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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
COMMUNITY CENTER, 1249 MARIN AVENUE
MONDAY, NOVEMBER 16, 2009

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; Ann Chaney, Community Development Director; Richard Cunningham, Public Works Manager; Steve Hasch, Contract Project 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 Member or a member of the audience requests removal of the items from the Consent Calendar.)

4-1. Minutes, October 19 & November 2, 2009.

Staff recommendation: Approve.

4. CONSENT CALENDAR

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$189,668.19; taxes, benefits & withholdings in the amount of \$146,502.00. Total payroll in the amount of \$336,170.19. Payroll period: 11/06/09.
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$53,728.12; taxes, benefits & withholdings in the amount of \$38,976.92. Total payroll in the amount of \$92,705.04. Payroll period: 11/06/09.

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of \$232,707.41. Period: 10/16/09; \$405,620.01. Period: 10/30/09. \$32,645.81. Period: 11/01/09.

Staff recommendation: Ratify.

- 4-4.** Consideration of Claims.
a. Shelton v. City of Albany; Claim #AL598
b. Lezemizadeh v. City of Albany; Claim #AL607
(File #170-60)

Staff recommendation: Reject the claims and authorize the City Clerk to send out the appropriate rejection letter.

- 4-5.** Appointment to the Berkeley/Albany Mental Health Commission.
(File #110-30)

Staff recommendation: Reaffirm the nomination of Council Member Wile to the Berkeley/Albany Mental Health Commission, effective March, 2010.

- 4-6.** Appointment to the Alameda County Housing Authority.
(File #140-45)

Staff recommendation: Announce vacancy and schedule Council appointment for the December 7, 2009 meeting.

- 4-7.** Request to file a Petition for Review of San Francisco Bay Regional Water Quality Control Board's Approval of Order R2-2009-0074 (Municipal Regional Permit for Storm water) to the State Water Resources Control Board.
(File #600-40)

Staff recommendation: Authorizing filing a Petition to Review of the Municipal Regional (Storm water) Permit to the California State Water Resources Control Board, held in abeyance pending the Regional Water Quality Control Board agreement to further negotiate the terms of the permit.

4. CONSENT CALENDAR

4-8. Resolution No. 09-48 – A Resolution of the Albany City Council Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C09-03, Albany Pre-School Seismic Improvements – Project P29.
(File #600-30)

Staff recommendation: Approve Resolution No. 09-48.

Mayor Atkinson asked if anyone would like to remove an item from the Consent Calendar for discussion: The following items were removed: 4-1, 4-5, 4-6 & 4-8.

4-1. Minutes

Council Member Lieber asked that the minutes be removed from the Consent Calendar so that they could be voted on separately, as he was absent at the October 19, 2009 meeting.

4-5. Appointment to the Berkeley Mental Health Commission.

Allan Maris, current appointee to the Berkeley Mental Health Commission, expressed his pleasure that Council Member Wile was going to be appointed and noted that if Council Member Wile could not serve he would be willing to serve again. Mr. Maris spoke about the programs the Commission is currently working on.

The Council thanked Mr. Maris for his service on the Berkeley Mental Health Commission.

4-6. Appointment to the Alameda County Housing Authority

Allan Maris, current appointee to the Housing Authority, spoke about the various programs that the Authority is working on including housing for the homeless and Section 8 housing.

The Council thanked Mr. Maris for his service on the Housing Authority.

4-8. Resolution No. 09-48 – Preschool Seismic Improvements

Council Member Javandel noted that the date in the staff report should be September, 2008 and not 2009. Council Member Javandel stated that he would be abstaining on this item, as he has two (2) children that attend the Preschool.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Wile to approve the minutes of October 19, 2009.

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

NOES: None

ABSENT: None

ABSTAIN: Council Member Lieber

Motion carried and so ordered.

4. CONSENT CALENDAR

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to approve the minutes of November 2, 2009.

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

NOES: None ABSENT: None

Motion carried and so ordered.

Council Member Thomsen presented Resolution No. 09-48 – A Resolution of the Albany City Council Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C09-03, Albany Preschool Seismic Improvements – Project P29.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Thomsen and seconded by Council Member Wile to approve Resolution No. 09-48.

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

NOES: None ABSENT: None

ABSTAIN: Council Member Javandel.

Motion carried and so ordered.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to approve the rest of the Consent Calendar, as submitted.

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 asked if anyone would like to speak.

The following people spoke: Charles Pagter, Albany resident; Peggy McQuaid, Albany resident.

A summary of the comments is as follows: Expressed concern that the recycle center at the Safeway Store on Solano Avenue is closing early and asked the City to object to this, as this is a central place and convenient for people who don't use a car. Thanked the County, the Fire Department and the volunteers who worked at the H1N1 clinic last Saturday. It was noted the clinic was a huge success and accommodated people with disabilities.

Council Member Wile thanked the Fire Department, with special recognition to Battalion Chief, Crudo who worked with the County in making this happen and the City volunteers: Mayor Atkinson, Jacqueline Bucholz, Anne Hsu, Jess Cosby and June Lieberman.

The City Administrator gave an update on some nuisance abatements: 947 Jackson the owner has appealed the City action and an Appeal Board has been put

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

together for Friday, November 20th. 739 Madison the property owner is working to put the property on the market.

The City Administrator noted that the Fern Tiger Associates won an award in the external newsletter category for the *Voices to Vision* publication that was sent to everyone in Albany. Reminded the public to participate in a questionnaire on *Voices to Vision* that is online that has been prepared by Fern Tiger Associates. Council Member Thomsen noted that if people did not get any information on the questionnaire they can still go to the website and a password would be issued.

Mayor Atkinson announced that there are some barrels at the Community Center for Toys For Tots, food donations and warm coats.

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

6. PRESENTATION/PUBLIC HEARING

6-1. Presentation on Berkeley City College.

Dr. Betty Inclan, Berkeley City College, gave a presentation on new initiatives, community partnerships that came about, as the result of several new grants and about final build-out of the college's 2050 Center Street.

Dr. Inclan noted that the Berkeley City College is reaching out to all High Schools and Middle Schools and spoke about internship programs that are available.

Council Member Lieber thanked Dr. Inclan for coming and speaking to the Council and for encouraging people to continue their education. Council Member Lieber noted that the new College is a silver lead green building.

6-2. Presentation of Time Capsule and Historical Plaques

(File #140-25)

Ruth Ganong, Albany Historical Society, presented to the City Council for acceptance a Time Capsule that has been given to the City Clerk who will keep it in the City vault to be opened in 50 years (2059). Also presented were four (4) plaques to be put at four (4) historical sites in the curb sections of the sidewalks. The locations are: First Official Public Building, Solano east of Cornell in front of the Chinese School; Albany's First Firehouse, Cornell, near school yard; First City Hall, north side of Solano between San Pablo and Adams; Millers Barn, San Pablo at Brighton.

Council Member Lieber expressed concern about the safety of pedestrians. The Public Works Manager responded they would not be above grade level and would be installed so the plaques are protected.

Council Member Lieber stated that the plaques are very beautiful and would benefit the City and considered this an art project.

The following people spoke: Jim Cleveland, Albany resident; Allan Maris, Albany resident.

6-2. Presentation of Time Capsule and Historical Plaques

A summary of the comments is as follows: Noted that this is a marvelous gift to the City and gave special recognition to Ruth Ganong and Jewel Okawachi. Suggested that a good way to repay the Historical Society for the gifts is to provide the Historical Society a display cabinet so all the items could be on display.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to accept the Time Capsule and the four (4) historical plaques.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. East Bay Regional Park District – Measure WW Funds: 1) \$27 million Eastshore State Park. 2) \$12.3 million – Bay Trail. (File#920-80)

The Community Development Director reported that East Bay Regional Park District (EBRPD) Measure WW was passed in November, 2008. Of particular interest to Albany is the \$27 million allotted to Eastshore State Park and \$12.3 million to the Bay Trail (Fremont to Martinez). These funds are intended for expansion, restoration and improvements.

The City Council referred this to the Parks & Recreation Commission and the Waterfront Committee. The Waterfront Committee worked to compile recommendations, as follows: 1) Eastshore State Park – Proposed projects for expansion, restoration and development projects (\$27 million from Measure WW): a) Prepare a project area plan and implement plan for Albany Plateau and prepare a project area plan and implement plan for Albany Neck and Bulb; b) expand the Albany salt marsh; c) sell the City owned Bulb to the State of California in “as is” condition. 2) Bay Trail - \$12.3 million) a) Permanent Bay Trail – acquire land or easement and construct the Bay Trail extension through Golden Gate Fields property (construct interim Bay Trail if permanent Trail is not possible at this time).

The Community Development Director noted that the Sustainability Committee has recommended that wind turbines be put on the Albany Bulb and the land be used for site renewal energies.

Council Member Lieber stated that he is uncomfortable with asking \$1 million for the Albany Bulb and believes it would be a hindrance to put a dollar value on it.

The City Attorney spoke about the lease that was entered into in 1985 and noted that the legal issues need a much fuller airing.

Council Member Wile stated that her preference is to not include recommendation 1c from the Waterfront Committee and need to think very carefully about the legal issues.

Council Member Javandel agreed with Council Member Wile and would support taking out recommendation 1c.

7-1. East Bay Regional Park District – Measure WW Funds: 1) \$27 million Eastshore State Park. 2) \$12.3 million – Bay Trail.

Mayor Atkinson noted that some people in town do not want to sell the Bulb.

Council Member Lieber stated that there should be a long term goal for the State to take the land and supports that policy.

Council Member Thomsen stated that recommendation 1c does not look like the City is applying for funds.

The following people spoke: Allan Maris, Albany resident; Caryl O’Keefe, Albany resident.

A summary of the comments is as follows: Expressed concern that no one from the Waterfront Committee is here and noted this is a very important issue. Noted that the online questionnaire from Fern Tiger Associates is very important and believe that people should participate in the survey. Asked the City to provide a cost estimate on how much was spent on the planning process. Believes that a permanent Bay Trail should be a high priority and that the City should think very carefully about the lease agreement before any action is taken.

Council Member Javandel stated that he would prefer to ask money for improvements than to ask for a million dollars for the sale of the land. Agreed that it is very important to obtain a permanent Bay Trail and that the salt marsh should be expanded.

Mayor Atkinson stated that she would like to see the interim Bay Trail taken out, as she fully supports a permanent Bay Trail.

Council Member Lieber commented that he does not want to throw out the interim Bay Trail at this time.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to approve the Waterfront Committee recommendations, as follows: 1) Eastshore State Park – proposed projects for expansion, restoration and development projects (\$27 million from Measure WW: a) prepare a project area plan and implement plan for Albany Plateau and prepare a project area plan implement plan for Albany Neck and Bulb. b) Expand the Albany salt marsh. 2) Bay Trail (\$12.3 million): a) emphasis on a permanent Bay Trail – acquire land or easement and construct the Bay Trail extension through Golden Gate Fields property (construct interim Bay Trail if permanent trail is not possible at this time).

ON THE QUESTION:

Expressed concern that the City lobby for the funds and that there should be some improvements.

The maker and second agreed that there should be support to lobby for funds and staff should look into this.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

Council Member Wile noted that there are still some very important issues to be resolved at the Waterfront: homelessness, dogs off leashes and art, etc.

7-2. Monthly Progress Report: October, 2009 Civic Center

(File #200-20)

The Public Works Manager reported that most of the work now is finish work, such as: landscaping, paving, antenna and no major surprises at this point. The move back schedule right now is: Administration, Community Development & Finance to move back the weekend of December 11th with the Council Chambers back in use between mid-January to mid-February. The Police and Fire are scheduled to move back around February/March.

Allan Maris, Albany resident, stated that it is exciting to see this project come to an end and believes that special recognition should be given to Barry Whittacker.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to authorize the City Administrator to enter into a contract with Raney Unlimited for Police/Fire Department relocation activities in an amount not to exceed \$50,000.

ON THE QUESTION

Council Member Lieber stated that he believes that the public will benefit from the remodel of the Administration area with the central service area in the lobby.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-3. Citygate Organizational Study

(File #100-40)

The City Administrator reported that the City contracted with Citygate Associates for a citywide organizational study. The City Council held a study session and at the conclusion Council made some comments about additional information they would like the consultants to provide. However, after discussion with the consultants it was decided that it would not be a cost effective approach and believe that staff can explore the information requested.

The City Administrator stated that the policy items in the report are:

Technology: The City Administrator recommended that the City undertake strategic planning with a goal of implementation in the 2010-12 budget.

Advisory Bodies: The City Administrator recommended that the City conduct a review of each Commission, Board, Committee that considers factors such as purpose, authority, necessity, composition, meeting schedule, expectations, members and staff support.

Zero Sum Programming: The City Administrator recommended that as much direction on priorities and core values as possible be incorporated into the spring 2010 goal setting.

City Administrator Roles & Responsibilities: The City Administrator recommended that if more communications under the purview of the City Administrator is a priority during the 2010-12 goal setting, she would pursue transferring some administrative services

7-3. Citygate Organizational Study

currently performed in Administration to the Finance & Administrative Services Department. City Administrator/City Clerk combination: The City Administrator recommended that the two positions should remain separate with the City Clerk reporting to the City Administrator. Joint ventures with other agencies: The City Administrator recommends that the City be vigilant in keeping an eye out for opportunities that could arise. Dispatch: A possible opportune time to consider this venture would be after the East Bay Regional Emergency Communications Authority completes construction on the new Alameda/Contra Costa County radio system. Sewers: The City Administrator recommended that staff monitor and seek opportunities for joint ventures. Cost Recovery in the Recreation Department and Community Development: The extent to which recreation and community development services are subsidized by the General Fund or supported by user fees is a matter of Council policy, as well as a function of budget considerations.

Administrative Items: Ongoing Succession Planning; Organization of staff resources and contract services to meet Council direction and priorities; internal customer service surveys.

The following people spoke: Caryl O'Keefe, Albany resident; Allan Maris, Albany resident.

A summary of the comment is as follows: Agreed with the recommendation to refer back to staff for further analysis and agreed that some consolidation of City Commissions/Committee should be looked at. Believe that staff's report was much better than the Citygate report and should focus on Commissions/Committees.

Council Member Lieber agreed that technology is important as is succession planning and spoke about the number of employees per population.

Council Member Wile stated that she would like to recommend that the City look at changing the City Administrator to City Manager and would like to have this on a future agenda for discussion.

Council Member Lieber stated that he would like the Charter Review Committee to review this noting that this would change the character of the City and how Council interacts with staff.

Council Member Thomsen agreed with Council Member Lieber.

Council Member Javandel agreed with the zero sum programming and agreed that staff should look at some of the issues, as they have the best knowledge of the workings of the City. Council Member Javandel stated that the Commissions/Committees should be looked at and maybe a start would be to have action minutes.

Mayor Atkinson stated that she was disappointed with the Citygate report although there were a few good ideas, such as technology and Council priorities.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Wile to approve staff's recommendation, as follows: Refer the study to staff for further analysis and report back on policy issues, as described in report, for incorporation into the 2010-12 Council goal setting and budget planning, and for implementation of administrative recommendations in support of Council policy direction.

7-3. Citygate Organizational Study

VOTE ON THE MOTION:

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

NOES: None ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Letter from Pacific Environment to Governor Schwarzenegger regarding Fuel Transfer Regulations.

(File #530-20)

Council Member Wile stated that she is recommending that the Mayor write a letter to Governor Schwarzenegger regarding implementing fuel transfer regulations to protect the San Francisco Bay from future oil spills.

Council Member Thomsen asked if Council Member Wile knew anything about the group sponsoring this request and Council Member Wile stated she had no firsthand knowledge.

Council Member Lieber stated that he definitely supports this request noting that the State should definitely move towards this recommendation.

Allan Maris, Albany resident, thanked Council Member Wile for bringing this matter to the attention of the City Council noting that this policy would protect a lot of wildlife.

Council Member Javandel also supported the action noting it would enable everyone to respond better to a disaster in the San Francisco Bay.

Council Member Thomsen noted this would be a small expense to the shipping companies with protection for the wildlife and environment.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to authorize the Mayor to sign a letter on behalf of the City to be sent to Governor Schwarzenegger.

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

NOES: None ABSENT: None

Motion carried and so ordered.

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

9-1. City offices would be closed on Thursday, November 26 & Friday, November 27, 2009, in observance of Thanksgiving.

Mayor Atkinson commended everyone who volunteered last Saturday for the H1N1 Clinic. Mayor Atkinson announced the following: 1) Attended a 2x2x2 meeting with the School District and U.C. Berkeley. 2) Was active in the Measures I&J

campaign and was glad to see that each measure passed by over 70%. 3) Attended the Police Department Reserve dinner last Saturday at Golden Gate Fields.

10. ADJOURNMENT

Council Member Lieber stated that the meeting would be adjourned in memory of Jesse Chow-Smith, a student at Albany High School and offered his condolences to his parents noting that Jesse would be missed by a lot of people.

9:55 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting in memory of Jesse Chow-Smith and a moment of silence was observed.

Marge Atkinson
Mayor

Attest:

Jacqueline L. Bucholz, CMC
City Clerk