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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, JUNE 7, 2004

6:40 p.m.

Executive Session pursuant to Government Code Section 54956.8 to discuss labor negotiations:

Unrepresented Employees: Management & Confidential

7:00 p.m. – Study Session

(File #320-55)

Parks, Recreation and Open Space Master Plan Progress Report and Priority List of Parks, Recreation and Open Space Improvement Projects for Measure F Funding.

Commission Recommendation: Receive the Parks, Recreation and Open Space Master Plan Report and approve the attached priority list entitled “Parks, Recreation and Open Space Improvement Priorities” for consideration for the use of Measure F funds, as recommended by the Parks & Recreation Commission.

Staff recommendation: 1) Review and discuss with the Parks & Recreation Commission the Parks, Recreation and Open Space Master Plan Progress Report and the attached priority list entitled “Parks, Recreation and Open Space Improvement Priorities” for consideration for the use of Measure F funds. 2) Take public comment on the discussion with the Parks & Recreation Commission regarding the progress report and priority list during the regular session Council agenda item of June 7, 2004. At that time, provide direction to the staff and the Commission for any further review or information needed. 3) Schedule a regular session agenda item to consider approval of the priorities for the City Council meeting of June 21, 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; Charles Adams, Finance & Administrative Services Director; Susan Hsieh, Accountant; Melinda Chinn, Recreation & Community Services Director; Chelle Putzer, Recreation Supervisor; Aisha Boykin, Senior Services Director; Jeremy Allen, Youth Services Supervisor; Brad Griffith, Child Care Supervisor; Ed Phillips, Consultant; Judy Lieberman, Assistant to the City Administrator; Greg Bone, Chief of Police; Marc McGinn, Fire Chief.

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

Mayor Ely announced that direction was given to the City Administrator.

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.)

4-1. City Council minutes, May 17, 2004.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$153,334.53; taxes, benefits & withholdings in the amount of \$92,966.18. Total payroll in the amount of \$246,300.71. Payroll period: 05/14/04.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$35,437.29; taxes, benefits & withholdings in the amount of \$26,105.24. Total payroll in the amount of \$61,542.53; Payroll period: 05/14/04.

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$373,112.42. Period: 05/21/04.
(File #300-40)

Staff recommendation: Ratify.

- 4-4. Ratification of pension payments in the amount of \$105,622.89 for the month of May, 2004.

Staff recommendation: Ratify.

- 4-5. Donation to the Senior Center.
(File #150-70)

Staff recommendation: Accept the donation made to the Albany Senior Center from the estate of Virginia Morgan in the amount of \$1,000.

- 4-6. Resolution #04-30 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute a Contract and any Amendments with Wilbur Smith & Associates for the Pierce Street Transportation Analysis, as Part of the Phase II Cerrito Creek Work Plan, in an Amount not to Exceed \$19,000.
(File #600-30)

Staff recommendation: Approve Resolution #04-30.

- 4-7. Resolution #04-26 – A Resolution of the Albany City Council Amending Resolution Numbers 80-50, 87-58, 88-37, 90-122, 92.71, 98-9 and 98-9, Which Will Continue to Adhere to the Conflict of Interest Code as Adopted and Incorporated by Reference Pursuance to the Fair Political Practices Commission Standard Conflict of Interest Code.
(File #640-40)

Staff recommendation: Approve Resolution #04-26.

- 4-8. Setting a public hearing for Monday, June 28, 2004, at 7:30 p.m. to discuss the Zoning Ordinance.

Staff recommendation: Approve.

- 4-9. Second Reading of Ordinance #04-03 – An Ordinance of the Albany City Council Amending Chapter 10 Animal Control of the Albany Municipal Code to Add the Term “Guardian” to the definition of “owner” and to Modify all References to “Owner” to “Guardian/Owner.”
(File #100-95)

Staff recommendation: Approve Ordinance #04-03 for Second Reading – Pass-to-Print.

**4-10. Leasing the use of City facilities for wireless service provider antennas.
(File #600-20)**

Staff recommendation: Authorize staff to accept applications for leasing the use of City facilities for wireless service provider antennas. Such applications will be subject to the regular Planning & Zoning process.

Mayor Ely asked if anyone would like to remove an item from the Consent Calendar for discussion. Council Member Maris removed item #4-5 and Council Member Good removed item 4-9.

4-5. Donation to Senior Center

Council Member Maris stated that he would like to thank Virginia Moody and the trustees of her estate for the \$1,000 donation to the Senior Center.

4-9. Ordinance #04-03 – Animal Control

Council Member Good stated that again would like to voice his opposition to this Ordinance noting that “owner and guardian” does not mean the same thing and by simply changing names will not solve any problems. Council Member Good stated that he would be voting no on this item.

The Council consensus was to take this item off the Consent Calendar and place it under Unfinished Business for public and Council discussion.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi to approve the Consent Calendar, as submitted with the exception of item 4-9.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

5. PRESENTATION/PUBLIC HEARING

**5-1. Comments from the Public on the Study Session regarding P&R
Commission recommendations on Measure F funding**

(File #320-55)

Mayor Ely stated that the Council would take public comments regarding the study session that was held before the meeting on the Park & Recreation (P&R) Commission recommendations on Measure F funding.

The following people spoke urging the Council to make the Pierce Street Park a high priority: Mr. John Thomsen, 757 Pierce Street; The Reeves Family, 739 Pierce Street; Mr. Norm Ludwick, 709 Pierce Street; Mr. Bob Fiers (sp), 761 Pierce; Mr. John Chen, 736 Gateview; Mr. Dave Minnoggio, 719 Calhoun; Mrs. Hazel Minnoggio, 721 Pierce Street; Mr. David Vasnaik, 757 Pierce Street. A petition was handed-in from residents requesting the Pierce Street Park and traffic calming measures on Pierce Street.

5-1. Comments from the Public on the Study Session regarding P&R Commission recommendations on Measure F funding

The residents of Pierce commented on the need for a park in this area noting that 1/3 of Albany's population live on this side of the Hill. The residents noted that they voted to give up a sound wall and pocket park so that a 4-acre park could be developed.

The residents also requested traffic calming measures for Pierce Street noting that traffic speeds are excessive and vehicles are regularly being hit. The residents expressed concern for pedestrian safety.

Mr. John Thomsen, 757 Pierce, stated that the Waterfront area needed to have bathrooms and water faucets.

Ms. Susan Moffat, 1612 Sonoma, spoke on behalf of the Waterfront Committee, urging the Council to approve the recommendation of the P&R Commission to invest \$75,000 in improvements to the Waterfront Trail from Measure F funds. The Waterfront Committee also asked that the P&R Commission be directed to include the Waterfront Trail in their Master Plan and to include the Bay Trail Connection across Fleming Point in the Master Plan Maps.

The Director of Montessori School noted that many Albany residents use the park area of their school and they are welcome but would like to issue an invitation for people to participate in the maintenance of the grounds.

Mr. Roger Carlsen commended the P&R Commission for their hard work on the Measure F priorities but noted that the Pierce Street Park could qualify for other funds besides the Measure F funds. Mr. Carlsen agreed with the residents of Pierce Street that the street is very busy, however, should not be handled with Measure F funds.

A resident at 906 Ordway expressed concern that unless spelled out clearly the money for the pathway improvements could go nowhere. He also mentioned that the Creek projects were very important.

Council Member Maris responded to some of the concerns mentioned noting that there are bathrooms that are accessible to the public at the Waterfront at the Sea Breeze Café and the Berkeley Marina.

Council Member Maris noted that residents should recognize the prime open space of Albany Hill that is in their backyards that the rest of Albany does not have.

Council Member Maris stated he is very troubled by the actions or inactions of Caltrans and stated that the City needs to think what pressure they can put on Caltrans. Council Member Maris commented that Assembly Person Hancock is working diligently for the City on this matter.

Council Member Maris noted that the bike trail under the freeway is a priority, which is stated in the Traffic Management Plan and is being handled by the Traffic & Safety Commission.

Council Member Thomsen noted that with the help of Assembly Person Hancock there is an opportunity to acquire the Pierce Street Park through the Legislature.

Council Member Thomsen recommended that the P&R Commission change the priority listing of Pierce Street Park and Vista School (switching Vista to priority #6 and Pierce Street Park to priority #3).

Council Member Okawachi agreed that the development of Pierce Street Park is more feasible than the development of Vista School Park.

5-1. Comments from the Public on the Study Session regarding P&R Commission recommendations on Measure F funding

Council Member Maris agreed that Pierce Street Park is greatly needed, however, disagrees with the \$1 million price that Caltrans is requesting.

Mayor Ely stated that due to the high price of acquisition the Pierce Street Park was pushed down the priority list and Council Member Thomsen stated that she is requesting development only not acquisition.

Council Member Okawachi stated that the money should be in place when the City does acquire the Pierce Street Park.

Council reached consensus about the switching of priorities for Pierce Street Park and Vista School Park.

Council Member Maris requested that the City arrive at a price for the Key Route Median Strip and that this project be moved up the priority list. Council Member Okawachi asked that an estimate of the amount be given to Council before any change is made.

Council reached consensus on this item.

5-2. Landscaping & Lighting Assessment District No. 1988-1 & No. 1996-1 for Fiscal Year 2004/05

(File #360-20 & 360-80)

The Community Development Director stated that this item should be continued until July 6, 2004, as the City Engineer does not have all the information needed to file the report. However, as this was noticed as a public hearing it is recommended that the Mayor open the public hearing and take public comments.

Council Member Maris asked how the assessment funds were spent in regards to maintenance throughout the City. The Community Development Director responded that she would come back on July 6th with this information.

Mayor Ely opened the public hearing and asked if anyone would like to speak and there being no one the public hearing was closed.

Mayor Ely stated that this item was continued until July 6, 2004.

5-3. Fiscal Year 2004/05 & 2005/06 Operating Budget

(File #330-20)

The City Administrator stated that staff is pleased to present a balanced budget for 2004/05 & 2005/06 and noted that these are challenging times for cities. Albany is doing better than most cities for the following reasons 1) the willingness of the citizens to increase taxes 2) community willingness to allow economic development 3) a healthy property tax due to the reputation of the School District and City services 4) keeping track of enhancement of retirement benefits and not buying into the most expensive plans and 5) an excellent Finance Director and City staff.

The City Administrator cautioned the Council that the City needs to be diligent due to the stability of the economy.

5-3. Fiscal Year 2004/05 & 2005/06 Operating Budget

The Finance Director introduced Susan Hsieh, Accountant, and noted how appreciative he is of her hard work during the preparation of the budget.

The Finance Director stated that reflected in this budget are annual revenue losses to the State in excess of \$200,000, increases in health insurance premium costs averaging 15%, and increases in retirement plan contributions ranging from 19% to 43%. General Fund revenues are projected to increase 12% in fiscal year 2004/05 and 16% in 2005/06. Interfund transfers to the General Fund include a transfer of a portion of the pension override tax to pay for fire and police pension cost, as was done in fiscal year 2003/04.

The Finance Director noted that there is a negative balance in the Reinvestment Agency Fund due to accounting changes; however, due to State takeaways in this area it will affect the Agency's ability to pay back the City the money it owes. The Finance Director commented that all Department Heads have reviewed their budgets.

Council Member Thomsen stated that it is wonderful to have a balanced budget and commended staff under the leadership of the City Administrator. Council Member Thomsen noted that the City is doing a good job in providing services to the community.

Council Member Maris expressed concern about the assumptions and how accurate they are and also about the impact of the State budget. The Finance Director commented that the City used to receive a backfill for the Vehicle License Fee, which the State took away. The City will also be losing a quarter of the sales tax, however, the State claims they will give that back in the form of property tax. It is supposed to be a one for one switch.

Mayor Ely questioned the loss of Reinvestment Agency funds and asked if this would be a significant loss and the Finance Director responded that it would be significant in that the City could lose half of what is needed.

Mayor Ely opened the public hearing and the following person spoke.

Ms. Elizabeth Pun expressed her concern about the ability of the State to keep taking money from the cities and asked if the City could do anything to prevent this. Council Member Maris stated that there is a Proposition on the November ballot, which if passed will prohibit the State from taking money away from the cities without a vote of the people.

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

The City Administrator stated that the budget would come back on July 6th for adoption.

5-4. Modification of the Master Fee Schedule

(File #100-90)

The Finance Director reported that each year the City Council modifies the Master Fee Schedule with an annual cost-of-living adjustment. The CPI for the San Francisco/Oakland/San Jose area has increased 1.8% over the prior year, triggering an across the board increase in fees. In addition, City wage and benefit costs have increased 6% to 13% for various departments, making fee increases ranging from 2% to 11% necessary to recover the increased cost of services that are labor intensive.

5-3. Fiscal Year 2004/05 & 2005/06 Operating Budget

The Council has established an objective that fees cover the cost of services provided. Analysis of services such as camps, classes and recreational activities is an ongoing process and fees are set annually based upon the projected costs.

Council Member Maris questioned the construction costs and the Uniform Building Code and the Community Development Director responded that she would like to take another look at these fees before adoption of the Master Fee Schedule.

Council Member Maris expressed concern about the increased costs to homeowners for removing trees and the City Administrator replied if this were not done the cost would come out of the General Fund. The Community Development Director indicated that the City has obtained money from Caltrans for tree planting, however, this money is going away and without those funds the City would have to rely on the residents.

Council Member Maris questioned the fire fees stating that a resident complained regarding the cost of the ambulance and it not being paid by Medicare and questioned whether this was an appropriate charge or an illegal charge. The Fire Chief stated that this comes under the First Responder fee and reported that Medicare dictate the fees that can be charged.

Council Member Maris questioned the inspection of fire sprinklers and the Fire Chief responded that because he doesn't know exactly how much time it takes the Inspector the fees are being charged on an hourly basis (\$100 per hour).

There being no one else wishing to speak Mayor Ely closed the public hearing. The City Administrator noted that the Master Fee Schedule would come back to Council for adoption on June 21, 2004.

Council Member Maris asked staff if they had considered the impact of charging \$.50 per player for use of the athletic fields. The Recreation & Community Services Director responded that it is difficult for the City to keep track of a fee per player. The Community Services Director noted that she would like to work with the Fire Department to separate the fees and not co-mingle them.

Council Member Maris asked about the Teen Center charges and the cost for having dances there. The Recreation & Community Services Director responded that most times there is a building attendant present (\$7-\$8 per hour); however, when there is a dance the City provides a higher level of staffing at a higher rate per hour.

Mayor Ely expressed concern about people parking their cars on the newly planted grass and suggested permit type parking or no parking at all in that area. The Recreation & Community Services Director stated that when Phase II is completed there would be a better system so that cars could not park on the grass.

Council Member Maris stated that he would like a future agenda item regarding the parking of cars on front lawns.

6. UNFINISHED BUSINESS

6-1. Ballot Measure for November, 2004, Election

(File #630-30)

The Fire Chief reported that Council directed staff to come back with ballot language for the November election regarding restructuring of Measure N, as it relates to non-residential property assessment to more fairly reflect the use of emergency medical services.

Currently, Measure N charges two Equivalent Residential Units (ERU) at \$18.00 per residential unit for commercial properties regardless of their size. This equates to 7,044 ERU in Albany. If Measure N were reconstructed along the lines of Measure G there would be an increase of approximately 1,027 ERU, which includes commercial property now under construction for a total of \$18,486 additional annual revenue.

Council Member Thomsen presented Resolution #04-24 – A Resolution of the Albany City Council to Submit a Measure to the Voters of the City of Albany to Restructure Measure “N”, as it Relates to Non-Residential Property Assessment to more Fairly Reflect the Use of Emergency Medical Services

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Thomsen and seconded by Council Member Maris to approve Resolution #04-24.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-2. Ordinance #04-03 – Amendment of Chapter 10 Animal Control

(File #100-95)

Mayor Ely stated that this item was taken off the Consent Calendar for discussion.

Council Member Thomsen introduced Ordinance #03-04 – An Ordinance of the Albany City Council Amending Chapter 10 Animal Control of the Albany Municipal Code to Add the Term “Guardian” to the Definition of “Owner” and to Modify all References to “Owner” to “Guardian/Owner.”

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Thomsen and seconded by Council Member Okawachi to approve Ordinance #03-04 for Second Reading – Pass-to-Print.

ON THE QUESTION:

Council Member Thomsen stated that a communication was received from Mr. Clay Larson expressing concern about the approval of this Ordinance. Mr. Larson noted that the “pet guardian/owner” movement has aroused some concern among agencies that use animals for research. The central issue is the property status of pets and other animals and the City should consider clarifying this by adding language to the Code stating that pets and other owned animals are personal property.

6-2. Ordinance #04-03 – Amendment of Chapter 10 Animal Control

Council Member Thomsen acknowledged that she believes that clinical trials need to be done for research.

Mayor Ely stated that he believes this is one more step towards “ridiculous legislation” noting that animals are pets and there are enough protections on the books right now.

Mr. John Kindle, stated that he is representing himself and not in a professional capacity and noted that animals are considered personal property and that the word “guardian” is a politically correct word.

Ms. Tiffany Higgins supported the use of “guardian” for animals and stated it is just a language change.

Ms. Alison Martin, speaking on behalf of Kim Frosh, urged the Council to adopt the Ordinance with the language change.

Council Member Maris asked about liability issues if a dog bites someone with the language change on the books. The City Attorney responded that both the “owner and guardian” would be sued and did not believe this Ordinance would deny anyone the opportunity to address any injuries that were sustained.

Council Member Good reiterated his position stating that the language is not the same and will be voting against the Ordinance.

VOTE ON THE MOTION:

AYES: Council Members Maris, Okawachi & Thomsen

NOES: Council Member Good & Mayor Ely ABSENT: None

Motion carried and so ordered.

7. NEW BUSINESS

8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

8-1. A Special Council Meeting has been scheduled for **Monday, June 28, 2004, at 7:00 p.m.** to discuss the draft Zoning Ordinance.

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

Council Member Maris announced that the Albany Relay for Life Team raised over \$2,000 for the Cancer Society.

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

10. ADJOURNMENT

10:15 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Jacqueline Bucholz, CMC, City Clerk.

JON ELY
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK