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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, OCTOBER 4, 2004

7:00 p.m.

Study session regarding Public Works Maintenance.
(File #100-40)

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; Ann Chaney, Community Development Director; Dave Dowswell, Planning Manager; Randy Leptien, Contract Engineer; 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, September 7 & 20, 2004

4. CONSENT CALENDAR

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$163,095.94; taxes, benefits & withholdings in the amount of \$179,808.91. Total payroll in the amount of \$342,904.85. Payroll period: 09/17/04.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$35,727.73; taxes, benefits & withholdings in the amount of \$37,158.47. Total payroll in the amount of \$72,886.20; Payroll period: 09/17/04.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$221,793.51. Period: 09/24/04.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$151,505.98. Period: 10/01/04.
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** Ratification of pension payments for the month September in the amount of \$108,919.43.

Staff recommendation: Ratify.

- 4-5.** Encroachment Permit to allow a portion of a disabled persons access ramp to encroach two (2) feet into the public right-of-way/sidewalk – 1550 Solano Avenue, VCA Albany Animal Hospital.
(File #820-50)

Staff recommendation: Authorize staff to issue an encroachment permit, subject to complying with the standard encroachment permit conditions of approval.

- 4-6.** 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. Second Reading.
(File #570-20)

Staff recommendation: Approve Ordinance #04-06 for Second Reading – Pass-to-Print.

4. CONSENT CALENDAR

- 4-7.** Resolution #04-47 – A Resolution of the Albany City Council Endorsing BART’s Earthquake Safety Program and Measure AA.
(File #1060-30)

Staff recommendation: Adopt Resolution #04-47.

- 4-8.** Resolution #04-48 – A Resolution of the Albany City Council in Support of Proposition 63, the 2004 California Mental Health Services Act Initiative.
(File #660-40)

Staff recommendation: Approve Resolution #04-48.

- 4-9.** Grant Application to Coastal Conservancy requesting \$814,572 for Reach 1, Phase 2 of the Codornices Creek Restoration and Trail Project.
(File #405-40)

Staff recommendation: Authorize the City Administrator to submit a grant request to the Coastal Conservancy in the amount of \$814,572 for Reach 1, Phase 2 (from 5th Street to 8th Street) of the Codornices Creek Restoration and Trail Project.

- 4-10.** Curtis Street and Sonoma Avenue Sewer Rehabilitation Project.
(File #1030-30)

Staff recommendation: 1) Adopt Resolution #04-49 – A Resolution of the Albany City Council Directing the City Clerk to Call for Public Bids to be Received for the Curtis Street and Sonoma Avenue Sewer Rehabilitation Contract No. 04-12 and Authorizing the City Administrator to Award a Contract to the Lowest Responsible Bidder. 2) Approve and ratify the determination of the City Engineer and the Community Development Director to retain the firm of Nute Engineering to provide design services as necessary and prepare a scope of work, plans and specifications and an estimate for this project.

Mayor Ely asked if anyone would like to remove an item from the Consent Calendar for discussion.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi 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

5-1. AC Transit Proposed Bus Route Change and Service Report

(File #1060-20)

The Community Development Director reported that AC Transit is proposing changes to two bus routes in Albany that will take effect in March, 2005. The two routes to be changed are bus line 43 and 52L. AC Transit is proposing to expand route 52L to include areas that were previously serviced by route 43. Therefore, route 52L will no longer terminate its route at Albany Village but instead continue on to service Buchanan and Pierce and terminate at El Cerrito BART Plaza.

If the proposed changes are implemented transit users in Albany living west of San Pablo Avenue would have to transfer on San Pablo or walk to San Pablo to board route 43 to access Solano and downtown Berkeley. Route 52L also serves downtown Berkeley, but remains on University Avenue to circle the UC Berkeley campus.

Mr. Robert Delasario, AC Transit, spoke about rider ship and reiterated the two major changes, as follows: The 43 bus will terminate all service at UC Village and the 52L is being extended to take over the segment of the 43. This will provide better service to the people on Pierce Street and will not cost additional money to implement.

Council Member Thomsen noted that the 43 bus is very inefficient and stated it takes a very long time to get to BART and then to San Francisco versus going straight to San Francisco on an AC Transit direct bus route. Council Member Thomsen asked how often the bus will run and was told every 15 minutes all day long, which is an increase in service.

Council Member Maris stated that he would like to see the layover time minimized and was told it would be approximately every 12 minutes.

Council Member Thomsen asked if AC Transit would be monitoring this new plan and Mr. Delasario responded that AC Transit would look at it after 3 months of service.

Mr. Delasario spoke about the Trans bay service noting that there are funds available to provide for mid day service and if the City has a strong position on this a request should be sent to AC Transit.

Council Member Thomsen stated that she would support this change, however, believes that the City should also look at this service in 3 months to make sure all concerns have met.

Council Member Maris noted that he would like to see a schedule and a shorter layover time rather than the proposed 12 minutes.

Mr. Evan Flavell expressed concern about the large articulated buses and suggested that the smaller buses be used on Pierce Street. Council Member Thomsen agreed noting that parked cars are always having their side mirrors knocked off the car.

Mr. Delasario stated that service on Santa Fe is being considered if the rider ship is there and the City could include that in their recommendations.

6. UNFINISHED BUSINESS

7. NEW BUSINESS

7-1. Watershed Management Program – Issues and Status

(File #405-40)

The Community Development Director stated that during the last several years' major storms have caused flooding problems in various parts of Albany and prompted staff meeting with several property owners to assess the problems.

In 1998, the City Council adopted the Watershed Management Plan (WMP), which gives a comprehensive overview of the City's drainage facilities so as to guide the implementation of future improvements. Storm water in Albany originates in five watersheds, originating in Berkeley, Albany and El Cerrito, which drain into Codornices, Village, Marin, Middle and Cerrito creeks.

The Community Development Director explained that Cerrito and Codornices creeks serve as the northern and southern borders of Albany and traverse residential private properties east of San Pablo Avenue in a combination of buried and open channels. West of San Pablo Avenue, these creeks are predominately underground and generally run through private property, including underneath houses and businesses. Private developers wanting to maximize the number of dwelling units being constructed created the underground portions. Marin Creek runs through a culvert in the center of Marin Avenue, the Gill Tract, Ocean View School and USDA properties.

The Community Development Director reported that during last years' storms, flooding problems occurred in the Village Creek watershed that runs east to west through the 1000 block of Albany's streets: 1000 block of Neilson Street, Curtis Street and Santa Fe Avenue. The City's WMP acknowledges that the 10-inch plastic storm drain pipe between Neilson and Curtis has only 16% of the minimum required capacity by today's standards. During the recent storms, water has regularly backed up at this location and overflowed through properties on the west side of Neilson.

Staff videotaped the 10-inch pipe and the upper and lower portion of the 14-inch pipe Curtis Street to Santa Fe. The results show a clean line; however, due a bend in the line the middle portion was not accessed.

The Community Development Director stated that the Plan recommends that storm drain improvements be made from Tevlin Street to Key Route Boulevard (SD-1). The Plan divides the projects into three parts (SD-1A), SD-1B, SC-1C). SD stands for storm drain.

In 1997, the WMP estimated the SD-1A segments would cost \$315,000 assuming it was part of the overall SD-1 project from Tevlin to Key Route. The City Engineer estimates the cost at \$600,000 in 2005 dollars. This estimate includes the small relief drain for an interim project between Neilson and Santa Fe Avenues and would require full cooperation from the property owners. This includes obtaining easements, access to property, and agreements of reasonableness in conducting work on their property.

The Community Development Director noted that staff has begun requiring property owners record an "Agreement for Construction of Lower Level Addition" if they wish to develop the lower levels of their homes.

The Community Development Director stated that in 2003 & 2004 major storms caused significant flooding along Eastshore Highway, 1000 block of Eastshore Highway.

7-1. Watershed Management Program – Issues and Status

According to Albany rain gauges, the February storm resulted in a 50-year storm in this area.

For the Village Creek watershed the WMP states that the 60-inch culvert under Eastshore Highway and Interstate 80 also has inadequate capacity, which contributes to flooding problems in the area between the Union Pacific Railroad tracks and Eastshore Highway. Most of the problems are property related to the overflows from Codornices Creek rather than flows from the Village Creek watershed. A recommendation of the WMP is to install a new 48-inch drain parallel to the existing drain crossing Interstate 80 (SD-19). Regarding Codornices Creek, the WMP recommends restoration of the creek between Kains Avenue to I-80 along the open channel areas (CR-1, CR-3, CR-6, CR-7, CR-10). CR stands for creek restoration.

There are a number of projects proposed that are expected to mitigate some of the drainage problems along the Eastshore Highway. For Codornices Creek: 1) Lower Codornices Creek restoration project from 5th Street to the Union Pacific Railroad (CR-1). 2) Sediment removal along the Target store property boundary. 3) Replacement of Union Pacific Railroad Bridge, which will increase the number of culverts from 5-10.

For Village Creek: The Target project, which includes a new 48-inch culvert at Village Creek under the Target parking lot in anticipation of an additional culvert under I-80 consistent with Project SD-19.

The Community Development Director reported that regardless of the improvements listed above it is important to note that the Caltrans culverts under I-80 at Codornices and Village Creeks create a downstream obstruction that impedes water to the Bay. The WMP recommends the installation of an additional 72-inch culvert at I-80 (SD-18).

The Community Development Director stated that revenues for storm water purposes are generated from the Clean Storm Water charge that appears on each property tax statement. An NPDES permit is also required and amounts are between \$15,000 and \$23,000. The budget includes funds for maintenance and professional services.

Based on current revenues, the City has a limited amount of funds to provide both maintenance services and construction of new storm drain projects. At the end of fiscal year 2003/04 a fund balance of \$100,507 existed in Fund 620 that could be applied toward capital projects. Also, possible funding alternatives include bond measures and assessment districts.

The City Engineer spoke to the Council explaining the technical points of this issue and answered questions from the Council.

Council Member Maris asked if staff had explored a parcel tax for this issue and maybe for the Neilson and Curtis Street area the possibility of floating a bond. The Community Development Director responded that staff wants to explore all funding alternatives.

Council Member Maris asked what the time line is and the City Engineer responded that in about 90 days the time line would be available after staff has looked at the costs and make their recommendations.

7-1. Watershed Management Program – Issues and Status

The following people spoke about the problem: Maureen Crowley, Kains Avenue; Dolores Dalton, Curtis Street, a resident on Pomona Avenue; Carla Golden; Laura Alden (sp), Curtis Street.

Council Member Okawachi stated that the City needs to explore funding alternatives and maybe raising the storm water fees is a good option.

Council Member Thomsen expressed concern that Caltrans needs to take responsibility and the City should communicate this formally to the State.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi to direct staff to investigate the cost and feasibility of installing a new 18-inch pipe between Neilson Street and Santa Fe Avenue (to be located between houses) and a pressure pipe (relief drain) in Santa Fe Avenue per SDA-1A and to explore funding alternatives. Direct the Mayor to write a letter to Caltrans informing them that they have a responsibility to fix their portion of the storm drain.

ON THE QUESTION:

Mayor Ely stated that he would gladly write a letter to Caltrans noting that if the circumstances were reversed and the City was causing flooding on State property they would demand the City correct the problem. Mayor Ely stated it is the Council's responsibility to remind the State and also point out that they will be held liable in the future and this should be explored with the City Attorney.

VOTE ON THE MOTION:

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 (Continued from 09/20/04)

The Zoning Consultant reported that on September 20, 2004, the City Council took action with respect to the Zoning and General Plan revisions, as follows: Determined the Gill Tract portion of the UC Village property be excluded from the "General Commercial" designation under the General Plan and the "San Pablo Commercial" zoning district; instead would remain "Residential-Recreational-Commercial" in the General Plan and would remain zoned "Public Facilities". Specified that any non-residential parking facilities in R-3 residential districts would be permitted on surface lots only. Made a referral to the Planning & Zoning Commission regarding the "Planned Residential/Commercial" designation in the General Plan, asking the Commission for a recommendation on amending the General Plan so that commercial projects could be permitted on the "Albany Bowl" and "Town Centre" sites without a residential component.

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan (Continued from 09/20/04)

The Planning & Zoning Commission is scheduled to hold a public hearing on the Council’s referral on October 12, 2004.

Council Member Thomsen stated that she would like to clean up the motion made last week, as follows:

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi that surface parking only be allowed in R-1, R-2, R-3.

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

NOES: None ABSENT: None

Motion carried and so ordered.

Residential-Commercial Transition (RCT)

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Maris that commercial and/or mixed uses be restricted along the Kains frontage of the Goodyear/World Savings block and that the description of RCT on page 5 and the standards on pages 82/83 be approved.

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

NOES: None ABSENT: None

Motion carried and so ordered.

Mayor Ely opened the public hearing and the following people spoke in favor of Council action: Robert Lieber, Kristina Osborne, Clay Larson.

Following is a summary of some of the comments: Glad to see that the neighborhoods are being preserved. A question was asked if the motion only spoke to multi level commercial parking or did it mean that non-commercial would be allowed? A question was asked about process and the environmental document and whether the public would be able to see the language of the amendment to the General Plan.

Staff responded to the question about process noting that the public hearing notice describes what the P&Z Commission will be hearing. The City Attorney stated that when the matter gets to Council the public would have the language to be adopted.

Council Member Good asked for clarification regarding the question of the motion and whether it intended to limit the multi level parking in the residential area?

Council Member Thomsen stated that she does not believe it appropriate for developers to put parking structures on the streets whether commercial or residential.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Good that the City not allow above ground multi level parking structures in R-1, R-2 & R-3 and not allow above ground for commercial in R-4.

ON THE QUESTION:

Council Member Maris asked whether parking on Solano, e.g. the Safeway Store, is restricted or is it just the San Pablo Avenue, Kains, Adams area? Council Member Thomsen replied it would be throughout the City. The Zoning Consultant stated that it would not prevent the Council from doing what they want in the commercial zones. The

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan (Continued from 09/20/04)

Community Development Director clarified that the restriction on residential zones would only apply to above ground parking and Council Member Thomsen responded yes.

The following peoples spoke regarding the motion: Doug Donaldson, Maureen Crowley, Ed Fields.

A summary of the comments is as follows: Asked whether the Council intended to outlaw parking lifts, which were approved by the Commission? Not appropriate to restrict parking for residential purposes in the R-3 zone. The neighbors do not want multi parking structures in R-3 zones. Encouraged the Council to adopt the motion. Spoke about the State Code and affordable housing noting that this makes the City give up 2 spaces.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

Commercial Nodes (CN). The question for Council is do they support the purposes of the commercial node described on pages 29-30 and whether they support the nodes as defined for: San Pablo-Solano, San Pablo-Marin, including a portion of the Gill Tract and Solano Avenue at 1) Masonic-Key Route 2) Santa Fe.

Council Member Maris noted that the commercial node at Gill Tract should be dropped.

Council Member Good stated that he would be voting no on all the nodes.

The following people spoke against the nodes: Robert Lieber, Kim Linden, Joan Larson, Ed Fields, Maureen Crowley.

Mr. Clay Larson noted that he believes that the nodes are innocuous and not a big problem.

Council Members Thomsen stated that she agrees with Mr. Larson and is concerned about intensifying commercial business and noted that the City needs more retail.

Council Member Okawachi noted that she is not in favor of nodes. Council Member Maris stated that he likes the idea of commercial nodes particularly at the intersection of San Pablo Avenue at Solano and Key Route and Solano Avenue.

MOTION:

Moved by Council Member Good, seconded by Council Member Okawachi that the Council is not in favor or nodes.

AMENDED MOTION:

Moved by Council Member Thomsen, seconded by Council Member Maris to try the node at Solano and San Pablo Avenues.

ON THE QUESTION:

Kristina Osborne stated that she believes the Council is making a gutsy move and supports the action.

Council Member Maris asked if the Council wants to make it retail only.

8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan (Continued from 09/20/04)

VOTE ON THE MOTION:

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

NOES: Council Member Maris ABSENT: None

Motion carried and so ordered.

Development Regulations – FAR of multi-family residential. The Zoning Consultant stated that staff is recommending that reference to 50%, exemption for underground parking, as recommended by the P&Z Commission be deleted and changed to 100%.

Council Member Thomsen stated that she does not want to give extra height as a bonus and is concerned about the density bonus projects.

MOTION:

Moved by Council Member Maris, seconded by Council Member Thomsen that the proposed FAR be increased to 1.50 for R-3 with 100% exemption for underground parking and that enclosed parking is counted as part of the FAR.

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

NOES: None ABSENT: None

Motion carried and so ordered.

Mayor Ely continued the public hearing to the special meeting of October 11, 2004, at 8:00 p.m.

9. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

9-1. Monday, October 11, 2004, 8:00 p.m., the City Council will hold a special Council Meeting to discuss proposed revisions to the Zoning Ordinance and proposed amendments to the Land Use Element of the General Plan.

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

Council Member Maris stated that on October 9, 2004, from 9-1 p.m. there would be a work party to weed the Key Route Median and invited everyone to attend.

Council Member Maris requested that the City consider purchasing public art for the civic buildings and in particular the art that is being shown at the Community Center and believed this should be a future agenda item.

Mayor Ely announced that long time Albany resident Stephen Radky passed away, as well as Hal Denham, the Executive Director of the Chamber of Commerce for over 30 years, who passed away on September 28 and was 99 years old.

11. ADJOURNMENT

11:05 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting with a moment of silence in memory of Stephen Radky and Hal Denham.

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

JON ELY
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK