members should have an opportunity to serve as Mayor; support for multiyear appointments to regional bodies.

A summary of Council comments is as follows: the incoming Council should consider these proposals; the incoming Council should have the memorandum for reference; perhaps the Mayor could solicit Council Members' interest in regional bodies prior to making the appointments; Council Members would benefit from having an interest in or connection to any regional body to which they are appointed; support for multiyear appointments to regional bodies; interest in two-year appointments to regional bodies.

By acclamation, the Council extended the meeting to 10:45 p.m.

### **MOTION:**

Moved by Council Member Nason, seconded by Council Member Maass, to direct staff to agendize a discussion of Mayor and Vice Mayor selection for the December 14, 2020 meeting.

AYES: Council Members Maass and Nason, Vice Mayor McQuaid

NOES: Council Member Barnes, Mayor Pilch

Motion carried and so ordered.

### **MOTION:**

Moved by Mayor Pilch to amend the City Council Rules of Procedure and Order as proposed for appointments to regional bodies.

Motion failed for lack of a second.

### **MOTION:**

Moved by Council Member Nason, seconded by Vice Mayor McQuaid, to direct staff to agendize a discussion of appointments to regional bodies for the December 21, 2020 meeting.

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

NOES: None

Motion carried and so ordered.

**[NOTE: Agenda reordered to place Item 12-2 to be heard after agenda item 3]**

## **13. FUTURE AGENDA ITEMS**

Council Member Nason requested a presentation regarding parking at Waterfront Park.

## **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



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### 14-2. Upcoming City Meetings

- A. Library Board Meeting, Tuesday, November 17, 7:30 PM, Virtual Meeting via phone/video conferencing
- B. Climate Action Committee Meeting, Wednesday, November 17, 7:30 PM, Virtual Meeting via phone/video conferencing
- C. City Council Meeting, Monday, December 7, 7:30 PM, Virtual Meeting via phone/video conferencing
- D. City Council Special Meeting, Monday, December 14, 7:30 PM, Virtual Meeting via phone/video conferencing

### 15. ADJOURNMENT

10:48 p.m. There being no further business before the City Council, Mayor Pilch adjourned the meeting in memory of Frank Heaney, Jr., and Carla Hertzog.

Minutes submitted by Anne Hsu, City Clerk.

Nick Pilch  
Mayor

Attest:

Anne Hsu, City Clerk