



## ALBANY CITY COUNCIL – MINUTES

Virtual Meeting

Albany, CA 94706

Monday, April 19, 2021

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**6:15 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.** Study Session on University of California Berkeley Draft Long-Range Development Plan and Proposed Graduate Student Housing Project at the Northeast Corner of Jackson Street and Monroe Avenue in University Village

Staff recommendation: that the Council provide direction to staff on the following: (1) position on proposed Long-Range Development Plan (LRDP) as it relates to the City of Albany; (2) position on proposed Albany Village Graduate Student Housing Project; (3) establishment of an ad hoc subcommittee of the City Council for ongoing engagement with City staff and UC staff related to the UC Berkeley decision-making process on the LRDP and Graduate Student Housing Project; and (4) direct the Transportation Commission to review mobility-related aspects of the LRDP and Graduate Student Housing Project

Community Development Director Jeff Bond presented the staff report. The LRDP sets a long-term, broad framework for development of UC Berkeley properties. The 2005 and current LRDP focus on the central campus and nearby properties and do not address properties in Albany specifically. A Draft Environmental Impact Report (DEIR) has been prepared. The LRDP proposes growth in enrollment, number of employees, facilities, and number of student beds. After construction of new student housing, the DEIR anticipates Albany's population growing by 327 students, employees, and their families. Staff's comments in response to the DEIR will include technical corrections and a request for UC Berkeley to apply any environmental mitigation measures for Berkeley to Albany.

UC Berkeley proposes to construct the Graduate Student Housing Project at the corner of Jackson and Monroe through a partnership with a developer that specializes in student housing. The project will provide 400 housing units that accommodate 825 beds and 240 surface parking spaces. Facilities existing on the site will be relocated to properties near Codornices Creek and Village Creek, and additional information about these facilities is needed to ensure the creeks are preserved and protected. Jackson Street, both north and south of Monroe Street, and the new trail behind Sprout's are opportunities to improve mobility for pedestrians, bicyclists, and motorists. The Albany Fire Department is working with UC Berkeley staff to ensure the department has access to the project and the project accommodates fire equipment. The Police Department needs to have an understanding of the project in case of a serious emergent call. Staff will work with the California Department of Housing and Community Development (HCD) to ensure the City receives credit for the housing if eligible in its Housing Element.

A summary of public comments is as follows: a review of legal cases in which UC Berkeley has provided mitigations to cities that have been impacted by its expansion would be worthwhile.



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A summary of Council comment is as follows: the anticipated growth in Albany population is probably low; the Transportation Commission will need to review the impacts on Jackson Street; perhaps staff can explore UC Berkeley's grant program for Berkeley in order to potentially create a grant program for Albany; UC Berkeley may be interested in providing funding for the Fire Department because Fire Department services benefit UC Berkeley; a preference for staff rather than an ad hoc committee to collaborate with UC Berkeley staff; the City's transportation consultant and Transportation Commission should review the housing project; the Dean of the College of Natural Resources would be an ideal person to engage in creek issues; the Council should seriously consider legal tools as UC Berkeley does not appear to be open to collaboration; support for the City's comment letter addressing the LRDP and its failure to adequately describe and mitigate the impacts on Albany; PG&E providing natural gas to the Graduate Student Housing Project conflicts with UC Berkeley's policy not to utilize fossil fuels in buildings constructed after 2019; support for referring transportation aspects of the project to the Transportation Commission;

### **MOTION:**

Moved by Council Member Nason, seconded by Vice Mayor Jordan, to form an ad hoc committee to discuss with the appropriate UC Berkeley authorities any concerns that are not better handled at the staff level.

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

NOES: None

Motion carried and so ordered.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Mayor Gary, to designate the Transportation Commission as the lead advisory body to consider mobility-related aspects of the LRDP and Graduate Student Housing Project.

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

NOES: None

Motion carried and so ordered.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Mayor Gary, to appoint Council Members Tiedemann and Nason to the ad hoc committee.

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

NOES: None

Motion carried and so ordered.

## **3. ADJOURNMENT OF SPECIAL MEETING**

**7:03 p.m.**

### **REGULAR MEETING**

- 1. CALL TO ORDER**
- 2. ROLL CALL**



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

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

### 4. CEREMONIAL MATTERS

4-1. Resolution Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders  
Council Member McQuaid read the resolution.

**MOTION:**

Moved by Council Member McQuaid, seconded by Council Member Tiedemann, to adopt the resolution.

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

NOES: None

Motion carried and so ordered.

### 5. CITY MANAGER REPORT

City Manager Nicole Almaguer reported Earth Day is April 22, 2021 and invited the community to celebrate Earth Week with virtual activities, including Earth Day Bingo. The paving project on Washington Avenue is progressing well, and staff continues to work with the contractors to move the project toward completion. Details of the paving project and other projects are available on the Public Works Construction Alerts webpage. The Lower Solano Avenue curb ramps project is substantially complete and provides the initial work for the next phase of the sidewalk repair program. Community members are reminded to water trees more in warm weather and to apply mulch around trees. Staff has updated the annual announcement of the tax exemption and renter rebate program, and applications are due June 1, 2021. Information and assistance are available by calling 510-559-4589, and Albany CARES will host an informational webinar on May 3<sup>rd</sup>. Since the beginning of the pandemic, staff has delivered almost 18,000 meals and provided many additional services to residents in need. Residents who need City services should call 510-524-9122 or email staff. Updates regarding reopening are posted to the City website.

### 6. GOOD OF THE CITY/PUBLIC COMMENT

Mayor Gary opened the Good of the City.

A summary of public comments is as follows: a request for the City to implement school zones and perhaps speed bumps; encouragement for the Council to begin meetings with a land acknowledgement and a reading by students and to post meeting notices in more ways and locations.

### 7. CONSENT CALENDAR

7-1. Minutes, April 5, 2021

Staff recommendation: Approve



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- 7-2.** Ratification of Payroll – Date Paid 4/9/21, Net Amount: \$303,296.62, Withholding, Deductions: \$328,589.53, Gross Payroll: \$631,886.15

Staff recommendation: Ratify

- 7-3.** Ratification of Bills, Claims and Demands - Ratification of bills, claims and demands against the City of Albany in the amount of \$373,432.19 (4/2/21), \$451,741.21 (4/9/21)

Staff recommendation: Ratify

- 7-4.** 2021-2022 Advisory Bodies Appointment

Community Media Access Committee – Charles Newton (AUSD, Board of Education)

Staff recommendation: Information Only

- 7-5.** CivicSpark Program

Staff recommendation: that the Council adopt Resolution No. 2021-33, authorizing the City Manager to execute a contract with the Local Government Commission for the 2021 CivicSpark Program

- 7-6.** Update on Waste Collection Service Agreement Negotiations

Staff recommendation: for information only

- 7-7.** FY 2021-22 Paratransit Program Plan Application

Staff recommendation: that the Council adopt Resolution No. 2021-34, authorizing the submittal of the FY 2021-22 Paratransit Program Plan Application in the amount of \$63,192.81 to the Alameda County Transportation Commission (ACTC)

- 7-8.** Call for Bids for 2021 Sanitary Sewer Rehabilitation Project – UPRR/USDA CIPP Lining (Contract No. C21-35)

Staff recommendation: that the Council adopt Resolution No. 2021-35 authorizing the City Manager to approve a Call for Bids for the 2021 Sanitary Sewer Rehabilitation Project – UPRR/USDA CIPP Lining, Contract No. C21-35

- 7-9.** Award of Construction Contract C21-22: 2020 Sanitary Sewer Rehabilitation Project – Phase C (CIP No. 32000)

Staff recommendation: that the Council adopt Resolution No. 2021-36 authorizing the City Manager to award and execute Contract C21-22 with Bay Pacific Pipelines, Inc. to construct the 2020 Sanitary Sewer Rehabilitation Project – Phase C, in a not to exceed amount of \$164,228.00 for the total of Base Bid plus Additive Alternate A from capital budget previously appropriated as part of the City's Annual Sanitary Sewer Rehabilitation Program (CIP No. 32000)



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### 7-10. Agreement for Free Laundry Program Funding Support

Staff recommendation: that the Council adopt Resolution No. 2021-38, authorizing the City Manager to enter into an agreement (Contract No. C21-39) with the Diverse Housing Working Group, c/o St. Alban's Church for funding support for the Free Laundry Program administered by the Diverse Housing Working Group

Mayor Gary asked if anyone wishes to remove items from the consent calendar. Vice Mayor Jordan removed Items 7-1, 7-6, 7-7, and 7-10.

Item 7-1: Vice Mayor Jordan requested Item 11-1 include a statement that the volunteers operating the free laundry program reported the connections made at the program resulted in individuals and families who were living in vehicles receiving social services and housing. The last line of the Council summary should state the purpose of the grant is to provide the program with bridge funding while grants are procured or arrangements are made with the City for longer-term funding. Vice Mayor Jordan's report should be corrected to indicate he met with StopWaste and Albany staff to discuss the potential for existing building electrification.

Item 7-6: Sustainability Coordinator Lizzie Carrade reported the agreement provides two extensions with each extension being up to five years. The proposal is to extend the agreement once for a year and a half. The second extension can be up to five years. The contractor has worked for only government entities exploring agreements for waste services. The existing and proposed agreements cover City litter cans. Issues with litter cans can be reported to Waste Management or to Ms. Carrade.

Vice Mayor Jordan noted the staff reports do not mention a fee reduction for low-income households, which conflicts with Resolution No. 2018-105. City Manager Almaguer advised that staff has conveyed to Waste Management of a desire for a reduced rate for low-income households for Waste Management to incorporate it in its calculations for a new franchise agreement. Vice Mayor Jordan indicated Emeryville's agreement with Waste Management contains a reduced rate for low-income households.

Item 7-7: Vice Mayor Jordan requested references to Measure B and BB state 0.5% sales tax rather than a 0.5 cent sales tax.

Item 7-10: Vice Mayor Jordan reported a communication from the Free Laundry Program sponsor indicates the sponsor is unable to properly document spending and cannot comply with auditing requirements.

A summary of public comment is as follows: the motion states funds are to be used to purchase materials and supplies only, but the funding is needed to operate the washers and dryers, which seems to be services rather than materials and supplies; another Albany laundromat accepts credit cards to operate the washers and dryers, which will document expenses, monies for the washers and dryers are tracked for each person; an inquiry as to the party responsible for liability insurance coverage; the Diverse Housing Working Group (DHWG) does not currently have a bank account; DHWG can explore liability insurance coverage with St. Alban's, and St. Alban's is DHWG's fiscal agent and oversees DHWG's actions and expenditures.



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A summary of Council comment is as follows: concern about the party responsible for indemnifying the City having liability insurance coverage; an organization that awards a grant is generally not responsible for liability coverage, but a fiscally sponsoring entity is legally responsible; the indemnification clause could create a dispute about insurance coverage; a preference to delete the indemnification clause from the contract unless staff recommends retaining it; a desire for additional information about participants in the program; DHWG should be responsible for communicating with St. Alban's Church or identifying the appropriate person at St. Alban's for communications with staff; usually the sponsored organization receives funds, and the sponsoring organization is responsible for oversight of the sponsored organization; a conversation between staff and St. Alban's about insurance coverage would be useful; support for postponing the item to receive additional information and to involve St. Alban's in discussions.

City Attorney Mala Subramanian clarified that the agreement does not require insurance coverage. If the Council wishes to include a requirement for insurance coverage, it will be discussed with St. Alban's.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Council Member McQuaid, to approve the consent calendar with the amendments to Item 7-1 and excluding Item 7-10.

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

NOES: None

Motion carried and so ordered.

### **8. PRESENTATION -- None**

### **9. PUBLIC HEARING**

#### **9-1. Proposed Urgency Ordinance – Grocery, Drug Retail and Certain Retail Workers Premium Pay**

Staff recommendation: decide whether to adopt by 4/5ths vote Council adopt Urgency Ordinance No. 2021-06, establishing premium pay for grocery, drug retail and certain retail workers in the City of Albany

City Attorney Mala Subramanian presented the staff report. At the prior meeting, the Council adopted a premium pay ordinance for grocery workers and requested amendments to include drug retail stores and other large retail stores and to clarify the 60-day period, premium pay previously paid to workers, and bargaining units' ability to waive the provisions. The proposed amendment will impact workers at CVS, Target, and BevMo!. Adoption of the urgency ordinance requires a four-fifths vote in support, and the ordinance would take effect immediately.

A summary of public comments is as follows: an inquiry as to whether premium pay applies to all employees, including pharmacists and truck drivers; appreciation for the Council considering premium pay for workers.

A summary of Council comments is as follows: concern about the City being involved in private employers' compensation; no employers have opposed the urgency ordinance; concerns about



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the ordinance applying to BevMo! as it is not a grocery store, the City joining a small group of smaller cities in adopting premium pay, and few cities applying premium pay to the additional workers; there is little justification for providing premium pay to grocery workers but not to other essential workers; tailoring the ordinance to only one employer is not reasonable; support for applying the ordinance to BevMo! employees; a proposal to add only CVS employees as other cities have done; Target has a pharmacy, groceries, and over-the-counter medications and should be included in the ordinance; employers have no legal obligation to object at the current time; all employees of the businesses will be working during the 60-day period; the distinction is no longer essential workers versus nonessential workers but large corporations versus small businesses; concern about the City being sued; businesses have made large amounts of money while their employees have suffered; a lawsuit over 60 days of pay is unimaginable; applying the ordinance to all Target workers because Target has a small grocery store does not make sense.

### **MOTION:**

Moved by Council Member Tiedemann, seconded by Mayor Gary, to adopt Urgency Ordinance No. 2021-06, establishing premium pay for grocery, drug retail, and certain retail workers in the City of Albany.

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

NOES: Vice Mayor Jordan

Motion carried and so ordered.

### **9-2.** Ordinance No. 2021-08 Amending Albany Municipal Code Section 14-1.7 "Property Owner Responsibility for Sidewalk Repair" – First Reading

Staff recommendation: that the Council introduce Ordinance No. 2021-08 for first reading, amending Albany Municipal Code Section 14.1.7 "Property Owner Responsibility for Sidewalk Repair"

Community Development Director Bond presented the staff report. Staff proposes an ordinance to amend Municipal Code Section 14.1.7 in response to the Council's direction on March 15, 2021. In 2016, the Council adopted a sidewalk repair policy, and subsequently voters approved funding for a program that included a reference to developing a point of sale program. To date, a point of sale program has not been implemented.

A summary of public comments is as follows: a request for an explanation of a property owner's responsibility for the sidewalk; apparently, the Council is aware of problems with implementing a point of sale program, and presumably this knowledge is the result of backchannel communications between staff and the Council; the public deserves a full explanation of why the current ordinance is not working and why it should be repealed; the City should be 100% responsible for sidewalks.

Community Development Bond explained that the City controls the right-of-way in front of someone's property, but the property owner is legally liable for and can be required to maintain the sidewalk. Statewide, property owners do not repair sidewalks, which results in hazardous sidewalks and imposes risk on the property owner and City if the sidewalk causes an injury. He has not had any backchannel communications with any Council Member on this matter. Implementation of a point of sale program is more complex than he expected and places the



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burden of sidewalk repair on a new homeowner. The proposed ordinance will place much of the financial responsibility for sidewalk repair on the City.

A summary of Council comments is as follows: there have been no backchannel communications among Council Members and staff; the intent of the sidewalk repair policy was to maximize funding so that sidewalk repairs could be made as quickly as possible; the unfairness of homeowners not repairing their sidewalks and pushing the burden onto the City and the next homeowners will be ameliorated somewhat by homeowners having to pay the City a great deal of money upon sale of their property; sidewalks are located on City property, which is adjacent to the homeowners' property.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Council Member McQuaid, to introduce for first reading Ordinance No. 2021-08, amending Albany Municipal Code Section 14.1.7 "Property Owner Responsibility for Sidewalk Repair."

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

NOES: None

Motion carried and so ordered.

Mayor Gary requested staff provide an explanation of homeowners' responsibilities for sidewalk repair on the City website.

### **9-3. Ordinance No. 2021-07 to Authorize Management of PCB-Containing Materials and Wastes During Building Demolition – First Reading**

Staff recommendation: that Council introduce Ordinance No. 2021-07 for first reading to authorize management of PCB-containing materials and wastes during building demolition

Community Development Director Bond presented the staff report. PCBs (Polychlorinated biphenyls) are a human carcinogen and were widely used from the 1950s to the 1970s. Materials containing PCBs remain in buildings in Albany and the Bay Area. The thought is that rainwater carries PCBs from construction sites into storm drains and into the Bay. The Regional Water Quality Control Board regulates this type of issue and now requires cities' demolition permits to address the possibility of PCBs in construction materials and the appropriate handling of such materials. The proposed ordinance is based on the Bay Area Stormwater Management Agency's framework for regulations. The ordinance exempts single-family homes, which is the primary type of project in Albany. Larger buildings constructed in the 1950s through the 1970s and proposed for demolition will be subject to the screening protocols.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Council Member McQuaid, to introduce for first reading Ordinance No. 2021-07, authorizing management of PCB-containing materials and wastes during building demolition.

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

NOES: None

Motion carried and so ordered.

## **10. UNFINISHED BUSINESS**





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## 10-1. City Council Reorganization Policy and Policy for Appointments to Regional Bodies

Staff recommendation: that the Council review the policies regarding City Council reorganization and the appointments to regional bodies and provide direction to staff on any updates to the existing policies for incorporation into the City Council Procedures and Policies

City Manager Almaguer presented the staff report. The Council previously requested additional discussion of City Council reorganization and appointments to regional bodies. If the Council approves the proposed amendment, staff will update the City Council Procedures and Policies document and present it to the Council for ratification.

A summary of public comments is as follows: each Council Member should have an opportunity to serve as Mayor and Vice Mayor; no Council Member should serve as Mayor more than once; the newest Council Members should serve as Mayor and Vice Mayor before other Council Members; Council Members should be limited to one term to provide new viewpoints and voices; support for gender-neutral pronouns; without a designated procedure, election of Mayor and Vice Mayor may be a popularity or political contest.

A summary of Council comments is as follows: a proposal for the Council reorganization to occur during the second meeting in December each year; providing the Council flexibility to choose Mayor and Vice Mayor makes more sense than implementing a procedure; a suggestion to use gender-neutral pronouns of they, them, theirs.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Council Member Tiedemann, to amend the City Council Procedures and Policies by replacing the existing processes for selection of Mayor and Vice Mayor and appointment to regional bodies with the processes proposed by former Mayor Pilch; by designating the second meeting in December as the time for Council reorganization; and by utilizing the pronouns they, them, and theirs exclusively.

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

NOES: None

Motion carried and so ordered.

## 11. NEW BUSINESS

## 12. COUNCIL SUBCOMMITTEE REPORTS, COUNCIL MEMBER REPORTS ON APPOINTED REPRESENTATION OF ALBANY AND OTHER MEETINGS AND EVENTS

### 12-1. City Council Appointed Representation of Albany:

<b>Bodies</b>	<b>Appointee</b>	<b>Alternate</b>
Alameda County Mayors' Conference	Gary	Jordan
Alameda County Transportation Commission	Nason	Jordan
Alameda County Waste Management Authority	Jordan	Nason
Association of Bay Area Government	Tiedemann	Gary
East Bay Community Energy JPA Board	Tiedemann	Jordan



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East Bay Sports Field Recreational Authority JPA	Nason	Gary
Housing Authority of Alameda County	McQuaid	N/A
League of California Cities (East Bay)	McQuaid	Tiedemann
Alameda County Mosquito Abatement District	Jordan	Tiedemann
Alta Bates Hospital Task Force	McQuaid	Nason
Alameda County Library Advisory Commission	Gary	(vacant)
City/AUSD/UC - 2X2X2	Gary	Jordan
Police & Fire Pension Fund Board	Gary	McQuaid
Alameda County Paratransit Advisory & Planning Committee (PAPCO)	(vacant)	N/A

Council Member Nason reported she attended the Alameda County Transportation Commission (ACTC) planning, policy, and legislation committee meeting, the COVID-19 conference call, and virtual meetings with the White House. Federal funding will be available for infrastructure. A groundbreaking ceremony for the Gilman interchange project is planned for May 2021.

Council Member Tiedemann reported he attended an East Bay Community Energy (EBCE) study session to update new board members and attended the Village Residents' Association meeting regarding rent concerns.

Council Member McQuaid reported she attended webinars regarding the American Rescue Plan and the Jobs Act and League of California Cities policy committee meetings including Community Services and Public Safety.

Vice Mayor Jordan reported he attended the Alameda County Mosquito Abatement District Finance Subcommittee meeting where committee members reviewed the next year budget which remains strong financially and an increase in charges is not necessary. He also attended the 2x2x2 meeting.

Mayor Gary reported she attended the 2x2x2 meeting, the Alameda County Library Advisory Commission meeting, and the Mayors' Conference. The Library Advisory Commission received an update regarding reopening facilities and the new library. She learned about the Northern California College Promise Coalition at the Mayors' Conference and will explore the City participating in it.

### 13. FUTURE AGENDA ITEMS

Council Member Tiedemann requested items regarding Village rent increases and COVID-19 rent and item on Golden Gate Fields.

Council Member Nason requested an item regarding FAA's (Federal Aviation Administration) proposed changes in aircraft routes which may be very impactful to Albany.

Vice Mayor Jordan requested an item regarding the Metropolitan Transportation Commission's software for managing pavement conditions.

### 14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS



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

**14-2.** Upcoming City Meetings

- A. Subcommittee to Review Applications for Community Task Force on Policing Meeting, Tuesday, April 20, 7:30 PM, Virtual Meeting via phone/video conferencing
- B. Climate Action Committee Meeting, Wednesday, April 21, 7:00 PM, Virtual Meeting via phone/video conferencing
- C. Transportation Commission Meeting, Monday, April 22, 6:00 PM, Virtual Meeting via phone/video conferencing
- D. Community Media Access Committee Meeting, Monday, April 12, 7:00 PM, Virtual Meeting via phone/video conferencing
- E. Planning & Zoning Commission Meeting, Wednesday, April 28, 7:00 PM, Virtual Meeting via phone/video conferencing
- F. City Council Meeting, Monday, May 3, 7:00 PM, Virtual Meeting via phone/video conferencing

## **15. ADJOURNMENT**

The Council observed a moment of silence in memory of Edward Phillips III and Eleanor Westbrooke, who passed away in March.

9:04 p.m. There being no further business before the City Council, Mayor Gary adjourned the meeting.

Minutes submitted by Anne Hsu, City Clerk.

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Ge'Nell Gary, Mayor

Attest:

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Anne Hsu, City Clerk