



ALBANY CITY COUNCIL – MINUTES

Virtual Meeting
Albany, CA 94706
Monday, April 04, 2022

Date approved: April 18, 2022

REGULAR MEETING: 7:00 PM

1. CALL TO ORDER

Council Member Gary read the Albany Land Acknowledgement Statement as adopted by the City Council per City of Albany Minute Action, November 15, 2021.

2. ROLL CALL

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

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

1. CEREMONIAL MATTERS

4-1. Proclamation – Education and Sharing Day

Mayor Jordan presented the proclamation to Rabbi Yanky Bell, Chabad of El Cerrito who expressed appreciation for the proclamation.

4-2. Recognition of Albany High School (AHS) Athlete Achievements

Council Member McQuaid provided the recognition of AHS athlete achievements.

5. CITY MANAGER REPORT

City Manager Nicole Almaguer reported April 22, 2022, is Earth Day and the City is partnering with The Watershed Project to bring Earth Day activities both in-person and online. Additional resources are available at albanyca.org/earthday. Segment 1 paving on Washington Avenue is complete, and Segment 2 is scheduled for April 5, 2022. Jackson and Buchanan intersection crosswalk repairs and sewer main installation on Jackson Street and Solano Avenue are scheduled to coincide with the Albany Unified School District (AUSD) Spring Break. Residents seeking to cross project areas are advised to use alternative routes, and more information is available on the City website. Albany's Community Grocery Program will have groceries and essential items distributed next on May 6, 2022. The new Albany Community Expo event is scheduled for April 30, 2022. The 2022 Albany Recreation Summer Catalogue will be available soon. Albany will be launching the COVID-19 Small Business Grant Assistance Program on April 8, 2022. The Citywide Garage Sale will be held on May 7, 2022, and applications are now available.

A summary of public comment is as follows: inquiries regarding how often the food giveaways take place, expenses associated with monthly food distributions, and an approximate end time.



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6. GOOD OF THE CITY/PUBLIC COMMENT

Mayor Jordan opened the Good of the City.

A summary of public comment is as follows: a preference for the City to partner with low-income, non-profit builders; a desire for single-family residential zoning to be removed; opposition to the library's no parking signage; question on funding received for the Laundry Program.

Vice Mayor Tiedemann clarified that the City intends not to count the University of California (UC) Berkeley units due to court rulings preventing them from being counted.

Mayor Jordan noted that Council did seek to contribute to the Laundry Program last year, but for administrative reasons on the recipient's side, contribution was unsuccessful.

7. CONSENT CALENDAR

7-1. Minutes – March 21, 2022

Staff recommendation: Approve

7-2. Ratification of Payroll – Date Paid 03/25/2022: Net Amount \$359,344.29, Taxes/Benefits/Deductions \$392,977.52, Total Payroll \$752,321.81

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 \$129,163.04 (3/18/2022), \$197,614.36 (3/25/2022)

Staff recommendation: Ratify

7-4. Kains Avenue/Adams Street Bicycle Boulevard Pilot Project (CIP No. 25010) – Approve Call for Bids for Construction (C22-27)

Staff recommendation: that the Council adopt Resolution No. 2022-27, authorizing the City Manager to approve a call for Bids for construction of the Kains Avenue/Adams Street Bicycle Boulevard Pilot Project, Contract No. C22-27

CEQA: The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and CEQA Guidelines Section 15304 (Minor Alterations to Land)

7-5. Annual Pavement Rehabilitation Program (CIP No. 21000) – Cleveland Avenue Paving, Storm Drain, and Bikeway Project: Award of Contract No. C22-26 for Engineering Design Services



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Staff recommendation: that the Council adopt Resolution No. 2022-28, authorizing the City Manager to execute Contract No. C22-26 with Bellecci & Associates in the not-to-exceed amount of \$172,954.00 for a one-year contract for design of pavement, storm drain, curb ramp, and bikeway improvements, using previously appropriated funds for the Annual Street Rehabilitation Program (CIP No. 21000)

7-6. Police Fleet Vehicle Purchase

Staff recommendation: that the Council adopt Resolution No. 2022-29, approving the purchase and outfitting of two 2022 Hybrid Ford Police Utility patrol vehicles utilizing police equipment reserve funds, at the State of California contract price of \$45,613.17 per vehicle for the hybrid Ford Police Utility patrol vehicle and outfitting costs of \$16,583.00 per vehicle

7-7. Extension of the End Date of the City Council Strategic Plan

Staff recommendation: that the Council adopt Resolution No. 2022-30, extending the end date of the City Council Strategic Plan to March 31, 2023.

7-8. Amendment of the Resolution Establishing Policing Commission

Staff recommendation: that the Council adopt Resolution No. 2022-31, amending Resolution No. 2021-100 establishing Albany Policing Commission

Mayor Jordan asked if anyone wishes to remove items from the consent calendar. Council Member Nason removed Items 7-4 and 7-8, Council Member Gary removed Item 7-6, and a member of the public removed Item 7-5.

Item 7-4: CIP Manager Allison Carrillo reported that most questions were answered during the planning process. Minor changes have been made to the design set to ensure an adequate turn radius for firetrucks. Location and bollard types have been assessed and adjusted based on access for emergency vehicles. The proposed barriers are more cost efficient and easily replaceable. There is no left and right turn signage on the approach path in each direction.

No changes have been made to the project creating a two-way street. The project will be installing enhanced crosswalks for pedestrian visibility. Standards of safety is assessed based on the established California Manual on Uniform Traffic Control Devices (California MUTCD). Additional sections of the review include visibility concerning car speeds and visibility from approaching traffic. Bollards create no additional risk to pedestrians. Enhanced crosswalk striping and improvements of signage serves more for safety improvements and enhanced visibility than bollards. The alternative being proposed for the pilot project evaluation stems from the desire to address cut-through traffic concerns.



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A summary of public comment is as follows: alternative transportation infrastructure in the City needs improvement; questions regarding collected data; concern about two-way traffic creating a less bicycle-friendly environment; a question regarding additional plans to assist with cyclists and pedestrians crossing San Pablo Street at more intervals; concern about making U-turns; two-way driving will create slower traffic and increase bicyclist safety; support for bicycle lanes.

A summary of Council comment is as follows: the City needs to ensure that rules are enforced; the project would offer a way for bicyclists to ride on the corridor with more safety.

CIP Manager Allison Carrillo indicated that a pre-project evaluation will collect traffic speed and volume on the 700 and 900 blocks, turning movements at Solano Avenue intersections, and bicycle counts located south of Portland Avenue and Castro Street, including San Pablo Avenue locations. A post-installation secondary evaluation will collect a sample at the same locations to compare before and after conditions.

Mayor Jordan advised that contraflow lanes were considered, but the professional transportation staff determined the street was not wide enough to be safely configured.

Item 7-5: Mayor Jordan clarified that the project on Cleveland Avenue would include the cycling facility that would connect from the cycling facility through Thomsen Pierce Street Park intersection of Cleveland Avenue to Buchanan Street. The path within Thomsen Pierce Street Park itself is not included, but rather the segment of the facility that would be on Cleveland Avenue.

Item 7-6: Detective Sergeant Justin Kurland reported that the year model of the vehicles are 2015 and 2016. Current mileage is approximately 66,000 and 67,000. The vehicles purchased would not be in commission for a minimum of ten months. A patrol vehicle's mileage is typically doubled due to its continuous operation. Albany Police Department uses eight shared patrol vehicles in addition to one off-road truck used for off-roading in the Albany Bulb area.

A summary of public comment is as follows: an inquiry regarding the cost for two patrol vehicles; a question about what type of hybrid vehicle is being considered; a suggestion to purchase up-to-date technology to place into vehicles rather than spending more for a new vehicle.

A summary of Council comment is as follows: interest in receiving maintenance records and supporting documents providing the justification of expenditures.

Item 7-8: Council Member Nason announced that the item was pulled for discussion.

Vice Mayor Tiedemann proposed modification of the Resolution language regarding the procedures of investigating a complaint. The City Manager and City Attorney confirmed



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that the suggested language change would need to be reviewed as part of a meet and confer process.

A summary of public comment is as follows: opposition to the amendment; creating an independent commission that reports directly to Council is critical; an urgent request for Council to maintain the integrity of the original resolution; questions regarding conflict of interest; a request that Council be more expeditious in the Policing Commission appointment process.

A summary of Council comment is as follows: a suggestion to work in partnership with members of the task force; the process of ensuring implementation of the resolution can be tedious, but it is imperative; it should be possible to discuss the application process for the Commission even if additional discussion is required on the resolution language

City Attorney Mala Subramanian advised that the resolution is authorized subject to the meet and confer process, which is found under the Meyers-Milias-Brown Act. The public employer is required to meet and confer with the union. The process is conducted through negotiators and held on the City's behalf through a closed session process. Additionally, the City Manager has no conflict of interest and can participate in the discussion and process should Council move forward with the resolution.

Mayor Jordan noted that the resolution as outlined on the agenda was forwarded by the full Council in closed session.

A summary of Council comment is as follows: more clarity is needed regarding the possibility of serving on multiple City Advisory Bodies simultaneously; there is no conflict of interest; the proposed change of language to the resolution represents a good compromise; opinions of the City Manager, City Attorney, and Chief of Police are important; opposition to creating the Policing Commission before the Commission's role is established and avoiding potential conflicts of applicants already serving on a body.

MOTION:

Moved by Council Member McQuaid, seconded by Vice Mayor Tiedemann, to approve the consent calendar with the exception of Items 7-4, 7-6, and 7-8.

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

NOES: None

Motion carried and so ordered.

MOTION:

Moved by Council Member Nason, seconded by Vice Mayor Tiedemann, to adopt Resolution No. 2022-27 (Item 7-4), authorizing the City Manager to approve a call for Bids for construction of the Kains Avenue/Adams Street Bicycle Boulevard Pilot Project, Contract No. C22-27.

AYES: Council Member Nason, Vice Mayor Tiedemann, Mayor Jordan

NOES: Council Members Gary and McQuaid



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Motion carried and so ordered.

MOTION:

Moved by Council Member Gary, seconded by Mayor Jordan, to table Item 7-6 for additional information as requested.

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

NOES: Council Member McQuaid

ABSTAIN: Council Member Nason

Motion carried and so ordered.

MOTION:

Moved by Vice Mayor Tiedemann, seconded by Council Member McQuaid, to forward the Resolution No. 2022-31 (Item 7-8) with revised language proposed by Vice Mayor Tiedemann to the Meet and Confer.

SUBSTITUTE MOTION:

Moved by Mayor Jordan, seconded by Council Member Gary, to forward the Resolution (Item 7-8) to the Community Task Force on Policing for consideration.

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

NOES: Council Member McQuaid

Motion carried and so ordered.

8. PRESENTATION

9. PUBLIC HEARING

- 9-1. Resolution No. 2022-32, a Resolution of Necessity by the Albany City Council, declaring that acquisition of the easement interest related to ingress and egress for maintenance of a cross, as well as removal of the cross itself, on a portion of Albany Hill Park located on the west side of the 700 block of Taft Street (Lot 1-18, Block 8, Plate of Cerrito Hill), located in the City of Albany, Alameda County, California, more particularly described as Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3, by eminent domain, is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park within the City of Albany

Staff recommendation:

1. That the City Council conduct a Public Hearing to consider adoption of a proposed Resolution of Necessity, making the following findings:
 - (a) The public interest and necessity require the proposed project;
 - (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;



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- (c) Acquisition of the easement interest in an Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3 is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park in the City;
 - (d) The offer required by section 7267.2 of the California Government Code was made; and
 - (e) The public use for this property (the easement interest) is a more necessary use than the use for which the property is appropriated.
2. Adopt Resolution No. 2022-32, a Resolution of Necessity by the Albany City Council, declaring that acquisition of the easement interest related to ingress and egress for maintenance of a cross, as well as removal of the cross itself, on a portion of Albany Hill Park located on the west side of the 700 block of Taft Street (Lot 1-18, Block 8, Plate of Cerrito Hill), located in the City of Albany, Alameda County, California, more particularly described as Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3, by eminent domain, is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park within the City of Albany.

MOTION:

Moved by Mayor Jordan, seconded by Vice Mayor Tiedemann, to extend the meeting to 11:00 p.m.

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

NOES: None

Motion carried and so ordered.

Mayor Jordan opened the Public Hearing. The resolution would declare that acquisition of the easement interest for maintenance of a cross located on a portion of Albany Hill Park, including removal of the cross by eminent domain, is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park.

City Clerk Anne Hsu highlighted Attachment 3 to the staff report citing the Notice of Hearing to Easement Holder and Proof of Mailing Notice sent to the Albany Lions Club, Lions International, on March 11, 2022. Albany Lions Club received the said notice by responding with a Notice of Appearance and Opposition as seen in Attachment 4.

Scott Diefurth, Special Counsel from City Attorney's Office, presented the item and shared that a Notice to Easement Holder was sent forth. Staff received a letter from the Albany Lions Club, which is included in the overall packet provided to Council.



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The real property affected by the proposed acquisition of the easement relates to an existing cross situated on a portion of Albany Hill Park located on the west side of the 700 block of Taft Street, Lots 1-18, Block 8, Plat of Cerrito Hill, City of Albany with the Assessor Parcel Numbers (APN) of 066-2754-14-5, 066-2754-40-3. The proposed acquisition consists of an easement interest only. Items of consideration in adopting a Resolution of Necessity include whether the public interest and necessity require the proposed project, the proposed project is planned or located in a manner most compatible with the greatest public good and least private injury, the real property is necessary for the project, and an offer of just compensation has been made to the owner. The City's objectives are to provide residents with an unencumbered park and to avoid any establishment clause concerns. The acquisition that allows the cross to be maintained should be condemned. Selling a portion of the park to the Lions Club would reduce park space for the City.

City Clerk Anne Hsu noted that on March 11, 2022, Council received a Notice of Appearance of the Albany Lions Club and Opposition to a Resolution of Necessity condemning the cross on Albany Hill, Attachment 4.

A summary of public comment from Lions Club Representatives is as follows: a clarification that negotiations had not begun, nor were they stalled; Item two of the report indicating that the owner requested the City proceed directly to eminent domain for tax or other advantages is incorrect; the cross is not centrally located, and the small piece of land would not detract significantly for the park; there is no necessity for the project; the Lions Club will challenge the City in court.

Scott Ditfurth, Special Counsel from City Attorney's Office, advised that the trial length, costs, and appraisal amount disputes do not need to be considered for purposes of the Resolution of Necessity. The staff report does not address the Lions Club, but rather gives background information regarding eminent domain law. Adopting a Resolution of Necessity does not renounce the City's right to negotiate a resolution.

MOTION:

Moved by Mayor Jordan, seconded by Vice Mayor Tiedemann, to extend the meeting to 11:30 p.m.

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

NOES: None

Motion carried and so ordered.

A summary of public comment is as follows: support for the removal of the cross; Lions Club Members would be most charitable by considering how they could benefit those who do not desire the cross; the City is in violation of the First Amendment because of the presence of the cross; opposition to selling a portion of the land; the Lions Club is doing a disservice to the City; the Lions Club has accepted that the cross on City land is an establishment clause violation, which means that the Club has benefited from past City administration's endorsement of their religion over others; concern regarding the behavior of the Albany Lions Club; using the park as public space takes great precedence over



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selling it; the cross as a symbol on Albany Hill is divisive; the Club is violating their own bylaws, in addition to breaking tax law by seeking exempt status; East Bay Valley was dotted with crosses erected by the Ku Klux Klan during the 1920s, and Albany should not represent this history; a suggestion to relocate the cross.

Robert Nichols, Lions Club International, indicated that several Club members cherish the cross. Using property markers, the City can easily sell a portion of land if desired. The Lions Club believes that the First Amendment conflict can be resolved as there is no necessity for condemnation.

MOTION:

Moved by Mayor Jordan, seconded by Council Member McQuaid, that Council finds (a) the public interest and necessity require the proposed project, (b) the proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, (c) acquisition of the easement interest in a Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3 is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park in the City, (d) the offer required by section 7267.2 of the California Government Code was made, and (e) the public use for this property (the easement interest) is a more necessary use than the use for which the property is appropriated, and therefore adopts Resolution No. 2022-32, a Resolution of Necessity by the Albany City Council, declaring that acquisition of the easement interest related to ingress and egress for maintenance of a cross, as well as removal of the cross itself, on a portion of Albany Hill Park located on the west side of the 700 block of Taft Street (Lot 1-18, Block 8, Plate of Cerrito Hill), located in the City of Albany, Alameda County, California, more particularly described as Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3, by eminent domain, is necessary for the elimination of a potential establishment clause concern and to provide for an unencumbered public park within the City of Albany.

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

NOES: None

Motion carried and so ordered.

Mayor Jordan advised that Items 10-1 and 11-1 were tabled to the next meeting.

10. UNFINISHED BUSINESS

10-1. Amendment to 2021-2023 Parks, Recreation & Open Space Commission Work Plan

Parks, Recreation & Open Space Commission and staff recommendations: that the Council review proposed amendments to the Parks, Recreation & Open Space Commission 2021-2023 work plan and provide direction to the Parks, Recreation & Open Space Commission

11. NEW BUSINESS



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11-1. Second Annual Juneteenth Celebration

Council Member Gary recommendation: that the Council approve the following recommendations:

1. Juneteenth flag flown – June 12th 6:00 PM (sundown) – June 19th 6:00 PM (sundown)
2. City financial support up to \$7,500
3. Direct staff to prepare a resolution authorizing a street event encroachment permit and associated street closure
4. Authorize allocation of City resources for the event including audio/visual support, port-a-potty and waste receptacles
5. City sponsorship that will include name recognition and assistance marketing

11-2. Elimination of Fees for Residential Disabled Parking

Council Member McQuaid and Mayor Jordan recommendation: that the Council direct staff to prepare a resolution amending the Master Fee Schedule to eliminate fees for establishing an on-street disabled parking space in a residential area

Mayor Jordan presented the report. Council direction is sought regarding the preparation of a resolution amending the Master Fee Schedule to eliminate fees for establishing an on-street disabled parking space in a residential area.

The Master Fee Schedule requires an application fee for residents seeking to establish a disabled vehicle parking space on the public right-of-way. The fee must be paid regardless of whether the City approves the application, and additional fees must be paid if the application is approved. The fees create a barrier to access for transportation that disabled individuals need. Albany provides free parking to individuals who are physically able, and that same privilege should be extended to those with disabilities.

Council Member McQuaid noted that no changes are made to the application and requirement to be granted the blue curb.

A summary of public comment is as follows: an inquiry as to whether the free parking would be permanent; support for the item; living with a disability can be difficult today; appreciation to Council for the recommendation; a suggestion for more activities offered that accommodate individuals with disabilities.

MOTION:

Moved by Council Member McQuaid, seconded by Vice Mayor Tiedemann, to extend the meeting to 11:45 p.m.

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

NOES: None



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Motion carried and so ordered.

MOTION:

Moved by Council Member Nason, seconded by Council Member McQuaid, that Council direct staff to prepare a resolution amending the Master Fee Schedule to eliminate fees for establishing an on-street disabled parking space in a residential area.

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

NOES: None

Motion carried and so ordered.

The Council agreed to move to Item 13.

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

City Council Appointed Representation Bodies	Appointee	Alternate
Alameda County Mayors' Conference	Jordan	Tiedemann
Alameda County Transportation Commission	Nason	Jordan
Alameda County Waste Management Authority	Jordan	Nason
Association of Bay Area Government	Gary	Tiedemann
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	N/A
Alameda County Library Advisory Commission	Gary	(vacant)
Alta Bates Hospital Task Force	McQuaid/Nason	N/A
Rausser College of Natural Resources Dean's Advisory Committee on the Gill Tract (DAC)	Gary	N/A
City/AUSD/UC – 2X2X2	Jordan/Tiedemann	N/A
Police & Fire Pension Fund Board	Jordan	McQuaid
Alameda County Paratransit Advisory & Planning Committee (PAPCO)	(vacant)	N/A

13. FUTURE AGENDA ITEMS

Mayor Jordan indicated potential future agenda items regarding Proportional Ranked Choice Voting, and the Pavement Conditions Index (PCI).

City Manager Almaguer announced that Capital Improvement Program (CIP) update will be presented at an upcoming meeting, and PCI will be addressed as part of the update.



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Mayor Jordan reported additional future agenda items include the Shuumi Land Tax, outdoor dining, and research on Albany Hill trees.

Council Member Nason requested a future item regarding an update to the City's sustainability section of considerations to make note of the urgency of climate change.

Council Member Gary requested future agenda items regarding Juneteenth, and a Council and AUSD joint meeting.

14. ANNOUNCEMENT OF CITY MEETINGS AND EVENTS

Upcoming City Events – please check on City website www.albanyca.org under City Calendar web page for up-to-date information

Upcoming City Meetings

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

15. ADJOURNMENT

11:42 p.m. There being no further business before the City Council, Mayor Jordan adjourned the meeting in memory of Ilona Carpenter.

Minutes submitted by Anne Hsu, City Clerk.

Preston Jordan

Mayor

Attest:

Anne Hsu, City Clerk