

Approved: September 7, 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 19, 2010

Council Member Wile teleconferenced from 2085 Payette Court, Dorrington, California.

6:30 p.m.

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:

1. 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 Manager and Assistant City Manager on behalf of the City; Caltrans on behalf of owner.
2. Under Negotiations: Terms and conditions of acquisition of property.
 - Property: Adjacent to 1150 8th Street, Berkeley.
 - Negotiating Parties: City Attorney, City Manager and Assistant City Manager, on behalf of the City; Cornish and Carey Commercial Realty, on behalf of owner.
 - Under Negotiations: Price and terms of payment for the purchase of property to be used as a City Maintenance Center.

3. Public Employment pursuant to Government Code Section 54957(e)
Position Fire Chief

7:30 p.m.

Vice-Mayor Javandel called the regular meeting of the Albany City Council to order on the above date and the Administrator from the Orientation Center for the Blind led the Pledge of Allegiance to the Flag.

Vice-Mayor Javandel announced that Mayor Wile would be teleconferencing and asked that everyone speak directly into the microphones so that she hears everything.

ROLL CALL

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

STAFF PRESENT

Beth Pollard, City Manager; Robert Zweben, City Administrator; Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant City Manager; Charlie Adams, Finance Director; Marc McGinn, Fire Chief; Members of the Fire Department; John Geissberger, Lt. Police Department; Ann Chaney, Community Development Director; Rich Cunningham, Public Works Manager; Randy Leptien, City Engineer.

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

The City Attorney reported that Council Members Javandel & Thomsen recused themselves from the first Executive Session – Pierce Street Park.

The City Attorney announced that regarding the Pierce Street Park staff was given directions, as to how to proceed with further discussions with Caltrans.

The City Attorney announced that regarding the Maintenance Center staff was given directions.

The City Manager announced that direction was given to negotiate an employment contract with the Fire Chief.

Vice-Mayor Javandel noted that item 4-4 would be moved to first item under Unfinished Business.

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.

4. CONSENT CALENDAR

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, July 6, 2010.

Staff recommendation: Approve

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$ 213,879.54; taxes, benefits & withholdings in the amount of \$163,370.98. Total payroll in the amount of \$377,250.50. Payroll period: 07/02/10.
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$51,240.56; taxes, benefits & withholdings in the amount of \$39,393.68. Total payroll in the amount of \$90,634.24. Payroll period: 07/02/10.

Staff recommendation: Ratify.

- 4-3.** a. Ordinance No. 2010-02 – An Ordinance of the Albany City Council which amends 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.
b. Ordinance No. 2010-05 – An Ordinance of the Albany City Council Adding 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.
(File #570-20)

Staff recommendation: Adopt for Second Reading – Pass-to-Print, Waiving reading of entire Ordinance: a) Ordinance No. 2010-02. 2) Ordinance No. 2010-05.

- 4-5.** Ordinance No. 2010-07 – 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).
(File #730-20)

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

4. CONSENT CALENDAR

- 4-6.** Resolution No. 2010-40 – A Resolution of the Albany City Council Adopting the Yearly Tax Rate for the Pension Override Tax to Fund City Police and Fire Pension Obligations.
(File #390-85)

Staff recommendation: Approve.

- 4-7.** Resolution No. 2010-41 – A Resolution of the Albany City Council Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84).
(File #345-30)

Staff recommendation: Approve.

- 4-8.** Economic development activities for 2010-11 for specific economic development projects and programs to be carried out by the Albany Chamber of Commerce.
(File #470-20)

Staff recommendation: Approve the allocation of \$9,900 for FY 2010-11.

- 4-9.** Pierce Street Pavement Rehabilitation and Path – Additional Design Services Agreement with Kimley-Horn and Associates, Inc.
(File #600-30)

Staff recommendation: Authorize the City Manager to amend the Consultant Services Agreement with Kimley-Horn and Associates, Inc. for the design of the Pierce Street Pavement Rehabilitation and Path Project to: 1) Provide for the extension of the existing sound wall on the 500 block of Pierce Street. 2) Include NPDES clean water design features. 3) Provide miscellaneous additional services, as provided in Consultants proposal for an amount not to exceed \$74,800.

- 4-10.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of March 31, 2010, as required by Section 53646 of the California Government Code.
(File #300-10)

Staff recommendation: Note and File, information only.

- 4-11.** Climate Action Plan – Implementation Plan Funding.
(File #405-45)

4. CONSENT CALENDAR

Staff recommendation: Refer to staff and the Sustainability Committee for recommendation on alternatives to fund implementation of the City's Climate Action Plan, with an initial report back within six months.

4-12. Small Cities Climate Action Partnership EPA Grant Award.
(File #600-40)

Staff recommendation: Approve the City's participation in the Small Cities Climate Action Partnership EPA grant award and authorize the City Manager to execute the Grant Award Memorandum of Understanding.

4-13. Temporary Street Closure on Key Route and Dartmouth for Albany Streets Events.
(File #820-70)

Staff recommendation: Approve street closures for: 1) A two-block area of Key Route Blvd between Solano Avenue and Portland Avenue from 11 a.m. – 2 p.m. on Sunday, August 22, 2010. 2) A six-block area of Dartmouth between Masonic and San Pablo Avenue from 11 a.m. – 2 p.m. on Saturday, October 9, 2010.

The following items were removed from the Consent Calendar for discussion: 4-3, 4-4, 4-5, 4-6, 4-8 & 4-13.

4-3. Ordinance No. 2010-02 & 2010-05.

Council Member Lieber stated that this was referred back to staff to come back with answers regarding the definitions and height of vehicles and certain van conversions being exempt from the Ordinance.

Lt. Geissberger responded stated that the exemptions should include handicap access vans and Volkswagen Westfalia vans.

Council Member Lieber asked that a separate vote be taken on this item, as he would be voting no because he believes this law would affect the homeless.

The following people spoke: Ed Fields, Albany resident; John Kindle, Albany resident.

A summary of the comments is as follows: Expressed concern about the wording of the language in Section 1 – Section 9-10.21 noting that the language states that all recreational vehicles are prohibited and if the City is only referring to oversize recreational vehicles then it should state that. A suggestion was made that the Ordinance should specify all vehicles that are defined as exempt should be in good repair and not an eyesore to the neighborhood. The City Manager suggested that this be referred back to staff to come back with different language.

It was the consensus of the Council to refer Ordinance No. 2010-02 & 2010-05 back to staff to clarify the language.

4. CONSENT CALENDAR

4-5. Ordinance No. 2010-07 – Living Wage

Ed Fields, Albany resident, asked if the City paid a living wage for profit service contractors and the City Attorney responded he believed so although the City was not obligated to.

4-6. Pension Override Tax

Ed Fields, Albany resident, questioned the tax going to support the CalPERS pension payments and noted that the City should not be paying both the employer and employee portion and is concerned with the proposed budget deficit next year.

4-8. Economic Development – Chamber of Commerce

Council Member Lieber stated that he believed the City was trying to get away from supporting the Chamber of Commerce and the Solano Avenue Association and believe they are political organizations. Council Member Lieber stated that he objects to the amount of money being considered for the Chamber of Commerce.

The following people spoke: Ray Anderson, Albany resident; Brian Parsley, Albany resident; Joe; Francesco Papalia, Albany resident; Todd Abbott, Chamber of Commerce.

A summary of the comments is as follows: Believe that the Chamber has done a lot of good for the local businesses in Albany and noted that other cities support the Chamber of Commerce. Noted that the City has spent a lot more money than the on various consultants and also has spent more than \$5,000 on the Solano Avenue Association. Stated that spending \$9,000 to kick start Economic Development is not a drastic amount. Noted that all the businesses on Solano Avenue are hurting and support the funds for the Chamber of Commerce. Stated that the Chamber of Commerce does not support candidates.

A summary of the Council comments is as follows: Believe it is in the best interest of the City to keep local business viable. Respect the Chamber of Commerce and agree they do good work but believe that they are a political organization.

MOTION:

Moved by Council Member Thomsen, seconded by Mayor Wile to approve the allocation of \$9,900 to the Chamber of Commerce for economic development activities for FY 2010/11 for specific economic development projects and programs.

AYES: Council Members Atkinson, Thomsen, Vice-Mayor Javandel and Mayor Wile

NOES: Council Member Lieber

ABSENT: None

Motion carried and so ordered.

4. CONSENT CALENDAR

4-13. Albany Streets Event.

The Community Services Manager spoke about the events planned for August 22 and October 9, 2010.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Atkinson to approve the Consent Calendar, as submitted with the exception of Item 4-3.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Vice-Mayor Javandel opened the Good of the City/Public Forum/Announcements and the following announcements were made: 1) July 26, 2010 a meeting with the people living on the Bulb regarding available services and housing needs. 2) Congratulated Council Member Atkinson on being elected to the Democratic Central Committee and congratulated the City Manager on being appointed Chair, Bay Cities JPA. 3) The Mayor and Allan Maris met with the Berkeley Mental Health to discuss funding for the City of Albany. 4) Dinner with Albany, September 25, 2010.

An unidentified woman spoke regarding how she was treated at Sizzler and by the City and also spoke about ADA requirements.

Vice-Mayor Javandel stated that the agenda was going to be reorganized, as follows: Item 6-2 & 6-3 would be moved to the end of Unfinished Business and Item 8-1 moved to the second meeting in September.

6. PRESENTATION/PUBLIC HEARINGS

6-1. Vice-Mayor Javandel presented a Proclamation to the Orientation Center for the Blind regarding recommitment to full implementation of ADA requirements.

The Administrator of the Orientation Center thanked the Council for the presentation and noted how impressed she is with the curb ramps and signals throughout the City.

7. UNFINISHED BUSINESS

4-4. Smoke Alarms & Smoke Detectors

(File #100-95)

The Fire Chief reported that before Council is the second reading of an Ordinance amending the City Code relating to smoke alarms and smoke detectors.

4-4. Smoke Alarms & Smoke Detectors

The Fire Chief showed a 10 minute video, which demonstrated that ionization alarms do not consistently or fully detect smoke.

The City Attorney clarified the ordinance stating that it advises people to install photoelectric, which is the best way to protect the community.

Council Member Thomsen noted that the number one priority of the City is the safety of the community.

The following people spoke: A representative of Underwriters Laboratory, San Jose; A representative from Lucas Abbotts; Francesco Papalia, Albany resident; Richard Payton, Engineer; Ray Anderson, Albany resident; Brian Parsley, Albany resident; Doug Turnball & Dean Dennis, parents of children killed in a fire.

The following is a summary of the comments: Asked that the City not prohibit future technology by only requiring photoelectric alarms. It was noted that there are two types of alarms that are ionization and photoelectric. Concern was expressed that many people do disconnect an alarm that has false alarms and supports the Fire Chief's recommendation. Information was given on the background of alarms and spoke about false alarms. It was noted that the majority of deaths occur from smoke inhalation and that this Ordinance does not preclude it being amended if better technology is approved. It was noted that the companies in favor of ionization alarms are doing so due to monetary gains.

The following is a summary of the comments by the City Council: In support of the Fire Chief's recommendation 100% and support the safety of the community and citizens. It was reiterated that the Ordinance does not ban ionization and believes that the Fire Chief will always be open to newer and better technology. It was noted that this issue is very important and the Ordinance could be modified in the future if technology advances.

Council Member Thomsen introduced for second reading – Ordinance No. 2010-36

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.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Thomsen and seconded by Council Member Lieber to approve Ordinance No. 2010-36 for second reading – pass-to-print.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-1. Council Health Benefits

(File #720-40)

The City Manager reported that currently Council Members are eligible for enrollment in the City's health insurance programs, which include Kaiser and Blue Shield and the City pays the premium.

7-1. Council Health Benefits

An option could be if the Council Member shows proof of health insurance coverage that they be offered the same benefit as employees. This benefit is the single Kaiser rate contributed to his/her deferred compensation retirement account, which is called an “in-lieu contribution”.

The Social & Economic Justice (SEJC) Commission has raised the idea that the City Council look at adjusting the City’s contribution for Council Member health care premiums to be consistent with the cap on the contribution for employees.

The following people spoke: Brian Parsley, SEJC; Clay Larson, Albany resident; Caryl O’Keefe, Albany resident; Francesco Papalia, Albany resident.

A summary of the Council comments is as follows: It was stated that the savings would only be \$3,000 and believe this is a tough job with a lot of hours and the benefit should not change. Agreed that the Council should be eligible for the “in-lieu contribution”. Believe that the benefits should be equitable and if the employees have a cap then so should the Council. It was stated that the Council is no more important than an employee and believe it is a question of equity and that the Council is elected to serve the City. Asked that staff prepare a study to show what benefits are given to Council in other cities and it also include a fiscal analysis.

MOTION:

It was moved by Mayor Wile, seconded by Council Member Atkinson to direct staff to prepare a survey and study from other cities to come back to Council in September.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to move forward on the option to include Council for the “in-lieu contribution”, with proof of health insurance coverage.

AYES: Council Members Atkinson, Lieber, Vice-Mayor Javandel & Mayor Wile

NOES: Council Member Thomsen

ABSENT: None

Motion carried and so ordered.

7-2. Sewer Fee Increase for Monthly Service Charges for Purposes of Environmental Compliance

(File #330-20)

The Community Development Director reported that a public hearing has been scheduled to establish an increase to the monthly sewer charge. The purpose of the increase is to provide funding for the development of a Sanitary Sewer Management Plan (SSMP) and for implementing a scheduled maintenance plan for sewer mains.

It was noted that if the City received protests from a majority of property owners it would prevent the imposition of the proposed increase. Staff received three telephone calls and no majority protest exists.

7-2. Sewer Fee Increase for Monthly Service Charges for Purposes of Environmental Compliance

Vice-Mayor Javandel opened the public hearing and there being no one wishing to speak the public hearing was closed.

Council Member Atkinson presented Resolution No. 2010-39 – A Resolution of the Albany City Council Establishing an Increase of Two Dollars per Month in Sewer Service Charge Rates During Each of the Next Five Years (\$10 total increase per month) for Environmental Compliance, and Continuing the Annual Rate Adjustment Based on the Consumer Price Index (CPI).

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Atkinson and seconded by Council Member Lieber.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-3. Clean Water and Library Taxes
(File #330-20)

The City Manager reported that this was erroneously noticed as a public hearing and that the fees for the City’s Clean Water Program and taxes for Library Services have been previously authorized by the City Council. The public hearing is now scheduled for public information purposed with no further action of the Council.

Vice-Mayor Javandel opened the public hearing and there being no one wishing to speak the public hearing was closed.

No Council action required.

NEW BUSINESS

8-1. Changes to Policies, Practices, Protocols, Composition and Number of City Advisory Bodies for Purposes of Improving Efficiency and Effectiveness.

(File #110-20)

The City Manager reported that in 2009, the City Council contracted with Citygate Associates to conduct an analysis to provide an independent, third party review of the City’s organizational structure to identify potential cost savings, service improvements or other efficiencies to improve the effectiveness of the City organization.

One of the findings in the report was that Albany has more advisory bodies than most cities its size and that staff support is low compared to other neighboring small cities.

Citygate recommended a discussion between staff and the City Council to discuss the advisory body staff support problem and aligning Council’s expectations with the City’s limited staffing levels.

8-1. Changes to Policies, Practices, Protocols, Composition and Number of City Advisory Bodies for Purposes of Improving Efficiency and Effectiveness.

The City Manager noted that to assist in this effort the city hired a Public Policy Masters Degree graduate to perform an internship project to review the City's advisory bodies; research best practices in other public agencies, survey appointees, Council Members and staff liaisons; attend meetings, and develop recommendations to improve the efficiency and effectiveness of the advisory bodies.

The following people spoke: Francesco Papalia, Waterfront Committee member; Brian Parsley, SEJC; Janet Smith-Heimer, Sustainability Committee; Clay Larson, Cable Media Committee; Dan Lieberman, Sustainability Committee; Peter Goodman, Arts Committee; Ed Fields, Albany resident; Peggy McQuaid, Arts Committee; Michael Wallace, Charter Review Committee.

A summary of the comments is as follows: It was noted how difficult it is for government to reduce committees but agreed the City should work more effectively and efficient. Urged the Council to take seriously the recommendation to put the Waterfront land issues to the Planning & Zoning and the Waterfront recreational issues to the Parks & Recreation Commission. It was suggested that when a Committee looks for student representation that the City look outside of the High School. It was noted that the Climate Action Plan is a huge undertaking and expressed concern about cross cutting. Urged the Council to proceed slowly and that all Committee Members should review this report. It was suggested that all Committees be videotaped and put on the television for public review. Asked that the Council give enough time so that everyone could digest the report and suggested that the Council identify directions on the feedback they require. Expressed concern about limiting agenda access and agreed that the Climate Action is very important. Expressed concern on the recommendation for the use of action minutes. Spoke about cumulative voting for at-large appointments.

MOTION:

It was moved by Council Member Thomsen, seconded by Council Member Lieber to extend the meeting 15 minutes.

Motion carried and so ordered.

A summary of the Council comments is as follows: Agreed with some of the recommendations but had reservations on other recommendations and agreed that the liaison to the Library Board could be removed. If action minutes are approved, videotaping of the meetings should be implemented. Would like to hear from the Commissions/Committees and have feedback on the report. Looking forward to hearing back from the Commissions/Committees and hope that the City can streamline this area. Commented that either video or voice recordings should be available if action minutes are approved.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber to direct staff to work with the Committees and that the Committees review the entire report not just the area they work on.

8-1. Changes to Policies, Practices, Protocols, Composition and Number of City Advisory Bodies for Purposes of Improving Efficiency and Effectiveness.

VOTE ON THE MOTION

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

NOES: None

ABSENT: None

Motion carried and so ordered.

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

The following announcements were made: 1) August 3rd is National Night Out. 2) The new Alameda County Transportation Commission is meeting this Thursday. 3) Council is on summer recess for the month of August and the next regular scheduled meeting is Tuesday, September 7, 2010. 4) City offices will be closed on Monday, September 7 in observance of Labor Day.

10. ADJOURNMENT

10:55 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