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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, SEPTEMBER 20, 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 Director; Greg Bone, Chief of Police; Dan Adams, Lt. Police Department; John Weitzel, Captain Fire Department; Ann Chaney, Community Development Director; Judy Lieberman, Assistant to the City Administrator; Ed Phillips, Zoning Consultant.

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

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, August 30, 2004.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$159,814.65; taxes, benefits & withholdings in the amount of

4. CONSENT CALENDAR

\$114,185.67. Total payroll in the amount of \$274,000.32. Payroll period. 09/03/04.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$36,844.36; taxes, benefits & withholdings in the amount of \$25,636.25. Total payroll in the amount of \$62,480.61. Payroll period: 09/03/04.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$125,827.55. Period: 09/10/04.
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** Unaudited Financial Statements, June 30, 2004, Interfund Transfers and Expenditure of Equipment Reserve Funds.
(File #330-20)

Staff recommendation: That the Council accept the unaudited financial report for the fiscal year ended June 30, 2004, and approve the updated schedule of interfund transfers, and approve expenditure of equipment reserve funds of \$40,000 for police communications equipment.

- 4-5.** Resolution #04-44 – A Resolution of the Albany City Council Establishing the Classification of and Salary for the Position of Police Administrative Services Supervisor.
(File #700-20)

Staff recommendation: Approve Resolution #04-44.

- 4-6.** Resolution #04-45 – A Resolution of the Albany City Council Supporting Measure CC, Which is being sponsored by the East Bay Regional Park District.
(File #920-80)

Staff recommendation: Approve Resolution #04-45.

- 4-7.** Purchase of Fire Department Pickup.
(File #350-20)

Staff recommendation: 1) Authorize the City Administrator to execute an agreement with S&E Ford Commercial Fleet Car Sales to purchase one (1)

4. CONSENT CALENDAR

2005 Ford F-350 SD pickup for a price not to exceed \$29,569.30, which includes sales tax. The purpose of this fire vehicle is to replace the 1989 Chevrolet Cheyenne pickup currently used as a utility vehicle. 2) Authorize the City Administrator to execute an agreement with Lodi Equipment to purchase and install one (1) Knapheide service body on the Ford F-350 SD pickup for a price not to exceed \$7,090.50, which includes sales tax. The purpose of this service body is to have the necessary storage on the Ford F-350 SD pickup for fire equipment.

- 4-8.** Stop Signs on Brighton Avenue at San Gabriel Avenue.
(File #590-20)

Staff recommendation: Information only.

- 4-9.** AC Transit Proposes Bus Route Changes.
(File #1060-20)

Staff recommendation: Information only.

Mayor Ely asked if anyone would like to remove an item for discussion and Council Member Maris removed the following items: Items 4-4, 4-7 & 4-9.

4-4. Unaudited Financial Statements, June 30, 2004

Council Member Maris stated that he would like to know why the worker's compensation insurance has increased and in particular why the City has moved to the 75% level and is that adequate. The Finance Director responded that it was done to bring it up to the actuary valuation and the 75% was suggested as a precautionary measure and if in the future it shows the City is overfunded the amount can be reduced.

The Finance Director also noted that the City is optimistic about the changes being made at the State level regarding worker's compensation laws, which would minimize exposure and keep the costs down.

Council Member Maris asked about the expenditure of funds for a new dispatch center at the Police Department. The Finance Director commented that the current equipment is old and out dated. Council Member Maris noted that the costs appear to be covered by grants and reserve funds and asked about the balance in the reserve fund and the Finance Director responded that the fund is not depleted.

4-7. Purchase of Fire Department Pickup

Council Member Maris asked if Albany Ford responded when the Council asked staff to go back with the bid figures to see if something could be done so that a local business could have the sale.

Captain Weitzel stated that staff did go back to Albany Ford, however, they still came out third in the bidding process. Captain Weitzel noted that the Fire Department

4-7. Purchase of Fire Department Pickup

want to turn this truck into a suppression vehicle and it is better to have the work done now to install one Knapheide service body on the truck. Captain Weitzel informed the Council that this truck would be beneficial if there is a fire at Golden Gate Fields or Albany Hill.

4-9. AC Transit Proposed Bus Route Changes

Council Member Maris stated that he believes the proposed changes are unacceptable and the Council should go on record as opposing the changes. Council Member Thomsen disagreed noting that the 43 bus is not an efficient use of public funds and believe it important to have a direct route across the Bay from Albany. Council Member Thomsen stated that she would like to have a representative from AC Transit make a presentation on the proposed bus route changes and to talk about the possibility of direct access across the Bay from Albany, once in the morning and once in the evening.

Mayor Ely agreed and directed staff to have this item on a future agenda for discussion. The City Administrator stated that she would invite a representative from AC Transit to make a presentation before the Council.

MOTION:

Moved by Council Member Maris, seconded by Council Member Good to approve the Consent Calendar, as submitted.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

5. PRESENTATION

6. UNFINISHED BUSINESS

6-1. Ordinance #04-06 – Parking Limits in Business District (File #570-20)

The Community Development Director reported that on September 7, 2004, Council heard testimony regarding changing the parking in the Solano Avenue & San Pablo Avenue business district from 60 minutes to 90 minutes, including all side streets, except for the 4-hour spaces in front of the Senior Center and reestablishing the 20-minute parking spaces that were part of the pilot project in December, 2003.

The Council directed staff to come back with an Ordinance amending Section 9-10.18 of the Municipal Code. However, since the writing of the staff report and the Ordinance it has come to staff's attention that the business district under Section 9-10.18 does not apparently apply to side streets; and therefore, is recommending that the following language be deleted from the Ordinance "except for the four (4) hour spaces in the 800 block of Masonic Avenue."

The Community Development Director stated that she would return to Council with a Resolution that will deal with the side streets and the spaces on Masonic Avenue.

6-1. Ordinance #04-06 – Parking Limits in Business District

Mr. Robert Cheasty, 1604 Solano Avenue, representing the Chamber of Commerce and the Solano Avenue Association, urged the Council to adopt the change.

Council Member Thomsen introduced for First Reading Ordinance #04-06 – An Ordinance of the Albany City Council Amending Chapter IX Motor Vehicles and Traffic of the Albany Municipal Code Regarding Parking Limits in Business Districts.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Thomsen and seconded by Council Member Good to approve Ordinance#04-06 for First Reading with the language change, as recommended by staff.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-2. Amendment to Waterways Restoration Institute Contract #04-02

(File #600-30)

The Assistant to the City Administrator reported that Waterways Restoration Institute (WRI) appeared before the City Council at the last meeting requesting an amendment to their contract #04-02. The initial contract was for \$61,000 and now based on a total estimated contract cost of \$166,695. At that meeting, Council approved an additional \$55,000 bringing the contract amount to \$116,000 and requested that WRI return with better documentation regarding their costs.

A summary of WRI's expenditures is as follows: In-Scope - \$97,003.39; Out-of-Scope - \$30,010.32; Sub-consultants requested by the City - \$28,322.52. Total - \$155,336.23.

The Assistant to the City Administrator noted that the hiring of sub-consultants was clearly outside the scope of work and should have been independently hired by the City. It has been clarified with WRI that the City will contract directly with sub-consultants.

To date, \$115,774 has been paid to WRI and of this \$88,497.33 has been reimbursable from grants. The City has in its possession invoices totaling an additional \$39,562 and WRI estimates that approximately \$11,500 will be needed to complete the project bringing the total contract to \$167,000. The City Administrator reported that the total estimated budget for this task is \$306,218 and with the inclusion of this contract amendment the estimated expenditures to date will be \$211,899 or 70% of the total estimated budget.

Council Member Maris asked what remains to be done on the project and the Assistant to the City Administrator responded that the project has three steps Reach 1, which is divided into 2 phases and Reach 2. Approximately one third of the entire project is complete.

Council Member Maris expressed concern that the project is way over budget. Council Member Good acknowledged that he reviewed the receipts and believes the amount is justified.

6-2. Amendment to Waterways Restoration Institute Contract #04-02

Council Member Thomsen noted that all the people working on this project are receiving \$93 per hours and yet WRI claims this project was a learning curve for them.

Mayor Ely asked who wrote the original contract and the Assistant to the City Administrator responded that the City hired Katherine Mortimer who worked with WRI. Mayor Ely expressed concern about the apparent lack of clarity and the amount of unknowns in the project and asked if any of the developers were reimbursing some of the costs. The Community Development Director noted that Target will contribute \$130,000 and that \$60,000 will go into the City creek restoration portion of the project.

Mr. Drew Goetting, WRI, explained that one of the major costs that were not expected was from the removal of soil. Originally, the University asked to have the soil that would be removed and then changed their minds, which proved to be a very expensive cost. Also that WRI was under a very hard deadline and also noted that the ballpark process was very time consuming.

Mr. Goetting stated that the Council should not forget the fact that this project is something to be proud of and that grants should be pursued for the next portion of the project and that WRI wants to maintain a positive working relationship with the City.

Council Member Okawachi asked how much of the Measure R funds were used for the ballpark and the Assistant to the City Administrator replied \$80,000.

The City Administrator recommended that due to the concerns of the Council maybe this should be referred back to staff and involve the City Attorney in the negotiations.

Council Member Maris stated that he is concerned that the City is taking the responsibility and would like to see some kind of compromise that recognizes the contractor's part in this.

Mayor Ely stated that the Council is not questioning the integrity of WRI but is concerned about "deep pockets" and expect staff to find some grant money if available for the next phase of the project.

Council Member Maris stated for clarification purposes that currently \$51,000 is in dispute and of that amount \$28,000 is for consultants that the City requested.

Council reached consensus that this matter be referred back to staff to work out a compromise and come back to Council with a recommendation.

7. NEW BUSINESS**7-1. Proposition 1A – Protection of Local Government Revenues**
(File #660-40)

The City Administrator reported that for the last 12 years the State of California annually has been taking local property tax funds, totaling more than \$5 billion annually. The loss to the City of Albany is more than \$6.5 million, at a current annual amount of approximately \$700,000. In addition, in fiscal year 2003/04 the State withheld from

7-1. Proposition 1A – Protection of Local Government Revenues

cities and counties a portion of their vehicle license fees and redevelopment property tax funds, both of which are local revenue sources.

In an effort to prevent further takeaways by the State, a coalition effort spearheaded by the League of California Cities qualified an initiative for the November ballot, known as Proposition 65 to prevent the State from seizing local government revenues without the approval of the voters of California.

The City Administrator stated that during the deliberations on the 2004/05 State budget, the Governor negotiated with the cities to support an alternative ballot measure to Proposition 65. The end result is Proposition 1A, which was approved by the State Legislature and the Governor, as a compromise approach to the issue of local government revenues and State seizure of those revenues.

The most significant difference between Proposition 65 and Proposition 1A is that Proposition 1A allows the State to take or borrow local government revenues without voter approval under the following conditions: 1) 2/3 approval of the State Legislature. 2) Loan is to be repaid with interest within three fiscal years. 3) Loan(s) must be repaid before new loans can be made. 4) No more than two loans may occur during any ten-year period. 5) The loan amount is capped at 8% of local property tax. In addition, cities agreed to a \$1.3 billion cut in revenues in fiscal years 2004/05 and 2005/06, for a total cut of \$2.6 billion with the proviso that in 2006/07, the State repays cities for the cuts in Vehicle License Fee (VLF) made in 2003/04.

Council Member Maris stated that the Sacramento Bee newspaper has already come out against both Proposition 65 & 1A and also our local Assembly Person and local Senator are not in favor of them. Therefore, the cities have a lot of work ahead of them if this Proposition is to pass. Council Member Maris noted this is a very serious issue and that Albany is losing 10% of its budget per year.

Mayor Ely agreed that it is important for the voters to know the issue and vote for the Proposition because if it fails the State will see that as a mandate from the people and the raiding of local monies will continue.

Council Member Maris urged everyone to work hard on this Proposition so that the voters approve it.

Mr. Clay Larson asked what would happen if both Propositions pass and was told that the Proposition with the most votes would win.

Council Member Maris presented Resolution #04-46 – A Resolution of the Albany City Council Supporting Proposition 1A, the Protection of Local Government Revenues Ballot Initiative, on the November 2, 2004 Election Ballot.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Maris and seconded by Council Member Okawachi to approve Resolution #04-46.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8. PUBLIC HEARING

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan

(File #540-20)

The Zoning Consultant reported that at the last Council meeting of September 7, 2004, Council approved the following: R-2 and R-3 zoning for Kains and Adams and SPC (San Pablo Commercial) zoning for all of the San Pablo frontage.

Staff provided the Council with a Decision Agenda with remaining questions to be acted on. The first question: Should the General Plan be amended to coincide with Kains/Adams/San Pablo zoning decisions?

Council Member Thomsen stated that she is concerned with the property at the southwest corner of San Pablo Avenue and Marin. Council Member Thomsen noted that if that area is amended it would take away the possibility of any recreational use and would become more service oriented.

Council Member Maris agreed stating it should be residential, commercial and recreational, as stated in the General Plan. The Community Development Director commented that in terms of land use the Council might choose to stay with the existing plan.

Mr. Doug Donaldson, Chair Planning & Zoning Commission, stated that the Commission voted to change it at the last meeting; however, if Council disagrees with that then the General Plan should stay the way it is now for the Gill Tract property, which would continue to be designated by the General Plan as "Residential Recreational Commercial" and zoned Public Facilities (PF)

Mr. Ed Fields, Kains Avenue, agreed with Council Member Maris with regards to this piece property and that it should stay the way it currently is.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi to designate the Gill Tract property as Residential, Recreation & Commercial (RRC) and to amend the General Plan to coincide with the rest of the decisions made in the previous meeting.

ON THE QUESTION:

Council Member Good stated that the Gill Tract is zoned PF and should be amended to RRC. Mr. Donaldson stated there is no such zoning designation for RRC and it should be left at PF.

AMENDED MOTION:

Maker and second agreed to amend the original motion, as follows: That the Gill Tract property stay with the General Plan designation of RRC and be zoned PF.

ON THE QUESTION:

The Community Development Director asked Council what they would like to see on the UC property and staff will come back. Council Member Maris stated that commercial is reasonable and if changed to RRC that would allow recreational. Council Member Good stated that the RRC should be a zoning designation and believed the two different designations were confusing and it should just be called RRC. However, could not support the motion if the Zoning and General Plan designations were different. The

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan

Community Development Director stated that staff could come back with a RRC designation that coincides with the General Plan.

VOTE ON THE MOTION:

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

NOES: Council Member Good ABSENT: None

Motion carried and so ordered.

The Zoning Consultant stated that the next question to be acted on is: Assuming that parking for commercial uses continues to be allowed with a Use Permit, in residential zones: a) should commercial parking be only on surface lots? B. should structures be allowed under the standards stated on page 132, line 35? C. should structures be allowed under different standards, or in some specified situations?

Council Member Thomsen noted that this question would not apply to structures in the SPC zoning district.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi that commercial parking in R-3 only be on surface lots.

ON THE QUESTION:

Council Member Maris asked what happens in the three SPC areas that go through San Pablo to either Kains or Adams? Council Member Maris noted that he is concerned that parking be allowed on San Pablo Avenue.

Council Member Thomsen stated that the Town Centre has plenty of parking as now designated and the Albany Bowl has an agreement with Alta Bates to use their large parking area. Council Member Thomsen commented that underground parking should not be precluded.

Council Member Maris stated that he is concerned with the PRC Overlay and if no parking structures are allowed then the City has lost the parking in other places. The Zoning Consultant explained that the question concerned nonresidential parking in residential zones, and therefore, this would have no effect on commercially zoned properties.

AMENDED MOTION:

The maker and second of the original motion agreed to amend the motion, as follows: That commercial parking should only be on surface lots in R-3 Districts.

VOTE ON THE MOTION:

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

NOES: None ABSENT: None

Motion carried and so ordered.

The Zoning Consultant stated that the next decision to be made is the Planned Residential/Commercial (PRC) Overlay. The Zoning Consultant reported that the General Plan singles out certain sites for PRC and the General Plan would have to be amended if other than mixed-use development were allowed on those sites.

Council Member Okawachi stated that she believes the General Plan should be amended.

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan

Mayor Ely opened the public hearing and the following people spoke: Mr. Doug Donaldson; Mr. Clay Larson; Mr. Ken Friedman.

Their comments are summarized, as follows: That the testimony from the Albany Bowl is new testimony, as the P&Z Commission did not hear it; encourage the direction of having residential in the PRC and believes that the Council wants to change the Zoning Ordinance and then deal with the General Plan, which some residents believe is backwards; urged the Council to keep the widest flexibility for the Albany Bowl site.

Council Member Maris asked what triggers the need for a public process to make changes to the General Plan? The Community Development Director responded that Council receives recommendations from the P&Z Commission and State law says that if the Council decides something substantially different than what the P&Z Commission recommended then it would need to go back to the Commission for further consideration and a report.

MOTION:

Moved by Council Member Maris, seconded by Council Member Okawachi to extend the meeting past 11 o'clock p.m.

Motion carried and so ordered.

The consensus of the Council was to send this back to the P&Z Commission to look at SPC instead of PRC.

Ms. Nan Wishner spoke to the Council about Section 20-20.90 of the Zoning Ordinance relating to Wireless Community Facilities and asked when this would be discussed. The Zoning Consultant replied that it would be a logical place as part of Section 20-24 development regulations and would recommend it be dealt with at that time and public testimony taken then.

Mayor Ely stated that he is concerned about spot zoning. Ms. Wishner stated it is appropriate to have a policy and noted this is a significant problem, which needs to be addressed.

The Community Development Director stated that this involves some Federal laws and noted that the P&Z Commission heard public testimony about this subject and also that the Albany Unified School District is discussing a proposed installation.

Mayor Ely noted that the public hearing will be continued to October 4, 2004.

9. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

Council asked what time the concert in the park starts and was informed it is 6:30 p.m. on Thursday, September 23, 2004.

10. 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 asked if anyone would like to speak and there being no one the Good of the City/Public Forum was closed.

11. ADJOURNMENT

11:15 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

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

JON ELY
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK