

Approved: September 20, 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
TUESDAY, SEPTEMBER 7, 2010

6:30 p.m.

CLOSED SESSION

Call to order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

The following people spoke: Bob Urhammer, Albany resident; Francesco Papalia, Albany resident; Caryl O'Keefe, Albany resident.

A summary of the comments is as follows: Would like to see a maintenance center built on the Pierce Street property and minimal development. Believe that locating a maintenance center on the Harrison Street property in Berkeley would not remove Albany property from the tax rolls for that purpose. Support acquisition of Pierce Street property because residents in that part of the City are underserved for parks and Pierce Street Park should become a priority.

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

1. Labor Negotiations pursuant to Government Code Section 54957.8

Agency Negotiator: City Manager and Glenn Berkheimer, IEDA
Employee Organization: Albany Peace Officers' Association

2. 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 (the State)
- Under Negotiations: Terms and conditions of acquisition of property.
- 3. 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 (USPS)
- Under Negotiations: Price and terms of payment for the purchase of Property to be used as a City Maintenance Center.

7:30 p.m.

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and Del Price 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; Judy Lieberman, Assistant City Manager; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Mike McQuiston, Chief of Police; John Geissberger, Lt, Police Department.

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

Direction was given to staff to continue negotiations on all the issues discussed in Executive Session.

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, July 19, 2010.

Staff recommendation: Approve

4. CONSENT CALENDAR

c. Consideration of Claim #AL630; Benedict v. City of Albany.
(File #170-60)

Staff recommendation: Reject the claims and authorize the City Clerk to send out the appropriate rejection letters.

4-6. Resolution No. 2010-42 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C10-01, Albany Community Center Tower Repair.
(File #600-30)

Staff recommendation: Approve Resolution No. 2010-42.

4-7. Resolution No. 2010-43 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C07-14, Albany Civic Center Seismic Retrofit and Renovation.
(File #600-30)

Staff recommendation: Approve Resolution No. 2010-43.

4-8. Resolution No. 2010-45 – A Resolution of the Albany City Council Authorizing the Filing of an Application for CMAQ Funding to Construct a Portion of the Buchanan Bicycle and Pedestrian Path from San Pablo Avenue to the Buchanan Bridge Crossing.
(File #820-20)

Staff recommendation: Approve Resolution No. 2010-45.

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar for discussion: Council Member Atkinson removed Item 4-1.

4-1. Minutes

Council Member Atkinson made a correction to the July 19, 2010 minutes, as follows: Page 7, Good of the City, under announcements it should state that Council Member Atkinson was elected to the Democratic Council, not appointed.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Lieber to approve the Consent Calendar, as submitted with the correction noted above to the minutes of July 19th.

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/ Announcement and asked if anyone would like to speak.

The following people spoke: Del Price, Albany resident; Allan Maris, Albany resident; Francesco Papalia, Albany resident; Joan Larson, Albany resident.

A summary of the comments is as follows: Asked that a report be given on the Pierce Street Park noting it has been a year since the last report. Announced that on September 25 there would be a Cleanup Day held on the Albany Bulb and noted that the area needs to be maintained. Announced that on September 11, 9 a.m., the Community Foundation would be partnering with the Community Garden project at the Community Center to inform people about the Community Garden. A potluck lunch will be provided. Agreed that improvements at the Waterfront appear to have been stopped and noted that there are funds in the Measure WW budget but nothing has been done. The City needs to show leadership on this subject. Agreed that the Pierce Street Park should be opened. Informed the Council about an Ordinance in the City of Berkeley during point of sale of a property. The Ordinance deals with energy changes that are cost effective and reasonable and believes that the City of Albany should have a similar Ordinance. Announced an event "Learning from Albany's Past" sponsored by the Albany Historical Society and Transition Albany on Sunday, September 19, 2-4 p.m., Memorial Park.

The Fire Chief announced that James Boito has been promoted to the rank of Lieutenant and would like to present him with his badge and introduce him to the Council and public.

The Fire Chief went over a list of accomplishments by Lt. Boito including several successful grants that he has written. Lt. Boito thanked the Chief for this opportunity.

The City Administrator announced the following: 1) Update on the status of the UC Village Project noting that the EIR is near completion and that a work session will be held with the Planning & Zoning Commission. 2) The Passport Program, which was started by the City Clerk is doing very well and that on July 12th, the day before the fees were increased, 82 people applied for a passport netting the City over \$2,000. The City Manager expressed appreciation to the City Clerk, the Secretary to the City Manager, the Human Resource Manager and Ken, who volunteers on Monday nights, for doing a great job. 3) Dinner with Albany on September 25, 5:30 and announced that people can reserve a table.

The City Council made the following announcements: 1) Catherine's Walk has been completed and noted what a great place for people to walk. 2) Noted that the City is getting worldwide attention on the new smoke detector Ordinance. 3) Solano Stroll, September 12th and Coastal Cleanup, September 18th. 4) The Mayor and Allan Maris attended a Berkeley/Albany Mental Health meeting and noted that Albany would be receiving approximately \$3,000 for a program in the Elementary Schools. 5) Judy Lieberman applied for a grant for care management services for the homeless living at the Waterfront. 6) Thanked Jeremy Allen and Gale from the YMCA for the great counseling services to the youth at Albany High School and McGregor.

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. Appeal of the P&Z Commission approval of Design Review, Conditional Use Permit and Front Yard Parking Exception for Second Story Home Addition at 913 Carmel Avenue.

(File #450-50)

Mayor Wile recused herself, as she lives within the project being discussed and stated that Vice-Mayor Javandel would chair the meeting. Mayor Wile left the Council Chamber.

The Planning Manager reported the subject of the appeal is a 4,400 sq.ft. lot with a 1,548 sq.ft single-family home. The applicant is requesting approval to allow a 632 sq.ft. second story addition to the rear of the home. The addition will feature a contemporary architectural style with shed roof. The maximum height of the home will increase from approximately 17 feet in height to approximately 23 feet. One parking space will be provided in the existing garage and a front yard parking exception is required to accommodate the required second off-street parking space.

The Planning & Zoning Commission approved the project on June 8, 2010 on a 3-0 vote and noted: 1) The City does not have privacy or view ordinances. 2) The project is well within the site regulation envelope. 3) The project includes quality details and preserves the backyard for open space. 4) A condition was approved to require obscure glass on windows to address privacy concerns.

On June 22, 2010, an appeal was filed with the City Clerk. In summary the appellants believe there are major impacts to the neighbors to the rear of the property. In addition, the appeal states that neighbors did not have an opportunity for input into the design prior to the application being filed with the City. On August 23, the applicant arranged for an informal meeting with the appellants to discuss areas of concern. A number of issues were raised, but the conclusion of the meeting was that there does not appear to be a straightforward basis for a compromise solution.

Vice-Mayor Javandel opened the public hearing and the following people spoke: Heidi Lopez, applicant; Annie Tilt, architect; Phillip Moss, Albany resident; Leo Panian, P&Z Commissioner; neighbor living on Carmel; Doug ?, Albany resident; David Knowles, Albany resident; Martha Madrid, Albany resident; neighbor living on Santa Fe; Karen Moss, Albany resident; Lynn Meris, Albany resident; Ian McCloud, architect; Dan Johnson, Albany resident;

A summary of the comments is as follows: It was pointed out that the project suits the applicant's needs and is within the boundaries of the law and those concessions have been made to make it easier on the neighborhood. A slide presentation by the architect, which showed the proposed project and the neighborhood and asked that the Council affirm the decision of the Planning & Zoning Commission. Expressed concern that comments were made that the neighbors do not want this project and noted that was not correct. The appeal was made due to the impact to the neighborhood and believes the applicant should be more sensitive to the neighbors. It was stated that no concessions were made by the applicant and spoke about the shape of the roof. It was noted that the

6-1. Appeal of the P&Z Commission approval of Design Review, Conditional Use Permit and Front Yard Parking Exception for Second Story Home Addition at 913 Carmel Avenue.

project could have been bigger and spoke to the merits of the application noting that Albany has no view ordinance and recommended the Council affirm the decision of the Planning & Zoning Commission. Stated that the design is modest and is surprised to learn of the appeal. Noted that the design of the addition was not liked stating that it does not fit into the architecture of the neighborhood. Stated that any addition is going to ruffle the feathers of the neighbors. Noted that the addition makes another home very dark in the kitchen and spoke of privacy being invaded. Believe that blocking the view of some of the homes would have a financial impact on the owners when they decide to sell. Expressed disappointment that no concessions were made and that the addition does not fit into the neighborhood. Supports the application and believes it is a good thing to preserve as much open space as possible.

There being no one else wishing to speak Vice-Mayor Javandel closed the public hearing.

A summary of the Council comments is as follows: Expressed sympathy for the blocking of the views but is concerned about legal consequences, as all the laws have been followed. Would like to see more discussions between the applicant, the neighbors architect, Planning & Zoning and staff and spoke to language in the Code relating to views and Albany Hill. Believe that this is a modest remodel and that it meets all the City's codes and also understand the loss of the view. Do not believe that the community should design anyone's remodel application. Do not agree with a suggestion to build into the basement noting that is a very dark space and not practical. Noted that compromise is the way to go but realize this doesn't always happen and will not make everyone happy.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to uphold the Planning & Zoning Commission decision with the findings. Asked staff to work with the neighbors regarding cosmetic changes.

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

NOES: Council Member Thomsen ABSENT: Mayor Wile

Motion carried and so ordered.

9:20 p.m. – Council recessed

9:25 p.m. – Council reconvened

Mayor Wile came back to the Council Chamber and took her place, as Mayor.

7. UNFINISHED BUSINESS

7-1. Ordinance No. 2010-02 & 2010-05

(File #570-20)

The Police Chief reported that the Ordinance language previously proposed by staff made a distinction between oversized vehicles and recreational vehicles. However, these changes did not effectively define which recreational vehicles would be subject to

7-1. Ordinance No. 2010-02 & 2010-05

either exemption or enforcement of the ordinance revisions. This led to confusion and left some ambiguity about the enforcement aspects of the proposal.

Rather than try to further refine the language, staff has opted to make a philosophical change in the Ordinance to address the original nature of the complaints received from members of the public. Therefore, for the proposed Ordinance to apply, the vehicle must first meet the definition of an oversized vehicle (length, height, width or weight) or, be a dolly or trailer not connected to a towing vehicle. If the vehicle is found to be either oversized or an unconnected dolly or trailer, then it may be in violation of the Ordinance, however, exceptions do apply.

The Ordinance only deals with oversized vehicles and then provides a recreational vehicle exception. If an Albany resident owns a recreational vehicle, the Ordinance only comes into play if the vehicle is first determined to be an oversized vehicle. Staff believes that by crafting an Ordinance that prohibits oversized vehicles, with exceptions for certain locally owned oversized recreational vehicles, instead of prohibiting all recreational vehicles, the likelihood of disparate impact on the homeless is reduced. Staff has also included an additional exception for specialty vehicles used in the transportation of the disabled. It was noted that the enforcement will be complaint driven.

The Police Chief gave a power point presentation with photos of the different size of vehicles allowed.

The following people spoke: Del Price, Albany resident; Ed Fields, Albany resident.

A summary of the comments is as follows: Supports the Ordinance and spoke about a truck that was constantly parked on Pierce Street. Expressed concern about the 72 hour parking and hopes that is only enforced by complaint. The Police Chief responded not necessarily, and that an officer can look at the vehicle and if it is parked over the 72 hours would make contact with the owner and the vehicle could be towed.

The City Attorney made the following changes to the Ordinance: Section 9-10.21 added the following: Except as provided herein, And renumbered the exemptions, as follows: Number 9 would become C. No Exception. Number 10 would become 9, Number 11 would become 10. The sentence The Chief of Police would become Number 11.

A summary of the Council comments is as follows: Noted that concerns were addressed and would be able to vote for the Ordinance before Council. Asked that the moratorium go back to the original 3 years (not 5 years as in Ordinance). Disagreed and believe that 5 years is good for the moratorium. Suggested that the power point presentation be put onto the web as an educational tool.

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

Council Member Javandel introduced Ordinance No. 2010-0t5 – An Ordinance of the Albany City Council Adding Municipal Code Section 9-1.1 to Change the Definition

7-1. Ordinance No. 2010-02 & 2010-05

of Annual Holidays Relative to Traffic and Parking Enforcement, and Adds Definitions for Oversized and Recreational Vehicles. Second Reading.

MOTION:

After reading the title of Ordinance No. 2010-02 & 2010-05, waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Atkinson to approve Ordinance No. 2010-02 & 2010-05 with the changes noted by the City Attorney.

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

NOES: None ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Ordinance No. 2010-08 – Business License Taxes
(File #100-95)

The City Treasure reported that currently the Municipal Code Section 5-2.2 provides that the October CPI be used for calculating the adjustment of business license taxes each calendar year. This only gives the Finance Department approximately one month to process and send out the 2,400 business license renewals.

Ordinance 2010-08 changes the month to the June CPI figure, which would be available in mid-July and would give staff more time to process the renewal notices.

Council Member Javandel introduced for First Reading Ordinance No. 2010-08 – An Ordinance of the Albany City Council Modifying Albany Municipal Code Section 5-2.2 Changing the CPI Month for the Purposes of Calculating the Adjustment of Business License Taxes.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Lieber to approve Ordinance No. 2010- 08 for First Reading.

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

NOES: None ABSENT: None

Motion carried and so ordered.

8-2. RFQ for Consulting Services – Maintenance Center
(File #230-30)

Council Members Javandel & Thomsen recused themselves due to a conflict and left the Council Chamber.

The Assistant City Manager reported currently the Maintenance Center is located at 548 Cleveland Avenue and is leased. It is in the City’s best financial interest to own a facility rather than leasing.

The City has been considering several locations for a future Maintenance Center, including the parcel at 1150 Eighth Street in Berkeley. There are some additional options

8-2. RFQ for Consulting Services – Maintenance Center

available, each of which comes with a different set of opportunities and challenges, financially and in terms of design, development and construction. Real estate negotiations are on-going at this point.

Mayor Wile if anyone would like to speak and no one came forward.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to authorize staff to issue a Request for Qualifications (RFQ) for Consulting services for design and development of a City Maintenance Center.

AYES: Council Members Atkinson, Lieber & Mayor Wile

NOES: None

ABSENT: Council Members Javandel & Thomsen

Motion carried and so ordered.

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

The following announcements were made: 1) Albany Streets, Oct. 9th, 11 a.m. – 2 p.m. Dartmouth, between Masonic and San Pablo Avenue. 2) Adjourn the meeting in memory of Ted Valli, long-time Albany resident.

10. ADJOURNMENT

10:15 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting with a moment of silence in memory of Ted Valli.

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

Joanne Wile
Mayor

Attest:

Jacqueline L. Bucholz, CMC
City Clerk