

Approved: October 4, 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, SEPTEMBER 20, 2010

7:00 p.m.

CLOSED SESSION - CANCELLED

Call to order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

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

7:30 p.m.

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and City Treasurer, Kim Denton, 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; Ann Chaney, Community Development Director; Nicole Almaguer,

Environmental Resources Associate; Kim Denton, City Treasurer; Marc McGinn, Fire Chief; Mike McQuiston, Police Chief; Isabelle Leduc, Recreation Supervisor.

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

Mayor Wile announced that the Closed Session was cancelled.

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, September 7, 2010.

Staff recommendation: Approve

- 4-2.**
- a. Ratification of City of Albany net payroll in the amount of \$192,897.78; taxes, benefits & withholdings in the amount of \$243,913.15. Total payroll in the amount of \$436,810.93. Payroll period: 08/27/10.
 - b. Ratification of City of Albany net payroll in the amount of \$198,551.37; taxes, benefits & withholdings in the amount of \$151,402.53. Total payroll in the amount of \$349,953.90. Payroll period: 09/10/10.
 - c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$49,938.21; taxes, benefits & withholdings in the amount of \$55,803.03. Total payroll in the amount of \$105,741.24. Payroll period: 08/27/10.
 - d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$51,390.49; taxes, benefits & withholdings in the amount of \$40,415.67. Total payroll in the amount of \$91, 806.16. Payroll period: 09/10/10.

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of \$46,259.95. Period: 09/01/10. \$1,395,105.66. Period: 09/03/10.
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** Resolution No. 2010-46 – A Resolution of the Albany City Council Authorizing the Filing of an Application for Surface Transportation Program (STP) Funding for the Pierce Street Pavement Rehabilitation Project.
(File #820-20)

4. CONSENT CALENDAR

Staff recommendation: Approve Resolution No. 2010-46. By filing this application, the City will be committing the necessary non-federal match, and stating assurance to complete the project.

- 4-5.** Resolution No. 2010-48 – A Resolution of the Albany City Council in Opposition to Proposition 23.
(File #660-40)

Staff recommendation: Approve.

- 4-6.** 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.
(File #100-95)

Staff recommendation: Approve for second reading – pass-to-print, waiving reading of entire Ordinance.

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

4-4. Resolution No. 2010-46

Council Member Thomsen stated that she would like this item voted on separately, as she lives on Pierce Street and has a conflict of interest. Council Member Javandel noted that she didn't have to recuse herself because of the nature of the item but Council Member Thomsen stated that she would feel more comfortable.

MOTION:

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

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

NOES: None

ABSENT: None

Motion carried and so ordered

Council Member Lieber presented Resolution No. 2010-46 – A Resolution of the Albany City Council Authorizing the Filing of an Application for Surface Transportation Program (STP) Funding for the Pierce Street Pavement Rehabilitation Project.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Javandel to approve Resolution No. 2010-46.

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.

Fire Chief spoke on the recent gas explosion in San Bruno and noted that Albany sent a strike team to the explosion. Also noted that PG&E is non committal at this time but would be releasing a list of where the gas mains are located.

Joan Larson, Albany Historical Society; Jean Safir, League of Women Voters (LWV); Allan Maris, Albany resident. A summary of the comments is as follows: Spoke about the StoryTime sponsored by the Historical Society and Transitional Albany and thanked everyone that participated. Announced the Council Candidate Forum sponsored by the LWV on October 7, 7:30 – 9 p.m., at the Council Chamber, 1000 San Pablo Avenue, Albany. Spoke about Campaign Financing Reform and Candidate spending and the fact that Albany does not have Campaign Financing on the books.

The following announcements were made by staff and Council: 1) Smoke Testing on Albany Hill beginning tomorrow. 2) October 18th is the deadline to register to vote for the November election. 3) Global Action Day – carbon footprint, is scheduled for 10/10/10. 4) September 25th is Cleanup Day. 5) A press conference was held involving Mayor Wile to discuss AB234, which has to do with prebooming for oil tankers, which Albany supports.

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. Resolution No. 2010-47 – Richardson Redwood Grove

Council Member Lieber stated that he has bought this Resolution to the City Council for action and officially opposing the Highway 101 Project that endangers the Richardson Redwood Grove.

Council Member Lieber noted that it is time for everyone to step forward to preserve this area. The project was approved for funding on June 30 by the California Transportation Commission for the widening and straightening of the highway project through Richardson Redwood Grove State Park. This project threatens to destroy one of the few remaining stands of irreplaceable ancient redwoods in a State Park. The argument used for this project is based in the “need” to allow oversize trucks to travel up Highway 101, from LA and the Bay Area to Humboldt and Del Norte Counties.

Council Member Lieber noted that some trees that are not old growth would be cut down, but most importantly, the root systems of at least 72 ancient redwoods would be carved up and moved out of the way, compromising the survival of those trees directly.

The following people spoke in favor of Resolution No. 2010-47 and urged the Council to pass it: Bob; Nicole; Karen Pickett; Bob Stern; Jack; Leslie Novel; Deanna; Allan Maris.

6-1. Resolution No. 2010-47 – Richardson Redwood Grove

A summary of the Council comments is as follows: Everyone should write to the Governor and their representatives. Agree with what has been said but believe the Council should not take this action but individuals should contact the Governor and representatives. Stated that although agree with everything that has been said tonight has not had enough time to research the entire project and could not vote for it until he knows all the details. Council Members Thomsen & Javandel noted that they would be abstaining on the vote. Thanked Council Member Lieber for bringing this to the Council’s attention.

Council Member Lieber presented Resolution No. 2010-47 – A Resolution of the Albany City Council in Opposition to the Highway 101 Project that Endangers the Richardson Redwood Grove.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Mayor Wile and seconded by Council Member Lieber to approve Resolution No. 2010-47.

ON THE QUESTION:

Council Member Lieber requested that the Resolution be sent to the cities in Alameda County.

AYES: Council Members Atkinson, Lieber & Mayor Wile

NOES: None

ABSENT: None

ABSTAIN: Council Members Javandel & Wile

Motion carried and so ordered.

6-2. Proclamation – California Arts Day

Mayor Wile asked the Recreation Supervisor to read the Proclamation, as she is the staff liaison to the Arts Committee. The Proclamation was read in its entirety and the Arts Committee members were introduced to the Council and public.

Mayor Wile presented the Proclamation to the Chair of the Arts Committee.

7. UNFINISHED BUSINESS

7-1. Public Art Master Plan

(File #900-30)

The Recreation Supervisor presented the staff report noting that in October, 2007, the City adopted the Art in Public Places Ordinance. The purpose of the Ordinance is to promote the acquisition, construction, installation, restoration, and maintenance of public art pieces in Albany.

The key source of funding established by the Ordinance is a 1.75% for-art fee on new developments over \$300,000. The fee requirement can be satisfied with inclusion of public art in each project directly or paid into a Public Art Fund to be used in focused areas throughout the City.

7-1. Public Art Master Plan

In October, 2009, Huss/Laczko Consultants were hired to draft the Public Arts Master with the Arts Committee. The Consultants conducted a comprehensive physical survey of the City to identify key sites for the display of public art.

To gather input, the Consultants held two workshops with the Arts Committee, informal interviews were held with stakeholders identified by the Arts Committee, a presentation board was displayed at the Community Center. The Master Plan was presented to the Planning & Zoning Commission and the Parks & Recreation Commission. The final draft of the Public Arts Master Plan was presented to the Arts Committee on July 12, 2010 for approval.

The Public Arts Master Plan creates a “roadmap” with planned uses for key sites and establishes priorities that reflect the community’s particularities. The core of the plan is a survey of sites by geographic location where opportunities for public art could occur. For each site, criteria has been established such as site ownership, funding source, time and media such as sculpture, flatwork, tile, mural, glass and media art.

The Consultants, Steve Huss and Brian Laczko were introduced to the council. The following people spoke: Ray Anderson, Albany resident and a summary of the comment is as follows: Expressed concern about the funding for this project and believes that the 1.75% is very high.

A summary of the Council comments is as follows: Disagreed with the previous speaker and noted this is the adoption of the Plan and supports this living document. Appreciate the matrix that was prepared and how the City was divided up with rankings. Support the Plan and believe it could be used to make people feel welcome in the City. Thanked the Community and the Consultants for a very well organized Plan. Liked the process that was used especially the display at the Community Center and is looking forward to seeing the projects completed.

Council Member Javandel presented Resolution No. 2010-38 – A Resolution of the Albany City Council Adopting the City of Albany Public Arts Master Plan.

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. 2010-38.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-2. Council Health Benefits

(File #720-40)

The City Manager reported that Council asked staff to bring back a survey of benefits received by Council Members in other cities. This survey was completed and included all aspects of compensation to Council Members not just health benefits.

The question before Council is whether they cap the benefit at the Kaiser family rate, as is done for all City employees or continue with no cap.

7-2. Council Health Benefits

The following people spoke: Caryl O'Keefe, Albany resident; Brian Parsley, Albany resident.

A summary of the comments is as follows: Expressed concern that the Council have better benefits than the employees and believes there should be parity for Council and would recommend changing the policy retroactively. Agreed that Council should not have better benefits than the employees and that they should be capped at the Kaiser rate and would like to see the survey broken down.

A summary of Council comments is as follows: The City Council are not employees but elected representatives and do not support any change to the Council benefits at this time. Believe there should be parity and the health benefit should be capped just as the employees have a cap and support the Kaiser cap for Council. It was noted that one Council Member is already paying the difference. Council should do the correct thing and have parity with its employees and agree with the Social & Economic Justice Commission recommendation. Do not agree with the recommendation and is not in favor of changing at this time. Appreciate the work done by the Social & Economic Justice Commission and agree that no change should be made at this time.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to support a cap on Council health benefits the same as the employees, which is capped at the Kaiser family rate.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson that there be no change at this time.

It was noted that the last motion is voted on first.

AYES: Council Members Atkinson, Lieber & Mayor Wile

NOES: Council Members Javandel & Thomsen ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Storm Water Permit

(File #1030-10)

In 1991, Alameda County, its 14 cities and two special districts, created a Joint Powers Agreement called the Alameda Countywide Clean Water Program (ACCWP) to comply with mandated National Pollutant Discharge Elimination System (NPDES) permit requirements issued by the San Francisco Regional Water Quality Control Board (SFRWQCB).

The most recent NPDES permit was adopted in 2009 and imposes several new and costly mandates on the permittees. The ACCWP legal counsel was asked to conduct analysis to determine whether the permittees to the Municipal Regional Permit (MRP) may be eligible to recover costs associated with implementing new requirements imposed

8-1. Storm Water Permit

by the MRP under the State's "unfunded mandates" law. Legal counsel has determined that it is beneficial to pursue filing of a joint test claim.

No one from the public spoke.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Javandel to authorize staff to: 1) Prepare a test claim to the California Commission on State Mandates for particular costs associated with the City's Municipal Regional Storm Water Permit. 2) Work in coordination with the other agencies within Alameda Countywide Clean Water Program regarding the test claim filing and review process. 3) Execute an engagement letter and authorization to Meyers Nave to serve as the lead counsel to file the test claims on behalf of the agencies within the Alameda Countywide Clean Water Program.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-3. Operating Agreement with East Bay Regional Communications Systems Authority

(File #600-40)

The City Manager reported that the East Bay Regional Communications Systems Authority (EBRCSA) was created as a Joint Powers Authority in 2007. The goal is to develop and operate a state of the art radio communications system that would provide regional interoperability.

The new system would replace a patchwork of systems currently in use in Contra Costa and Alameda counties. The estimated cost to complete the new system is \$69,952,910. EBRCSA has secured approximately \$39 million in funds from the Bay Area Super Urban Area Security Initiative, State Homeland Security and COPS grant programs.

To date, funds have been used to develop the system and purchase equipment. The West Contra Costa County Cell is now complete and will be available for use once the testing is complete. The East Alameda County Cell is 80% complete and expected to be operational by the end of the year. The full system is targeted to be up and available to all system users prior to January 1, 2013.

After careful review, the City has determined at this time it can operate with a total of 74 radios and based on this count, Albany's share is estimated at \$114,330. To finance the radio purchase it would cost \$15.65 per radio per month for 15 years for a total outlay of \$173,715 instead of \$114,330 up front. The monthly operating and maintenance charges are currently estimated at \$29.17 per radio or \$21,585 annually beginning in FY 2013-14.

No one from the public spoke. A summary of the Council comments is as follows: Agreed that it is important to have a communication system that links all emergency services. Supported the program and noted that San Mateo has a countywide system,

8-3. Operating Agreement with East Bay Regional Communications Systems Authority

which worked well in the recent gas explosion disaster. It was agreed that the costs should be paid up front.

Council Member Thomsen presented Resolution No. 2010-49 – A Resolution of the Albany City Council Approving a Project Operating Agreement with the East Bay Regional Communications System Authority (EBRCSA) and Authorizing the Execution and Implementation of Same.

MOTION:

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

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-3. Alternatives for Management of the Fire/Emergency Medical Services (EMS) Department

(File #520-10)

The City Manager reported that Fire Chief, Marc McGinn, has tendered his resignation but is working on a contract for services for a limited term. The term of the contract runs until mid-February, 2011 with an option to extend upon mutual agreement. The contract is for salary only at the approved Fire Chief level, without benefits, starting at 40 hours week with a reduction to 30 hours per week beginning mid-November.

The Fire Chief has served the City for than 32 years and during his tenure has overseen many advances in services to the community, most notably the expansion of the paramedic program and enhanced fire prevention efforts.

As noted in the 2009 Organizational Analysis the fire and emergency medical services have been experiencing an increasing amount of regulation, standards, training, technology and technical requirements. As a result, more and more fire agencies have or are looking to combine efforts to achieve economies of scale and is particularly prevalent among smaller agencies that wish to spread its management and other overhead costs across more than a few or less fire stations.

The City Manager stated that with the retirement of the current Chief it is an opportune time to explore alternatives for fire management services in the City. Alternatives include a shared chief, contracting for chief services and/or other regionalization options such as a joint powers authority.

The following people spoke: Allan Maris, Albany resident; Brian Parsley, Albany resident.

A summary of the comments is as follows: Cautioned the Council to take a long term look at this and noted that if changed the City may not get the same fast response time. Suggested that as well as looking at alternatives that the City should be looking for a Fire Chief.

A summary of the Council comments is as follows: Agreed that it is time to look at alternatives, however, definitely want to maintain the current response times and have

3. Alternatives for Management of the Fire/Emergency Medical Services (EMS) Department

EMS service in the City. Noted that it is definitely wise to look at alternatives, however, is not interested in changing the current operating structure. Need to wait and see how 8- the alternatives work out. It was suggested that the current personnel be included in the process.

The City Manager recapped that the City still wants to maintain its EMS service and is just looking at the management aspect of the Department.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to authorize staff to explore future alternatives for management of the Fire/EMS Department, included partnership(s) with other fire service agency/agencies.

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & 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 Council made the following announcements: 1) Vote No on Proposition 23. 2) Council Member Javandel attended the LCC annual conference, which had very informative sessions. 3) Sent thoughts for a speedy recovery to the jockey from Golden Gate Fields who had a very bad accident.

10. ADJOURNMENT

9:30 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