



## ALBANY CITY COUNCIL – MINUTES

Virtual Meeting

Albany, CA 94706

Monday, October 4, 2021

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### **SPECIAL MEETING – CLOSED SESSION 6:00 PM**

#### **1. CALL TO ORDER/ROLL CALL**

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

Absent: None

#### **2. CLOSED SESSION**

2-1. Conference with Legal Counsel – Anticipated Litigation  
Government Code Section 54956.9(d)(2) (2 cases)

#### **3. ADJOURNMENT OF SPECIAL MEETING – CLOSED SESSION**

### **REGULAR MEETING: 7:00 PM**

#### **1. CALL TO ORDER**

#### **2. ROLL CALL**

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

Absent: None

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

City Attorney Mala Subramanian reported no reportable action from the closed session.

#### **4. CEREMONIAL MATTERS**

4-1. Proclamation – National Fire Prevention Week

Mayor Gary presented the proclamation to Interim Fire Chief Jim Boito.

Vice Mayor Jordan noted that the Fire Department led the area with initiatives regarding early warning of earthquakes, smoke detectors, and fire sprinklers.

#### **5. CITY MANAGER REPORT**

City Manager Nicole Almaguer reported applications for rent relief are being accepted, and information is available at [housingiskey.com](http://housingiskey.com). Fire Department personnel have been deployed to the KNP Complex Fire. October is Crime Prevention Month, and the latest e-news includes security tips. A sewer rehabilitation project is underway at Ocean View Park and the USDA facility and involves night work. The Great California Shakeout is scheduled for October 21, 2021, and information can be found at [shakeout.org](http://shakeout.org). A ceremony to raise the flag of the Confederated Villages of Lisjan at City Hall is scheduled for October 11, 2021. Thanks to the community, Chamber of Commerce, Solano Avenue Association, and local businesses for supporting Albany Local Week.



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

Mayor Gary opened the Good of the City.

A summary of public comment is as follows: thanks to Community Development Director Bond for obtaining a grant to complete the Codornices Creek Trail, but a maintenance agreement is needed; a report of issues caused by homeless people living along Codornices Creek; concern that the Council removed term limits from the Charter Review Committee Work Plan; homeless issues are not about Codornices Creek but the people; Council Member McQuaid failed to notice residents' priority for a public safety commission in the prior meeting and addressed a member of the public in an unbecoming manner; Alameda County is seeking public participation and input regarding redistricting.

### 7. CONSENT CALENDAR

#### 7-1. Minutes – September 14, 2021 & September 20, 2021

Staff recommendation: Approve

#### 7-2. Ratification of Payroll – Date Paid 9/24/2021 Net Amount \$368,575.71, Taxes/Benefits/Deductions \$375,778.98, Total Payroll \$744,354.69

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 \$60,027.82 (9/17/2021), \$131,906.92 (9/24/2021), \$271,508.90 (9/24/2021)

Staff recommendation: Ratify

#### 7-4. Authorization to Accept & Appropriate Alameda County Transportation Commission (ACTC) 2022 Comprehensive Investment Plan Grant Funding for Phase IV of the Codornices Creek Restoration Project (CIP No. 43001)

Staff recommendation: that the Council adopt Resolution No. 202197:

1. Accepting grant funding in the amount of \$826,000 programmed by ACTC for Phase IV of the Codornices Creek Restoration Project (CIP No. 43001) through the Alameda County Transportation Commission 2022 Comprehensive Investment Plan; and
2. Authorizing the City Manager to execute the grant agreement with ACTC; and
3. Appropriating the grant funding towards the project, which will be provided to the City on a reimbursement basis for work performed

#### 7-5. Call for Bids for the Washington Avenue Pavement Rehabilitation Phase II Project (Contract No. C21-49)



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Staff recommendation: that the Council adopt Resolution No. 2021–98: authorizing the City Manager to approve a Call for Bids for construction of Phase II of the Washington Avenue Pavement Rehabilitation Project (Contract No. C21–49)

### 7-6. Call for Artists for Albany Creative Justice Art Project

Staff recommendation: that the Council authorize the release of a Call for Artists for a Creative Justice Art Project and adopt Resolution No. 2021-99, increasing the allocation of art in Public Places funds for the Creative Justice Art Project in an amount not-to-exceed \$30,000

### 7-7. Resolution in support of Afghan Refugees and the People of Afghanistan

Council Member McQuaid recommendation: that the Council adopt Resolution No. 2021-96 in support of Afghan refugees and the people of Afghanistan and their families

Mayor Gary asked if anyone wishes to remove items from the consent calendar. A member of the public removed Item 7-6.

Item 7-6: Aaron Gach, Arts Committee Chair, reported the selection committee will be composed of individuals with a diverse range of interests. The requirement for professional achievement is intended to ensure the artist has the skills and expertise to fulfill the project.

A summary of public comment is as follows: an artist's professional achievement should not be a requirement.

#### **MOTION:**

Moved by Council Member McQuaid, seconded by Council Member Tiedemann, to approve the consent calendar.

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

NOES: None

Motion carried and so ordered.

## 8. PRESENTATION

### 8-1. Review of Advisory Body Work Plan

Staff recommendation: that the Council:

1. Receive presentation regarding the work plan developed by the Community Media Access Committee
2. Provide any comments or direction regarding the proposed work plan
3. Approve work plan for implementation by the Advisory Body



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City Clerk Anne Hsu presented the staff report. Staff recommends the Council review the work plan, provide direction and comments, and approve it.

Julie Winkelstein, Community Media Access Committee (CMAC) Chair, reported the theme for the fiscal year 2021-2023 work plan is communications between the City and community members and between the City and AUSD. She reviewed proposed recurring and one-time action items.

A summary of public comment is as follows: internet-based communications may not be effective; support for communications via a digital billboard, including the planned charging station display; encouragement to use a multi-faceted approach for outreach.

A summary of Council comment is as follows: State funding may be available for digital access; the community survey will be a good way to learn about the community's preferred means of communications; knowing the number of people who do not have access to internet service would be useful; the 2021-2023 work plan does not indicate 2019-2021 items worked on; concern about the number of items in the 2021-2023 work plan; no interest in funding a permanent, full-time public information officer; CMAC needs to be cognizant of placing additional work on staff.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Mayor Gary, to approve the Community Media Access Committee Work Plan as amended to remove the proposed item to explore a public information officer and shift the communications survey from a recurring item to a one-time item.

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

NOES: None

Motion carried and so ordered.

## **9. PUBLIC HEARING**

## **10. UNFINISHED BUSINESS**

### **10-1. Community Task Force on Policing Request for Creation of a Public Safety Accountability Commission**

Community Task Force on Policing recommendation: that the Council approve the creation of the Albany Public Safety Accountability Commission and to fund a consultant with expertise in police complaints to work with the Commission, effective January 1, 2022 or April 1, 2022 if the Task Force is extended

Staff recommendation: that the Council review the request as submitted by the Community Task Force on Policing and provide direction on next steps



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City Manager Almaguer presented the staff report. Staff has provided a redline version of the resolution as reviewed by the City Attorney's Office and Council Member Tiedemann's proposed resolution.

Council Member Tiedemann explained that he did not intend to substantially change the effectiveness and powers of the oversight commission, but intended to make the commission effective given the limitations imposed by law. The resolution also directs staff to begin labor negotiations and possibly return with revisions based on new laws.

City Attorney Subramanian remarked that Council Member Tiedemann addressed her concerns regarding privacy and obligations to meet and confer in the proposed resolution. Council Member Tiedemann's resolution creates the commission but puts in abeyance the duty to meet and confer with the Albany Peace Officer's Association (APOA). If the Council approves the resolution, next steps would include the APOA and City negotiating items subject to the meet and confer process. The commission could proceed with Issues that are not subject to the meet and confer process or that the City and APOA mutually agree on. Issues subject to the meet and confer process would be held in abeyance. She recommended incorporating "as allowed by law" into the provision regarding conveying questions from the public to the Police Department's representative and the representative answering at a subsequent meeting.

Brian Johns, Community Task Force on Policing (CTFP) member, advised that the CTFP proposed a commission in an effort to create a community where everyone feels safe and heard and is proud of the relationship between the community and the Police Department. He asked the Council to trust CTFP members and community members and allow them a very important voice with respect to the proposed commission.

Greg Downs, CTFP member, advised that the CTFP has met with the Police Chief and the APOA and reformulated the proposal. Council Member Tiedemann's proposed resolution accomplishes a good deal of the provisions that the CTFP seeks. The commission should be included in selection of a consultant and preparation of a work plan.

Justin Lock, CTFP member, believed the CTFP's original proposal and the redlined version of the resolution captures the CTFP's goal to increase trust and transparency in the Police Department. The National Association for Civilian Oversight of Law Enforcement has identified best practices that are included in the CTFP's proposal and Council Member Tiedemann's proposed resolution.

A summary of public comment is as follows: support for the resolution; encouragement for the Council to support the commission; the proposal is reasonable and rooted in a desire for everyone in Albany to feel equally respected by the Police Department; a thoughtful approach to reviewing the conduct of the Police Department; adoption of the resolution shows Council's commitment to focus on inclusivity and equity; urging for the Council to consider adding stronger measures in 2024; support for creation of a commission; the commission will be an Advisory Body and will increase transparency of



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the Police Department; the Council should adopt the resolution and work out the details later.

A summary of Council comment is as follows: the intent of Council Member Tiedemann's proposed resolution is to form an independent police oversight committee that has substantive agency over the selection and work plan of a consultant and substantial review powers as allowed by law; the Council's goal is to have the commission start as soon as possible; hopefully, the commission will move the City away from the possibility of an incident similar to the George Floyd incident; the CTFP concluded that the effectiveness of different models is limited by the wide range of practices and the difficulty of defining a standard for success; if the resolution is adopted, Albany will be the smallest city in California to have such a commission; trust between the Police Department and the community is crucial; compromise and collaboration are needed for the commission to be effective; the Council may want to ensure it has all of the information it needs as it moves forward; what the Council is passing and what will result from the meet and confer process need to be clarified; a proposal for one member from AUSD and one member of the business community rather than two members from AUSD; commissioners and their immediate family should not have law enforcement experience; the Council is responsible for oversight of the Police Department; the question and answer provision seems to be a barrier to dialog; maybe language allowing a dialog could be crafted in the meet and confer process; investigation of complaints may be the primary expense of a commission; there has been no evidence that the Albany Police Department is doing less than a stellar job; negative comments are not helpful to achieving a commission; progress is made by recognizing people's different experiences; forming a commission is a way to serve the people of the community.

### **MOTION:**

Moved by Council Member Tiedemann, seconded by Mayor Gary, to 1) adopt Resolution 2021-100 with amendments to change Police Officer's Association to Peace Officer's Association, add "structure" in line 9, add "as allowed by law" in line 15, and correct minor typographical errors and 2) direct staff to begin meet and confer processes with the Peace Officer's Association and to return with amendments necessitated by changes in State law.

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

NOES: Council Member McQuaid

Motion carried and so ordered.

### **10-2. New Street Trees Paid for with Measure DD Revenue**

Vice Mayor Jordan recommendation: that the Council direct staff to prepare a resolution to:

1. Remove the charge for new street trees and concrete removal for planting them from the Master Fee Schedule in order to make them free to requestors
2. Provide a watering bag with each new street tree as appropriate to the species
3. Pay for these with Measure DD revenue



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Vice Mayor Jordan presented his memorandum. Currently, the Master Fee Schedule lists fees for a property owner to request the planting of a street tree. Temperatures are rapidly increasing. The Climate Action and Adaptation Plan (CAAP) proposes increasing tree coverage to lower temperatures. Measure DD revenue could be used to pay the City's cost for planting a street tree at a property owner's request. Research finds that the presence of street trees leads to more people choosing to walk and ride a bike, which is consistent with the CAAP goal to reduce vehicle miles traveled by internal combustion vehicles. Eliminating the cost to property owners could change the disparity of trees between the eastern and western parts of the City.

A summary of public comment is as follows: support for the proposal; the Climate Action Committee is working on an expenditure plan for Measure DD revenue; the Council needs to remember that a considerable number of trees may be lost on Albany Hill.

A summary of Council comment is as follows: the City needs a comprehensive plan for expending Measure DD revenues.

### **MOTION:**

Moved by Council Member Nason, seconded by Mayor Gary, to direct staff to prepare a resolution to 1) remove the charge for new street trees and concrete removal for planting them from the Master Fee Schedule in order to make them free to requestors, 2) provide a watering bag with each new street tree as appropriate to the species, and 3) pay for these with Measure DD revenue.

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

NOES: None

Motion carried and so ordered.

### **10-3. Racial Equity and Community Satisfaction Survey Follow-Up**

Staff recommendation: that the Council receive information regarding the opportunity to conduct a racial equity and community satisfaction survey and provide direction on next steps

City Manager Almaguer presented the staff report. The item is a follow-up to the Council's September 7, 2021 discussion regarding the potential for a survey and the potential scope of a survey to inform Council decision-making. The City's previous polling consultant, Godbe, has indicated this is an area of growing interest, and many cities are conducting this type of survey. The blend of racial equity questions is a newer concern. Staff from the City of Union City has shared the process and results of the poll they conducted and their satisfaction with both. A professional survey firm could provide results that are scientific in nature. Based on her conversation with one consulting firm, the range of costs depends on the length of the survey and is \$27,000 to \$35,000. This amount is not budgeted but could be allocated to professional services. Staff recommends the use of Godbe Research because of its knowledge and past work with the City. If the Council



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prefers, staff could prepare a Request for Proposals (RFP), but it would require more time.

A summary of public comment is as follows: a suggestion to include the Social & Economic Justice Commission (SEJC) in the process to allow public input and oversight; an internet search revealed negative reviews and Godbe Research's lack of diversity; concern about the City's search for and use of minority contractors; support for including the SEJC; a preference for the City to obtain multiple bids.

A summary of Council comment is as follows: a suggestion to conduct a survey periodically; because online information about Godbe Research is extremely limited, a recommendation to research other firms that can provide a robust survey and plan; the Council probably intends for the consultant to work with the SEJC; an assumption that the SEJC and Council would review polling questions; a suggestion for ad hoc committees of the Council and SEJC to review polling questions.

### **MOTION:**

Moved by Mayor Gary, seconded by Vice Mayor Jordan, to direct staff to prepare an RFP for a polling consultant.

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

NOES: None

Motion carried and so ordered.

### **10-4. Public Comment on Reports**

Vice Mayor Jordan recommendation: that the Council adopt the proposed amendments in its Procedures & Policies to provide each attendee one minute to comment on each report.

Vice Mayor Jordan presented his memorandum. Members of the public may have questions about the City Manager's and Council Members' reports. There is not a legal requirement for the Council to allow public comment on reports. Allowing public comment increases transparency and serves the community.

A summary of public comment is as follows: the Council should help the public understand topics; the City Manager has responded to questions after a Council meeting; the City Attorney, City Manager, and Mayor have indicated during meetings that a response is inappropriate at that time; answering the public's questions increases transparency and shows that the Council values and welcomes the public.

A summary of Council comment is as follows: concern that people will miss important discussions that occur as part of a City Manager or Council Member report; a Council meeting is not the right place for basic questions about City functions; Good of the City is the appropriate agenda item for questions; confidence in the Mayor's and City Manager's abilities to handle complicated questions with reasonable nuance; questions from the



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public should be agendized so that everyone knows the topic is coming up and has an opportunity to participate and understand the topic; a preference for the public to address questions to Council Members who should refer them to the City Manager or request an agenda item.

### **MOTION:**

Moved by Vice Mayor Jordan, seconded by Council Member Tiedemann, to adopt the proposed amendments to the City Council Procedures & Policies to provide each attendee one minute to comment on reports and for that period to be indicated on the agenda as a time for attendees to ask questions regarding reports.

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

NOES: Council Member Nason

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**

<b>City Council Appointed Representation 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	Jordan
Association of Bay Area Government	Tiedemann	Gary
East Bay Community Energy JPA Board	Tiedemann	Jordan
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

Vice Mayor Jordan reported he attended a meeting of the StopWaste Energy Council, during which it approved a contract for the Energy Council to administer a \$300,000 contract with Sonoma Clean Power as part of an electrification package for existing multifamily residential buildings. Of the \$300,000, \$270,000 will be subsidies. During a StopWaste subcommittee meeting, the Pleasanton representative reported the Pleasanton Council has determined that SB 1383 is an unfunded State mandate. The purpose of the requirement is to reduce methane generation emissions, but the State is not allowed to impose unfunded mandates on local jurisdictions. He indicated he will look



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into the issue further during a meeting with the StopWaste Executive Director. University of California Berkeley staff is looking at a shared-use path along the Jackson frontage of the graduate student housing project. During the Board of Education meeting, AUSD shared information regarding student access to Ocean View Elementary, which is going well. Board Member Doss also related various ideas to improve transportation environments.

Council Member Nason reported she attended meetings of the Alameda County Transportation Commission (ACTC) and its planning, policy, and legislation committee, the park advisory committee of East Bay Regional Park District. A lot of money is flowing to wildfire mitigation, and vast amounts of funds will flow to transportation projects. Staff needs to monitor opportunities for the City to access these funds and ensure projects are shovel-ready.

Council Member McQuaid reported she attended the Cal Cities annual conference, the Everyone Home community meeting, and a United Against Hate planning meeting. In addition, she received a COVID-19 booster vaccination and encouraged the public to obtain vaccinations or booster vaccinations.

Council Member Tiedemann reported he attended the East Bay Community Energy (EBCE) board meeting, where board members discussed San Leandro's conversion to the Renewable 100 product. He will vote in the upcoming election for president of the Association of Bay Area Governments (ABAG).

Mayor Gary reported she attended the Alameda County Library Advisory Commission (Commission) retreat. The Commission is implementing new ideas and drafting Vision and Mission Statements. In addition, she attended the 2x2x2 meeting with Vice Mayor Jordan and the AUSD Board of Education meeting where she learned about students' basic needs and a channel for students to enter UC Berkeley. Council Member Tiedemann and she spoke with the UC Village residents' association regarding the City advocating for residents and UC Berkeley's proposed housing project. She attended a presentation of the Gill Tract Community Farm STEAM advisory committee.

### **13. FUTURE AGENDA ITEMS**

None

### **14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS**

Upcoming City Events – please check on City website [www.albanyca.org](http://www.albanyca.org) under City Calendar web page for up-to-date information

Upcoming City Meetings

1. Social & Economic Justice Commission Meeting, Tuesday, October 5, 7:00 PM, Virtual Meeting via phone/video conferencing



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2. Economic Development Committee Meeting, Thursday, October 7, 5:00 PM, Virtual Meeting via phone/video conferencing
  3. Arts Committee Meeting, Monday, October 11, 7:00 PM, Virtual Meeting via phone/video conferencing
  4. Planning & Zoning Commission Meeting, Wednesday, October 13, 7:00 PM, Virtual Meeting via phone/video conferencing
  5. Parks, Recreation & Open Space Commission Meeting, Thursday, October 14, 7:00 PM, Virtual Meeting via phone/video conferencing
  6. City Council Meeting, Monday, October 18, 7:00 PM, Virtual Meeting via phone/video conferencing

### 15. ADJOURNMENT

10:08 p.m. There being no further business before the City Council, Mayor Gary adjourned the meeting in memory of retired Building Inspector David Henderson, who recently passed.

Minutes submitted by Anne Hsu, City Clerk.

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Ge'Nell Gary  
Mayor

Attest:

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Anne Hsu, City Clerk