

Approved: November 1, 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, OCTOBER 18, 2010

6:45 p.m.

CLOSED SESSION

Call to order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

Del Price, Albany resident. A summary of the comments is as follows: Supported the City continuing negotiations with Caltrans for the purchase of the 4.5. acre of vacant land adjacent to Cleveland Avenue & Pierce Street. It was noted that negotiations have been going on for over a year and urged closure on this matter.

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

Council Members Javandel and Thomsen recused themselves from the first Closed Session item and did not attend.

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
Under Negotiations:	Terms and conditions of acquisition of property

Council Members Javandel and Thomsen went into closed session.

2. 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 Fire Chief McGinn 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; Jeff Bond, Planning Manager; Mike McQuiston, Chief of Police; John Geissberger, Lt, Police Department; Kim Denton, City Treasurer; Penelope Leach, Recreation & Community Services Director.

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

1. Mayor Wile noted that progress is being made with Caltrans for the Pierce Street Park, new Maintenance Center and bicycle/pedestrian trail.
2. The City Manager stated that Council gave staff direction on the negotiations with the APOA.

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, October 4, 2010.

Staff recommendation: Approve

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$198,957.07; taxes, benefits & withholdings in the amount of \$152,622.82. Total payroll in the amount of \$351,579.89 .Payroll period: 10/08/10.

4. CONSENT CALENDAR

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$54,057.53; taxes, benefits & withholdings in the amount of \$41,298.61. Total payroll in the amount of \$95,356.14. Payroll period: 10/08/10.

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of \$270,373.54 & \$17,990.49. Period: 10/01/10.

- 4-4.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of June 30, 2010, as required by Section 53646 of the California Government Code.
(File #300-10)

Staff recommendation: Information only.

- 4-5.** Resolution No. 2010-52 – A Resolution of the Albany City Council Re-Delegating Investment Authority to the City Treasurer and Adopting the Investment Policy for the City of Albany.
(File #320-40)

Staff recommendation: Approve.

- 4-6.** Letter regarding comments on California Invasive Species Advisory Committee (CISAC) Invasive Species Draft Strategic Framework.
(File #560-85)

Council Member Lieber recommendation: Authorize the Mayor to sign a letter opposing the recommendations made by the CISAC, which include a broad Programmatic Environmental Impact Report; the use of tax dollars to create “educational” programs that promote the notion of invasive species being a threat without addressing pesticide use; the document appears oblivious to the need to protect human health against the risk of pesticide exposure; the use of tax dollars for planning public relations and pesticide campaigns.

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar and Item 4-6 was removed for discussion. Council Member Thomsen asked that this item be removed from the Consent Calendar

MOTION:

Moved by Council Member Atkinson, seconded by Council Member Lieber to approve the Consent Calendar with the exception of Item 4-6.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

4. CONSENT CALENDAR

4-6. Letter regarding Invasive Species Draft Strategic Framework

Council Member Thomsen and Council Member Javandel both noted that they would be abstaining on the vote, as the entire document was not provided and feel uncomfortable voting on an issue that they haven't read.

Mayor Wile asked if anyone would like to speak on this item: Clay Larson, Albany resident; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Suggested that the members who feel comfortable signing the letter do so. Agreed that it is not appropriate to vote on an item if all the material has not been submitted and noted that the public also has not had the chance to read the entire document.

A summary of the Council comments is as follows: It was noted that there is a time deadline and the letter needs to be sent tomorrow and that Nan Wishner did the research on this item and is related to the Light Brown Apple Moth issue.

MOTION:

Moved by Mayor Wile that a letter be sent individually by the Council Members.

Motion died for lack of a second.

MOTION:

Moved by Council Member Atkinson, seconded by Council Member Lieber to authorize the Mayor to sign a letter opposing the recommendations made by the CISAC.

AYES: Council Members Atkinson, Lieber & Mayor Wile

NOES: None

ABSENT: None

ABSTAIN: Council Members Javandel & Thomsen

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

For persons desiring to address the City Council on an item that is not on the agenda please note that City policy limits each speaker to three (3) minutes. The Brown Act limits the Council's ability to take and/or discuss items that are not on the agenda; therefore, such items are normally referred to staff for comment or to a future agenda.

Mayor Wile opened the Good of the City/Public Forum/Announcements and asked if anyone would like to comment.

The following announcements were made: 1) The October 9th Fire Department Pancake Breakfast was a huge success. 2) A meeting was held between the City and PG&E regarding gas lines running through Albany. There is a 30 inch high pressure line that runs down Jackson, Castro Clay & Adams. Fire department staff will accompany PG&E on its next inspection of these lines.

The Planning Manager gave an update on the following: 1) Planning & Zoning held a hearing on an application for a medical marijuana location that was denied by a 3-0 vote. The appeal deadline is Tuesday, October 26th. 2) P&Z will have a study session on the University Village Project, tentatively in early November. 3) Safeway Project: Staff is working with an architectural firm and is meeting with the applicant at the end of the week.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

The City Manager gave an update on the following: 1) Albany Waterfront – the Bulb and noted that there would be 4 days of vegetation removal and that the City is working with Berkeley Food and Shelter on a grant for case workers to assist on the matter of persons camping on the Bulb. 2) The City is working with the website vendor regarding the search engine component. 3) Saturday, October 23, a work session is being held at City Hall on the bicycle/pedestrian plan, which is an interactive planning session.

Council made the following announcements: 1) Meet with the Management Team of Waste Management of Alameda County discussing concerns regarding natural gas as fuel for the garbage trucks, trash cans being put back at the curb and not left in the street and went on a tour of the landfill. 2) Thanked staff for the updates. 3) Noted that Bart Grossman, Charter Review Committee member, is in the hospital. 4) Attended the Police Youth Academy graduation that included the first female participant. 5) Meet with the Manager of Berkeley Labs and discussed various partnerships including a forum in November. 6) Attended the Fire Department Pancake Breakfast and received a lot of good information on the photoelectric alarms.

The following people spoke: Francesco Papalia, Albany resident; Clay Larson, Albany resident; Allan Maris, Albany resident; Ray Anderson, Albany resident; Brian Parsley, Albany resident; Jackie Hermes Fletcher, Albany resident.

A summary of the comments is as follows: Announced a Candidate Forum at Albany High School, Little Theatre at 7 p.m. Expressed concern about the health benefit survey for Council Members in that it was not accurate in reporting that Council in some cities receive better benefits than employees; however, the survey neglected to state that in some cities one of the employee groups received the same benefits. Announced that Transitional Albany would be putting door hangers on residences regarding a survey on the Climate Action Plan and encouraged people to participate. Spoke in favor of a Traffic Officer position be reinstated and asked that this item be put on a future agenda. Expressed concern about the Waterfront Bulb area and the people camping there and noted that while the City is trying to help the people it is also enabling them. It was also noted that drugs and alcohol is being used at the Bulb. Announced that the Ocean View Organic Garden Group is sponsoring a Harvest Festival for a garden fundraiser at Ocean View on October 24th, 11-3 p.m. and encouraged everyone to attend.

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

6. PRESENTATION/PUBLIC HEARING

7. UNFINISHED BUSINESS

8. NEW BUSINESS

8-1. Jewel's Terrace Park Tot Lot Renovations

(File #920-60)

The Recreation & Community Services (R&CS) Director reported that annually the City inspects the play equipment at each of the City parks. The Tot Lot at Jewel's Terrace Park requires more repairs than any of the other City play structures, as it is one of the oldest equipment in the City's parks. Additionally, there are some structures that are out of compliance by today's standards and although safe for use it does need replacing.

The design submitted to Council is larger than the current structure and offers more play elements including a separate Merry Musical station with a variety of drums. However, residents living in close proximity of the park have sent letters and e-mails opposing this due to the noise aspect.

The R&CS Director noted that staff is recommending an alternative to the design submitted and that would be to change to a rubber surface rather than the sand and choosing a different element to replace the Merry Musical station. Staff presented two alternatives 1) activity panel and 2) Gizmo panel.

Mayor Wile asked if anyone would like to comment and the following people spoke: John Kindle, Albany resident; Melinda Lesser, Albany resident; Grace Hendrickson, Albany resident; Brian Parsley, Albany resident; Michael Erant, Albany resident; David Glasser, Albany resident; Peggy McQuaid, Albany resident.

A summary of the comments is as follows: Suggested that instead of not using the Merry Musical station that the City looks at implementing a curfew for the park use and suggested that the rubber surface be extended to the swing area. Expressed concern about the noise in the park during the evening noting that teenagers use that park at night and were worried about the use of the musical equipment. Supported the purchase of the Gizmo panel, as a replacement for the Merry Musical station and supported equipment that is approved for ADA use. It was noted that the wood chips used for the renovation of the Ocean View park did not work for wheel chair use. Mobility issues should also be in place for the grandparents and parents that use the park.

A summary of the Council comments is as follows: Supported the Gizmo panel on a rubberized surface; asked how much it would cost to put the rubber surface all over and staff responded it could be done but there are no funds left in the Measure F fund. Supported the Gizmo panel and the activity panel, as an alternative to the Merry Musical station; agreed that extending the rubber surface would be nice but also noted that sand is a major element for children using a park.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to approve staff's recommendation with the alternative to replace the Merry Musical station with the Gizmo panel and that it be put on a rubber surface.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-2. Amending the Master Fee Schedule

(File #100-90)

The Police Chief reported that Council adopted Ordinance No. 2010-02, which amends the Code to prohibit oversized vehicle parking on any public street or highway with certain exemptions, including a grace period for oversized recreational vehicles currently owned by Albany residents. Council directed staff to prepare a method that an exempt status could be obtained.

Staff has performed an analysis of the process and believes approximately one and one-half (1 ½) hours of administrative staff time would be required to perform the service. The current Master Fee Schedule sets the administrative staff fee at \$64.75 per hour and based upon this figure, staff is recommending a one-time fee of \$100 be charged to any resident seeking exemption under the ordinance.

This process would be set up unlike traditional parking permit systems, which typically require bumper sticker permits, annual renewal fees, etc. Staff is proposing a streamlined, efficient, digital method for allowing exceptions and is made feasible due to the anticipated small number of participants. All exceptions would expire on June 30, 2015.

Mayor Wile asked if anyone would like to comment and the following people spoke: John Kindle, Albany resident; Alan Maris, Albany resident.

A summary of the comments is as follows: Thanked Council and noted that he would have been willing to pay more than the \$100 being requested. A question was asked what happens after the five (5) years. It was noted that after the five (5) year period these vehicles would no longer be allowed to park on the street.

Council Member Javandel presented Resolution No. 2010-56 – A Resolution of the Albany City Council Amending the Master Fee Schedule to Include a \$100 Processing Fee for the Permitting of Oversized Recreational Vehicles Owned by Albany Residents Before July 1, 2010.

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 adopt Resolution No. 2010-56.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-3. Death Penalty Alternatives

(File #585-15)

The Assistant City Manager reported that the Social & Economic Justice (S&EJ) Commission on a 4-0 vote moved to consider a resolution, as provided by the Alameda County Coalition for Alternatives to the Death Penalty, and to recommend approval of the resolution.

8-3. Death Penalty Alternatives

The resolution specifically requests that the District Attorney in Alameda County no longer pursue the death penalty and direct those resources to investing in solving homicides, violence prevention and effective public safety programs.

Mayor Wile asked if anyone would like to comment and the following people spoke: Representative, Alameda County Coalition for Alternatives to the Death Penalty; Judy Kerr, S&EJ Commission; John Kindle, Albany resident.

A summary of the comments is as follows: Urged the Council to pass the resolution and support the request. It was noted that the Council is not being asked to take a moral stand on this issue but to recognize that the system is not serving the people of this County. It was stated that this is not a topic of discussion for the Council to take up and noted that the Council should be speaking for all City residents on this matter.

A summary of the Council comments is as follows: It was asked whether the Commission had considered other views than the Coalitions and staff responded that was all that was heard. Expressed support and noted that he did not support state murder. It was noted that the general objectives agreed with but asked whether the funding for the death penalty would go to the other side. It was noted that this is not a moral issue and supports the position. Disagreed with some of the Whereas Clauses in the proposed resolution and asked that reference to other cities and states not be included and also proposed other wording to be deleted. It was suggested that the resolution be sent back to the Commission for rewording. Disagreed that it should be sent back and noted the changes were minor and the resolution should be approved with some of the language deleted.

Council Member Lieber presented Resolution No. 2010-53 – A Resolution of the Albany City Council Requesting that the Alameda County District Attorney Pursue Alternatives to Death Penalty Sentences in Alameda County.

MOTION:

After reading the title, and waiving reading of the entire Resolution, it was moved by Council Member Lieber and seconded by Council Member Atkinson to approve the Resolution with the deletion of line 20 – reference to San Francisco.

SUBSTITUTE MOTION:

To ask the S&EJ Commission, after hearing the opinions tonight, to give suggestions on a Resolution from the City of Albany.

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

10. ADJOURNMENT

9: 00 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 Rosalie Cassel, Albany resident.

10. ADJOURNMENT

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

Joanne Wile
Mayor

Attest:

Jacqueline L. Bucholz, CMC
City Clerk