

Approved: July 19, 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, JULY 6, 2010

6:30

Executive Session

Call to order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

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

Executive session pursuant to Government Code Section 54957 to discuss Public Employee Performance Evaluation:

City Administrator	Beth Pollard
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7:30 p.m.

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and 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 Manager; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Penelope Leach, Recreation & Community Services Director; Ann Chaney, Community Development Director; Randy Leptien, Engineer; Jeff Bond, Planning Manager; Nicole Almaguer, Environmental Resource Associate; Judy Lieberman, Assistant City Manager; Charles Adams, Finance Director; Aaron Walker, Human Resource Manager; Marc McGinn, Fire Chief; Brian Crudo, Battalion Chief; Mike McQuiston, Police Chief.

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

Mayor Wile announced that regarding negotiations the City Council received information and regarding the evaluation of the City Administrator noted it was the unanimous decision of the Council that she has done an outstanding job.

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, June 7 & 21, 2010

Staff recommendation: Approve

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$203,889.56; taxes, benefits & withholdings in the amount of \$257,480.76. Total payroll in the amount of \$461,370.32. Payroll period: 06/18/10.
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$49,839.49; taxes, benefits & withholdings in the amount of \$55,765.92. Total payroll in the amount of \$105,605.41. Payroll period: 06/18/10.

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of \$17,984.49, Period: 06/01/10. \$593,678.31. Period: 06/11/10.
(File #300-40)
- 4-4.** Ratification of pension payments for the month of June, 2010 in the amount of \$116,712.19.

Staff recommendation: Ratify.

- 4-5. Ordinance No. 2010-04 – An Ordinance of the Albany City Council Adding Municipal Code Chapter 8-7 Prohibiting the Consumption of Alcoholic Beverages in Public Places.
(File #100-95)

Staff recommendation: Adopt for Second Reading – Pass-to-Print waiving reading of entire Ordinance.

- 4-6. Solano Stroll.
(File #820-50)

Staff recommendation: 1) Direct staff to issue a no fee Street Event permit to the Solano Avenue Association for the 2010 Solano Stroll scheduled for Sunday, September 12, 2010 between 7:00 a.m. and 7:00 p.m. (Event is 10:00 a.m. to 6:00 p.m.). 2) Waive fees for paramedics to be on-site from 9:00 a.m. to 6:30 p.m., police overtime and City maintenance services.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber 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 asked if anyone would like to speak and the following people spoke: John Kindle, Albany resident; Ray Anderson; Brian Parsley, Albany resident; Peggy McQuaid, Albany resident; Karina Tindell, Albany Police Department; Penelope Leach, Recreation Department; Beth Pollard, City Administrator; Ann Chaney, Community Development Director; Emily, Patch.com.

A summary of the comments is as follows: Noted that the City website was not working, and therefore, had to send a letter via fax. A comment was made that this should have been said under the Executive Session portion of the agenda that the City Administrator is doing a great job and so is her staff. Thanked the Police Department for the apprehension of a bank robber. Commended the City for the great job that was done for the July 4th celebrations at Memorial Park.

The following announcements were made: 1) August 3, 6-8 p.m., National Night Out. 2) September 25th, Dinner with Albany. 3) A Request for Proposals has been sent out regarding a Farmer’s Market in Albany, which is due Friday. 4) The Tower at the Community Center/Library has been repaired and the City is going to start work on Catherine’s Walk. 5) A meeting with professional health workers and housing providers has been scheduled to meet with the people living on the bulb to talk about options and eligibility for housing. 6) The patch.com website has been launched and people are encouraged to send in comments.

The City Council made the following announcements: 1) Visited the Orientation Center for the Blind and is going to contact the Recreation Department, Chamber of Commerce and Solano Avenue Association to see if something could be worked out to offer discounts to residents of the Orientation Center. 2) Alameda County is experiencing an epidemic of Whooping Cough and encouraged everyone to get vaccinated.

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

6. PRESENTATION/PUBLIC HEARING

6-1. Landscaping & Lighting Assessment Districts 1988-1 & 1996-1. (File #360-20)

This hearing is on the proposed assessments for Landscaping & Lighting District No. 1988-1 & 1996-1 and shows a two-year budget period for planning purposes. However, pursuant to State law, for actual assessment purposes, this only applies to the upcoming fiscal year.

LLDA 1988-1: The majority of funds will go toward maintain Albany's existing landscaping and lighting infrastructure. These funds will be used toward street trees, graffiti abatement, tennis courts, street lights in residential and commercial areas and Ohlone Greenway, sidewalks, the urban forest program and improving Albany's street medians and upgrading park and recreation facilities. There is an addendum that notes the \$100,000 budgeted for the Community Center Tower repair is not needed. The budget is now \$70,000 for the repair to Catherine's Walk, \$20,000 stays in the Tower repair budget and \$10,000 goes for a forestry boost.

LLDA 1996-1: This is the Measure R funds and must be allocated, as follows: 50% to the acquisition and improvement of open space on Albany Hill; 25% for the acquisition, development and maintenance of recreational playfields; 25% for creek restoration improvements.

The 2010-11 budget continues to allocate \$10,000 vegetation management on Albany Hill and a new allocation of \$50,000 for updating the Albany Hill Master Plan, which is being proposed from the Open Space Fund.

Mayor Wile opened the public hearing and there being no one wishing to speak Mayor Wile closed the public hearing.

Council Member Thomsen presented Resolution No. 2010-36 – A Resolution of the Albany City Council Confirming the Landscaping & Lighting Assessment District Diagram and Assessment and Levying Assessment for LLDA No. 1988-1 for FY 2010-11.

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. 2010-36.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-1. Landscaping & Lighting Assessment Districts 1988-1 & 1996-1.

Council Member Thomsen presented Resolution No. 2010-37 – A Resolution of the Albany City Council Confirming the Landscaping & Lighting Assessment District Diagram and Assessment and Levying Assessment for LLDA No. 1996-1 for FY 2010-11.

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. 2010-37.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-2. Master Fee Schedule

(File #100-90)

In 2002, the City Council passed a Resolution authorizing an annual cost of living adjustment to the Master Fees each year. The City Council has established an objective that fees cover the cost of services provided. The CPI for the San Francisco-Oakland-San Jose area has increased 0.7% over the prior year.

It was noted that changes to the sewer fees and the fees for rental in the recreation department are noted in the Master Fee Schedule. The fees for rentals for non-profit groups have been lowered and are offset by the fees charged to private parties.

Mayor Wile opened the public hearing and there being no one wishing to speak Mayor Wile closed the public hearing.

Council Member Thomsen presented Resolution No. 2010-35 - A Resolution of the Albany City Council Establishing and Amending the City of Albany Master Fee Schedule for Various Permits, Services and Fines, Effective July 1, 2010.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Thomsen and seconded by Council Member Lieber to approve Resolution No. 2010-35.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-3. Clean Water Fee & Library Tax Rate

(File #330-20)

The City Administrator reported that these fees were erroneously published for a public hearing and would recommend that as it has been noticed the public hearing be opened and then continued to July 19, 2010.

6-3. Clean Water Fee & Library Tax Rate

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to continue the public hearing to July 19, 2010.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. Vehicle Parking Regulations

(File # 570-20)

a. Ordinance No. 2010-05 – An Ordinance of the Albany City Council Amending Albany Municipal Code Section 9-1.1 to Change the Definition of Annual Holidays Relative to Traffic and Parking Enforcement and Adds Definitions for Oversized and Recreational Vehicles. First Reading.

The Police Chief noted that currently the Municipal Code defines holidays by name and does not provide a calendar date upon which the holiday is to be recognized. The proposed amendment specifies the calendar day upon which the holiday occurs, bringing it more closely in line with other agencies and making enforcement more consistent for the public.

Council asked questions relating to definitions and what size vehicle would be considered, for example a van with a pop up or a Volkswagen Westfalia. Also a question was asked regarding if the holiday falls on a Saturday, what happens and the Chief of Police responded that the Saturday would be the holiday.

The following people spoke: Francesco Papalia, Albany resident and a summary of his comments is as follows: Expressed concern that the Ordinance is overly broad and noted that the existing Ordinance is not enforced for camping at the Waterfront.

Staff responded that they would check on the definition question and come back to Council at the second reading.

Council Member Lieber introduced Ordinance No.2010-05 – An Ordinance of the City Council Amending Municipal Code Section 9-1.1 to Change the Definition of Annual Holidays Relative to Traffic and Parking Enforcement and Adds Definitions for Oversized and Recreational Vehicles. First Reading.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Lieber and seconded by Council Member Atkinson to introduce for First Reading and that staff bring back the definitions regarding which vehicles are included in the definitions.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-1. Vehicle Parking Regulations

b. Ordinance No. 2010-02 – An Ordinance of the Albany City Council Amending Albany Municipal Code Section 9-10.2 Prohibiting Oversized and Recreational Vehicle Parking on any Public Street or Highway with Certain Exemptions, Including a Grace Period for Recreational Vehicles Currently Owned by Albany Residents.

The following people spoke: Ray Anderson, Albany resident; Jan Hitchcock, Albany resident; Preston Jordan, Albany resident; Paul King, Albany resident.

A summary of the comments is as follows: Asked that the Ordinance be postponed until September and agreed with a parking permit for residents. Opposed to issuing fees and parking permits for residents noting that this is a safety issue. Suggested that if a process is put in place for permit fees that it be a “grandfather” clause and not for future residents. Noted that this is a public health and safety issue and the Code should be updated. Handed out photos of oversize vehicles parked on City streets and asked that a rule be inserted that no oversize vehicle could park within 100’ of a driveway.

A summary of Council comments is as follows: Spoke about the 24 hour time exemption and believes it should be extended to 48 hours. Believes that it is very important to have the limit of parking within 100’ of a street corner. Supports the idea of Albany residents paying a monthly fee to park in front of their home and a permit process for Albany residents. The City should not punish residents who are trying to do the right thing. Agreed that a “grandfather” clause should be inserted. Suggested that a sunset clause be inserted for a five-year period and that the City needs to have better safety and visibility. Noted that the fees should be set in the Master Fee Schedule and staff responded that the proposed permit and fee schedule could come back in October.

Council Member Javandel introduced Ordinance No. 2010-02 – An Ordinance of the Albany City Council Amending Albany Municipal Code Section 9-10.21 Prohibiting Oversized and Recreational Vehicle Parking on any Public Street or Highway with Certain Exemptions, Including a Grace Period for Recreational Vehicles Currently Owned by Albany Residents.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Thomsen to introduce Ordinance No. 2010-02 for First Reading. Effective July 1, 2010 and that staff return with a fee proposal for those vehicles already owned by Albany residents by October, 2010, that would establish a fee for parking one (1) recreational vehicle such program to begin January 1, 2011 with a Sunset of the fee program within five (5) years (July 1, 2015), at which time no oversize recreational vehicle allowed to park on streets except as allowed in the remaining exemptions and changing the time line in exemption #1 from 24 hours to 48 hours.

ON THE QUESTION:

Council Member Lieber stated that he would be voting no on this motion because although he liked the way the Council worked together on the motion he believes this motion is putting the problem over to another City.

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

NOES: Council Member Lieber

ABSENT: None

7-2. Climate Action Plan – Implementation Plan
(File #405-45)

The Environmental Specialist reported that the Implementation Plan aims to outline an implementation schedule with the intent of reaching the Council adopted goal to reduce emissions 25% below 2004 levels by the year 2020.

It is recommended that the Sustainability Committee serve as the Climate Action Plan Implementation Task Force (CAP Task Force), as this would enable the group to have a direct role in implementing the CAP. Also, the CAP Task Force would have the ability to liaison with the community, other community groups and help steward study sessions, educational workshops, or other public outreach/planning processes that will be needed to implement particular GHG reduction measures.

The Environmental Specialist stated that the short-term tasks proposed for 2010-11 can be accomplished within the adopted budget and grants that have been approved or that are in application process. The Implementation Plan outlines available funding, particularly in the form of grants that have been awarded or are being pursued. Additional funding will be necessary for the tasks proposed for medium/long-term implementation.

The Environmental Specialist noted that the dates in the Implementation Plan should be ignored.

The City Administrator thanked the Environmental Specialist for her hard work in obtaining the needed grants.

The following people spoke: Ed Fields, Albany resident; Preston Jordan, Albany resident; Caryl O’Keefe, Albany resident; Tom Cooper, Sustainability Committee Chair; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Urged the City Council to support the recommendation and noted that the climate situation is getting worse faster than expected. Spoke about peak oil and that price should be put on carbon. Asked that a spread sheet be prepared with bigger print with a column that estimates cost and percentage of the objectives. Thanked the City Council and the Environmental Specialist for the supporting this issue and noted right now Albany is taking baby steps and there is a great challenge ahead. Supported action that would reduce use on fossil fuel and that there should be flexibility and an understanding of how the resources are used.

A summary of the City Council comments is as follows: Asked a question on prioritization and that bicycles should be encouraged. Agreed that the Plan should be flexible and support moving forward on this issue. Thanked everyone who is involved in this program and noted that education is key in getting the Plan implemented.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber to approve the proposed Implementation Plan for the Climate Action Plan.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

Mayor Wile asked that regular reports be submitted to the City Council and hoped that it would not be burden to staff. The City Administrator responded that this could be incorporated into a status report in the work plan reports.

7-3. Living Wage
(File #730-20)

In 2009, the Social & Economic Justice (SEJC) Commission sent a recommendation to the City Council to review a draft ordinance establishing a Living Wage in the City of Albany. The Ordinance was sent back to the SEJC to review the fiscal implications and to discuss inclusion of all employees, including part-time, seasonal and temporary employees.

This Ordinance follows the format of ordinances already adopted in other jurisdictions. The Ordinance applies to employees of City service contractors and subcontractors who enter into a contract with the City of \$25,000 or over per fiscal year, as well as to City financial aid recipients who receive direct assistance from the City in the amount of more than \$100,000 per fiscal year.

The wage rate is a minimum of \$11.93 per hour including wages and health benefits paid by the employer. If no health benefits are provided, the rate would be \$13.54 per hour and adjusted annually based on the CPI. There is an Exemption clause included in the Ordinance.

As of December, 2009, there were no City contracts that would trigger the Living Wage criteria. In Albany, no City union or management employee positions are below the living wage of \$11.93. All positions are benefitted. The hourly rates for the three lowest classifications are \$14.18, \$15.63 & \$15.80.

The financial impact for including all part time, temporary and seasonal employees would range from approximately \$36,000 to \$73,000 per year.

The following people spoke: Margie Marks, SEJC; Brian Parsley, SEJC; Francesco Papalia, Albany resident; Caryl O'Keefe, Albany resident; Peggy McQuaid, Albany resident.

A summary of the comments is as follows: Urged the City Council to support the Ordinance. Thanked Commissioner Marks for her hard work on this Ordinance. Noted that he was the lone no vote on this Ordinance and believes that it has become too complicated by including all employees. Asked what the cost and consequences would be to the City including the long-term costs. Expressed concern about the effect to the union employees and believes the City should take small steps. Believes that the City should work toward equity among all employees and contractors but recognizes that the lower paying job is often the choice of the workers. Urged the Council to think about all the ramifications.

A summary of the City Council comments is as follows: Support this Ordinance and suggest that the City start at the lower end and not implement until staff thinks it is appropriate. Agreed it is a good idea to pay a living wage but the money has to come from somewhere and would like to see a cost analysis. Noted that the unions may want to weigh in on this Ordinance. Expressed concern about the fiscal implications. Stated that the City found the money for Catherine's Walk, the tower and trees and believe that this Ordinance should be adopted.

7-3. Living Wage

Council Member Lieber introduced Ordinance No. 09-016 – An Ordinance of the Albany City Council Adopting Section 2-26 Entitled “Living Wage Ordinance” to the Albany Municipal Code with the Following Change: Change the word “increase” to “adjust” in Section 2-26.5(c).

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Lieber and seconded by Council Member Atkinson to introduce Ordinance No. 09-016 for First Reading.

ON THE QUESTION:

Council Member Lieber noted that he omitted the removal of Section 2-26.8(e) so that all City employees fall within the act.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

MOTION:

Moved by Council Member Lieber to remove Section 2.26.8(e) so that the living wage applies to all City employees including part time employees and that the minimum wage would be raised for a cost of \$36,000 per year to the City.

Motion Died for Lack of Second.

The City Attorney recommended that the Ordinance number be changed to a 2010 number.

Council Member Lieber stated that he hoped this could be discussed further and thanked everyone for their participation.

7-4. Consideration of Job Title Change from City Administrator to City Manager

(File #660-25)

Council Member Thomsen presented this item recommending a name change but no change in duties or responsibilities. Council Member Thomsen noted that a recommendation was received from the Charter Review Committee noting that if the job duties and responsibilities are not changed then the name should stay as City Administrator.

The following people spoke: Michael Wallace, Chair Charter Review Committee; Preston Jordan, Charter Review Committee; John Bailes, Charter Review Committee.

A summary of the comments is as follows: Spoke in favor of not changing the name unless the job duties and responsibilities are changed to reflect a City Manager position.

A summary of the City Council comments is as follows: Agreed that the name change should also have a change of duties and responsibilities, as recommended in the Citygate Report. Likes the way the power is balanced now and noted that the City Administrator has significant input in the hiring of Department Heads. Noted that he

8-1. Regulations for Smoke Alarms and Smoke Detectors

Ordinance, staff would prepare documentation required by the California Building Standards Commission for local amendments to construction standards.

The Fire Chief thanked the Planning Manager for his work in preparing the Ordinance that is before Council tonight.

The following people spoke: Caryl O’Keefe, Albany resident; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Urged the Council to consider voluntary “grandfathering” clause. Thanked the Fire Chief of the information and noted he would relay to other real estate brokers.

A summary of the City Council comments is as follows: Asked how long the photoelectric technology had been around and the Fire Chief responded the same as the ionization technology.

Council Member Javandel introduced Ordinance No. 2010-06 – An Ordinance of the Albany City Council Amending Chapter XI, Fire Prevention of the Albany Municipal Code to Include Regulations for Smoke Alarms and Smoke Detectors. First Reading.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Atkinson to approve Ordinance No. 2010-06 for first reading.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to extend the meeting 15 minutes.

Motion carried and so ordered.

8-2. City Council Health Benefits

(File #720-40)

Council Member Lieber recommended that this item be held over until the next meeting, which would be July 19, 2010.

A consensus of the Council agreed.

8-3. Appointments to the Alameda County Transportation Commission

(File #600-40)

The newly formed Alameda County Transportation Commission has requested that the City appoint one member and one alternate to the Commission.

Council Member Lieber recommended that Council Member Javandel be appointed, as the member and Council Member Thomsen, as the alternate.

A consensus of the Council agreed.

8-4. Designation of Voting Delegate and Alternate – League of California Cities

(File #140-20)

The annual League of California Cities conference is scheduled for September 15-17, 2010 and the City needs to appoint a voting Delegate and Alternate.

A consensus of the Council agreed to appoint Council Member Javandel, as the Delegate and Council Member Thomsen, as the Alternate.

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

9-1. The following announcements were made: 1) Asked people to react peaceful and in a non violent way when the verdict of BART Police Officer is announced. 2) A meeting with the Mayor, Vice-Mayor, City Manager and Supervisor Carsen and County Administrator was held to discuss mutual areas of concern, which included discussions on the Albany Library. 3) Transitional Albany and City staff worked at a booth at the July 4th celebrations regarding the Climate Action Plan.

10. ADJOURNMENT

10:50 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