



## ALBANY CITY COUNCIL – MINUTES

Virtual Meeting  
Albany, CA 94706  
Tuesday, September 6, 2022

Date approved: September 19, 2022

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### 1. CALL TO ORDER

Mayor Jordan 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. Resolution of the Albany City Council Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency under California Assembly Bill (AB 361)

Staff recommendation: that the Council adopt Resolution No. 2022-93, allowing for video and teleconference meetings during the COVID-19 state of emergency under AB 361

City Clerk Anne Hsu presented the staff report. The proposed resolution provides the City Council and all subsidiary City advisory bodies with the option to continue to hold video and teleconference meetings while the state of emergency is still in effect and social distancing is recommended.

A summary of public comment is as follows: a request that the City Council Chambers be open so that the Albany School District Board of Education can meet in person.

City Manager Almaguer advised that City staff are working with the School District staff regarding a transition back to in-person meetings using the City Hall Council Chambers, which is expected to take place in September.

#### **MOTION:**

Moved by Council Member Nason, seconded by Council Member McQuaid, to adopt Resolution No. 2022-93, allowing for video and teleconference meetings during the COVID-19 state of emergency under AB 361.

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

NOES: None

Motion carried and so ordered.

### 4. CEREMONIAL MATTERS

### 5. CITY MANAGER REPORT

City Manager Almaguer reported that a court order dated August 30, 2022, granted the City's motion for possession of an easement located in Albany Hill Park and for the removal of the cross. As a result of the Court's ruling, the City may remove the cross after October 4, 2022. A return to in-person meetings of the City Council is anticipated beginning on September 19, 2022. Disaster preparedness information and resources can



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be found at readyalbany.org. A virtual evacuation drill through AC Alert and Zone Haven will take place on October 2, 2022. Cooling Centers open and available to the public are listed on the City website. A Concert in the Park event is scheduled for September 24, 2022. Albany CARES (Community Access to Resources and Services) program distributed 107 grocery bags and 135 essential item bags last Friday. Over 320 children participated in the Friendship Club program this summer. The Solano Avenue Stroll and Stroll-ish events are scheduled for September 10<sup>th</sup> and 11<sup>th</sup>. Phase 5 of the Sidewalk Repair Program and two sewer projects are substantially complete. The City refreshed traffic striping in various locations. Cal Fire National Guard is felling trees on Albany Hill to reduce hazardous conditions and the potential for fires. Coastal Cleanup Day is scheduled for September 17, 2022. Albany's 2022 Fall Activity Guide including events and activities for the fall period is available to view on City website and was mailed to residents.

A summary of public comment is as follows: concern about tree felling and habitat destruction for monarch butterflies; an inquiry into whether Public Works will be responsible for removing the trees; support for the removal of the cross.

City Manager Almaguer advised that all work performed on Albany Hill is closely coordinated with Stu Weiss, Chief Scientist and advisor on the habitat restoration and protection efforts required for the monarch and other endangered species on the hill.

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

Mayor Jordan opened the Good of the City.

A summary of public comment is as follows: question regarding the portable restrooms on the Ohlone Greenway; appreciation for the efforts of Albany CARES and Berkeley Food and Housing staff; concern about the oversized vehicle ordinance.

### 7. CONSENT CALENDAR

#### 7-1. Minutes – July 18, 2022 & July 26, 2022

Staff recommendation: Approve

#### 7-2. Ratification of Payrolls –

1. Date Paid 7/15/2022: Net Amount \$357,281.20, Taxes/Benefits/Deductions \$376,450.51, Total Payroll \$733,731.71
2. Date Paid 7/29/2022: Net Amount \$353,012.92, Taxes/Benefits/Deductions \$288,064.92, Total Payroll \$641,077.84
3. Date Paid 8/12/2022: Net Amount \$380,524.74, Taxes/Benefits/Deductions \$393,019.87, Total Payroll \$773,544.61
4. Date Paid 8/26/2022: Net Amount \$382,156.18, Taxes/Benefits/Deductions \$389,704.81, Total Payroll \$771,860.99

Staff recommendation: Ratify



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- 7-3.** Ratification of Bills, Claims and Demands – Ratification of bills, claims and demands against the City of Albany in the amount of \$1,562,780.92 (7/15/2022), \$455,697.80 (7/22/2022), \$952,618.55 (7/29/2022), \$658,678.91 (8/5/2022), \$457,544.10 (8/12/2022), \$427,169.11 (8/19/2022)

Staff recommendation: Ratify

- 7-4.** Advisory Body Appointments and Resignation:
- John Miki appointed by Vice Mayor Tiedemann to the Climate Action Committee
  - Maria Barakat appointed by Vice Mayor Tiedemann to the Social & Economic Justice Commission
  - Flor Elizabeth Rios appointed by Council Member McQuaid to the Social & Economic Justice Commission
  - Douglas Donaldson appointed by Council Member Gary resigned from the Planning & Zoning Commission

Staff recommendation: Information item

- 7-5.** Proclamation – Hispanic Heritage Month

Council Member McQuaid recommendation: that the Council recognize September 15 through October 15, 2022, as Hispanic Heritage Month in the City of Albany

- 7-6.** Proclamation – Suicide Prevention Awareness Month

Council Member McQuaid recommendation: that the Council recognize September 2022 as Suicide Prevention Awareness Month in the City of Albany

- 7-7.** Proclamation – National Preparedness Month

Council Member McQuaid recommendation: that the Council recognize September 2022 as National Preparedness Month in the City of Albany

- 7-8.** Proclamation – Reserve Police Officer Jeffrey Nelson Retirement

Staff recommendation: that the Council wishes to express its gratitude and appreciation to Reserve Officer Jeffrey Nelson for his many years of dedicated service to the department and the safety of the community

- 7-9.** Second Reading of Ordinance No. 2022-03 Revising Various Sections of Chapter XX of the Albany Municipal Code Related to Implementation of the San Pablo Avenue Specific Plan



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Staff recommendation: that the Council adopt Ordinance No. 2022-03, revising various sections of Chapter XX of the Albany Municipal Code related to implementation of the San Pablo Avenue Specific Plan – Second Reading, Pass-to-Print

- 7-10.** Ordinance Amending Albany Municipal Code Section 2-3.1 Relating to Appointment of the Administrative Officer

Staff recommendation: that the Council adopt Ordinance No. 2022-04, amending Albany Municipal Code Section 2-3.1 relating to appointment of the Administrative Officer – Second Reading, Pass-to-Print

- 7-11.** State Housing Law Resolution for Metropolitan Transportation Commission Grant Compliance

Staff recommendation: that the Council adopt Resolution No. 2022-94, agreeing to comply with state housing laws

- 7-12.** Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant (AFG) Program Award for Fire Station Exhaust Removal System

Staff recommendation: that the Council adopt Resolution No. 2022-95

1. Authorizing the City Manager, or designee, to accept the grant award from Federal Emergency Management Agency Assistance to Firefighters Grant Program EMW-2021-FG-07270 of \$82,373.21
2. Authorize the appropriation of \$8,237.33 from the Fire Department Reserve Funds as the required ten percent (10%) matching funds to purchase and install a source capture vehicle exhaust removal system at the Albany Fire Station

- 7-13.** Annual Sidewalk Rehabilitation Program (CIP No. 22000) Contract No. C22-14 Contract Change Order #1 (Phase 6 Construction)

Staff recommendation: that the Council adopt Resolution No. 2022-96, authorizing the City Manager to execute Contract Change Order (CCO) #1 to Contract No. C22-14 with MCE in the not-to-exceed amount of \$111,287.50 from previously approved funds for the Annual Sidewalk Rehabilitation Program (CIP No. 22000)

- 7-14.** Annual Sewer Rehabilitation Program (CIP No. 32000) – Award Contract No. C22-56 to CSG Consultants for Engineering & Project Management Services

Staff recommendation: that the Council adopt Resolution No. 2022-97, authorizing the City Manager to award Contract No. C22-56 to CSG Consultants in the amount of \$170,000 for project management services for a term of one year using funds



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previously appropriated for the Annual Sewer Rehabilitation Program (CIP No. 32000)

### **7-15.** League of California Cities 2022 Annual Conference Resolutions

Council Member McQuaid recommendation: that the Council authorize a “YES” vote on the proposed bylaw amendments

Mayor Jordan asked if anyone wished to remove items from the consent calendar. Members of the public removed Items 7-4, 7-6, 7-7, 7-9, and 7-10.

Items 7-9 and 7-10: Community Development Director Jeff Bond indicated that a relatively dense urban environment does not trigger a potential significant impact under California Environmental Quality Act (CEQA).

A summary of public comment is as follows: an inquiry concerning the appointment of a member to the Social and Economic Justice Commission (SEJC); a request for information regarding suicide prevention; the Fire Department’s coordination with Community Emergency Response Team (CERT); a clarification on who is the Administrative Officer; a suggestion that Council consult with the City Attorney regarding the City’s reliance on the 2016 Environmental Impact Report (EIR); a request for clarification of the parking requirements.

Council Member Nason expressed concern about inadequate training and improper conduct of the SEJC. It is egregious that a committee with the title SEJC act unjustly toward members of the public and City staff, and a new appointment will not be made until corrective action is taken by Council.

Mayor Jordan advised that the Administrative Officer is the City Manager. The title of the position varies between City Code and Charter.

#### **MOTION:**

Moved by Council Member Nason, seconded by Council Member Gary, to approve the consent calendar less Item 7-9.

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

NOES: None

Motion carried and so ordered.

#### **MOTION:**

Moved by Vice mayor Tiedemann, seconded by Council Member Nason, to approve Item 7-9 of the consent calendar.

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

NOES: Council Member Gary

Motion carried and so ordered.



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### 8. PRESENTATION

### 9. PUBLIC HEARING

### 10. UNFINISHED BUSINESS

#### 10-1. Submittal of Working Draft Housing Element to the California Department of Housing and Community Development

Staff recommendation: that the Council authorize submittal of the Working Draft Housing Element to the California Department of Housing and Community Development

Community Development Director Jeff Bond presented the staff report. Staff requests the City Council authorize submittal of the Working Draft Housing Element to the California Department of Housing and Community Development.

Barry Miller, Barry Miller Consulting, discussed comments received during the thirty-day public review and the proposed revisions to the documents since publication. Publication of the Housing Element was on July 29, 2022, beginning a thirty-day comment period that closed on August 28, 2022. Forty-seven of fifty letters received were from landlords and rental property owners in Albany. Proposed Housing Element Programs 5C, 5D, and 5E regarding tenant protection were universally opposed. Staff has proposed modifications to programs 5C and 5D and recommends that 5E be eliminated. Some additional changes to the draft include updated references to plans to end homelessness, adjustments to some of the specific language related to housing for persons with disabilities, and a definition of “Affordable Housing” has been provided. Once the draft for public review is published later this year, an addendum to the General Plan EIR will be released.

A summary of public comment is as follows: the volume of landlord dissatisfaction should not be viewed as a measure of the community's feelings; support for Eden Council for Hope and Opportunity Housing (ECHO Housing); a greater effort needs to be made by the City to publicize available resources; opposition to the latest revisions to the Housing Element; the City is too conservative on Solano Avenue; a suggestion to study potential fourplexes, which would increase the equity; a discussion of rent stabilization versus rent mediation is necessary; appreciation for taking into account the comments and incorporating them into the revised plan; a suggestion to provide a fund for tenant protection; all cities in the nine Bay Area counties with just cause and rental protections are only at 71% of the Regional Housing Needs Allocation (RHNA) housing target, while all non-just-cause cities have reached 108%; the term “landlord” should be replaced with “housing provider”; a request that the document be submitted as approved by the Planning and Zoning Commission or returned for further work before submittal back to Council; evicting a tenant in order to increase rent is prohibited; the increase in property taxes exceeds the increase in rent; protections are needed for housing providers in order to prevent them from withdrawing from the market; and opposition to the Housing Element clause prohibiting a housing provider to consider a tenant’s eviction history.



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A summary of Council comment is as follows: the document should use language expressing gratitude for those who follow the law; enforcement is needed against those who exploit tenants; suggestions to bring back the Tenant Opportunity to Purchase Act (TOPA) proposal; providing housing is a business; exploring the feasibility is good language; the rent review language should be nonbinding; housing prices becoming unattainable is a problem of democracy; support for the draft as is; TOPA may be too complex for implementation in Albany; discussion of housing as a human right; the City should work toward ensuring that small owners of property are incentivized to provide more housing; concern about tenant protections that protect people that have housing against people that would like to be in Albany; suggestions to reinsert TOPA program exploration on page 44 of the redline version, and reinsert the bullet points on page 42 regarding just cause eviction and non-discrimination.

Barry Miller, Barry Miller Consulting, advised that it is illegal to discriminate based on source of income under Senate Bill (SB) 329.

### **MOTION:**

Moved by Vice Mayor Tiedemann, seconded by Council Member McQuaid, to authorize submittal of the Working Draft Housing Element to the California Department of Housing Community Development with the re-addition of expiration of TOPA and the bullet points specifying additional tenant protections.

### **SUBSTITUTE MOTION:**

Moved by Mayor Jordan, seconded by Council Member Nason, to authorize submittal of the Working Draft Housing Element to the California Department of Housing Community Development, remove TOPA, correct San Pablo Specific Plan parking requirement, and incorporate back into version two the bullet points specifying additional tenant protections, and amend the language of program 5C to identify the mediation program as mandatory non-binding.

AYES: Council Member Nason, Mayor Jordan

NOES: Council Members Gary and McQuaid, Vice Mayor Tiedemann

Motion failed.

### **MOTION:**

Moved by Vice Mayor Tiedemann, seconded by Council Member McQuaid, to authorize submittal of the Working Draft Housing Element to the California Department of Housing Community Development with the re-addition of the possible TOPA program, amend the language of program 5C to identify the mediation program as mandatory non-binding, and add back the specific bullet points on tenant protections and make the associated cuts to repetitive language in program 5D.

AYES: Council Members McQuaid and Nason, Vice Mayor Tiedemann

NOES: Council Member Gary, Mayor Jordan

Motion carried and so ordered.



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## 10-2. Restated Amendment No. 3 to the Employment Agreement for City Manager Services

Staff recommendation: that the Council adopt Resolution No. 2022-98, approving Restated Amendment No. 3 to the Employment Agreement for City Manager Services

City Attorney Mala Subramanian presented the staff report. On July 5, 2022, Council adopted Resolution No. 2022-79 to execute Amendment No. 3 to the Employment Agreement for the City Manager to provide for a 10% increase in base salary and provide for a six-month severance pay upon removal without cause. Amendment No. 3 did not use the most current base salary and does not result in the intended 10% increase to base salary. Section 3 has been updated to provide for the corrected base salary.

A summary of public comment is as follows: inquiries regarding the City Manager’s hourly pay and the amount of vacation days; a request that Council explain the increases in pay over the last several years.

Mayor Jordan indicated the City Manager received no specific raise that differentiated from what unrepresented staff received.

### **MOTION:**

Moved by Vice Mayor Tiedemann, seconded by Council Member McQuaid, to adopt Resolution No. 2022-98, approving Restated Amendment No. 3 to the Employment Agreement for City Manager Services.

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

NOES: Council Member Gary

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

| 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      |





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| 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       |

Council Member McQuaid reported she attended a Housing Authority meeting and a resource fair for participants in the Family Self-Sufficiency (FSS) Program. She also attended a League of California Cities (East Bay) meeting and National League of Cities' Women in Municipal Government (WIMG) conference.

Council Member Nason reported she attended a meeting of the Alameda County Transportation Commission (ACTC), where she learned that the Independent Watchdog Commission has identified failure to achieve Pavement Condition Index (PCI) metrics as a serious concern.

### 13. FUTURE AGENDA ITEMS

Council Member Gary requested a future agenda item to discuss SEJC.

Council Member Nason requested a future agenda item regarding an interim solution from the removal of the cross that would allow gatherings.

A summary of public comment is as follows: a suggestion for a future item on school zones.

### 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. Financial Advisory Special Committee Meeting, Wednesday, September 7, 4:00 PM, Virtual Meeting via phone/video conferencing
2. Social & Economic Justice Commission Meeting, Wednesday, September 7, 7:00 PM, Virtual Meeting via phone/video conferencing



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3. Economic Development Committee Meeting, Thursday, September 8, 5:00 PM, Virtual Meeting via phone/video conferencing
  4. Parks, Recreation and Open Space Commission Meeting, Thursday, September 8, 7:00 PM, Virtual Meeting via phone/video conferencing
  5. Arts Committee Meeting, Monday, September 12, 7:00 PM, Virtual Meeting via phone/video conferencing
  6. Planning & Zoning Commission Meeting, Wednesday, September 14, 7:00 PM, Virtual Meeting via phone/video conferencing
  7. Charter Review Committee Meeting, Thursday, September 15, 7:00 PM, Virtual Meeting via phone/video conferencing
  8. City Council Meeting, Monday, September 19, 7:00 PM

### 15. ADJOURNMENT

10:04 p.m. There being no further business before the City Council, Mayor Jordan adjourned the meeting in memory of Thelma Rubin.

Minutes submitted by Anne Hsu, City Clerk.

Preston Jordan  
Mayor

Attest:

Anne Hsu, City Clerk