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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, APRIL 21, 2008

7:30 CLOSED SESSION

Closed Session pursuant to Government Code Section 54957.6 to discuss labor negotiations:

Agency Negotiator:	City Administrator
Employee Organization:	Albany Municipal Services JPA and City of Albany Public Safety Management

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

ADJOURN TO CLOSED SESSION

8:00 p.m.

Mayor Lieber, who led the Pledge of Allegiance to the Flag, called the regular meeting of the Albany City Council to order on the above date.

ROLL CALL

Present: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber
Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney, Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Marc McGinn, Fire Chief; Isabelle Leduc, Senior Services Supervisor.

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

Mayor Lieber reported that Council gave direction to staff regarding the labor negotiations.

4. CONSENT CALENDAR

(Consent Calendar items are considered to be routine by the City Council and will be enacted by one motion. By approval of the Consent Calendar, the staff recommendations will be adopted unless otherwise modified by the City Council. There will be no separate discussion on these items unless a Council Member or a member of the audience requests removal of the items from the Consent Calendar.)

4-1. Council Minutes, April 7, 2008.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$185,435.43; taxes, benefits & withholdings in the amount of \$146,602.25. Total payroll in the amount of \$332,037.68. Payroll period: 04/11/08.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$56,865.90; taxes, benefits & withholdings in the amount of \$43,303.03. Total payroll in the amount of \$100,168.93. Payroll period: 04/11/08.

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$637,928.80. Period: 04/04/08.

b. Ratification of bills, claims & demands against the City of Albany JPA in the amount of \$498.43. Period: 04/04/08.

Staff recommendation: Ratify.

4-4. Resolution No. 08-20 – A Resolution of the Albany City Council Requesting that the Metropolitan Transportation Commission (MTC) Allocate Fiscal Year 2008-09 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding to the City of Albany. (File #600-40)

Staff recommendation: Adopt Resolution No. 08-20.

4-5. Resolution No. 08-21 – A Resolution of the Albany City Council Authorizing City Staff to Implement the Proposed Plan for the City of Albany's Para transit Program for Fiscal Year 2008-09. (File #1060-95)

4. CONSENT CALENDAR

Staff recommendation: Adopt Resolution No. 08-21.

- 4-6.** Resolution No. 08-23 – A Resolution of the Albany City Council Establishing Rules for the Conduct of the November 4, 2008 Election. (File #630-30)

Staff recommendation: Adopt Resolution No. 08-23.

- 4-7.** Ordinance No. 08-02 – An Ordinance of the Albany City Council Regulating the Use of Polystyrene Foam Disposable Food Service Ware and Requiring the Use of Biodegradable or Compostable Disposable Food Service Ware By Food Vendors and City Facilities. Second Reading. (File #405-35)

Staff recommendation: Adopt Ordinance No. 08-02 for Second Reading – Pass-to-Print.

- 4-8.** Third Quarter Fiscal Year 2007-08 Work Plan Status Report. (File #100-30)

Staff recommendation: Receive and review status report, and provide new direction, if any.

- 4-9.** Contributions to City, Non-Profit, Local Public Agencies, Individuals and Other Organizations for Albany Projects or programs. (File #100-30)

Staff recommendation: Allocate \$5,000 for Grants to Non-Profit agencies.

- 4-10.** Emergency Medical Services Billing Contract. (File #600-30)

Staff recommendation: Authorize the City Administrator to enter into an agreement for Emergency Medical Services (EMS) billing services with the Novato Fire Protection District (NFPD) effective July 1, 2008.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar and Item 4-1 was removed.

4-1. Council Minutes, April 7, 2008.

Council Member Javandel noted that the order of business on the first page was out of order and should be changed.

4. CONSENT CALENDAR

MOTION:

Moved by Council Member Okawachi, seconded by Council Member Javandel to approve the Consent Calendar, as submitted with the correction to the minutes.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Lieber asked if anyone would like to speak. Council Member Wile read a newspaper article regarding the probability of an earthquake in this area and suggested that residents join the Albany Emergency Preparedness Group and to contact the Fire Department for additional information.

The following people spoke: Lubov Mazor, Albany resident; Preston Jordan, Albany resident; Allan Maris, Albany resident; Robert Hartman, General Manager Golden Gate Fields; Robert Cheasty, Albany resident.

A summary of the comments is as follows: Complained that the survey regarding the Veteran’s Building in the City’s Activity Guide is slanted and asked that it be done in a more valid way. A suggestion was made that the Waterfront Committee is in violation of the Brown Act by holding serial meetings via e-mail and asked the City Attorney to look into this in view of a recent Attorney General Opinion. Noted that according to Alameda County Housing Authority their revenues are declining and there is a waiting list for affordable housing. Asked the Mayor to proclaim May as Mental Health Month. Expressed concern about the City budget and its small reserve and urged the Council to be very careful. Spoke about the Green Program at Golden Gate Fields and the increase of racing days noting that this year there would be 127 days and in 2009 there would be 198 days. Noted that the Council Agendas are becoming very lengthy and asked the Council to schedule additional meetings.

There being no one else wishing to speak Mayor Lieber closed the Good of the City/Public Forum/Announcements.

6. PUBLIC HEARING/PRESENTATIONS

6-1. Gilman Ball Fields/Tom Bates Regional Sports Complex
(File #490-100)

Roger Miller, City of Berkeley Project Manager, thanked the City Council for taking the lead on this project and getting the five cities together. Mr. Miller noted that funds are still needed for Phase II and that the Opening Day Ceremony is planned for September 6 2008.

Mr. Miller stated that user groups would use the fields during the week from 3 p.m. to 10 p.m. and all day on weekends and is looking for ways to raise additional funds. One idea is to invite other entities to provide fund to reserve the space and at this time College Prep High School has contacted the City about the possibility of using the fields.

6-1. Gilman Ball Fields/Tom Bates Regional Sports Complex

Mr. Miller spoke about the CBS electronic billboard noting that CBS paid the \$2 million dollars to be able to use the sign and removed six existing signs.

Council Member Okawachi thanked Allan Maris, former Mayor, who worked extremely hard to get this project completed.

The following people: Brian Parsley, Albany resident; Allan Maris, Albany resident; Robert Hartman, Golden Gate Fields, Robert Cheasty, Albany resident; Clay Larson, Albany resident; Norman LaForce, Sierra Club.

A summary of the comments is as follows: Expressed concern about the timeframe for the baseball and softball fields. Thanked Norman LaForce and Robert Cheasty for their help in the environmental area and also thanked Doug Fielding, Roger Carlsen and City staff. Spoke about the mediation for the burrowing owl habitat and the cost. Expressed concern about the intersection at I-80/Gilman Street noting it is a very dangerous intersection and should be looked at. Mayor Lieber responded that there is a plan to install a roundabout at that location. Noted that the costs for the burrowing owl habitat is coming in about half of what originally was expected. Expressed concern that 20 acres of land is lost due to the burrowing owl habitat. Thanked everyone for coming together and making this project a reality and noted that funds came from East Bay Regional Parks District. Noted that the area is very sterile and believe this is stakeholder politics at its worst. Asked who named the ball fields the Tom Bates Complex. Mr. Miller responded that the JPA Steering Committee who then forwarded the suggestion to the East Bay Regional Parks District Board of Directors. Mayor Lieber stated that without the help of Tom Bates when he was in the State Legislature this project would not have happened.

No Council action required.

7. UNFINISHED BUSINESS**7-1. Ordinance No. 08-03 – Smoking**

(File #560-90)

The Assistant City Administrator reported that at the March 3, 2008 Council meeting the Social & Economic Justice Commission submitted a proposal to change the City's smoking ordinance. After review and public comment the Council asked the City Attorney to prepare an ordinance that incorporated the Commission's recommended changes and Council direction.

Among the issues discussed at the March 3, 2008 meeting were: 1) No smoking on sidewalks on Solano Avenue. The Commission recommended a one-year trial, however, Council had some concerns about that clause; therefore, it has not been included in the draft ordinance. 2) No smoking on sidewalks on San Pablo Avenue. The Commission recommended allowing smoking on the sidewalks of San Pablo Avenue. There was no clear Council direction to include a prohibition on San Pablo Avenue. 3) School Zones. The draft ordinance prohibits smoking on sidewalk areas adjacent to public or private school property. 4) Exception for The Pub on Solano Avenue. The Commission recommended an exception, however, staff does not recommend singling

7-1. Ordinance No. 08-03 – Smoking

out a specific name but instead drafted the ordinance to allow smoking in unenclosed areas of any bars where food has been served for at 90 days prior to the passage of the ordinance.

The City Attorney noted that staff did not include “an opt out” due to confusion this may present to people. The City Attorney stated that he believes the draft before Council is a workable ordinance that can be changed by the Council at any time.

The following people spoke on this issue: Ira Sharenow, Albany resident; Joseph Masconi, Albany resident; Joseph Fenton, Albany resident; Angela Brandt, Albany resident; Francesco Papalia, Albany resident; Brian Parsley, Albany resident; Mimi Van Kirk, Albany resident; Serena Chinn, American Lung Association; Janet Katz, American Cancer Association; Mara Duncan, Chair Social & Economic Justice Commission; Allan Maris, Social & Economic Justice Commission.

A summary of the comments is as follows: Discussed the Ordinance noting that the draft was not understandable. Believe that the legislation is flawed and definitely against Section 17.1.7, private enforcement, noting this will lead to confrontations between people. Noted that it has not been proven that outdoor smoke is harmful. Believe this Ordinance is a misuse of public money and may be a risk to businesses. Noted that smoking is a public health issue and this ordinance is in line with other cities. Noted that the Social & Economic Justice Commission did not vote to include private enforcement.

Council Member Javandel stated that he is uncomfortable with the private enforcement section and would like to see that section taken out of the ordinance.

Council Member Okawachi also objected to the private enforcement section and is troubled by the ban on smoking on Solano Avenue.

Council Member Atkinson stated that it is not her intent to close The Pub.

Council Member Wile stated that she would not object to removing Section 17.1.7 private enforcement.

Mayor Lieber agreed and stated that at the last meeting there was discussion regarding signs being posted on Solano Avenue. Mayor Lieber stated that second hand smoke is dangerous and is a public health issue.

Council Member Javandel introduced Ordinance #08-03 – An Ordinance of the Albany City Council Prohibiting Smoking In or Around Workplaces, Recreational Areas and Other Places and Amending the Albany Municipal Code with the removal of Section 17.1.7 – Private Enforcement for First Reading.

MOTION:

After reading the title, and waiving the reading of the entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Wile to approve First Reading with the removal of Section 17.1.7 – Private Enforcement.

AYES: Council Members Atkinson, Javandel, Wile & Mayor Lieber

NOES: Council Member Okawachi

ABSENT: None

Motion carried and so ordered.

7-2. Waterfront Visioning Process – Contract with Fern Tiger Associates
(File #490-20)

The Community Development Director reported that the Waterfront Committee at its March 5th meeting voted 5-2 to select Fern Tiger Associates to prepare a scope of work and budget to be presented to the City Council. The Waterfront Committee recommended a number of revisions to the draft scope of work and at the April 15th meeting revised the scope of work by a 5-2 vote. Additions to the work program suggested by the Waterfront Committee include: More detail on the use of specialized sub-consultants to insure that the process is supported by a solid underpinning of opportunities and constraints associated with the site; Periodic updates or written reports to keep the Waterfront Committee, City Council and the public informed of the progress; Clarified that the professional services portion of the budget would be capped at the mid-point of the estimated budget and the direct expenses would be set at the high end of the range for a total cost of \$592,713.

The City Administrator stated that currently in the operational budget \$330,000 is set aside for this project and the remaining costs need to be funded. The alternative could be the reserves set aside in the General Fund and the Capital Improvement Project fund, such as the Civic Center.

Ms. Fern Tiger gave a presentation on her firm noting that the Company prides itself on its creative and comprehensive approach to problem solving and its 29 year track record in civic engagements, as well as its skills in communication, graphics, writing, community facilitation, assessment and analysis. Ms. Tiger stated that perhaps the most important facet of the firm is its unusual ability to reach out to stakeholders with differing points of view and agendas. Building trust through an open process, complemented by accurate, timely and understandable information that invites participation and respects input accumulated throughout the process.

The following people spoke: Peter Shackhowe, Albany resident; Robert Outis, Albany resident; Brian Parsley, Albany resident; Trevor Grayling, Albany resident; Preston Jordan, Albany resident; Mara Duncan, Albany resident; Francesco Papalia, Albany resident; Ed Fields, Albany resident; Michael Halderman, Albany resident; Howard McNenny, Albany resident; Norman LaForce, Sierra Club; Clay Larson, Waterfront Committee member; Robert Cheasty, Citizens for Eastshore State Park; Allan Maris, Albany resident; Bill Dann, Albany resident; Brian Parker, Chair Waterfront Committee; Robert Hartman, General Manager Golden Gate Fields.

A summary of the comments is as follows: Expressed concern that this action was not a unanimous vote of the Waterfront Committee and should not go ahead with this until there is an agreement with the owner of the land. Stated that the real problem is the Council and the Waterfront Committee not working in good faith. Noted that the public has been promised an open transparent process and urged the Council to think long and hard before spending this amount of money on the project. Asked how many proposals were submitted. Believe that this is a political motivated process and is a great time to be doing the process and is excited that it will be a participatory process. Expressed concern about the cost of the project and believe that the City needs to be cautious. In favor of a vision process but believe this is too expensive and would prefer that the City reach out to all the people involved and explore the differences. Believes that a well-grounded vision

7-2. Waterfront Visioning Process – Contract with Fern Tiger Associates

will work. Concerned that the financial issues have not been explored. Spoke about the financial condition of Magna and the need to have a vision process. Voted against the proposal, as it is too expensive and would like the proposal to be more reasonable. Support the idea of a vision process and trust the Council to spend its money wisely. Agree that a fair transparent process is needed and the City must be concerned about the cost and where the money is going to come from. Encourage the Council to approve the contract, as the City must prepare for the future in case the racetrack does leave. Need to reach out to all the community and to bring new people into the process. Spoke about the increase in 2009 of racing days and the need to include the racetrack in the process.

Council Member Wile spoke in support of the contract and agreed that Golden Gate Fields be included in the process. Council Member Wile expressed concern about spending the money during a recession, but believes it is the Council's responsibility to protect the Waterfront.

Council Member Okawachi stated that she would be voting against going forward with this process and does not believe the racetrack is leaving. Council Member Okawachi expressed concern about the money and does not believe the City is in a position to support this project.

Council Member Okawachi reminded the Council of how much money is being spent on rent for the Maintenance Center and believes purchasing land for a maintenance center should be a priority.

Council Member Javandel stated that he believes there is a need for a vision plan and that it would be wise of the City to plan for all possibilities. This process needs to be a community driven process and everyone needs to be informed. However, is very concerned about the cost of the project and believes this should be incorporated into the budget process.

Council Member Atkinson stated that she believes that she was elected to promote a vision at the Waterfront and believe that the money can be found and that the project should go forward.

Mayor Lieber stated that this project has been a long time coming and that he has supported it for the past three years. Mayor Lieber noted that a lot of time has been wasted fighting with Mr. Caruso, which cost the City a lot of money. Mayor Lieber stated that he supports Golden Gate Fields and everyone should work together to make that area nicer.

Mayor Lieber stated that Golden Gate Fields is healthy but Magna is having financial troubles. Mayor Lieber believes that this project is valuable in the long term and agrees that it is expensive; however, in his opinion the City is getting value for the money.

Mayor Lieber spoke about a traffic study that had been prepared and asked that the study be referred to the Traffic & Safety Commission to see how it could work with Fern Tiger.

MOTION:

Moved by Council Member Okawachi, seconded by Council Member Javandel to continue the meeting for 20 minutes.

Motion so ordered.

7-2. Waterfront Visioning Process – Contract with Fern Tiger Associates

MOTION:

Moved by Council Member Wile, seconded by Council Member Atkinson to authorize the City Administrator to enter into a Professional Services Agreement with Fern Tiger Associates per the Scope of Work and Budget Proposal dated April 16, 2008 for a not to exceed professional fee amount of \$410,713 plus direct expenses estimated at \$182,000.

ON THE QUESTION:

Mayor Lieber asked that staff explore not duplicating studies that have already been prepared.

The City Administrator stated that staff would report back through the budget process if the funds go beyond the \$330,000. Mayor Lieber commented that he believes the City does have the funds.

Council Member Javandel stated that he does support the process but is uncomfortable with voting for it without a budget and would prefer that the Council have the patience to wait until the money is found.

VOTE ON THE MOTION:

AYES: Council Members Atkinson, Wile & Mayor Lieber

NOES: Council Members Javandel & Okawachi ABSEMT: None

Motion carried and so ordered.

At this time, Mayor Lieber asked if some items on the agenda could be continued due to the time and the City Administrator responded that Item 8-1 could be continued but 8-2 and 8-3 needed to be acted on tonight.

8-1. Natural Resource Damage Assessment Restoration Project

(File #520-30)

Continued to April 28, 2008.

8-2. 2008-10 Budget Priority Setting Process

(File #330-20)

The City Administrator reported that every two years the City Council adopts a budget for a two fiscal year period beginning July 1. In June, 2008, the City Council is scheduled to adopt a budget for the fiscal years 2008-09 and 2009-10.

This year due to the projected Stated budget deficit and the slowdown in the economy cities are approaching the next fiscal year with caution. As noted in the City mid-year budget report both sales tax and property transfers are down, which creates some uncertainty in available revenues for City expenditures.

The City Council appointed Council Members Atkinson and Javandel to a subcommittee to work with staff to develop a recommended priority setting process. To meet and balance various challenges and opportunities, staff and the subcommittee recommend the following schedule: April 28th – Informational: Receive reports, comments and ideas. May 12th – Evaluation of ideas: Public engagement in identifying priority areas. May 19th – Direction: Council provides staff with direction on priorities.

8-2. 2008-10 Budget Priority Setting Process

June 2nd – Public hearing: Draft budget is presented for formal review. June 16th - Adoption: Final budget is adopted. The subcommittee is recommending that Council reserve Monday, June 30th, as a potential meeting date if needed.

MOTION:

Moved by Council Member Wile, seconded by Council Member Javandel to approve the budget schedule, as recommended by staff and the Council subcommittee.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

It was noted that the next meeting is April 28th, 7:30 p.m. for a budget work shop and to take action on Item 8-1, which was continued from this meeting.

8-3. Civic Center Relocation

(File #200-20)

a. Commission, Committee and Board Meetings during the Relocation.

The Assistant City Administrator submitted for Council information the meeting date and location for all City Boards, Commissions and Committees. The Assistant City Administrator noted that two Committees have a changed schedule date: Charter Review and the Waterfront Committee.

Mayor Lieber stated that he is pleased to see on the schedule that the Albany Unified School District would be using the Community Center for its meetings, which would be broadcast. This is schedule to begin in September.

It was noted that many of the Commissions, Commissions & Boards would be meeting at the Community Center, which leads to a loss in revenue as classes and rentals have been blocked out due to City meetings. The net loss is estimated at approximately \$6,000 - \$10,000 per year.

No Council action required.

b. Authorization for Expenditures related to the Relocation.

The Assistant City Administrator reported that the Civic Center project is underway and the relocation is scheduled to begin the first weekend in May. The primary contracts and lease agreements for this relocation have been approved by the City Council over the last several months. However, a variety of additional smaller contracts are expected throughout the next several months and will require approvals.

Staff is recommending that Council authorize the City Administrator to approve such contracts and/or service agreements so that they could be signed in a timely manner so as to meet the construction schedule and avoid delay penalties.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Okawachi to authorize the City Administrator to enter into contracts, purchase orders or lease

8-3. Civic Center Relocation

agreements for remaining relocation activities for the Monroe Street Public Safety Complex (Police & Fire), 405 Kains (Administration & Finance) and 979 San Pablo Avenue (Community Development) up to \$650,000.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

9. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS.

9-1. Receive information, discuss and provide Council direction on oral report from the University Village/Gill Tract City Council Subcommittee on meetings to date, and plans for future discussions.

9-2. Council meeting schedule for April and May.

a. Pending Council action on Item 8-2, schedule special 2008-10 fiscal year Budget workshops on April 28 & May 12, 2008. The May 12th meeting would be at the Community Center, 1249 Marin Avenue, Albany.

b. Due to the City Hall relocation the next regular meeting will be May 19, 2008 at the Community Center, 1249 Marin Avenue, Albany.

Council Members announced the following events:

Council Member Atkinson: 1) Attended with CM Okawachi the Rails to Trails meeting. 2) Participated in the Marin School 3rd grade class tour of City Hall. 3) Involved in Meals on Wheels for the past several months. 4) Participated in the Earth Day Clean Up.

Council Member Okawachi: 1) Noted the work being done at the Veterans Memorial and thanked all the people working on this project.

Council Member Wile: 1) Attended the UC Village meeting and noted that a design team is going to meet with UC to speak about ideas.

Mayor Lieber: 1) Announced that he was contacted by Barbara Boxer's office regarding the Light Brown Apple Moth spraying. 2) Attended the Earth Day activities and noted that he did not see any oil residue on the beach. 3) Attended the Code Pink demonstration.

Council Member Javandel: 1) Announced that he would be attending an ABAG conference in San Francisco. 2) Announced that May 15th is Bike to Work Day.

Allan Maris announced that May 4th is the annual Arts and Music Festival, 11-4 p.m., which will include talent from Albany High School.

10. ADJOURNMENT

11:35 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

ROBERT S. LIEBER
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK