

Approved: May 3, 2010

NOTE: These minutes are subject to Council approval and are not verbatim; however, tapes are available for public review.

MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, APRIL 19, 2010

6:15 p.m.

City Council convenes in the Council Chamber and then adjourns to Executive Session to discuss the following pursuant to Government Code Section 54957.8

Agency Negotiator:	City Administrator and Glenn Berkheimer, IEDA
Employee Organization:	Albany Peace Officers' Association

Real property pursuant to Government Code Section 54956.8

Property:	Adjacent to 1150 8 th Street Berkeley.
Negotiating Parties:	City Attorney, City Administrator & Assistant City Administrator, on behalf of the City; Cornish and Carey Commercial Realty, on behalf of property owner.
Under Negotiations:	Consideration of property to be used as a City Maintenance Center.

Initiation of litigation against the California Department of Agriculture to consider joining various agencies to challenge the Environmental Impact Report on the Light Brown Apple Moth eradication efforts, pursuant to Government Code Section 54956.9c.

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

ADJOURN TO CLOSED SESSION

7:30 p.m.

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and Albany High School students led the Pledge of Allegiance to the Flag,

ROLL CALL

Present: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile
Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Judy Lieberman, Assistant City Administrator; Charlie Adams, Finance Director.

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

The City Administrator reported that regarding labor relations direction was given to staff.

The City Attorney reported that regarding the real property negotiations staff was given instructions on how Council wishes to proceed on intent to make an offer.

The City Attorney reported that regarding the litigation directions were given to the City Attorney to get in touch with the Plaintiff's attorney and join as a co-plaintiff.

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, April 5, 2010.

Staff recommendation: Approve

- 4-2. a.** Ratification of City of Albany net payroll in the amount of \$186,775.15; taxes, benefits & withholdings in the amount of \$244,229.93. Total payroll in the amount of \$431,005.08. Payroll period: 03/26/10. Ratification of net payroll in the amount of \$193,674.14; taxes, benefits & withholdings in the amount of \$151,686.85. Total payroll in the amount of \$345,360.99. Payroll period: 04/09/10.
- b.** Ratification of Albany Municipal Services JPA net payroll in the amount of \$49,630.78; taxes, benefits & withholdings in the amount of \$55,586.54. Total payroll in the amount of \$105,217.32. Payroll period: 03/26/10. Ratification of net payroll in the amount of \$50,994.04; taxes & benefits in the amount of

\$39,348.98. Total payroll in the amount of \$90,343.02. Payroll period: 04/09/10.

Staff recommendation: Ratify.

- 4-3.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of December 31, 2009, as required by Section 53646 of the California Government Code.
(File #300-10)

Staff recommendation: Note and file – information only.

- 4-4.** Waste Management of Alameda County annual rate adjustment request.
(File #810-30)

Staff recommendation: Authorize the annual rate adjustment of 2.1% requested by Waste Management of Alameda County.

- 4-5.** Contract Agreement with Fehr and Peers for the Pedestrian Master Plan and Update to the Bicycle Master Plan.
(File #600-30)

Staff recommendation: Authorize the City Administrator to enter into a contract agreement with Fehr and Peers to prepare Albany's Pedestrian Master Plan and Update to the Bicycle Master Plan for an amount not to exceed \$142,991.

- 4-6.** Resolution No. 2010-16 – A Resolution of the Albany City Council Approving the Application for Grant Funds for the Urban Greening Grant Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for Codornices Creek Restoration/San Pablo Avenue Gateway Project.
(File #405-40)

Staff recommendation: Approve Resolution No. 2010-16.

- 4-7.** Consideration of Claim #AL621; Washington v. City.
(File #170-60)

Staff recommendation: Reject the claim and authorize the City Clerk to send out the rejection notice.

- 4-8.** Resolution supporting H.R. 4277 – Active Community Transportation Act of 2010.
(File #600-40)

Staff recommendation: 1) Approve Resolution No. 2010-18 – A Resolution of the Albany City Council Supporting and Endorsing H.R. 4722, the Active Community Transportation Act of 2010. 2) Authorize the Mayor to sign a letter supporting and endorsing H.R. 4722.

- 4-9.** Albany Alcohol & Drug Abuse Prevention Council requesting a waiver of a temporary conditional use permit fee of \$300. This temporary conditional use permit is for a swap meet at the Mechanics Bank parking lot on Sunday, June 6, 2010.
(File #450-10)

Staff recommendation: Approve the waiver of fee.

- 4-10.** Request to temporarily close a segment of Curtis Street on Wednesday, May 19, 2010 for the Bike and Walk to School Activities at Marin Elementary School.
(File #820-50)

Staff recommendation: Approve an Encroachment Permit at no fee, submitted by the PTA of the Marin Elementary School, to allow closure of Curtis Street, between Marin and Sonoma Avenues on Wednesday, May 19, 2010 for the Bike and Walk to Work/School month.

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar and the following items were removed for discussion: Items 4-1 & 4-4.

4-1. Minutes

Council Member Thomsen stated that she would like a clarification, as to the motion that was made last week regarding the changes to the Climate Action Plan. Council Member Thomsen said that Council Member Lieber asked to have some language included in the minutes, however, after listening to the tape the words he had inserted were never said at that meeting.

Council Member Thomsen noted that she commented on this at the time of the correction and thought the motion included her comments to strike the words “commercial district”. Council Member Lieber stated that he had no problem with striking those words.

Council discussed this and there was confusion about the general discussion and the action motion made. Council Member Lieber stated that during the general discussion he mentioned San Pablo and Solano Avenues, but the motion was not specific to any area.

The City Attorney commented that he would recommend that if any Council Member lives within 500’ of the commercial district the Council should consider who can vote.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to rescind the motion made at the April 5th meeting and to delete reference to “commercial district” and change to San Pablo & Solano Avenues.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

Council Member Lieber made a correction to page 6 - Climate Action Plan: Robert Cheasty's comments should be: in favor of wind energy but not at the bulb.

4-4. Waste Management of Alameda County.

Council Member Lieber asked a question about battery pickup being included in the scope of work for Waste Management. The City Administrator responded that the City would discuss this during the negotiation of the contract.

Council Member Atkinson spoke to the Pierce Street Tower residents noting that they tend to get left out and would appreciate hearing what Waste Management is planning to do for them.

Allan Maris noted that he has complained many times about Waste Management leaving the trash cans in the street and it appears to be getting better.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to approve the Consent Calendar, as submitted.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Wile opened the Good of the City/Public Forum/Announcements and the following people spoke: Francesco Papalia, Albany resident; Ray Anderson, Albany resident; Karina Tindell, Police Department; Brian Parsley, Albany resident; Linda Woodbury, Orientation Center for the Blind; Allan Maris, Albany resident; Peter Goodman, Albany resident.

A summary of the comments is as follows: Expressed concern that the City was operating on a "shoestring budget" for computer technology and spoke about debris at the Cove at the Waterfront. Noted attendance at a meeting in El Cerrito regarding the Pierce Street/Central Avenue/I-80/580 plans and spoke about the new Safeway store noting that there should be a public presentation. The following announcements were made: 1) The Emergency Resource Fair on May 1st at the Fire Department, 10-2 p.m. and noted that in the latest Recreation Brochure there is a form to be filled out with emergency information that should be put in a plastic bag and attached to the refrigerator. This form will help the paramedics if they are called to a house in an emergency. 2) Community Foundation fundraiser, Chocolate & Champaign Gala, April 24, 7:30-10:30 at Northbrae Church. 3) Earth Day, April 24th and Adopt a Trail, 9-1 p.m. 4) Arts & Green Festival May 2, 11-3 p.m. at Memorial Park. The new Administrator for the Orientation Center for the Blind introduced herself and also expressed concern about broken glass bottles in the parking lot of the Center, which is very dangerous for the guide dogs and the students and urged the Council to adopt an Open Container Ordinance.

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

6. PRESENTATION/PUBLIC HEARING

6-1. Presentation to Albany High School students.

Mayor Wile read and presented a Proclamation to the Albany High School Gay Straight Alliance for their work at the High School.

6-2. Presentation to Arts Committee.

Council Member Javandel read and presented a Proclamation to the Arts Committee celebrating Poetry Month.

8. NEW BUSINES

8-1. Proposed Alameda County Transportation Commission
(File #600-40)

A presentation was made by Tess Lengyel and Dennis Fay, Alameda County, on the proposed merger of the Alameda County Congestion Management Agency (ACCMA) and the Alameda County Transportation Authority (ACTIA), the development of the Countywide Transportation Plan, Funding Strategies and Opportunities Update.

The presentation noted that the merger would save tax dollars; eliminate redundancies, streamline planning and project delivery, streamline legislative, policy and funding strategies.

A Joint Powers Agreement needs to be signed by all the agencies involved and would create the Alameda County Transportation Commission (ACTC), which would assume the duties of ACTIA and ACCMA. The Board would consist of 22 members: Five County Board of Supervisors (six votes total); two Oakland representatives (four votes total); one from each: cities of Fremont & Hayward (two votes each); one from each other 11 cities (one vote each); AC Transit (one vote); BART (one vote).

The following people spoke: Preston Jordan, Albany resident; Allan Maris, Albany resident; Ed Fields, Albany resident.

A summary of the comments is as follows: Expressed enthusiasm over the merger and liked that bicyclists and pedestrian are part of the Transportation Plan. Spoke about the Vehicle License Fee being restored.

Council comments are summarized as follows: Expressed concern that Berkeley and Oakland votes are reduced by 50% and thereby affecting the representation for the northern part of the County. There was Support for tabling this item until Berkeley and Oakland check in on the issue of representation.

8-1. Proposed Alameda County Transportation Commission

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to table this item until information is received from the cities of Berkeley and Oakland regarding the reduction of representation. The item to come back to Council for the second meeting in May.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-2. Joint Use Agreement for Use of Public Facilities

(File #600-30)

a. Sports field improvements to Ocean View Park and Memorial Park.

The Recreation & Community Services Director reported that in 2007 Albany Unified School District (AUSD) was alerted to possible Title IX compliance issues. Title IX is a law enacted in 1972, which states “No person in the US shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”. Under Title IX schools have an obligation to ensure that its female and male teams have equal access to comparable facilities, including practice and competitive sites.

In 2008, the AUSD Superintendent worked closely with the City of Albany, Albany High School and Albany Little League to propose a plan that would move Little League from Memorial Field to Ocean View Field. This move was to occur in concert with a City plan to improve Ocean View Field thus allowing the District to financially contribute to the improvements that were necessary to relocate Little League.

The School Superintendent thanked the City and Staff for the hard work and hopes to be good neighbors.

Council comments are summarized as follows: Noted that this is a win/win for everyone involved and that it has been a long process with a compromise that is best for the children. Thanked everyone who worked so hard on this process.

The following people spoke: Allan Maris, Albany resident; Brian Parsley, Albany resident.

The following is a summary of the comments: Would like to see baseball get into the Bates Field at Gilman and noted that the participation by the Little League was great. Noted it was an incredible job by everyone involved and it is good to see that people are willing to compromise.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Atkinson to approve the request by the Albany Unified School District to construct field improvements at Ocean View and Memorial ball fields so that Albany High School baseball teams may relocate to Memorial Field and Ocean View field and Albany High School softball teams relocate to Cougar Field.

8-2. Joint Use Agreement for Use of Public Facilities

VOTE ON THE MOTION:

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

NOES: None ABSENT: None

Motion carried and so ordered.

b. Joint Use Agreement.

The Recreation & Community Services Director reported that the School District and the City have been working on a Joint Use Agreement (JUA) between the City and the Albany Unified School District (AUSD) regarding facilities use. The JUA was approved by the Park & Recreation Commission at its April 8th meeting and the AUSD will be reviewing it at its April 20th meeting.

The intent of the JUA is to put in writing the terms and conditions of sharing facilities between the two agencies and to provide the best service programming activities with the least possible expenditure of public funds.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber to approve the Joint Use Agreement between the City of Albany and the Albany Unified School District.

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

NOES: None ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. Voices to Vision. On April 5, 2010, Fern Tiger Associates presented the results of the *Voices to Vision* – a comprehensive process to determine the community’s vision for the Albany Waterfront. The report included key findings and recommended guidelines that reflected the collective thoughts and concerns of the nearly 1,200 residents who participated in the visioning process.

Following is a summary of the presentation: Fern Tiger stated that she had received questions via e-mail and letters and would like to respond to those now. Questions were raised relating to experts used for consultants; actual economic feasibility of the recommendations; why retail was included as a recommended use; location, amount of wetlands and data used and how it was figured into the recommendations.

Fern Tiger stated that she also added page 98, which has various sources of information and analysis of the community input.

Answers to the questions: The report is conceptual in nature and not a final project plan. The consultants that were used, some were paid, some donated their time and some gave a reduction in rates. An explanation of the page numbering was provided. Regarding the economic feasibility, it is believed that the project would be profitable for a developer and the information from Voices to Vision led to a hotel and 250 sq.ft. of

7-1. Voices to Vision

retail being a doable solution for the tax revenue that is desired by the community. The rationale for retail is that it is very important for tax revenue to make up for the loss of Golden Gate Fields, if they leave the location; and according to economists a hotel alone would not support the community. Fleming Point has been questioned as to have the hotel on that site and it has been determined that only a hotel, no retail or restaurants would be on that area, but due to the views this is the best location for a hotel. Wetland restoration was not a part of the original process but after the January session it became apparent that there was a concern, and therefore, the guidelines call for a minimum of 10 acres to be restored.

The following people spoke: Jean Safir, Albany resident; Robert Cheasty, CESP; Francesco Papalia, Albany resident; Howard McNenny, Albany resident; Susan Schwartz, Friends of Five Creeks; Brian Parsley, Albany resident; Ann Berry, Albany resident; Katie Whitmore, Albany resident; Sally Douglas, Albany resident; Trevor Grayling, Albany resident; Anne Foreman, Albany resident; Brian Parker, Albany resident; Edward Moore, Berkeley resident; Lubov Mazor, Albany resident; Ed Fields, Albany resident; Clay Larson, Albany resident; Norman LaForce, Sierra Club; Nick Pilch, Albany resident; Preston Jordan, Albany resident; Thelma Rubin, Albany resident; Peter Hobart, Albany resident; Allan Maris, Albany resident; Irene, Albany resident; Dorothy Reid, Albany resident; Caryl O'Keefe, Albany resident; Ruth Ganong, Albany resident.

A summary of the comments is as follows: Asked why there was no option that would include Golden Gate Fields and commercial development. Support the recommendation of 75% open space and 25% retail. Asked that data be included to include acquisition costs, demolition costs, planning and development costs, costs to carry the City through the development phase and building costs. Noted that Magna is solvent and believes that Golden Gate Fields is going to stay in Albany and would like to know what could be done while the track is still operating. Spoke about the wetlands and how important they are and should definitely be considered. Stated that Fern Tiger was not hired as a planner and expressed concern that the land owner was not involved in the process. The City needs to support maximum parks and open space with minimal development. Believe that this document is just a "wish list". Urged the Council to accept the plan. Believe that the City has a potential to be sued by the land owner. Asked what the shelf life of the document is. Expressed disappointment with lack of technical issues included in the report. Believe that this is a consensus of the community and should be adopted. Asked what would be the next step. Noted that the birdlife should be protected and that the community still has Measure C. regarding what happens at the Waterfront. Asked what the next step would be and that this report should go through the Planning & Zoning Commission. The land owner should be engaged in this process.

Fern Tiger responded that Golden Gate Fields had been contacted and interviewed at the beginning of the process.

A summary of the Council comments is as follows: Hope that this would be a living document and supports the Resolution. However, would like to remove the Whereas Clause that commends Fern Tiger and have a separate Proclamation prepared. Noted that this is a vision and not a planning document and suggested the following

7-1. Voices to Vision

language be added to the Resolution.....that reflects our citizens’ vision on Waterfront Planning. Would like to have had the property owner more engaged in the process and believe that the right consultant was picked.

Council Member Lieber presented Resolution No. 2010-19 – A Resolution of the Albany City Council Accepting the Fern Tiger Associates Report: *Voices to Vision – A Community’s Vision for the Albany’s Waterfront.*

MOTION:

After reading the title and waiving reading of entire Resolution it was moved by Council Member Lieber and seconded by Council Member Javandel to approve Resolution No. 2010-19.

To also include the language ...”that reflects ours citizens’ vision on Waterfront Planning and to remove the Whereas Clause commending Fern Tiger Associates and to approve a Proclamation for Fern Tiger Associates.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

The City Administrator presented a fern garden to Fern Tiger for the work that she did on the *Voices to Vision Report.*

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

9-1. Emergency Preparedness Resources Fair, Saturday, May 1, 2010, 10-2 p.m. at the Albany Fire Department.

9-2. Albany Arts & Green Festival, Sunday, May 2, 2010, 11-3 p.m. at Memorial Park & Veterans Hall.

10. ADJOURNMENT

10:30 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.

Joanne Wile
Mayor

Attest:

Jacqueline L. Bucholz, CMC
City Clerk