

Approved May 17, 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, MAY 3, 2010**

---

**7:30 p.m.**

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and Ray Anderson 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; Aleida Chavez, Transportation Planner; Mike McQuiston, Chief of Police; John Geissberger, Lt.

**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, April 19, 2010.**

Staff recommendation: Approve

**4. CONSENT CALENDAR**

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$183,745.95; taxes, benefits & withholdings in the amount of \$242,309.17. Total payroll in the amount of \$426,055.12 .Payroll period: 04/23/10.  
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$49,359.47; taxes, benefits & withholdings in the amount of \$55,836.54. Total payroll in the amount of \$105,196.01. Payroll period: 04/23/10.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims and demands against the City of Albany in the amount of: \$328,591.75. Period: 04/02/10. \$154,317.27. Period: 04/09/10.  
b. Ratification of bills, claims and demands against the City of Albany, JPA, in the amount of \$418.04. Period: 04/01/10.  
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** Ratification of pension payments in the amount of \$116,662.26 for the month of April, 2010.

Staff recommendation: Ratify.

- 4-5.** a. Resolution No. 2010-20 – A Resolution of the Albany City Council Directing the Filing of the Annual Report for Landscaping and Lighting Assessment District No. 1988-1.  
b. Resolution No. 2010-21 – A Resolution of the Albany City Council Directing the Filing of the Annual Report for Landscaping and Lighting Assessment District No. 1996-1.  
(File #360-20)

Staff recommendation: Approve Resolutions 2010-20 & 2010-21.

- 4-6.** The U.S. Department of Agriculture has published a draft decision to deny the request to reclassify the light brown apple moth (LBAM) to non-quarantinable status. Public comment on this decision can be submitted until May 4, 2010.  
(File #560-85)

Council Member Lieber recommendation: Authorize the Mayor to sign a letter opposing the decision and submitting comments on behalf of the City.

**4. CONSENT CALENDAR**

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar. No items were removed.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Javandel 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 asked if anyone would like to speak.

The City Administrator noted in response to some concerns at last meeting she is reporting that the debris on the Bulb has been cleaned and the permit records computer in the Community Development Department is now operating.

The City Administrator reported on the following Code Enforcement problems:

- 1) 947 Jackson, a building permit has been taken out to build
- 2) 722 Key Route Blvd., a sale is pending.

Mayor Wile reported that she has been hired by the Albany Unified School District to help with counseling and has contacted the FPPC regarding a conflict of interest and been informed there is no conflict.

Council Member Thomsen stated that she attended the Emergency Resources Fair, which was a great event and very interesting.

Council Member Javandel announced that May 13<sup>th</sup> is Bike to Work Day and hopes everyone will participate.

The following people spoke: Allan Maris, Albany resident. A summary of his comments is as follows: Commented on his outburst at the last meeting during the Voices to Vision item noting that he felt betrayed by the Sierra Club when Norman LaForce made what he thought were derogatory comments about the land owner at Golden Gate Fields.

**6. PRESENTATION/PUBLIC HEARING**

**6-1. Peace Officer's Memorial Day.**

Mayor Wile read the proclamation, which designates May 15, 2010, as Peace Officer's Memorial Day and the week of May 9-15, 2010, as Police Week in the City of Albany.

Council approved the request that each American Flag flown over City of Albany facilities be flown at half mast.

**6-2. ABAG Award**

The Assistant City Administrator reported in April, the City of Albany’s Codornices Creek Restoration and Trail Project won the 2010 ABAG Growing Smarter Together Award in the category of “Protecting and Preserving the Environment” for advancing smart or “focused” growth in the Bay Area. As part of the award, a video on the project was developed and will be placed on the City’s website and on KALB.

The video was shown to the Council and the public. Mayor Wile thanked staff for a project well done, in particular Assistant City Administrator Judy Lieberman.

**7. UNFINISHED BUSINESS**

**8. NEW BUSINESS**

**8-1. Parking Regulations for Oversized Vehicles**  
(File #570-20)

The Transportation Planner reported that citizens have expressed concern about the parking of oversized vehicles on Albany streets, which create a visual nuisance and safety problem. Areas receiving the most impact are: Cleveland Avenue, Dartmouth Street, Masonic Avenue and Key Route Blvd. Last year, the Council referred this item to the Traffic & Safety Commission for review and recommendation.

The following people spoke on this issue: Jim Cleveland, Albany resident; John Kindle, Albany resident;

A summary of the comments is as follows: Suggested instead of having a “grandfather clause” to have a “sunset clause”. Suggested that people only be allowed one oversize vehicle and disagreed with a permit process, which would become a nightmare. Believe that people should be encouraged to park the vehicles in front of their own home.

A summary of the City Council comments is as follows: Recommend that this item not be approved tonight but study the issue more and agreed that a “sunset clause” would be a good idea. Expressed concern about oversize vehicles that are using Albany streets as an advertising venue and would recommend that the Council move forward on this, as it is a blight on the City. Expressed concern about the length of the “sunset clause” and would prefer it be a shorter time period. Suggested that all oversize commercial vehicles be prohibited from parking within 100’ of an intersection and would recommend that staff begin drafting an ordinance.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Javandel to direct staff to write an Ordinance to come back to Council for first reading that would immediately implement the recommendation to restrict oversize, commercial vehicles from parking overnight on any public street or highway within the City of Albany.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-1. Parking Regulations for Oversized Vehicles**

**MOTION:**

Moved by Council Javandel, seconded by Council Member Thomsen to direct staff to prepare an ordinance, as follows: 1) Restrict parking of oversize vehicles within 100’ from an intersection. 2) Restrict overnight parking of oversize vehicles throughout the City with a sunset clause of two (2) years.

**ON THE QUESTION:**

Chief McQuiston asked for clarification on the definition of commercial vehicle and Council Member Javandel responded that commercial would not apply to RVs, boats and trailers.

**VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-2. Open Container Ordinance**

(File #560-80)

The Assistant to the City Administrator reported in February, the Council referred the item of Open Container Ordinance to the Social & Economic Justice (SEJC) Commission. The SEJC discussed this item and the following motion was made: That the City Attorney review the language of the current Ordinance (AMC8-4.6) to suggest modifications or revisions, in particular that the open container portion apply to any Albany public space, and include the following considerations: 1) Fines. 2) Permits be required for private events in public spaces, such as parks. 3) Waivers for restaurants with open air seating. Request that the draft ordinance come back to SEJC for review as expeditiously as possible.

The Police Department advises that public consumption of alcoholic beverages is not currently a major problem in the City; however, occasionally complaints and/or calls for service related to public alcohol consumption do occur. These complaints typically occur in City parks and residential neighborhoods that contain bars. When these incidents do occur they predictably involve excessive noise, disorderly behavior or safety concerns, all of which impact the quality of life in the neighborhoods.

A summary of the comments by the City Council is as follows: Great idea and have been told that Albany Bowl is in favor of this law. A question was asked about parking lots on private property with people drinking and the ability of the City to control this.

The following people spoke: Brian Parlsey, Chair SEJC; Ed Fields, Albany resident.

A summary of the comments is as follows: Noted that this ordinance is needed for continuity at the Solano Stroll, as Berkeley does not allow open containers and Albany had no law. Agreed that exceptions should be made for City sponsored events, such as: Music in the Park, etc. Expressed concern about the bbq area being so close to

### **8-2. Open Container Ordinance**

the children's area. Would not want a fee to be charged and believes that a permit would suffice.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Javandel to  
 1) Direct staff to prepare an Open Container Ordinance to restrict drinking alcohol from open containers in public areas, with exceptions for private events in public spaces such as parks, restaurants with open air seating and certain public events. 2) Direct the City Attorney to investigate the situation with private property that has public parking.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

### **8-3. Public Financing of Campaigns**

(File #630-20)

Council Member Thomsen reported that in 2009 the City Council received a report from the Ad Hoc Committee on Campaign Finance Reform. The Committee informed the Council that during their research they discovered that the taxpayers of Albany have been financing candidates' statements through the General Fund. The City has been charging the candidate \$80 for their statement and the County charges approximately \$600 per statement. This amounts to approximately \$525 per candidate.

The City Council also referred this issue to the Social & Economic Justice Commission to make recommendations regarding campaign finance reform. The Committee recommended that the Council provide incentives to candidates who accept a limit on campaign expenditures equal to \$.70 per registered voter.

Council Member Thomsen recommended the following: 1) In the November, 2010 election, that the Albany City Council approve the incentive of public financing of a candidate statement above the \$80 charge for any candidate who agrees to limit his/her campaign expenditures to a total of \$.70 per registered voter. 2) That a measure be put on the November, 2010, ballot to give voters a choice of whether and how to continue to provide public financing of ballot statements in future elections.

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

A summary of the comments is as follows: Noted that the Council supported State campaign financing and that the public should be educated on these issues and recommended the figure should be closer to \$.30 rather than \$.70 per registered voter. Thanked Council Member Thomsen for putting this on the agenda and expressed concern of whether Albany could continue to afford the subsidy. Asked that staff provide the cities financial outlook, long term and short term and supported putting this issue on the ballot. Questioned the city's ability to be able to regulate the School Board elections and would like to hear what the City Attorney's opinion is.

The City Attorney responded that this would be a voluntary buy in and the other question is why the City has the School District elections in the City Charter. The City Attorney stated that this could be looked at as an inappropriate use of public funds. The

**8-3. Public Financing of Campaigns**

City Attorney recommended that if this issue is put on the ballot that it be as an advisory measure.

The City Council discussed this issue and following is a summary of the Council comments.

Definitely supports fair campaigns but believes this would limit the number of people who would consider running for elected office. Noted that winning elections often means spending money and believe this issue would become very derisive and would suggest this be looked at after the November election. Believe this would be fundamentally unfair as people from the outside could spend whatever they want. Questioned whether the Council is right body to make this decision, as it is having the Council set the rules for its own procedures. Thanked Council Member Thomsen for putting this on the agenda. Believe that the School District should decide what they would like to do for its candidates and should be given time to review. Believe that this is a good beginning but does not go far enough and should also include PACs and unions, as well as the candidate. Would like to have more information and the Council should not rush this issue through. Agree that the City should not pay for the School District candidates and maybe this is not the right time to put this on the ballot.

**MOTION:**

Moved by Council Member Thomsen that a ballot measure be prepared for the November, 2010 election that approves public financing at \$0.70 for all candidates

No second, motion failed.

**MOTION:**

Moved by Council Member Lieber to table this issue and have staff come back with more information on actual costs and that this not go on the November, 2010 election.

Council Member Lieber withdrew the motion.

**MOTION:**

Moved by Mayor Wile to 1) Refer the issue of Campaign Financing to the Albany Unified School District. 2) Not refer this matter to the voters in November, 2010. 3) Direct staff to prepare a report regarding the costs of the 2008 election. 4) Direct staff to include the number of candidates for the last three elections. 5) Report back to Council the first meeting in June.

**AMENDED:**

Moved by Mayor Wile, seconded by Council Member Atkinson to change the language in #1 of the above motion to "Candidate Statement".

**AMENDED:**

Moved by Council Member Lieber, seconded by Council Member Atkinson to subsidize all Candidate Statements.

AYES: Council Members Atkinson & Lieber

NOES: Council Members Javandel, Thomsen & Mayor Wile

Motion Failed.

**AMENDED:**

Moved by Council Member Thomsen, seconded by Council Member Javandel to remove #2 of original motion.

**8-3. Public Financing of Campaigns**

**VOTE ON THE MOTION:**

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

NOES: None ABSENT: None

Motion carried and so ordered.

**8-4. Resolution No. 2010-22 – Opposing Proposition 16.**

(File #660-40)

Council Member Atkinson reported that Proposition 16 would impose a new two-thirds voter approval requirement for local public electricity providers and that it would be an initiative constitutional amendment.

Council Member Atkinson stated that a Yes Vote would mean: Local governments would generally be required to receive two-thirds voter approval before they could start up electricity services or expand electricity service into a new territory. A No Vote would mean: Local governments generally could continue to implement proposals involving the start-up or expansion of electricity service either through approval by a majority of voters or actions by governing boards.

Council comments are summarized as follows: This is self-serving of PG&E and it is trying to protect its profits. Thanked Council Member Atkinson for putting on the agenda and are totally opposed to the Proposition. Believe that this is protecting a monopoly and that PG&E is spending a lot of money and feeling very threatened.

The following people spoke: Allan Maris, Albany resident; Alice; Miya Kitahara, Sustainability Committee.

A summary of the City Council comments is as follows: Spoke in favor of campaign financing reform. Spoke against Proposition 16 and noted that it is very important to get the word out to the votes. Stated that PG&E is using a mix of coal that is very dirty and not good for the environment.

Council Member Atkinson presented Resolution NO. 2010-22 – A Resolution of the Albany City Council Opposing Proposition 16, an Initiative Constitutional Amendment to Impose New Two-Thirds Voter Approval for Local Public Electricity Providers.

**MOTION:**

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Atkinson and seconded by Council Member Lieber to approve Resolution No. 2010-22.

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

NOES: None ABSENT: None

Motion carried and so ordered.

**8-5. City of Albany Mission and Vision Statements**

(File #150-45)

The City Administrator reported that on February 22, 2010, the Council, appointees to City Commissions and Committees and members of the public engaged in a



### **8-5. City of Albany Mission and Vision Statements**

work session to discuss the City's Mission Statement, as well as the community vision and core values statements drafted by Fern Tiger Associates, as part of the Voices to Vision waterfront visioning process.

**Mission Statement:** A mission statement is an action-oriented formulation of the organization's reason for existence-its purpose. A mission statement answers the question: Ultimately, what are we here to do and why? The current Mission Statement is: *The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.*

A summary of the Council comments is as follows: Some members liked the statement with the words "small town ambience and others would like the word changed. One recommendation was to use the word "small town sensibilities". Other words mentioned to be included are "diverse and sustainable" and to remove the words "now and in the future".

The following people spoke: Clay Larson, Albany resident; Jim Cleveland, Albany resident; Brian Phipps, Albany resident; Allan Maris, Albany resident; Ed Fields, Albany resident; Kristina Osborn, Albany resident.

A summary of the comments is as follows: Like the current Mission Statement with maybe a slight tweaking. Definitely like the words "small town ambience". Keep the current statement and maybe add something about "economic and environmental sustainability". Spoke about the City motto and suggested it say something about treasuring its waterfront. Add the words "diverse and sustainable".

The City Administrator stated that she would work with staff and come back to Council with a Mission Statement, that would include maintaining the current one and adding the word diverse and sustainable and deleting the words now and in the future.

**Vision Statement:** This is often called a vision of success – describes what the organization should look like, as it successfully implements its strategies and achieves its full potential. The current statement adopted in 2001 is: *The City of Albany will be economically vibrant, fiscally sound and community-focused.*

A summary of the Council comments is as follows: Suggested that something should be put in regarding economic sustainability, fiscal responsibility and family friendly.

The following person spoke and a summary of the comments is as follows: Brian Phipps, Albany resident. Believes that the Vision Statement should be extreme and unique and suggested the following: Model Waterfront community where the City and the shoreline sustain one and other.

No action taken.

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

The following announcements were made: Council Member Atkinson: 1) Encouraged people to recycle batteries, computers, etc. 2) Attended the Arts & Green Festival and noted that the new stage is great. 3) Attended the ABAG conference and the

60<sup>th</sup> anniversary of the Albany Bowl. 4) Thanked the Fire Department for their good work in controlling a fire in her neighborhood. Council Member Lieber: 1) Attended the 60<sup>th</sup> anniversary of the Albany Bowl. 2) Attended the public safety meetings for disaster education and noted that Congress Woman Barbara Lee and Assembly Woman Nancy Skinner were in attendance. 3) Wished his wife a Happy Birthday. City Administrator: 1) Announced a State Budget Summit, hosted by the Albany Unified School District, on May 13<sup>th</sup> at 7 p.m. at the Albany High School, Little Theatre.

Dr. Gerwin expressed concern over the new LED street lights noting that the color is very bad for the human eye and complained that there was no public notice about the change.

**10. ADJOURNMENT**

10:20 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