



ALBANY CITY COUNCIL – MINUTES

Virtual Meeting
Albany, CA 94706
Monday, December 21, 2020

6:00 p.m.

SPECIAL MEETING

1. CALL TO ORDER/ROLL CALL

Present: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary
Absent: None

2. STUDY SESSION

2-1. Encroachment Permit Process for Semi-Permanent Outdoor Dining Structures

Staff recommendation: that the Council adopt Resolution No. 2020-129, authorizing staff review of encroachment permit process for semi-permanent outdoor dining structures on Solano Avenue during the Alameda County Public Health COVID-19 Emergency

Community Development Director Jeff Bond presented the staff report. Various restaurants located on Solano Avenue have been utilizing public parking spaces for outdoor dining after obtaining an encroachment permit, which authorizes the use of City-owned property for an activity or event. Staff generally issues encroachment permits for temporary events; however, staff presents requests for encroachments of a more permanent nature to the City Council for consideration. After the current public health order was issued, staff notified restaurants of their ability to maintain or remove their installations. Accommodating outdoor dining in some form over the next months will be critical to the survival of restaurants. Regulation of outdoor dining installations may take the form of staff working with restaurants to resolve issues, restricting semi-permanent installations, allowing temporary installations, or presenting installations to the City Council on a case-by-case basis. Staff seeks Council direction regarding enforcement of violations. A variety of agencies regulate outdoor dining. Installations impact routine street maintenance and increase the risk of debris entering storm drains. In July 2020, the Council directed staff to introduce traffic-calming measures. Because traffic-calming measures typically involve hardscape treatments, they are not practical for outdoor dining. Staff has ordered specialty signs and will install them when outdoor dining is reinstated.

A summary of public comments is as follows: a suggestion to turn the installations into temporary shelters for the homeless; outdoor seating crowds the sidewalk and obstructs drivers' vision at intersections; definite guidelines for installations could benefit businesses and unify the appearance of Solano Avenue.

A summary of Council comments is as follows: guidelines need to be developed and enforced consistently; support for providing staff with guidance and discretion due to the fluid nature of public health orders; some businesses have complained about parking congestion in recent weeks; the term "semi-permanent" should be replaced with "temporary;" the terms "temporary" and "semi-permanent" may not be necessary if the County procedures provide a timeframe; a suggestion to utilize the County procedures rather than developing new procedures that may conflict with County and State procedures or confuse businesses; referring to the Alameda County Public Health COVID-19 Emergency imposes a timeframe; the term "semi-permanent" refers to



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the relative difficulty of constructing and deconstructing an installation; the Council may wish to direct staff to draft additional language for the resolution.

MOTION:

Moved by Vice Mayor Jordan, seconded by Council Member Nason, to adopt Resolution No. 2020-129, authorizing staff review of the encroachment permit process for semi-permanent outdoor dining structures on Solano Avenue during the Alameda County Public Health COVID-19 Emergency, with the "Now, Therefore," paragraph revised to state "... staff review of applications for new encroachment permits and to modify existing permits to provide outdoor dining structures on Solano Avenue during the Alameda County Public Health COVID-19 Emergency and will approve such permits and permit modifications if the proposed structure meets the requirements of the Alameda County Department of Health Outdoor Restaurant Operating Procedures effective November 18, 2020."

SUBSTITUTE MOTION:

Moved by Council Member Tiedemann to direct staff to incorporate a definition of "semi-permanent" into the resolution and return to the Council.
Substitute Motion failed for lack of a second.

AYES: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary

NOES: None

Motion carried and so ordered.

A summary of additional Council comments is as follows: outdoor dining on a bulbout could be a traffic hazard; guidance for installations obscuring sightlines should apply to all forms of transportation and all intersections; businesses need to be aware of the encroachment permit process; construction of an installation prior to obtaining an encroachment permit should be halted; no desire to impose fines for violations; heaters are not allowed; lights on the installations illuminate the locations for motorists, but the lights should be installed properly; sidewalk seating should not obstruct pedestrian use of sidewalks; the County should enforce capacity limits; the County procedures do not prohibit heaters but suggest types of heaters; the issue is individuals complying with public health restrictions and restaurants complying with County procedures for outdoor dining; fines should be imposed for violations that place people in danger; communicating guidelines and requirements to businesses is critical; staff should make the Council aware of businesses that fail to comply with repeated requests for action; perhaps staff can provide the Council with a status update a week or so after outdoor dining resumes.

The Council directed staff to enforce violations of health and safety requirements for outdoor dining.

3. ADJOURNMENT OF SPECIAL MEETING



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7:30 p.m.

REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Council Member Tiedemann led the Pledge of Allegiance.

2. ROLL CALL

Present: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary
Absent: None

3. CEREMONIAL MATTERS

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

5. CONSENT CALENDAR

5-1. Minutes, December 7, 2020

Staff recommendation: Approve

5-2. Ratification of Payroll – Date Paid: 12/4/20, Net Amount: \$335,582.92, Withholding, Deductions: \$332,286.72, Gross Payroll: \$667,869.64

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: \$314,833.27 (12/4/20), \$156,797.94 (12/11/20), \$84,991.77 (11/26/20)

Staff recommendation: Ratify

5-4. Amendments to the Salary Schedule for Various Hourly Employee Classifications to Comply with State of California Minimum Wage Increase

Staff recommendation: that the Council adopt Resolution No. 2020-125, authorizing amendments to the salary schedule for various hourly employee classifications

5-5. Consultant Services Contract with Barry Miller Associates for the 2023-2031 Housing Element Update

Staff recommendation: that the Council adopt Resolution No. 2020-124, authorizing the City Manager to execute a consultant services contract with Barry Miller Associates for the preparation of the 2023-2031 Housing Element in an amount not to exceed \$80,000

5-6. Authorization to Submit Project Application to the Alameda County Transportation Commission 2022 Comprehensive Investment Plan



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Transportation Commission Recommendation: that the Council adopt a resolution authorizing the City Manager to submit applications for the following projects to the Alameda County Transportation Commission 2022 Comprehensive Investment Plan: San Pablo Pedestrian Improvements; Codornices Creek Phase IV; Solano Complete Streets Short Term Improvements; Pierce Street Park Bikeway and consider the addition of the Kains/Adams Bicycle Boulevard Pilot

Staff recommendation: that the Council adopt Resolution No. 2020-123 authorizing the City Manager to submit the Codornices Creek Phase IV project for funding through the Alameda County Transportation Commission 2022 Comprehensive Investment Plan

- 5-7.** CIP No. 22000 – Annual Sidewalk Rehabilitation Program, Phase 3 – Contract Change Order #2

Staff recommendation: that the Council adopt a Resolution No. 2020-126 authorizing the City Manager to execute Contract Change Order No. 2 to Contract No. C20-64 with Mercoza in the not-to-exceed amount of \$151,200 from previously appropriated funds for the Annual Sidewalk Rehabilitation Program (CIP No. 22000)

- 5-8.** Proclamation – Bill Dennehy

Staff recommendation: that the Council approve the Proclamation to recognize Bill Dennehy's service to the City of Albany

- 5-9.** 2021-2022 Appointments - Advisory Bodies

Climate Action Committee – Laura Merchant (Gary)
Finance Advisory Committee – Judy Kerr (Gary)
Library Board - Linda Wraxall (Gary)
Social & Economic Justice Commission – Karen Zapata (Gary)

Staff Recommendation: Information Only

- 5-10.** Ratification of Planning & Zoning Commission 2021-2022 Advisory Body Appointment

Doug Donaldson (Gary)

Staff recommendation: Ratify

- 5-11.** Public, Educational, and Government Access Television (PEG) Funds Appropriation

Staff recommendation: that the Council adopt Resolution No. 2020-128, approving the appropriation of PEG funds in an amount not to exceed \$60,000 for the purchase of additional KALB media storage, camera replacement in the Council Chambers and associated equipment



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Mayor Gary asked if anyone wishes to remove an item from the consent calendar. Council Member McQuaid removed Item 5-8. Vice Mayor Jordan removed Items 5-5, 5-6, and 5-7. A member of the public removed Item 5-4.

Item 5-4: Human Resources Director Melissa Rojas reported the City has not enacted a minimum wage but on January 1, 2021 will pay employees a minimum wage of \$14 per hour, which is the State minimum wage.

Item 5-5: Planning Manager Anne Hersch reported the San Pablo Avenue Specific Plan will alter building standards and identify housing sites in the San Pablo Corridor. That information will benefit development of the next Housing Element.

Item 5-6: Capital Improvement Program (CIP) Manager Robert Gonzales reported the Alameda County Transportation Commission (ACTC) has not indicated compliance with Caltrans' standards is a criteria for selecting projects.

Item 5-7: Associate Engineer Emile Morales reported the first change order increased the scope of work for repair locations.

Item 5-8: Council Member McQuaid recognized Firefighter Bill Dennehy for 29 years of service to the City of Albany.

A summary of public comments is as follows: requests for the City and State minimum wage and a discussion of increasing the City minimum wage (Item 5-4); wages for City staff should be more than the minimum wage (Item 5-4); the consultants' proposals for the San Pablo Avenue Specific Plan will significantly change the General Plan when State law requires a specific plan to be consistent with a general plan (Item 5-5); the City should consider challenging the Regional Housing Needs Assessment (RHNA) allocation (Item 5-5); a suggestion to install flashing signals at crosswalks on San Pablo and Solano (Item 5-6); the Kains-Adams Bicycle Boulevard pilot project is not a true pilot project, is conceptually incomplete, and has no criteria for success (Item 5-6); more sidewalk repairs and less related work need to be accomplished (Item 5-7); sidewalk repairs lead to a healthier community (Item 5-7); homeowners are responsible for repairing sidewalks, and the City should seek contributions from homeowners for repairs (Item 5-7); acknowledgement of the Fire Department's contributions to public safety (Item 5-8); appreciation for the Fire Department's emergency medical services (Item 5-8).

A summary of Council comments is as follows: the staff recommendation for Item 5-6 pertains to the bike path along Codornices Creek only; sidewalk repairs will reduce the City's liability.

MOTION:

Moved by Vice Mayor Jordan, seconded by Council Member McQuaid, to approve Item 5-7 of the consent calendar.

AYES: Council Members McQuaid and Tiedemann, Vice Mayor Jordan, Mayor Gary

NOES: None

ABSTAIN: Council Member Nason

Motion carried and so ordered.



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MOTION:

Moved by Vice Mayor Jordan, seconded by Council Member McQuaid, to approve Items 5-1 through 5-6 and Items 5-8 through 5-11 of the consent calendar.

AYES: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary

NOES: None

Motion carried and so ordered.

6. GOOD OF THE CITY/PUBLIC COMMENT

Mayor Gary opened the Good of the City.

A summary of public comments is as follows: the community's priorities for use of City resources are changing and should be explored over the next few years; City resources could be used to help the homeless, and free showers were brought to Albany by a community member available for the homeless earlier in the day; Voter Choice Albany is concerned about the prospect of the Council implementing Ranked Choice Voting by district contrary to the electorate supporting Ranked Choice Voting at large; many Asian Americans supported Measure BB because they believe Ranked Choice Voting at large will result in greater racial representation and social equity; the Council should negotiate a settlement of the California Voting Rights Act threat letter in favor of Ranked Choice Voting at large; the community supports Ranked Choice Voting at large; Ranked Choice Voting increases minority representation in government.

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	12/7/2020
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	12/7/2020

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	Nason	
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



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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)		N/A

Council Member McQuaid reported she attended meetings of the East Bay Community Energy (EBCE) Board where the Board approved a policy to provide customers with 100-percent clean energy by 2030; the Alameda County Mosquito Abatement District; the Mayors' Conference; Everyone Home; and the League of California Cities Board.

7-3. City Council Meetings and Events

Mayor Gary reported she attended a food distribution event at UC Village and a meeting of Alameda County faith-based organizations and leaders on COVID-19 where she learned about new testing measures.

A summary of public comments is as follows: choice of language matters, such as seniors and the disabled; the Council should have a subcommittee about the homeless and a request for the City's policy for handling large COVID-19 outbreaks.

8. CITY MANAGER REPORT

City Manager Almaguer reported the Recreation and Community Services Department's winter break camps are available. A Community Emergency Response Team (CERT) community meeting is scheduled for January 6, 2021. Staff continues to deliver meals, groceries, and essential items to vulnerable individuals and has delivered more than 12,000 meals and 700 bags of groceries. Community members needing assistance should call the Recreation and Community Services Department. The paving project on Adams Street began today and will be complete by the end of January or early February 2021. Construction on Washington Avenue has begun and should be complete in April. Field restoration and maintenance work is occurring at Ocean View Park. Repair of curb ramps on Lower Solano Avenue will begin in early January and extend approximately two months. Crack sealing of sidewalks along Solano and San Pablo is complete. The City received a grant from ACTC that will fund a sidewalk shaving project in January. Public Works staff is cleaning the storm drain system in preparation for the rainy season. Sand is available at Ocean View Park, and sandbags are available at the Fire Department.

A summary of public comments is as follows: an inquiry as to whether homeless people may receive food from the City program.

City Manager Almaguer advised that the Albany CARES program serves community members whether housed or unhoused and may be reached at 510-524-9122. The City contracts with Berkeley Food and Housing Project to provide housing and services to community members.

9. PRESENTATION



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10. PUBLIC HEARING

11. UNFINISHED BUSINESS

12. NEW BUSINESS

12-1. Green Building Measures

Climate Action Committee recommendation: On September 16, 2020, the Climate Action Committee unanimously approved a motion to recommend the proposed Green Building measures to Albany City Council

Planning & Zoning Commission recommendation: On December 9, 2020, the Planning & Zoning Commission unanimously approved a Planning & Zoning resolution recommending the City Council adopt the Green Building policies

Staff recommendation: that the Council adopt Resolution No. 2020-127, adopting Green Building measures to exceed the 2019 CALGreen mandatory measures

Community Development Analyst Michelle Plouse presented the staff report. CALGreen, the California Green Building Code, provides a variety of mandatory and voluntary measures and requirements for buildings. Cities may adopt voluntary requirements as mandatory requirements. The California Energy Commission (CEC) sets energy efficiency standards. Cities may adopt stricter standards if the CEC finds them cost effective and approves them. Staff has proposed energy efficiency standards based on CEC cost-effectiveness studies. The Energy Design Rating (EDR) is a system used to determine the efficiency of residential buildings. An EDR score of zero indicates a zero net energy home. An EDR Margin is the difference between the mandatory EDR score and the actual EDR score of a building. The energy efficiency of nonresidential buildings is measured by compliance margin with a net zero energy building having a compliance margin of 100 percent. With the exception of electric vehicle (EV) charging stations, proposed residential measures are low cost and apply to both new construction and alterations/additions. The proposed residential and nonresidential measures align with Climate Action and Adaptation Plan (CAAP) Action 3.2.6 and various CAAP goals. If the Council adopts the measures, staff will seek CEC approval. The measures will become effective upon approval by the CEC.

A summary of public comments is as follows: the City should implement these measures for City-owned buildings; used EVs are affordable and can cost less than used gas-powered vehicles.

A summary of Council comments is as follows: perhaps substantial residential remodel projects as well as new construction can be required to comply with the measures; support for requiring 80 percent of parking spaces for multifamily buildings to be ready for EV charging stations; because these measures will increase the cost of new homes, the Council may want to explore creating a housing fund to assist low-income households with purchasing homes; landlords of multifamily buildings probably will not retrofit parking spaces for EV chargers for a very long time but if they do, the tenants will probably bear the costs; the low cost of readying a space for an EV charger may benefit tenants in several years;



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The Council directed staff to explore a requirement for 80 percent of parking spaces for multifamily buildings to be EV charging station ready and return to the Council with their findings in January 2021.

12-2. Selection of Two Council Members to Serve on Subcommittee to Review Applications Submitted for the Community Task Force on Policing

Staff recommendation: that the Council designate two members of the City Council to serve on a subcommittee to review applications submitted for the Community Task Force on Policing

City Manager Almaguer presented the staff report. The Council recently established a Community Task Force on Policing, and the initial deadline for community members to submit their applications is January 7, 2021. Staff requests the Council identify two Council Members to serve on a selection committee that will review applications and make recommendations to the City Council. Two commissioners from the Social & Economic Justice Commission will be appointed to the selection committee as well.

Mayor Gary nominated herself; Vice Mayor Jordan nominated Council Member Tiedemann; and Council Member McQuaid nominated herself.

A summary of public comments is as follows: support for Mayor Gary and Council Member Tiedemann.

A summary of Council comments is as follows: support for Council Member McQuaid because of her extensive knowledge of the community and its residents.

Voting for Council Member McQuaid:

AYES: Council Members McQuaid and Nason

NOES: Council Member Tiedemann, Vice Mayor Jordan, Mayor Gary

Voting for Council Member Tiedemann:

AYES: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary

NOES: None

Voting for Mayor Gary:

AYES: Council Members McQuaid, Nason, and Tiedemann, Vice Mayor Jordan, Mayor Gary

NOES: None

The Council selected Mayor Gary and Council Member Tiedemann to serve on the subcommittee to review application submitted for the Community Task Force on Policing.

12-3. City Council Appointments to County/Regional Bodies

Staff recommendation: that the Council review and update the appointments to county/regional bodies as necessary



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City Clerk Anne Hsu presented the staff report. This item pertains to appointments of Council Members to County and regional bodies where representation of the City is required. Typically, the Council reviews and updates appointments annually in December. On November 16, 2020, the previous Mayor recommended amending City Council Rules and Procedures and Council Policies to provide guidelines for the appointment process. If the Council wishes to create a policy for the appointment process, staff can prepare a resolution to incorporate policy language into the City Council Rules and Procedures and Council Policies.

A summary of public comments is as follows: a suggestion to appoint a representative and two alternates for each position.

A summary of Council comments is as follows: support for two-year appointments; Council Members who have a special interest in specific topics should be appointed to the bodies representing those topics; many cities appoint their Mayors as representatives, particularly for transportation bodies, because the representative may need to speak for the city without policy guidance; four of the 14 city representatives to ACTC are not Mayors; the Mayor of Albany has no more authority to address topics on which they have not received Council guidance than other Council Members; a two-year appointment to ACTC would benefit the representative because of the complexity of ACTC and its advisory bodies.

The Council expressed general consensus that the appointments for County/Regional Bodies would be for a two-year term.

Vice Mayor Jordan nominated himself for ACTC appointee. Mayor Gary nominated Council Member Nason for ACTC appointee.

Council Member Nason for Appointee to the Alameda County Transportation Commission
AYES: Council Members McQuaid and Nason, Mayor Gary
NOES: Council Member Tiedemann, Vice Mayor Jordan

Council Member McQuaid nominated herself for League of California Cities appointee. Council Member Tiedemann nominated himself for League of California Cities appointee.

Council Member Tiedemann for Appointee to the League of California Cities
AYES: Council Member Tiedemann, Vice Mayor Jordan
NOES: Council Members McQuaid and Nason, Mayor Gary

Body	Appointee	Alternate
Alameda County Transportation Commission	Nason	Jordan
Association of Bay Area Governments	Tiedemann	Gary
League of California Cities (East Bay)	McQuaid	Tiedemann
Waste Management Authority & Energy Council	Jordan	Nason
Alameda County Housing Authority	McQuaid	N/A
East Bay Sports Field Recreation JPA	Nason	Gary
East Bay Community Energy JPA Board	Tiedemann	Jordan
Alameda County Mosquito Abatement District	Jordan	Tiedemann
Task Force on Alta Bates Hospital	McQuaid	Nason



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12-4. City Council Subcommittees Reorganization

Staff recommendation: that the Council review and update the City Council Subcommittees and the composition of these Subcommittees

City Clerk Hsu presented the staff report. The Council typically reviews and updates the composition of City Council subcommittees annually.

A summary of public comments is as follows: appreciation for Council Members' willingness to serve on subcommittees; appointments should be distributed evenly among Council Members; a suggestion to form a subcommittee regarding signage for the cross on Albany Hill.

A summary of Council comments is as follows: a suggestion to dissolve the Community Inclusivity Subcommittee and the Youth Engagement Subcommittee as they are part of the Equity Plan; a suggestion to update the Council Strategic Plan before deciding to dissolve or continue the Cannabis Ordinance Subcommittee.

By acclamation, the Council dissolved the Community Inclusivity and Youth Engagement Subcommittees, transitioned the Alta Bates Hospital Subcommittee to Regional Body with City Council appointed representation of Albany, continued discussion of the Cannabis Ordinance Subcommittee to the update of the Council Strategic Plan, and continued discussion of the Albany Hill Cross Subcommittee until Council Members are familiar with the history of the Albany Hill Cross.

Subcommittee	Members
Albany Waterfront Park (Albany Bulb)	McQuaid, Nason
San Pablo Avenue Corridor Project	Nason, Jordan

13. FUTURE AGENDA ITEMS

Council Member Nason requested a discussion of appointing someone from the Albany business community even though the individual may not be a resident of Albany to the Arts Committee.

Council Member Tiedemann requested a discussion of a residential eviction moratorium.

A summary of public comments is as follows: requests for discussions of a raise for the City Clerk, community showers for the homeless, City services available to disabled individuals who are not seniors.

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



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14-2. Upcoming City Meetings

- A. City Council Meeting, Monday, January 4, Virtual Meeting via phone/video conferencing
- B. Social & Economic Justice Commission Meeting, Tuesday, January 5, 7:30 PM, Virtual Meeting via phone/video conferencing
- C. Economic Development Committee Meeting, Thursday, January 7, 5:00 PM, Virtual Meeting via phone/video conferencing
- D. Arts Committee Meeting, Monday, January 11, 7:00 PM, Virtual Meeting via phone/video conferencing
- E. Planning & Zoning Commission Meeting, Wednesday, January 13, 7:00 PM, Virtual Meeting via phone/video conferencing
- F. Parks, Recreation & Open Space Commission Meeting, Thursday, January 14, 7:00 PM, Virtual Meeting via phone/video conferencing
- G. City Council Meeting, Tuesday, January 19, 7:30 PM, Virtual Meeting via phone/video conferencing

15. ADJOURNMENT

10:21 p.m. There being no further business before the City Council, Mayor Gary adjourned the meeting.

Minutes submitted by Anne Hsu, City Clerk.

A handwritten signature in blue ink, appearing to read "Ge'Nell Gary".

Ge'Nell Gary
Mayor

Attest:

A handwritten signature in blue ink, appearing to read "Anne Hsu".

Anne Hsu, City Clerk