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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
COMMUNITY CENTER, 1249 MARIN AVENUE
MONDAY, SEPTEMBER 21, 2009

7:15 p.m.

ALBANY MUNICIPAL JOINT POWERS AUTHORITY

7:30 p.m.

Mayor Atkinson, 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 Javandel, Lieber, Thomsen, Wile & Mayor Atkinson
Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Charlie Adams, Finance Director; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Rich Cunningham, Public Works Manager; Steve Hasch, Consultant; Randy Leptien, Consulting Engineer; Aaron Walker, Human Resources Manager; Aleida Andrino-Chavez, Transportation Planner; Chelle Putzer, Recreation Manager.

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

4. CONSENT CALENDAR

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

4. CONSENT CALENDAR

Member or a member of the audience requests removal of the items from the Consent Calendar.)

4-1. Minutes, September 8, 2009.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$196,035.29; taxes, benefits & withholdings in the amount of \$147,480.70. Total payroll in the amount of \$343,515.99. Payroll period: 09/11/09.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$53,961.32; taxes, benefits & withholdings in the amount of \$38,435.54. Total payroll in the amount of \$92,396.86. Payroll period: 09/11/09.

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims and demands against the City of Albany in the amount of \$244,701.51. Period: 07/10/09; \$1,215,820.34. Period: 07/24/09; \$32,902.81. Period: 08/01/09; \$177,003.47; Period: 08/07/09; \$736,781.05. Period: 08/21/09.

b. Ratification of bills, claims and demands against the City of Albany JPA in the amount of \$456.00. Period: 08/21/09.
(File #300-40)

Staff recommendation: Ratify.

4-4. Unaudited Financial Statements, June 30, 2009, Inter fund Transfers, Self-Insurance Reserves and Appropriations Limit.
(File #310-30)

Staff recommendation: Accept the unaudited financial report for the fiscal year ended June 30, 2009 (Exhibits A&B), approve the updated schedule of inter-fund transfers (Exhibit C), approve the carry-forward of the self-insurance reserve balances, as reported at June 30, 2009 and adopt Resolution No. 09-43 - A Resolution of the Albany City Council Establishing the Appropriations Limit for the 2009-10 Fiscal Year.

4-5. Repeal – Finance Campaign Reform. Second Reading.
(File #630-40)

Staff recommendation: Approve Second Reading – Pass-to-Print, waiving reading of entire Ordinance.

4. CONSENT CALENDAR

- 4-6.** Resolution No. 09-42 – A Resolution of the Albany City Council of the City of Albany Approving the Memorandum of Understanding between City of Albany and Service Employees International Union (SEIU), Local 1021.
(File #730-40)

Staff recommendation: Approve Resolution No. 09-42 and waive reading of entire Resolution.

- 4-7.** Draft Environmental Impact Report, Light Brown Apple Moth Spraying.
(File #560-85)

Council Member Lieber Recommendation: Authorize the Mayor to sign a comment letter on the Draft Environmental Impact Report (DEIR) being prepared by Earth Justice.

- 4-8.** City of Albany comments on Draft Environmental Impact Report for the Pt. Molate Mixed Use Tribal Destination Resort and Casino.
(File #420-20)

Staff recommendation: Approve the transmittal of a letter to the City of Richmond commenting on the draft environmental impact report.

- 4-9.** Request for Temporary Street Closure around Memorial Park and Albany High School for a Race sponsored by Albany High School Athletic Boosters.
(File #820-70)

Staff recommendation: Approve request to close off the streets immediately around Memorial Park and Albany High School (Key Route northbound, Portland, Thousand Oaks and Carmel) on Sunday, October 25, 2009 from 7:00 a.m. to 11:00 a.m. Waive fee in the amount of \$131.09.

- 4-10.** Measure WW Fund Allocation – Conflict of Interest.
(File #920-80)

Staff recommendation: Continue this item to a future meeting when the FPPC advice letter is available.

4. CONSENT CALENDAR

- 4-11.** Temporary Street Closure on Key Route, Sunday, October 11, 2009, 10 a.m. – 2 p.m.
(File #820-70)

Staff recommendation: Approve the closure of a three-block area of Key Route Boulevard between Solano Avenue and Thousand Oaks Boulevard for the Albany Streets Event.

Mayor Atkinson asked if anyone would like to remove an item from the Consent Calendar and the following items were removed: 4-1, 4-5, 4-8 & 4-11.

4-1. Minutes.

Council Member Lieber asked that the following correction be made: Page 6, under Measure WW: Representative Don Perata met with Council Member Lieber at a separate meeting and was very supportive of a Park a Pierce Street.

4-5. Ordinance No. 09-014 Campaign Finance Reform.

Council Member Javandel & Council Member Thomsen both stated that they would be voting no on this Ordinance and asked that it be removed from the Consent Calendar and voted on separately.

The following people spoke on this issue: Jim Cleveland, Albany resident; Caryl O’Keefe, Albany resident and Task Force Member; Allan Maris, Albany resident and Task Force Member.

A summary of the comments is as follows: Urged the Council to not repeal the current Ordinance. Spoke about issues that happened in the last Municipal election and noted that at the last meeting 89% of the speakers spoke against the repeal. Speaker noted that the Task Force voted unanimously to keep the Ordinance and believes that by not having a Campaign Finance Reform Ordinance it looks as if the Candidates are for sale. It was noted that the Attorney on the Task Force had no objections to the Ordinance that was being recommended by the Task Force and urged the Council to refer this back to the Task Force for further consideration.

Council Member Lieber noted that the current Ordinance only applies to candidates and not to Political Action Committees and also believes the Ordinance is used for personal attacks. Council Member Lieber believes that repealing the Ordinance is the wisest thing to do.

Council Member Javandel believes the repealing of the Ordinance devalues the long public service of people who have invested a lot of time in the City.

Council Member Wile agreed that the Ordinance does not address Political Action Committees spending as much money as they want and noted that all campaign issues are controlled by the Fair Political Practices Commission.

4. CONSENT CALENDAR

Council Member Thomsen stated that the local Ordinance gives a second layer of disclosure and is useful for the public to see what has been spent and believes the Ordinance should continue.

Council Member Lieber noted that by repealing the Ordinance it does not change the reporting of expenditures or revenues so the public will continue to see what has been spent.

Mayor Atkinson believes that the Ordinance is used against candidates and hopes that by not having the Ordinance it will take out some of the negativity in the election process.

Council Member Lieber introduced for Second Reading Ordinance No. 09-014 – An Ordinance of the Albany City Council Repealing Chapter VII City of Albany Campaign Finance Reform Act of 1996.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Lieber to approve Ordinance No. 09-014 for Second Reading – Pass-to-Print, seconded by Council Member Wile.

AYES: Council Members Lieber, Wile & Mayor Atkinson

NOES: Council Members Javandel & Thomsen ABSENT: None

Motion carried and so ordered.

4-8. Pt. Molate EIR Comments

Council Member Javandel stated that the letter looks good but would suggest that it call out San Pablo and Marin Avenues.

4-11. Albany Streets Event – Closure of Streets

The Recreation & Community Services Manager announced that on Sunday, October 11, 2009 from 10 a.m. – 2 p.m. a three block area of Key Route Boulevard between Solano Avenue and Thousand Oaks Boulevard would be closed for the Albany Streets Event. This event is modeled after the San Francisco Sunday Street event and is a time for the community to enjoy some fun and to let her know if anyone wants to host an event.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Thomsen to approve the Consent Calendar with the change to item 4-1 and the removal of item 4-5.

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

NOES: None ABSENT: None

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Atkinson opened the Good of the City/Public Forum/Announcements and the following people spoke: Ken McCrosky, Albany resident; Caryl O'Keefe, Albany resident; Barbara Chambers, Albany resident; Jim Cleveland, Albany resident.

A summary of the comments is as follows: Requested that item 7-1 be moved in front of the public hearing item, as there are many people here with children who want to speak on the item. Announced that the Friends of the Albany Library would be having its Book Sale on September 26, 10a.m. to 4 p.m. at the Edith Stone Room and the cost of the books is \$0.50. Announced the annual Friends of the Albany Library membership meeting on October 7, 7:30 and noted that there would be a speaker at the meeting who would be speaking on The Beatles. Thanked everyone who worked at the Friends booth at the Solano Stroll and noted the Friends netted \$700. 00. Thanked the City for helping to clean up a junky house and noted that two new families that have just moved in are at the meeting tonight. Thanked the Mayor for allowing people to speak when they go over the three minutes and noted that he would be preparing a report for the Council on economic issues. Thanked Council Member Wile for appointing Patti Donald to the Waterfront Committee noting that she is very qualified.

The City Administrator thanked all the volunteers who helped with the Beach Cleanup on Saturday.

7. NEW BUSINESS

7-1. Buchanan/Jackson Traffic Signal Design Concept. (File #820-20)

The Community Development Director reported that in 2007 the City received a \$293,760 grant from Caltrans' Safe Routes to School Program for a project dealing with traffic signals and various other mechanisms to deal with traffic.

Staff has suggested that the consultant explore the possibility of a four-way protected left turn movement at the new signal at Buchanan Street onto northbound and southbound Jackson Street. In order to accomplish this a dedicated left turn lane would need to be added on Jackson Street, which would result in the removal of four parking spaces in the 900 block of Jackson, north of Buchanan and approximately seven angled parking spaces on Jackson, south of Buchanan.

A neighborhood meeting was held on April, 2009, to discuss the new Buchanan/Jackson traffic signal and bicycle path that has been proposed. Concerns were raised by residents of the 900 block of Jackson about the loss of parking spaces and that the dedicated left turn arrow would induce additional traffic on Jackson. The Consultant has indicated that the induced traffic would be minimal on Jackson.

The Traffic & Safety Commission is recommending a two-way protected left turn arrows on Buchanan Street onto northbound and southbound Jackson, with an option in the future to implement a four-way protected left turn from Jackson onto eastbound and westbound Buchanan Street.

Mr. Bill Burton, DMJM Harris, indicating that the proposal would increase pedestrian safety, the operations would be the same and there would be loss of parking.

7-1. Buchanan/Jackson Traffic Signal Design Concept.

The following people spoke: Susan Silver, Safe Routes to School coordinator; Dawn; Abigail; Yvonne; Ken McCrosky, Albany resident; Ryan Miller, Albany resident; Marla Stephenson, Superintendent AUSD; Kristina Osborn, Albany resident; Barbara Chambers, Albany resident; Clay Larson, Albany resident; Steve Chambers, Albany resident; Adrian; Sheila Kramer, Albany resident.

A summary of the comments is as follows: Spoke in favor of a four-way left turn, as it is the safest solution for pedestrians. A Suggestion was made that a sidewalk be put on the eastside of Buchanan and that residential parking stickers be implemented for residents living on Jackson Street.

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

Council Member Thomsen stated that safety of the children is a priority and agreed that maybe a sidewalk should be constructed on the east side and that residential parking permits should be looked at. Council Member Thomsen thanked the Traffic & Safety Commission for their efforts and that she supports the request of the residents to have a four-way protected left turn.

Council Member Wile suggested that the residential parking permit process be referred to the Traffic & Safety Commission for their review. Council Member Wile disagreed with the recommendation from the Traffic & Safety Commission noting that safety comes before cars and supports the idea of permit parking.

Council Member Lieber agreed that the safety of the children is the number one priority and supports the four-way protected left turn and noted that the City should be encouraging walking and biking.

Council Member Javandel stated that the concern about parking supports the argument in favor of a park & ride lot on Buchanan under the freeway overcrossing. Council Member Javandel agreed that the four-way protected left turn is the superior way to manage the traffic.

Mayor Atkinson thanked the residents for their input and noted the comments received back up the support for a four-way protected left turn.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to approve the design alternative for the Buchanan/Jackson traffic signal, as recommended by the Traffic & Safety Commission with the amendment of a four-way protected left turn arrow on Buchanan Street onto northbound and southbound Jackson.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-2. Endorsement of AUSD Ballot Measures

(File #610-80)

Miriam Walden, Albany Board of Education Member, spoke to the Council about its endorsement of the School District's Measure I & J, which is on the November,

7-2. Endorsement of AUSD Ballot Measures

2009 ballot. Ms. Walden noted that the Albany School District would be losing \$4.2 million, which has prompted drastic administrative cuts.

Ms. Walden pointed out that Measure I is an emergency tax that would last 5 years and provides short-term revenue to replace funding and includes senior and low income exemptions for homeowners and renters.

Measure J combines 3 existing special school taxes into a single annual tax, which provides an exemption for seniors and low income homeowners and renters.

The Albany School Superintendent stated that extraordinary budget cuts have been made and noted that if the measures do not pass that the education of the students will be affected.

The following people spoke: Ira Sharenow, Albany resident; Ocean View parent; David Arkin, Albany resident.

A summary of comments is as follows: Opposed the regressive, which he believes is a punitive tax against renters and small business. Noted the tax lack of accountability and believe that Albany residents should not have to support non Albany students. Spoke about the building of two Albany pools and believes the money spent on this could have gone to the education of the students. Expressed concern about the tax and also spoke to the bond measure approved for the building of the new pools. Believes that it is very important that the City show support for the Albany schools and noted that the pool discussion should not be mixed in with the proposed measures.

Council Member Thomsen stated that it is very important to pass the tax and applauds those who are trying to get funds for the schools. Council Member Thomsen noted that the pools are not a part of the proposed measures.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber that the City Council go on record endorsing the AUSD ballot measures I & J, which will appear on the November 3, 2009 ballot.

ON THE QUESTION:

Council Member Lieber commented that this is about the children and the schools and noted that the State has let everyone down and it is now up to the community to step forward.

Mayor Atkinson noted that the amount of the tax is not much compared to the benefits the children would receive.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6. PUBLIC HEARING

6-1. Ordinance No. 09-011 – Amendment to Chapter 20, Planning & Zoning of the City of Albany (File #450-20)

The Planning Manager reported that on July 6, 2009, the City Council opened the public hearing, received public testimony and directed staff to review Council comments with the Planning & Zoning Commission. In summary, the key elements include: Section 6 & 9: The Council suggested a height limit of three stories and 35 feet. It was also suggested that any portion of the stories that exceeds four feet above grade would count as a story. Section 10: Prepare language codifying that measurement is taken to the bottom of floor joists. Section 9 & 11: Eliminate alternative 1B in order to keep both a daylight plane and a setback at rear property line. Section 14: Expressed an interest in maintaining 300-foot public notice, thus retaining existing language requiring a conditional use permit. Section 16: Add a process for exceptions to side yard fence requirements.

The Planning and Zoning Commission discussed the Council's comments and requests that the Council continue to consider the Commission's initial recommendations with respect to building height, measurement of height of basements and keeping the alternative of two ways of providing a daylight plane between commercial and residential districts. In addition, the Commission recommends a refinement to the side yard fencing requirements.

Building Height: The Commission continues to prefer the simplicity of not including the number of stories, as part of the limitation to building height in order to avoid potential ambiguity in the code.

Measure of Height of Basements: In order to simplify measurement and to avoid confusion in certain types of construction, the Commission recommends that the finished floor continue to be used, as the point of measure. If necessary, the distance from grade to floor can be adjusted from three feet to four feet.

Daylight Plane: The Commission continues to believe that providing applicants the choice between daylight plane 1A and 1B will give applicants an opportunity to construct buildings that are functional, while preserving privacy of adjacent yards.

Fencing on Side Yards and Front Yards: The Commission suggests that one way to address the issue of loss of privacy is to allow six foot fences closer to the public right-of-way on smaller lots. Specifically, the Commission recommends that on side yards abutting a public street, the fence must be less than three feet within the 10 feet of the public right-of-way, or a distance one-third the width of the lot. For a narrow 25 foot lot on a corner, a six foot fence along the side yard facing the street would be set back 8' 4", leaving 16' 8" or rear yard protected by a 6-foot fence.

David Arkin, Planning and Zoning Commissioner, spoke to the Council. A summary of his comments is as follows: Noted that flexibility is very important and should promote growth and not limit it. Believes that the height limit should be limiting bulk but not necessarily the number of stories and the height of the basement is proposed at 5' to the top of the finished floor. Also suggested an amendment to the Daylight Plane requirement to require a minimum six foot solid fence if the area above

6-1. Ordinance No. 09-011 – Amendment to Chapter 20, Planning & Zoning of the City of Albany

the first floor at the rear of the building is used as open space for occupants as long as total height of building and fence at the rear property line respects 12 foot height limit.

Council Member Thomsen thanked the Planning Commission for their hard work and review that has been done.

Mayor Atkinson expressed concern about fence heights and preserving privacy on corner lots.

The following people spoke: Clay Larson, Albany resident; Kristina Osborn, Albany resident.

A summary of the comments is as follows: Support the language of the Council in Sections 6 and 9 with height limits of 3 stories and 35 feet or 3 stories and 38 feet . Stated and 10-foot setback works in other cities. Section 10 should have better language crafted with respect to floor area ratio. Believe that Council should make it very clear that there would be 3 stories and 35 feet.

Council Member Lieber introduced for first reading Ordinance No. 09-011 – An Ordinance of the Albany City Council Amending Chapter 20 Planning and Zoning of the Albany Municipal Code.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel that Ordinance No. 09-011 be approved for first reading with the following changes: 35’ and 3 stories, or 38’ and 3 stories where appropriate. Council member Lieber stated that other items speakers discussed have merit and should be revisited with the General Plan.

AMENDMENT:

Moved by Council Member Javandel to amend the motion, as follows: with a daylight plane, must have 6’ fence or some prohibition on open space use. Council Member Lieber accepted the amendment.

ON THE QUESTION:

Moved by Mayor Atkinson stated that she would like more flexibility regarding fences on corner lots. The Planning Manager noted that text of proposed ordinance calls for administrative design review. Council members Javandel and Lieber agreed with public notice as written. Mayor Atkinson asked the maker of the motion to restate it.

MOTION CLARIFICATION:

Council Member Lieber moved, seconded by Council Member Javandel that Ordinance No. 09-011 be approved for first reading with the following change: height limit of 35’ and 3 stories or height limit of 38’ and 3 stories as appropriate depending on the zoning, and the fence requirement on the daylight plane be included in the final reading. Mayor Atkinson confirmed that accepting language changing the measurement of height of basement from six feet to five feet to top of finished floor. Council member Lieber stated he was comfortable with text as written.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-3. Monthly Progress Report: July-August 2009 Civic Center

(File #200-20)

The Public Works Manager reported the occupancy of City Hall for Administration, Community Development and Finance is scheduled for early December, with the City taking possession sometime in November.

The Public Works Manager noted that staff attended the meeting of the Community Media Access Committee to discuss the extent to which the project could support relocation, installation and improvements to the AV equipment at the renovated City Hall. The project has funding to construct the basic AV infrastructure; however, the budget does not include the cost of upgrades to the camera equipment. The cost is estimated at \$65,000.00.

Staff sent out RFP's for the City's telecommunication system and received 8 proposals, four of which were invited to make an oral presentation to a panel of City employees. The completion date for installation to the new system is December 11, 2009. To allow the vendors to meet this date, it is necessary that the City provide the successful vendor a signed contract by October 1, 2009. As this is an equipment replacement, it would be funded from funds set aside in the Equipment Replacement Fund.

The following people spoke: Jack Kenny, Chair Community Media Access Committee; Clay Larson, Committee Member.

A summary of the comments is as follows: Stated that it is great to see this project progressing, however, is disappointed that the media aspect has not been given the attention that the Committee thought it should. Urged the Council to approve the funds to upgrade the media system.

Council Member Lieber stated that he is in total agreement with the Committee Members that the media aspect of the project must be upgraded. Council Member Lieber stated that in normal economic times he would suggest that the School District pay their share of the cost; however, given the economy and the predicament the School District is in would not entertain that idea at this time.

The City Administrator stated that staff took a closer look at this and recognizes the advantage of keeping the current equipment at the Community Center and believes that funds can be found to accommodate the new equipment.

Council Member Thomsen agreed that this is an important part of moving back to City Hall and supports the upgrade to the equipment.

Council Member Javandel agreed that having the equipment at both facilities is an advantage for the City and supports the purchase of upgraded equipment.

The City Administrator clarified the funding, as follows: \$24,000 would come from the PEG fees and the remainder would come out of the Equipment Reserve.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to authorize the City Administrator to sign a contract for telephone equipment, installation and maintenance with American Telesource, Inc., (ATI), American Telephone & Telegraph (AT&T) or Maverick Networks, Inc. for a cost not to exceed \$120,000.00.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

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

Council asked that an item be on the next agenda regarding the cost of the cable equipment.

Council Member Lieber announced that he attended a meeting regarding taking legal action on the Light Brown Apple Moth spraying.

Mayor Atkinson announced that she attended the annual League of California Cities Conference in San Jose.

10. ADJOURNMENT

10:25 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.

Marge Atkinson
Mayor

ATTEST:

Jacqueline L. Bucholz, CMC
City Clerk