6:00 p.m.

CLOSED SESSION

1. CALL TO ORDER

2. OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

City Council convenes in the Council Chamber and then adjourns to closed session to discuss the following:

2-1. Conference with Legal Counsel to discuss Pending Litigation pursuant to Government Code Section 54956.9(d)(1).

   Name of Cases: Saraswati v. City of Albany, et al., (U.S. District Court, Northern District of California; Case No. 3:17-CV-04940); Galpern v. City of Albany (U.S. District Court, Northern District of California; Case No. 3:17-CV-03408)

2-2. Conference with Real Property Negotiators

   Property: Northeast corner of Washington Avenue and Cleveland Avenue

   City Negotiators: City Manager, Community Development Director, and Planning Manager

   Negotiating Parties: Satellite Affordable Housing Associates

   Under negotiation: Disposition and Development Agreement, including price and terms of payment for sale of City property

2-3. Employment and Appointment of a Public Employee pursuant to Government Code Section 54957 – Recruitment and selection of City Attorney

Note: The Council may reconvene to closed session following the regular City Council meeting regarding the above items.

ADJOURNMENT

7:30 p.m.

REGULAR MEETING

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

   Mayor Nason led the Pledge of Allegiance.

2. ROLL CALL

   Present: Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid, Mayor Nason

   Absent: None
3. CEREMONIAL MATTERS

3-1. Certificate of Recognition – Marty Rosman 30 years Volunteer Service

Mayor Nason presented the certificate to Mr. Rosman.

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

Mayor Nason reported the Council gave direction to staff.

5. CONSENT CALENDAR

5-1. Minutes, November 4, 2019

Staff recommendation: Approve


Staff recommendation: Ratify

5-3. Ratification of Bills, Claims and Demands - Ratification of bills, claims and demands against the City of Albany in the amount of: $775,538.60 (11/1/19)

Staff recommendation: Ratify

5-4. Ratification of Police and Fire Pension Board Payments for: $106,522.34 (August 2019), $106,662.05 (September 2019), and $107,584.39 (October 2019)

Staff recommendation: Ratify

5-5. Accepting Donation from the Albany El Cerrito Access

Staff recommendation: that the Council

1. Adopt Resolution No. 2019-90, accepting the donation in the amount of $9,800 from the Albany El Cerrito Access for the purpose of installing automatic door openers for restrooms at City facilities
2. Authorize City Manager to execute the Donation Acceptance Agreement

5-6. CIP Project No. 41005 – Memorial Park Improvements Project – Contract C18-27A – Completion of Restroom Renovations and Project Closeout

Staff recommendation: that the Council adopt Resolution No. 2019-92:
1. Accepting the improvements completed in the Memorial Park Restroom Renovations, Contract No. C18-27A, and authorizing staff to file the Notice of Completion with the County Recorder’s Office;
2. Authorizing the City Manager to execute Change Order No. 1 to Contract No. C18-27A in the amount of $41,003.73;
3. Approving a project budget increase in the amount of $44,243 from Fund 0002 Recreation Program Reserve

5-7. Encroachment Permit for Improvements in the Public Right-of-Way at 1085 Eastshore Highway

Staff recommendation: that the Council adopt Resolution No. 2019-93, granting approval of an encroachment permit for 1085 Eastshore Highway to allow fencing on City-owned right-of-way in accordance with Section 14-2 “Use of Right-of-Way” of the Albany Municipal Code

Mayor Nason asked if anyone wishes to remove an item from the consent calendar. Council Member Maass removed Item 5-5, and Mayor Nason removed Item 5-7.

Item 5-5: City Manager Nicole Almaguer reported staff would obtain a cost estimate for the work if the Council wishes to accept the donation. Based upon the cost estimate, the Council could approve the work or consider phasing the work and prioritizing City facilities. The City is not required to install the door openers in order to comply with the Americans with Disabilities Act.

Item 5-7: Mayor Nason reported the parties have requested a continuance of the item in order to gather additional information.

A summary of Council comments is as follows: concern that the cost of the door openers will be considerably more than the amount of the donation; a general concern about gifts to the City.

MOTION:
Moved by Council Member Barnes, seconded by Council Member Pilch, to approve Item 5-5 of the consent calendar.
AYES: Council Members Barnes, Maass, and Pilch
NOES: None
ABSTAIN: Vice Mayor McQuaid, Mayor Nason
Motion carried and so ordered.

MOTION:
Moved by Council Member Pilch, seconded by Council Member Maass, to approve Items 5-1 – 5-4 and 5-6 of the consent calendar.
AYES: Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid, Mayor Nason
NOES: None
Motion carried and so ordered.

6. GOOD OF THE CITY/PUBLIC COMMENT
Mayor Nason opened the Good of the City.
The following person spoke: Doug Donaldson. A summary of comments is as follows: burrowing owls are living at the plateau and the dog park; encouragement for pedestrians to wear light-colored clothing after dark to increase their visibility.

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

7-1. City Council Subcommittees:

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<thead>
<tr>
<th>Council Subcommittees</th>
<th>Subcommittee Members</th>
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<tbody>
<tr>
<td>Albany Waterfront Park (Albany Bulb)</td>
<td>Nason &amp; McQuaid</td>
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<td>Alta Bates Hospital</td>
<td>Nason &amp; McQuaid</td>
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<td>Community Inclusivity</td>
<td>Nason &amp; McQuaid</td>
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<tr>
<td>San Pablo Avenue Corridor Project</td>
<td>Nason &amp; Pilch</td>
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<td>Youth Engagement</td>
<td>McQuaid &amp; Maass</td>
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A. Alta Bates Hospital Subcommittee Report

Mayor Nason reported Vice Mayor McQuaid and she attended two forums regarding emergency room services and retaining Alta Bates Hospital.

7-2. City Council Appointed Representation of Albany

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<thead>
<tr>
<th>Bodies</th>
<th>Appointee</th>
<th>Alternate</th>
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<tbody>
<tr>
<td>Alameda County Mayors’ Conference</td>
<td>Nason</td>
<td>McQuaid</td>
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<td>Alameda County Transportation Commission</td>
<td>Nason</td>
<td>Pilch</td>
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<tr>
<td>Alameda County Waste Management Authority</td>
<td>Nason</td>
<td>Maass</td>
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<tr>
<td>Association of Bay Area Government</td>
<td>Pilch</td>
<td>Barnes</td>
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<tr>
<td>East Bay Community Energy JPA Board</td>
<td>Pilch</td>
<td>McQuaid</td>
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<td>East Bay Sports Field Recreational Authority JPA</td>
<td>Maass</td>
<td>Barnes</td>
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<tr>
<td>Housing Authority of Alameda County</td>
<td>McQuaid</td>
<td>N/A</td>
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<tr>
<td>League of California Cities (East Bay)</td>
<td>McQuaid</td>
<td>Barnes</td>
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<tr>
<td>Alameda County Library Advisory Commission</td>
<td>Amy Apel</td>
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<td>Berkeley/Albany Mental Health Board</td>
<td>Erlinda Castro &amp; (Vacant)</td>
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<td>City/AUSD/UC - 2X2X2</td>
<td>Nason</td>
<td>McQuaid</td>
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<tr>
<td>Police &amp; Fire Pension Fund Board</td>
<td>Nason</td>
<td>McQuaid</td>
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A. Mayor Nason’s Report

Vice Mayor McQuaid reported the Housing Authority of the County of Alameda (HACA) Housing Commission’s Executive Director has resigned effective March 30, 2020, and she volunteered to serve on the interview committee.

Mayor Nason reported Tess Lengyel has been named Executive Officer for the Alameda County Transportation Commission.
7-3. City Council Meetings and Events

Council Member Pilch reported he and Council Members from neighboring cities met with the League of California Cities regarding environmental issues. He attended the opening of the Richmond-San Rafael Bridge bike/pedestrian path and the Shoey Sindel art exhibit.

Vice Mayor McQuaid reported she participated in the Climate Mayors conference call and attended the Chamber mixer, the Mayors’ Conference, a tour of compassionate communities, the United Against Hate Week event and press conference, a California Office of Emergency Services (Cal OES) workshop, and the Local Agency Formation Commission (LAFCo) meeting with Mayor Nason.

Mayor Nason reported she attended a Recycling Board and Waste Management Authority meeting where she learned about an ordinance for plastic foodware. The Local Agency Formation Commission seeks to annex Albany into the Alameda County Mosquito Abatement District.

8. CITY MANAGER REPORT

City Manager Almaguer reported PG&E is planning another Public Safety Power Shutoff. The shutoff will not affect Albany, but a red flag warning for Wednesday and Thursday is in effect for Albany. The City has retained Creekside Science to conduct inspections of the Albany Hill access improvement project, and reports can be found on the City's website. A major sidewalk repair along Stannage and Solano is complete. Sandbags will be available beginning Saturday. Hopefully the EBMUD water main replacement project is nearing completion. The Waste Management holiday collection schedule will be in effect for the Thanksgiving holiday.

9. PRESENTATION

10. PUBLIC HEARING

10-1. Ordinance No. 2019-08, Amending Chapter XIV “Work on Public Property” of the Albany Municipal Code regarding Small Wireless Facilities – Continuation of First Reading

Staff recommendation: that the Council:

2. Adopt Resolution No. 2019-85, approving submittal requirements and conditions of approval for small wireless facilities in the public right-of-way

Jean Eisberg, Lexington Planning, presented the staff report. New Federal regulations require jurisdictions to review small wireless facilities located in the public right-of-way within a specified timeline. The City’s Zoning Ordinance regulates small wireless facilities on private property. The City requires an encroachment permit for facilities in the public right-of-way. The Planning & Zoning Commission does not have purview over amendments to Section XIV and has not reviewed the proposed amendments. The proposed amendments require applicants to submit photo simulations, a site survey, and a Radio Frequency Compliance Report. Under Federal law,
the City has 60 days to review a project that uses an existing structure and 90 days to review a project that uses a new structure. An application for an encroachment permit to replace an existing facility or to co-locate a facility on an existing structure previously approved as a wireless site will be subject to ministerial review. All other applications will be subject to Planning & Zoning Commission review. All applications for wireless facilities will require a building permit and an encroachment permit, and decisions will be appealable to the City Council. Under the proposed amendments, the design and aesthetic criteria for facilities located on private property will apply to facilities located in the public right-of-way. Staff proposes additional design criteria of locating antennas and accessory equipment in shrouded enclosures and mounting antennas atop poles. The provisions of Chapter XX that regulate the location of facilities are inconsistent with Federal law and cannot be enforced. New standards pertaining to small facilities located in the public right-of-way include a height limit of 6 feet above the existing structure, undergrounding all equipment in locations where utilities are undergrounded, limits on lights and electric meters, a prohibition against trimming or damaging street trees, a prohibition against encroachments onto private property, and a prohibition against obstructing public infrastructure. The proposed ordinance includes lease agreements for City-owned structures, a new requirement for post-installation certification to ensure radio frequency limits are met; and a revocation process for violation of the permit terms. The FCC order is the subject of litigation, but the proposed ordinance implements the FCC order as it is currently written.

Planning Manager Anne Hersch reported the proposed amendments add local requirements to Federal regulations. With respect to the AT&T letter, the City may impose objective design standards. Public notification for a proposed facility is appropriate.

The following persons spoke: Signe Mattson, Wisteria Stock, Nori Hudson, Stephanie Thomas, Nadia Vitko, and Michael Alonzo Bastille-Sakai.

A summary of comments is as follows: the proposed amendments do not address the health risks of wireless facilities; opposition to locating facilities near schools, parks, and libraries; opposition to facilities because they are hazardous to health.

A summary of Council comments is as follows: the City has to comply with Federal law; the Planning & Zoning Commission should review the proposed amendments; more information about the City’s ability to regulate wireless facilities is needed; and suggestions to increase the fees now and to monitor FCC rulings and litigation regarding wireless facilities.

**MOTION:**
Moved by Council Member Pilch, seconded by Vice Mayor McQuaid, to introduce Ordinance No. 2019-08 for first reading, amending Chapter XIV “Work on Public Property” of the Albany Municipal Code; and to direct staff to add a severability section to the ordinance and present it for a second reading, to update the Master Fee Schedule, to ensure the Planning & Zoning Commission reviews the ordinance as soon as possible, and to monitor the legal environment for opportunities to improve the ordinance.

**AYES:** Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid, Mayor Nason
**NOES:** None

Motion carried and so ordered.
MOTION:
Moved by Council Member Pilch, seconded by Council Member Maass, to adopt Resolution No. 2019-85, approving submittal requirements and conditions of approval for small wireless facilities located in the public right-of-way.
AYES: Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid, Mayor Nason
NOES: None
Motion carried and so ordered.

11. UNFINISHED BUSINESS

12. NEW BUSINESS

12-1. Approving of Policy for Display of Flags at City Sites and Facilities

Staff recommendation: that the Council adopt Resolution No. 2019-91 approving the proposed Flag Display Policy in its current form or with such revisions as may be deemed appropriate

City Attorney Craig Labadie presented the staff report. The draft policy summarizes and incorporates State and Federal policies and laws regarding flag displays. The draft policy also authorizes the City to exercise its right of governmental speech by having the City Council approve a display of commemorative flags on poles at City facilities. Any request to display a commemorative flag must be submitted by a member of the Albany City Council on his own behalf or on the behalf of a member of the public. Flags may be displayed for a period not to exceed 31 days at City Hall, Albany Community Center, or other location authorized by the City Council. In addition, commemorative flags will be displayed beneath the U.S. and California flags.

A summary of Council comments is as follows: a suggestion to utilize lighting friendly to dark skies if new flagpoles are installed or if existing flagpoles are replaced or significantly repaired; Number 1e in Section 2 could be revised to state flags "shall" be displayed; the clause beginning "unless otherwise directed" should be deleted from Number 2d in Section 2; concerns that the policy could lead to conflicts within the community or become burdensome; a suggestion to eliminate the public's ability to request the display of flags and to limit the flags on display to the U.S. flag, the California flag, and the Gay Pride flag;

MOTION:
Moved by Vice Mayor McQuaid, seconded by Council Member Pilch, to adopt Resolution No. 2019-91 approving the proposed Flag Display Policy with modifications to Numbers 1e and 2d of Section 2 and the lighting.
AYES: Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid
NOES: Mayor Nason
Motion carried and so ordered.

12-2. Proposed City Lighting Policy and Request for $6,500 from City Council Discretionary Funds to Implement Lighting Set Up and Installation

Staff recommendation: that the Council:
1. Consider development of a lighting program and provide any feedback for incorporation into an official City Council Lighting Policy; and
2. Authorize up to $6,500 from the City Council Discretionary Funds to implement lighting set up and installation

Vice Mayor McQuaid presented a request for the Council to discuss developing a policy for lighting the Community Center tower in recognition of events and holidays as authorized by the Council. Lighting could be activated for one day and no more than two days. She offered three methods for lighting the tower and proposed implementing Option 2 and funding the project from the City Council Discretionary Fund.

A summary of Council comments is as follows: a request for a demonstration of lighting the tower; opposition to the lighting project because it does not contribute to public safety;

**MOTION:**
Moved by Vice Mayor McQuaid, seconded by Council Member Pilch, to direct staff to develop a lighting program and to authorize $6,500 from the City Council Discretionary Fund to implement lighting set up and installation described in Option 2.

**AYES:** Council Members Barnes, Maass, and Pilch, Vice Mayor McQuaid

**NOES:** Mayor Nason

Motion carried and so ordered.

13. **FUTURE AGENDA ITEMS**

None.

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

14-1. Upcoming City Events

A. Friends of Albany Parks Clean-up Day, Saturday, November 23, 9:00 AM – 12:30 PM, Albany Bulb & Waterfront

14-2. Upcoming City Meetings

A. Library Board, Tuesday, November 19, 7:00 PM, City Hall Council Chambers

B. Climate Action Committee, Wednesday, November 20, 7:30 PM, City Hall Council Chambers

C. City Council, Monday, December 2, 7:30 PM, City Hall Council Chambers

14-3 City Offices will be closed on Thursday and Friday, November 28-29, 2019 for Thanksgiving Holidays
15. **ADJOURNMENT**

9:31 p.m. There being no further business before the City Council, Mayor Nason adjourned the meeting in memory of those who died in recent shootings and Angela Schwab Dunakin.

Minutes submitted by Anne Hsu, City Clerk.

________________________________________________________________________
Rochelle Nason
Mayor

Attest:

________________________________________________________________________
Anne Hsu, City Clerk