

Approved: July 6, 2010

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**Minutes of the Albany City Council in Regular Session**  
**Monday June 7, 2010**  
**Albany City Hall Council Chambers**  
**1000 San Pablo Avenue**  
**7:30 p.m.**

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**7:30p.m.**

**CALL TO ORDER:**

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and Ruth Ganong led the Pledge of Allegiance to the Flag.

**ROLL CALL**

Present: Council Members Atkinson, Javandel. Lieber, Thompson and Mayor Wile.

Absent: None

**STAFF PRESENT:** Beth Pollard, City Administrator; Robert Zweben, City Attorney; Marc McGinn Fire Chief; Robin Mariona, Recreation and Community Services.

**3. REPORT ON ACTION TAKEN IN CLOSED SESSION**

Administrator Pollard stated that labor negotiations had been discussed and Council gave direction to the negotiators.

City Attorney Zweben stated that Council direction regarding real estate negotiations for Postal Service land had been discussed. The goal was for the City, Cornish and Cary and the Postal Service to come to an agreement.

**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, May 17, 2010.

Staff recommendation: Approve

**4-2. a.** Ratification of City of Albany net payroll in the amount of \$188,583.11; taxes, benefits & withholdings in the amount of \$244,171.35. Total payroll in the amount of \$432,754.46. Payroll period: 05/21/10.

**b.** Ratification of Albany Municipal Services JPA net payroll in the amount of \$49,845.88; taxes, benefits & withholdings in the amount of \$55,339.87. Total payroll in the amount of \$105,185.75. Payroll period: 05/21/10.

Staff recommendation: Ratify

**4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of \$366,373.22. Period: 04/20/10; \$318,583.64. Period: 04/30/10. \$61,433.23. Period: 05/07/10. \$427,762.62. Period: 05/14/10.

Staff recommendation: Ratify.

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

Staff recommendation: Ratify.

**4-5.** Contract Agreement No. C10-9 with Transform for the implementation of Safe Routes to School (SR2S) activities at three elementary schools in Albany.

Staff recommendation: Authorize the City Administrator to enter into Contract No. C10-9 with Transform for the implementation of specified items contained in the Education component of the SR2S program at three elementary schools in Albany in the amount of \$5,950.

**4-6.** Buchanan Bicycle and Pedestrian Path.

Staff recommendation: Authorize the City Administrator to enter into Contract No. C10-10 with AECOM Engineering to prepare 100% Plans, Specifications and Engineering (PS&E) for the Buchanan Bicycle and Pedestrian Path in an amount not to exceed \$187,830.

**4-7.** Temporary closure of Buchanan Street on July 4, 2010.

Staff recommendations: Approve the temporary closure of Buchanan Street west of I-80/580 freeway interchange on July 4, 2010 from 5:30 p.m. to 10:00 p.m.

**4-8.** Resolution No. 2010-25 – A Resolution of the Albany City Council Approving a Funding Agreement with the City of Berkeley in an amount not to exceed \$86,552 to Construct, Maintain and Monitor an Owl Habitat at the Albany Plateau, as a Required Mitigation for the Sports Fields Project at Gilman Street.

Staff recommendation: Approve Resolution No. 2010-25.

**4-9.** Resolution No. 2010-26 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C10-3, 2010 Memorial Park Stage.

Staff recommendation: Approve Resolution No. 2010-26.

**4-10.** Update on Economic Development and recommendations for upcoming Fiscal Year, including use of existing funds for commercial Façade Improvement Program.

Staff recommendation: 1) Receive update on September 2009 Economic Development Work plan. 2) Approve use of \$12,000 from existing FY2009/10 funds for a Façade Improvement Program to be administered jointly by the City and the Albany Chamber of Commerce.

**4-11.** Consideration of Late Claim #AL623; Goto family.

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

**4-12.** Council Member Lieber appointing John Miki to the Traffic & Safety Commission.

Staff recommendation: Information only.

**4-13.** Recreation & Community Services Temporary Street Closure requests.

Staff recommendation: Approve the closure of 1) a two-block area of Portland Avenue between Carmel Avenue and Pomona Avenue in front of Memorial Park on Sunday, July 4 2010 from 6 a.m. – 5 p.m. for the Dog Jog and the Celebration; and 2) of a six-block area on Solano between San Pablo and Masonic for Dinner with Albany, Saturday, September 25, 2010, 6:30 a.m. – 11:30 p.m.

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar. City Administrator Pollard requested Item 4-8 be removed and Albany resident Caryl O’Keefe requested Item 4-10.

**4-8.** City Administrator Pollard stated that a typographical error in the reimbursement amount from Berkeley needed to be corrected. The stated amount was \$86,552; the correct amount was \$82,532.

Albany resident Clay Larson stated that there was another typographical error on line 22. He pointed out that no owls had been reported at the site and suggested that it was not being maintained to invite habitation. He further suggested that mowing should take place three times a year, not once as he had observed, for the \$5000 fee being paid to the Park system and for the benefit of the owls.

Albany Resident Caryl O’Keefe stated that it was not necessary to create a formal agreement for what was essentially a mechanical process.

**4-10.** Council Member Atkinson thanked the Chamber of Commerce for monitoring the Façade Improvement Program.

**MOTION;**

Motion to approve consent calendar made by Council Member Thomsen and seconded by Council Member

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: Mayor Wile; Council Member Thomsen; Clay Larson, Albany resident; Peggy McQuaid, Albany resident and APAL member; Brian Parsley, Albany resident; Todd Abbott, Albany resident and member of the Chamber of Commerce.

A summary of the comments is as follows: A warning to citizens about phone scams. Compliments to the City on the new AV system in the Council Chamber. The APAL bicycle Rodeo was planned for Saturday June 12<sup>th</sup> which would include; skills and rules reviews, bike inspections, a confidence course, raffle and free helmets for elementary and middle school children. Further information available on the APAL website.

Government budget cuts could possibly take away funding for subsidized childcare and leave Albany with no afterschool care. All attendees were encouraged to write to legislators to keep subsidized childcare. The Chamber of Commerce was sponsoring an event on June 17<sup>th</sup> at the Solano Grill and Bar to benefit Albany/Berkeley Girls Softball. Thanks to Battalion Chief Brian Crudo and Peggy McQuaid for a successful emergency preparedness drill. General Information and donation information for the Gulf oil spill was presented on the Council screen.

**6. PRESENTATION/PUBLIC HEARING**

**6-1.** Presentation of Proclamation to Ruth Ganong congratulating her on the award of Honorary Doctor, Doctor of Public Service, from the Boston Architectural College.

Council Member Thomsen presented and read a proclamation to Ruth Ganong, honoring her for her Doctorate work and years of service to the City.

**7. UNFINISHED BUSINESS**

**7-1.** Report on the cost of the 2008 Election and Number of Candidates for the past three (3) elections and comments from the Albany Board of Education on City subsidy of Candidates' Statements.

City Administrator Beth Pollard stated that the requested report was an outgrowth of May discussions on whether the Council wanted to go to the voters with a ballot measure, asking citizens if they wanted to continue to subsidize Candidates Statements.

Costs for 2008 were \$20, 919 with a consolidation fee of \$7,400. The numbers of candidates were: 10 in 2004, 9 in 2006 and 10 in 2008. Currently the City subsidized candidates at approximately \$500 each for the City Council, the City Attorney, the City Treasurer and the Board of Education positions.

At their May meeting, the Board of Education did not take any action, but offered a wide range of comments that were listed in the staff report. There were no plans to add this item to any future agenda.

**PUBLIC COMMENT:** Albany resident Caryl O'Keefe clarified three points from the summary of School Board comments including: bullet point 4 regarding \$1,000 contributions limits, the omission of any information regarding the State Education Code prohibition of school districts paying for subsidies and a comment on not creating extra paperwork for candidates.

Albany resident Brian Parsley stated that the subsidies were public funding of campaigns and should be called as such. He asked that the City Attorney make a recommendation on voluntary limits. He disagreed with funding campaign statements, particularly the School Board.

Council Member Thomsen asked that the issue be placed on the next agenda as an action item. Council Member Lieber stated that it was not appropriate to make it an election issue and agreed with the School Board comment that there should be as few as possible road blocks to candidates. He stated that subsidies were public financing but fair, subsidy amounts should apply equally to all candidates and the issue did not need to go to the voters.

Council Member Javandel stated that tying funding to spending limits with an option to waive was worth discussing. He stated that City public office was a serious commitment of time and energy, and perhaps citizens should have the choice to weigh in on the subject. Mayor Wile's stated a preference for ending the subsidy.

**7-2.** Resolution No. 2010-13 – A Resolution of the Albany City Council Establishing Rules for the Conduct of the November 2, 2010, Election.

City Administrator Beth Pollard recommended continuing discussion and action until the next meeting.

**MOTION:**

Motion to continue Resolution No. 2010-13 to the next meeting made by Council Member Thomsen and seconded by Council Member Lieber.

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

NOES: None ABSENT: None

Motion carried and so ordered

**7-3.** 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.

Resolution No. 2010-24 includes offices to be filled and the following four ballot measures: 1) Charter amendment to change the position of City Attorney from elected to appointed. 2) Adding a section in the Municipal Code to set a

business license tax for cannabis businesses. 3) Reducing Albany's Communications Users' Tax from 7% to 6.5% and to revise the method for calculating and collecting. 4) Increasing the Paramedic Advance Life Support Fire Engines and Ambulance Special Tax in accordance with the Consumer Price Index.

City Administrator Pollard stated that Resolution No. 2010-24 was multifaceted and included; establishing the offices that were up for reelection in November, four items proposed for ballot measures, one charter amendment and three tax measures.

City Administrator Pollard recommended wording changes on item 2 in the staff report, the City utilities user tax. She and City Attorney Zweben also recommended changes to the owner used solar energy and communications sections. She asked that the Council go over all the changes at this evenings meeting, so she could bring back final language for the whole Resolution at the next regular meeting.

Council Member Lieber asked about the cannabis portion of the Resolution and the possibility of a State initiative. City Administrator Pollard stated that the language was broad enough to cover the possibility of approval of a State initiative. Council Member Lieber asked if it would be appropriate to assign the Members to subcommittees for each ballot measure at the next regular meeting. Staff was fine with assigning at this meeting or the next.

City Attorney Zweben stated that the ballot measure was intended to accomplish several goals. The intentions were; modernization of language to address technological changes in the field of telecommunications, changes in gas utility delivery language and electricity. The measure as presented to the City Council proposed that the telecommunications tax be reduced from 7% to 6.5%. City Attorney Zweben stated that new language would be added to clarify exemption of solar energy users from taxation. He further stated that the ballot question needed to be changed to address expansion of bundled services. The assessment would represent break even revenue for the City.

**PUBLIC COMMENT:** The following people spoke: Albany residents Ed Fields, Preston Jordan and Nick Pilch.

The summary of comments is as follows: Appreciation for clarifying language regarding solar users, but still concerned about electricity for self use. Request an opportunity for the Sustainability Committee to vet the measure. The ballot question should clarify that the measure will change the status of the energy utility tax, recognize the concept that communication is an economic good and as such a net revenue tax based on power consumption should be created. Urged the Council to call out solar installations and recognize off the grid users. Request for Charter Review Committee to be involved in writing the arguments.

Council Member Javandel advised using general enough language to include wind powered energy as well

Fire Chief Marc McGinn commented on the validity of 201 rights based on a meeting he attended on May 4<sup>th</sup>. He stated that Albany was an exclusive fire based transport operating area. As long as an area had provided service from 1980 the rights applied and funding would stay in place, but there had been discussion about what might happen in the future. Costs would increase modestly or could possibly go down.

City Administrator Pollard repeated the measure to provide clarification about what would be brought back to the next meeting including; changing from an elected City Attorney to an appointed City Attorney, update the tax from 7 to 6.5% , Advance Life Support Tax, business license for a cannabis operation and changes to language throughout the document.

**PUBLIC COMMENT:** Albany resident Robert Outis stated his disapproval of the City Attorney portion of the measure as inappropriate and a serious issue that should be addressed in a separate election.

**MOTION:**

Motion to bring back revised language for Resolution No. 2010-24 to the next meeting, as well as assignments to write arguments in favor of the measures made by Council Member Lieber and seconded by Council Member Atkinson.

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

NOES: Council Member Javandel

ABSENT: None

Motion carried and so ordered

Council Member Javandel stated that he thought assignments for arguments could have been accomplished at this meeting and asked for an explanation of the 1 year turn around for the City Attorney position. City



8:56pm – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

**10. ADJOURNMENT**

Mnutes submitted by Robin Mariona.

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Joanne Wile  
Mayor

Attest:

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Jacqueline L. Bucholz, CMC  
City Clerk