

NOTE: These minutes are subject to Council approval and are not verbatim; however, tapes are available for public review.

MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, APRIL 19, 2004

8:00 p.m.

Mayor Ely 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 Good, Maris, Okawachi, Thomsen & Mayor Ely
Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant to the City Administrator; Charles Adams, Finance & Administrative Services Director; Ann Chaney, Community & Development Director; Dave Dowswell, Planning Manager; Billy Gross, Associate Planner; Roger Anderman, Public Works Manager; John Medlock, Maintenance Supervisor.

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

Mayor Ely announced that action was taken and no further action by Council is needed.

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. 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. CONSENT CALENDAR

4-1. a. Ratification of City of Albany net payroll in the amount of \$152,529.74; taxes & withholdings in the amount of \$83,519.03. Total payroll in the amount of \$236,048.77. Payroll period: 04/02/04.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$36,449.01; taxes & withholdings in the amount of \$22,196.20. Total payroll in the amount of \$58,645.21. Payroll period: 04/02/04.

4-2. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$178,102.45. Period: 04/09/04
(File #300-40)

4-3. Solano Stroll Encroachment Permit, City contribution and fee waiver.

Staff recommendation: 1) Direct staff to issue a no-fee encroachment permit to the Solano Stroll Avenue Association for the 2004 Solano Stroll event, scheduled for Sunday, September 12, 2004. 2) Contribute \$5,000 to the Solano Avenue Association to assist in putting on the 2004 Solano Stroll. 3) Waive fees for paramedics to be on-site from 9:00 a.m. to 6:30 p.m.
(File #820-50)

4-4. Contract with William Algire for Interim Public Works Manager services.

Staff recommendation: Approve.

4-5. Third-Quarter Fiscal Year 2003/04 financial statements and projections.

Staff recommendation: 1) Accept report. 2) Authorize incremental General Fund capital expenditures in Fiscal Year 2003/04 to be funded by net revenues projected to accrue within the fiscal year.
(File #330-20)

4-6. City of Albany v. Dickman Norse, et al (Community Center/Library repairs)

Staff recommendation: Accept report.

4-7. Approval and acceptance of work under the 2003 Street Resurfacing Program, Phases 1 and 2.

Staff recommendation: 1) Adopt Resolution No. 04-03 (incorrect number, should be 04-17) A Resolution of the Albany City Council Approving and Accepting Work and Directing the Filing of the Notice of Completion for

4. CONSENT CALENDAR

Contract No. 03-04, the 2003 Street Resurfacing Program, Phase I. 2)
Adopt Resolution No. 04-04 (incorrect number, should be 04-18) A

- 4-7.** Resolution of the Albany City Council Approving and Accepting Work and Directing the Filing of the Notice of Completion for Contract No. 03-07, the 2003 Street Resurfacing Program, Phase 2.
(File #600-30)

Mayor Ely asked if anyone would like to remove an item from the Consent Calendar and Council Member Maris removed Items 4-3, 4-5 & 4-7. The City Administrative removed item 4-4 for discussion.

- 4-3. Solano Stroll Encroachment Permit, City Contribution and Fee Waiver**

Council Member Maris stated that he would like to hear from James Carter, Executive Director Albany Chamber of Commerce, regarding this issue.

Mr. James Carter, Executive Director Albany Chamber of Commerce, stated that he would like the Council to postpone action on this item until he gets clarification on the impact of the recently formed Business Improvement District (BID) in Berkeley.

Mr. Carter noted that it is his understanding that if there is a BID area money can only be used in that particular area. Therefore, would like to make sure the Berkeley BID area will not impact the Albany portion of Solano Avenue before the City contributes any money.

Staff recommended that this item be held over until the next meeting so that information can be gathered and distributed to the Council.

- 4-4. Interim Public Works Manager**

The City Administrator stated that she would like to acknowledge and thank Roger Anderman for all contributions to the City.

The City Administrator noted that she would like to introduce to the Council the prospective Interim Public Works Manager, William Algire. The City Administrator reported that Mr. Algire is an Engineer and has had a lot of experience in the public works field.

- 4-5. Third Quarter Fiscal Year 2003/04 Financial Statements and Projections**

Council Member Maris noted that the City is still solvent and healthy and thanked staff for their conservative approach. Council Member Maris asked a question about the purchase of an upgrade to the City computer system questioning whether the upgrade would handle growth for the next five (5) years. The Public Works Manager responded that the upgraded server would meet the City's needs until the technology is obsolete.

4. CONSENT CALENDAR

4-7. 2003 Street Resurfacing Program, Phases 1 & 2

Council Member Maris expressed concern about the over costs of the program and hoped this would not happen again. The City Administrator responded that staff was also concerned about the over costs, but a project of this scale has not been done in many years and did not know how much it would cost. Staff has learned a lot from this project and noted the lessons will be transferred to future projects.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi to approve the Consent Calendar as submitted with the exception of Item 4-3, which will be held over until the next Council meeting.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

5. PRESENTATION/PUBLIC HEARING

5-1. Presentation of National Library Week Proclamation

Mayor Ely read the Proclamation and presented it to the Chair of the Albany Library Board.

Mr. Peter Goodman, Chair Albany Library Board, thanked the City Council for their support of the Library and spoke about the Albany Library.

Ms. Ronnie Davis, Library Branch Manager, spoke to the Council and informed them of the upcoming events planned for Library Week.

5-2. Presentation of Proclamation to Bill Cain

Mayor Ely read the Proclamation thanking Bill Cain for all of his contributions to the City and the School District.

Mr. Cain thanked the Council for the Proclamation and noted how much he has enjoyed being a part of the City of Albany and that he will miss everyone. Mr. Cain urged the Council to support the passage of an Unreinforced Masonry Ordinance.

All five (5) members of the City Council thanked Mr. Cain for his commitment and dedication to the City.

Ms. Ronnie Davis presented a Proclamation thanking Mr. Cain for his service to the Albany Library.

5-3. Public Hearing on Appeal of Planning & Zoning Commission Approval on the Shell Gas Station Application

(File #450-50)

The Associate Planner reported that the applicant (Shell Gas Station) is requesting Design Review approval to update the look of the canopy at the Shell Gas Station at the

5-3. Public Hearing on Appeal of Planning & Zoning Commission Approval on the Shell Gas Station Application

intersection of San Pablo and Marin Avenues. The proposed changes would include replacing the existing yellow mansard roof on the canopy with a new fascia panel that would include an illuminated red bar and illuminated Shell lettering. The applicant is also proposing to install a new fascia sign with the wording "snack shop" over the main entrance to the building. The fascia sign would be color coded red and yellow to match other signage typical at Shell stations.

The Planning & Zoning Commission heard this item and after listening to testimony from the applicant they moved approval. The approval included modifications, including not illuminating the red bar on the new canopy fascia panel, the freestanding sign be made to conform to the San Pablo Avenue Design Guidelines and the City Engineer would review the sight distances for the new monument sign to ensure that sight lines for vehicles and pedestrians are adequate.

The applicant is appealing on the basis that the existing freestanding sign is not being altered, as part of the application. The appellant is requesting that the condition of approval requiring the existing freestanding sign be removed and replaced with a monument sign be deleted from the final approval.

The Associate Planner noted that after staff's review they are recommending that the Council uphold the decision of the Planning & Zoning Commission.

Mayor Ely opened the public hearing and asked the applicant to make their presentation.

Mr. Andrew Fisher, Art, Inc Architects, represented Shell Gas Station, stated that gas stations are mandated to provide signs that are visible to the public regarding the gas prices. Mr. Fisher also noted that in 1998, the ARCO gas station was allowed to have their sign without any problem from the City.

There being no one else wishing to speak Mayor Ely closed the public hearing.

Council Member Good asked whether they could leave the sign the way it is now and Mr. Fisher responded he didn't believe that Shell would withdraw their application. Council Member Good stated that he believes the sign looks good and is not obtrusive and the City should not blindly apply the rule noting that cars will block the sign. Council Member Good stated at this time he is leaning towards supporting the appeal.

MOTION:

Moved by Council Member Good to approve the appeal.

Motion died for lack of second.

Council Member Maris stated that the City was involved in a long process in developing the Sign Ordinance and believes that the Shell sign is prominent on the canopy. Council Member Maris noted that the visibility of the sign is good and stated the Council needs to enforce the Sign Ordinance and does not believe this will be a hardship to Shell.

MOTION:

Moved by Council Member Maris, seconded by Council Member Okawachi to deny the appeal and uphold the decision of the Planning & Zoning Commission.

6-1. Premium Service Rate for Back or Side Yard Collection

MOTION:

Moved by Council Member Good, seconded by Council Member Thomsen to approve a rate of \$8.00 per month for premium service.

AYES: Council Members Good, Mast, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

7. NEW BUSINESS

7-1. Use of Recycled Water for Irrigation at Ocean View School
(File #820-30)

The Maintenance Supervisor stated that the California Water Code provides that local governments must enter into agreements with the agency or company supplying water to their jurisdictions to use recycled water for landscape irrigation within a specified time after the water supplier notifies the local government that it will make recycled water available.

East Bay Municipal Utility District has notified the City that it expects to deliver 700,000 gallons per day of recycled water to customers in selected portions by 2005. The area selected in Albany to have the recycled water is Ocean View Park. There are benefits to using the recycled water for irrigation: 1) Assisting the State in its efforts to conserve water; 2) recycled water has a higher nutrient content than fresh water; 3) the City and the School District will be setting an example; 4) will bring the City and School District in compliance with the State Water Code.

The Maintenance Supervisor noted that the City must sign a Customer Use Agreement to use recycled water and a Customer Agreement to allow EBMUD to retrofit the on-site water system to accept recycled water.

Once the retrofit has been completed, the City and the School District will assume all responsibility and liability for the system on the “consumer” or “meter side” of the system. The recycled water will be completely separate from the potable water supply and will be used only to irrigate the landscaping at the park and school grounds. All pipes supplying the recycled water will be purple in color. EBMUD will test for cross-connections to ensure that the recycled water and the potable water system are completely independent of each other. This test will be conducted once a year by EBMUD.

The Maintenance Supervisor stated that EBMUD would incur the cost of designing and retrofitting the existing water system at Ocean View Park. The City will be required to install a Backflow Prevention Device on the customer side of the meter and EBMUD will pay for all change over costs. The City must also maintain the two separate water systems and the required signs advising the public that recycled water is being used for irrigation. Funds are available in the Parks and Public Buildings Maintenance operating budget.

Council Member Thomsen expressed concern about bacterial infection with the use of the recycled water. The representative from EBMUD responded this water is

7-1. Use of Recycled Water for Irrigation at Ocean View School

highly disinfected and treated to remove all disease organisms and noted that the State has very high standards regarding recycled water, as they know there will be public contact. The EBMUD representative stated that in the 75 years of using recycled water there has never been a health problem associated with it.

Council Member Maris questioned the “hold harmless clause” in the contract noting that if the City does not have control over the water supply how can they be held responsible. The EBMUD representative replied that under Title 22 requirements they are responsible for providing the quality of water; however, EBMUD cannot be responsible for how the customer uses that water. The EBMUD representative stated that they will do annual inspections to make sure the water is being handled correctly and cross testing will be performed.

Council Member Maris stated he is very impressed with this program and Mayor Ely stated he was disappointed that the City would not receive a price break for the use of recycled water. The EBMUD representative stated that they are very dedicated to working on behalf of their recycled water customers and are advocating that there be a financial incentive.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Good to approve staff’s recommendations, as follows: 1) Authorize the City Administrator to execute a Customer Use Agreement with EBMUD providing for the use of recycled water for irrigation at Ocean View Park. 2) Authorize the City Administrator to execute a Customer Use Agreement with EBMUD to allow them to retrofit the existing landscape irrigation system to accept recycled water at Ocean View Park.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

7-2. Pavement Resurfacing Program, 2004

(File #820-30)

The Public Works Manager reported that the 2002 Pavement Management Analysis showed that the City needs to spend more than \$500,000 annually in order to maintain the roads in their current condition. State budget funds have been suspended due to its budget deficit.

The Albany voters approved Measure F in 2002, which provides bond funds for a variety of capital projects including resurfacing City streets and in 2003 more than \$500,000 of resurfacing improvements were completed.

The Public Works Manager noted that Council is in the process of reviewing recommendations for the allocation of the Measure F capital funds. However, direction on the allocation of funds for a 2004 resurfacing project is needed prior to July, 2004 in order to accomplish its construction in summer/fall.

Staff is recommending \$150,000 budget for the annual street rehabilitation program.

7-2. Pavement Resurfacing Program, 2004

The Public Works Manager stated that once Council has determined the amount of the budget the next step is to rerun the Program Analysis and then come back to Council with a recommendation on what streets are to be resurfaced.

Council Member Maris stated that last year the Council decided on the medium route regarding allocation of funds and recommended the minimum amount of \$250,000 be done this year.

The Public Works Manager noted that the \$150,000 would only do sealing and no reconstruction of streets. The surface seal is just a big “band aid” and does not fix the street it only helps to resist wear and tear.

Council Member Maris expressed his concern that the City is spending money on the resurfacing when in reality the streets need to be reconstructed and stated that he would feel more comfortable in having the \$250,000 available.

Mayor Ely asked if there was any money available for engineering construction and was told there was none put away for engineering.

MOTION:

Moved by Council Member Maris, seconded by Council Member Okawachi to approve \$250,000.

Council Member Good asked what staff thought about the change in the amount allocated and the City Administrator responded it did not matter that staff could go either way.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

9. GOOD OF THE CITY/PUBLIC FORUM

For persons desiring to address the City Council on an item that is not on the agenda please note that City policy limits each speaker to five (5) minutes. The Brown Act limits the Council’s ability to take and/or discuss items that are not on the agenda; therefore, such items are normally referred to staff for comment or to a future agenda.

Mayor Ely opened the Good of the City/Public Forum and asked if anyone would like to speak.

The Public Works Manager thanked the Council for their kind words on his retirement and noted what a great place Albany was to work and that he has worked with quite a few Councils and that this Council has no “hidden agendas” and is very supportive of staff.

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

10. ADJOURNMENT

9:55 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.

JON ELY
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK