

Approved: July 6, 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, JUNE 21, 2010

6:45 p.m.

Executive Session

Call to order: Council Members Javandel & Thomsen recused themselves due to a conflict of interest.

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

The following people spoke on this item: Del Price, Albany resident; Susan Reeves, Albany resident; Ray Anderson, Albany resident.

A summary of the comments is as follows: Encouraged that Caltrans and the City is discussing this property and noted that the Pierce Street Park neighbors do not need the entire 4.5 acres and support the City in its efforts with Caltrans.

City Council convenes in the Council Chamber and then adjourns to Executive Session to discuss the following:

Real property pursuant to Government Code Section 54956.8

Property:	4.5 acre vacant land adjacent to Cleveland Avenue & Pierce Street
Negotiating Parties:	City Attorney, City Administrator and Assistant City Administrator on behalf of the City; Caltrans on behalf of owner
Under Negotiations:	Terms and conditions of acquisition of property

7:30 p.m.

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and the Finance Director 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; Charles Adams, Finance Director; Penelope Leach, Recreation & Community Services Director; Ann Chaney, Community Development Director; Randy Leptien, City Engineer; Jeff Bond, Planning Manager; Rich Cunningham, Public Works Manager; Kim Denton, City Treasurer;

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

The City Attorney reported that Council gave staff directions to continue negotiations with Caltrans and to also meet with the Pierce Street neighbors to give an update on what has transpired.

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. a. Ratification of City of Albany net payroll in the amount of \$207,585.89; taxes, benefits & withholdings in the amount of \$167,230.46. Total payroll in the amount of \$374,816.35. Payroll period: 6/4/10.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$51,395.07; taxes, benefits & withholdings in the amount of \$39,289.66. Total payroll in the amount of \$90,684.73. Payroll period: 6/5/10.

Staff recommendation: Ratify.

4-2. Ratification of bills, claims and demands against the City of Albany in the amount of \$454,294.97. Period: 5/28/10.

Staff recommendation: Ratify.

4-3. Request for Temporary Street Closure around Memorial Park, Sunday, July 18, 2010 for Berkeley Bicycle Club Criterium (Races)

(File #820-70)

Staff recommendation: Approve request by Berkeley Bicycle Club to close off the streets immediately around Memorial Park (and Albany High School) on Sunday, July 18, 2010, from 6:30 a.m. to 5:00 p.m. for its annual bike races.

4. CONSENT CALENDAR

- 4-4.** Resolution 2010-31 authorizing city staff to implement the proposed plan for the City of Albany's Paratransit Program for Fiscal Year 2010-2011.
(File 600-40)

Staff recommendation: Approve Resolution No. 2010-31.

- 4-5.** Intention to Order Improvements and Levy Assessments in Assessment District No. 1988-1 and Assessment District No. 1996-1 for the 2010/11 and 2011/12 Fiscal Years, and Set a Public Hearing for July 6, 2010 on the proposed assessments.
(File 360-20)

Staff recommendation: 1) Approve Resolution #2010-29 - A Resolution of Intention to Order Improvements and Levy Assessments in Assessment District No. 1988-1 for the 2010/11 and 2011/12 Fiscal Years (Pursuant to the Landscaping & Lighting Act of 1972), set a public hearing for July 6, 2010 on the proposed assessments; 2) Approve Resolution #2010-30 - A Resolution of Intention to Order Improvements and Levy Assessments in Assessment District No. 1996-1 for the 2010/11 and 2011/12 Fiscal Years (Pursuant to the Landscaping & Lighting Act of 1972), and set a public hearing for July 6, 2010 on the proposed assessments.

- 4-6.** Transportation Development Act Article 3 Allocation FY 2010-11.
(File #600-40)

Staff Recommendation: Approve Resolution No. 2010-33 requesting that the Metropolitan Transportation Commission (MTC) allocate Fiscal Year 2010/11 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding in the amount of \$20,785 to the City of Albany toward development of Plans, plat descriptions and agreements for the right of way acquisition for the construction of the Buchanan Bicycle and Pedestrian Path project and Utility Undergrounding.

- 4-7.** Contract with the County of Alameda for Additional Library Services, Fiscal Year July 1, 2010 – June 30, 2011.
(File #600-40)

Staff and Albany Library Advisory Board recommendation: Receive and file letter from the Albany Library Advisory Board, and approve contract.

- 4-8.** Schedule Public Hearing for Fiscal Year 2010-11 Master Fee Schedule, Clean Water Storm Fee, and Library Services Fee.
(File #100-90)

Staff Recommendation: Schedule and provide notice of public hearing for July 6, 2010.

Mayor Wile asked if anyone would like to remove an item and the following item was removed for discussion: Item 4-7.

4-7. Contract with the County of Alameda for Additional Library Services, FY July 1, 2010 – June 30, 2011.

Council Member Atkinson asked if it would help if Council took an active role in the discussions with the County.

Council Member Thomsen stated that the concerns of the Library Board will continued to be pursued by the Board and staff.

Leah Flannigan, Chair Library Board, & Karen Leeberg, Library Board Member, stated that the Board has concerns with the contract and the future of the Library, but at this time would recommend that the City Council accept the contract before them tonight.

The Finance Director noted that staff also would recommend approving the contract and would support the offer of Council participation. The City Administrator noted that a meeting has been scheduled with County Supervisor Keith Carson, the City Administrator and the Mayor.

Council Member Lieber stated that he is the Council representative on the Library Board and would recommend accepting the contract but that an investigation would continue into this matter.

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

A summary of the comments is as follows: Noted that the City has had similar problems in the past and expressed concern about the implications. Agreed that staff and the Mayor should continue meeting with County Supervisor Carson and, if necessary, after the meeting reevaluate the situation.

MOTION:

Moved by Council Member Lieber, 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 the City/Public Forum/Announcements and the following people spoke: Emily Regusso; Joan Larson, Historical Society; Brian Parsley, Albany resident.

A summary of the comments is as follows: Announced a new News Website dedicated to Albany entitled "patch.com". Asked the community for suggestions of where to place historical plaques within the City. Thanked Albany Police Department for their quick response to a bank robbery in town.

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. Undergrounding District – Buchanan/Marin Utility Overhead Conversion District

(File #1020-30)

The Community Development Director reported that under the Rule 20 Program, which was established by the Public Utilities Commission (PUC) and enables PG&E to recover costs from rates paid by its electric ratepayers for a particular undergrounding project. As of May, 2010, the City has accrual Work Credits in the amount of \$2,535,211.

The Traffic & Safety Commission held public hearings and has recommended that the Council adopt and Undergrounding Resolution, which would initiate a process with PG&E to place this project in the queue with other eligible Rule 20 projects.

The Resolution established an Undergrounding District along the south side of Buchanan Street, between Cleveland and San Pablo Avenues and along both sides of Marin Avenue, between San Pablo and Masonic Avenues to be called "Buchanan/Marin Utility Overhead Conversion District.

The Community Development Director noted that for the record the properties 701-723 Buchanan were notified by mail and would be included in the District. Staff also commented that it is being recommended that a firm be hired to assist the City Engineer in the amount of \$50,000 and estimate that half the amount would be reimbursed by PG&E.

Mayor Wile opened the public hearing and asked if anyone would like to speak and there being no one the public hearing was closed.

Council Member Javandel presented Resolution No. 2010-32 – A Resolution of the Albany City Council for the Creation of an Undergrounding District Along the South Side of Buchanan Street, between Cleveland and San Pablo Avenues, and Along Both Sides of Marin Avenue, between San Pablo and Masonic Avenue to be Called "Buchanan/Marin Utility Overhead Conversion District.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Thomsen to approve Resolution No. 2010-32.

6-1. Undergrounding District – Buchanan/Marin Utility Overhead Conversion District

VOTE ON MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. Advisory Ballot Measure – Subsidy of Candidate Statement and Relationship to Campaign Expenditure Limit

(File #630-30)

Council Member Thomsen recommended an advisory measure on the November, 2010 ballot asking voters to advise the Council about City funding of candidate statements in future elections; and to take action on providing or not providing public financing of City and School District candidate statements.

A summary of Council comments is as follows: Oppose putting a ballot measure on the November ballot and believe that the City should continue to subsidize the candidate statement for City and School Board. Believe that Council should make the decision on whether to have public financing for candidate statements. Noted that Council did endorse Proposition 15, which is State public financing.

The following people spoke: Ed Fields, Albany resident. A summary of the comments is as follows: Agree that Council should decide and not put this on the ballot and noted that the candidate statement is optional and the City should not subsidize until there are campaign financing laws on the books.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel that an advisory measure be put on the November ballot regarding public financing and that the City not subsidize the Candidate Statement for City and School Board candidates.

ON THE QUESTION:

The City Administrator suggested that the discussion regarding candidate statements subsidies should be taken up under Item 7-2.

Council Member Thomsen withdrew motion, second agreed.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel than an advisory measure be put on the November, 2010 ballot asking voters to advise about City funding of candidate statements in future elections.

AYES: Council Members Javandel & Thomsen

NOES: Council Members Atkinson, Lieber & Mayor Wile

Motion Failed.

7-2. Establishing Rules for the November 2, 2010 Election
(File #630-30)

The City Clerk reported that this Resolution is adopted each election year to set out the rules for the General Municipal Election.

The following people spoke on this item: Ed Fields, Albany resident. A summary of the comments is as follows: Suggested that item #4 – candidate statement fee be modified to reflect that City and School Board candidates would pay the entire amount.

A summary of the Council comments is as follows: Concerned that the City is changing the rules right before the election and possible candidates have not planned on this increase. Suggest that this be held over until the 2012 election to be fair to all candidates. Disagreed with this statement noting that the City is giving plenty of time and notice about the increase in fee for the candidate statement.

Council Member Thomsen presented Resolution No. 2010-13 – A Resolution of the Albany City Council Establishing Rules for the Conduct of the November 2, 2010, Election.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Thomsen and seconded by Council Member Javandel to approve Resolution No. 2010-13 with the following amendment: Item 4 to be changed from \$89.50 for Candidate Statement to the Candidate shall pay the entire fee, as set by the County of Alameda.

AYES: Council Members Javandel, Thomsen & Mayor Wile

NOES: Council Members Atkinson & Lieber ABSENT: None

Motion carried and so ordered.

**7-3. Calling & Giving Notice if Election and Requesting Consolidation
with the County of Alameda**
(File #630-30)

The City Administrator noted that this Resolution was before Council at the last meeting and was referred back to staff for revision to the UUT ballot measure. The City Administrator noted that Section 4-11.3(d) has been modified.

The following people spoke Ed Fields, Albany resident. A summary of the comments is as follows: Questioned the changes and asked if the word “communication” was eliminated.

Council Member Javandel presented Resolution No. 2010-24 – A Resolution of the Albany City Council Calling and Giving Notice of Holding a General Election to be Held November 2, 2010 and Requesting the Board of Supervisors of Alameda County to Consolidate said Election with the Statewide General Election; Authorizing the City Clerk or her Duly Authorized Officers to Carry Out all the Necessary Procedures for Said Election; and for Submitting to the Voters an Amendment to Section 3.01 of the Albany City Charter; Amendment to Albany Municipal Code Article 4-8, and Enactment of Articles 5-10 and 4-11 to the Albany Municipal Code, All of Which are Set Forth Herein.

7-3. Calling & Giving Notice if Election and Requesting Consolidation with the County of Alameda

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Thomsen to approve Resolution No. 2010-24.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

The City Administrator stated that the Charter Review Committee has requested that a subcommittee of the Charter Review Committee and Council join together to write an argument in favor of changing from an elected to an appointed City Attorney.

At this time, Mayor Wile stated that a Council subcommittee be formed for each ballot measure. The Council decided among themselves and following are the subcommittees:

1. Charter Amendment-Appointed City Attorney: Mayor Wile & Council Member Atkinson, with no more than 3 members of the Charter Review Committee.
2. UUT : Council Members Javandel & Thomsen
3. Increasing Paramedic Advance Life Support Fire Engines & Ambulance: Mayor Wile & Council Member Thomsen.
4. Business License Tax for cannabis businesses: Council Member Atkinson & Lieber.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to approve the assignments of subcommittees for writing ballot arguments, as noted above.

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

NOES None

ABSENT: None

Motion carried and so ordered.

7-4. Open Alcohol Beverage Container Ordinance
(File #560-80)

The Chief of Police reported that Council referred this matter to staff to come back with an 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.

The City Attorney has performed research and provided language that contains clearly defined exceptions. The proposed ordinance would allow public consumption of alcohol at City sponsored or authorized events as long as a permit has been preapproved.

Public consumption of alcohol would be prohibited in public parks and recreation areas, unless associated with a City sponsored event or other public event where alcohol consumption is approved in advance by the City.

7-4. Open Alcohol Beverage Container Ordinance

The Chief of Police noted that the passage of this ordinance may or may not have the desired effect of eliminating noise, litter and disruptive behavior, especially around bars, which was brought forward by members of the public.

The following people spoke: Ed Fields, Albany resident; Jordan Sampietro, Albany resident; Francesco Papalia, Albany resident; Brian Parsley, Social & Economic Justice Commission; Kristina Osborne, Albany resident.

A summary of the comments is as follows: Asked for clarification that the Ordinance prohibition is for everything but City events. The City Attorney responded that private parties can obtain a permit (page 3 of Ordinance). Thanked Council and staff for their hard work and believe the Ordinance is reasonable and well thought out.

Expressed concern about overly broad response for regulating consumption of alcohol and gives a blanket solution. Asked that signs be put in the parks regarding allowing alcohol in certain areas and suggested that staff look at the Ordinance in place in Walnut Creek. Asked how this Ordinance is going to be enforced. The Chief of Police responded that this would be a complaint driven Ordinance and do not foresee the Police Department driving around looking for a problem.

A summary of the Council comments is as follows: Noted that the Police Officers make independent decisions all the time and like the idea of the Recreation Department being designated to issue permits for certain situations and suggested that language in the Ordinance be added, such as: "his or her designee".

Council Member Thomsen introduced Ordinance No. 2010-04 – An Ordinance of the Albany City Council Adding Albany Municipal Code Chapter 8-7 Prohibiting the Consumption of Alcoholic Beverages in Public Places. First Reading.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Thomsen and seconded by Council Member Atkinson to approve Ordinance No. 2010-04 for First Reading and adding the "his/her designees of the Chief of Police, 8-7.4 Exemptions.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Operating Budget FY 2010-11 and 2011-12.

(File #330-30)

The Finance Director reported that the proposed budget contains staff's best estimate of revenues that will be received by the City in the next two fiscal years. The recommended expenditures are constrained by limited revenue, but they have been budgeted as amounts sufficient to maintain all basic services at their current levels.

The Finance Director noted that the 2010-11 budgets is balanced and continues current operations with no major changes. However, the 2011-12 budgets are not

8-1. Operating Budget FY 2010-11 and 2011-12.

balanced at this time and staff will come back to Council to amend the budgets prior to the beginning of the 2011-12 fiscal years. An improved economic environment may result in greater revenues than are currently projected; however, if revenue increases are not sufficient to balance the budget, staff will recommend reductions in staffing and services.

The following people spoke: Clay Larson, Albany resident; Francesco Papalia, Albany resident; Margie Marks, Social & Economic Justice Commission; Brian Parsley, Social & Economic Justice Commission.

A summary of the comments is as follows: Questioned the fact that no public hearing was done, as in previous years. Spoke about staff being overworked and over extended, which leads to reduction in services. Spoke about a Living Wage ordinance that would bring all employees up to a living wage. Disagreed with the ordinance noting that it is inequitable and doesn't include contractors and asked that it be referred back to the Social & Economic Justice Commission for further discussions. Expressed concern that Council does not have a cap on health care benefits, which employees have and believe this is an inequity that needs to be addressed. Also expressed concern about the block party insurance process and believe that the City should go in with the property owner.

A summary of Council comments is as follows: Commended staff for presenting a balance budget for FY 2010-11. Agreed that the Living Wage ordinance should come to Council and would bring it forward.

The City Administrator acknowledged the work of the Finance Director and the Department Heads/Managers noting that this has been the toughest budget to date and noted that the Police, Recreation & Community Services, and Community Development departments are working with less people.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Thomsen that the 2010-11 & 2011-12 FY budgets be accepted with the condition that City staff recommend options to balance revenues and expenditures for FY 2011-12, prior to July 2, 2011.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

b. Goals & Objectives for Fiscal Years 2010-11 – 2011-12 (File #100-30)

The City Administrator stated that every two years the City Council adopts an operating budget, as well as goals & objectives for the creation of a City bi-annual work plan.

A summary of the City Council comments is as follows: Like the goals and objectives presented and believe it is a good list that is very creative, ambitious and impressive.

8-1. Operating Budget FY 2010-11 and 2011-12.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber to approve the Goals and Objectives for FY 2010-11 – 2011-12.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-2. Opposition to Cuts in Child Care Funding by the State

(File #660-40)

Mayor Wile thanked Brian Parsley for bringing this issue before the City Council for action. Mayor Wile noted that the May revision of the Governor’s proposed budget would eliminate full day and after school childcare services to California’s neediest children and families.

It was noted that in Albany these proposed cuts would result in the loss of full day and after school care services provided by the Albany School District, Berkeley/Albany Licensed Day Care Operators Association, UC Berkeley, Albany and Berkeley YMCA, which serve hundreds of children, low income and middle class families living and/or working in Albany.

The following people spoke: Brian Parsley, Albany resident; Allison Seavak, representing the parents from Tupolo Program; Evelyn Chen; Angel Chen.

A summary of the comments is as follows: All spoke in favor of the Resolution being passed by the Council noting that parents are getting together a bus trip to Sacramento and organizing a Task Force to work on this issue.

A summary of the City Council comments is as follows: Definitely supports this Resolution and hopes that the Legislators come to an agreement. Noted that what the Council is doing is symbolic but what the parents are trying to accomplish is great. Suggested that language be added to the Resolution that the State would also experience loss of revenue due to these cuts.

Council Member Lieber presented Resolution No. 2010-34 – A Resolution of the Albany City Council Opposing Cuts in Child Care Funding by the State of California.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Lieber, seconded by Council Member Thomsen to approve Resolution No. 2010-34 with the following language added in the last Whereas Clause....and also the State would experience loss of revenue due to these cuts.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-3. Job Title Change from City Administrator to City Manager
(File #660-25)

Council Member Thomsen recommended that Council establish “City Manager”, as the operative title for the position of Administrative Officer referred to in the Charter and Municipal Code, without a change in duties or responsibilities at this time.

Council Member Thomsen noted that Council received a letter from the Charter Review Committee just before the meeting requesting that unless the name should only be changed if the duties and responsibilities also change.

Council Member Thomsen suggested that this item be referred to the first meeting in July and that the Charter Review Committee be invited to attend the meeting.

Council agreed by consensus.

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

9-1. July 4th Celebration at Memorial Park from 11 a.m. – 4 p.m.

Council announcements and future agenda items: 1) Council Member Thomsen noted that she attended the East Bay Division LCC and bragged that Albany had a balanced budget. 2) Council Member Lieber asked that on the next meeting (July 6th) the Living Wage Ordinance be put on the agenda. 3) Council Member Atkinson reminded everyone to save the date of Saturday, September 25th for Dinner with Albany. 4) Tuesday, June 22nd at 6:30 at Masonic/Marin there would be a garden share and noted that Transition Albany was also involved. 5) Council Member Javandel noted that he, the Mayor, and City Administrator attended the 2x2x2 meeting and noted that it was nice to see UC using the old Police & Fire trailers. 6) Mayor Wile announced that StopWaste.Org awarded a grant to an Albany business that is trying to reduce junk mail. 7) Announced that she would not be present for the next meeting and that Vice-Mayor Javandel would be chairing the meeting and that she would be available by telephone.

10. ADJOURNMENT

10:00 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

10. ADJOURNMENT

Minutes submitted by Jacqueline L. Bucholz, CMC.

Joanne Wile
Mayor

Attest:

Jacqueline L. Bucholz, CMC
City Clerk