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**MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, MARCH 21, 2011**

6:45 p.m.

CLOSED 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 Closed Session to discuss the following: Labor Negotiations pursuant to Government Code Section 59457.6

Agency Negotiator:	City Manager & Glenn Berkheimer, IEDA
Employee Organization:	Albany Peace Officers' Association; Albany Fire Fighters' Association; Local 1021, SEIU; Albany Municipal Services JPA & Safety Management.

7:30 p.m.

Mayor Javandel 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, Lieber, Thomsen, Wile & Mayor Javandel
Absent: None

STAFF PRESENT

Beth Pollard, City Manager; Robert Zweben, City Attorney; Jacqueline L. Bucholz, City Clerk; Penelope Leach, Recreation & Community Services; Marc McGinn, Fire Chief; Mike McQuiston, Police Chief; Brian Crudo, Assistant Fire Chief; John Geissberger, Lieutenant Police Department. Jeff Bond, Planning Manager.

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

Mayor Javandel reported that they no action was taken.

4. CONSENT CALENDAR

4-1. Minutes, March 7, 2011.

Staff recommendation: Approve

4-2. a. Ratification of City of Albany net payroll in the amount of \$192,990.25; taxes, benefits & withholdings in the amount of \$163,132.55. Total payroll in the amount of \$356,122.80. Payroll period: 03/11/11.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$52,016.66; taxes, benefits & withholdings in the amount of \$39,595.77. Total payroll in the amount of \$91,612.43. Payroll period: 03/11/11.

Staff recommendation: Ratify.

4-3. Ordinance No. 2011-01 – An Ordinance of the Albany City Council to Amend the Albany Municipal Code to Allow Council via Resolution to Set Hours of Operation for Parks not Currently Listed in the Municipal Code.

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

(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.)

Mayor Javandel asked if anyone would like to remove an item from the Consent Calendar for discussion.

MOTION:

Moved by Council Member Wile, seconded by Council Member Thomsen to approve the Consent Calendar, as submitted.

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

NOES: None

ABSENT: None

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 Javandel opened the Good of the City/Public Forum/Announcements and asked if anyone would like to speak.

The following people spoke: Coco Mulder, U.C. Village, Ken McCroskey's daughter, Albany resident; Albany; Fire Chief and Assistant Fire Chief.

A summary of the comments is as follows: Announced that the Village would be having a fund raiser on April 3, 2011, for Japanese relief and that a yard sale, silent auction and bake sale would be offered. Donations would be given to the American Red Cross. It was noted that one of the elementary schools would be making 100 cranes, which in Japanese culture means good will.

A power point presentation was made by the Fire & Assistant Fire Chief outlining what occurred last Saturday during the fire on Solano that had one casualty. The Fire Chief recommended that the City adopt an ordinance to make it mandatory for apartments to have self-closing doors.

The City Manager gave a status report on the ACAP situation. ACAP is a County board that Albany belongs to and over the past few weeks a personnel situation occurred, which will have financial implications to the City. The City Managers and City Attorneys for member cities met to discuss the implications. It was decided that the former City Manager of Dublin would be hired to review this situation and a future agenda item will come before Council based on the analysis. Council Member Lieber, Albany's representative, stated that the Board will convene on Wednesday regarding authorization of expenditure of funds.

A summary of Council comments is as follows: It was noted that some residents do not realize that the Council sit on many regional boards and suggested that each Council Member give a 5 minute recap of what they are doing on the various boards. It was announced that Flowerland in Albany was recognized in Sunset Magazine on page 28. Spoke about the tragedy in Japan and the threat of nuclear fallout and concern was expressed. It was noted that the Manager of the apartments that had the fire was very appreciative of the goodwill from the community.

6. PRESENTATION/PUBLIC HEARING

6-1. Proclamation to Retired Crossing Guard

The Police Chief gave a brief history of Beatrice Besette who has worked as an Albany crossing guard since 1973 and noted her contribution and dedication to the community and the children of Albany.

Lieutenant Geissberger presented Ms. Besette with a bouquet of flowers, a plaque and a gift card from the Albany Police Officer's Association.

Mayor Javandel read the proclamation and presented it to Beatrice Besette noting that she helped him cross the streets when he attended elementary school.

7. UNFINISHED BUSINESS

7-1. Transition from an Elected to an Appointed City Attorney.

The City Manager stated that staff and the Council subcommittee have met regarding the transition from elected to appointed city attorney and have drafted the following recommended criteria for qualifications and general requirements: 1) Has at least five years of California Municipal law experience, as well as current knowledge of public agency law. 2) Is able to determine when specialized legal counsel is needed, identify and secure services of special outside counsel most qualified and appropriate for the matter at hand, and oversee their services to ensure time/costs are controlled and on point. 3) Has a style conducive to providing City Council with a range of options along with advice on pros/cons, while also prepared to provide recommendations. 4) Is open and able to craft innovative legal approaches to local issues. 5) Is willing to express a contrary view to City staff and Council but support implementation once decisions are made. 6) Agrees to a payment structure as primarily flat fee/salary rather than by the hour. 7) Is accessible to advise appointed and elected officials of the City. 8) Would be available to members of the public for brief consultation or referrals on City regulations or other City-related legal matters.

Mayor Javandel asked if anyone would like to speak on this issue: The following person spoke: Catherine Engberg, Shute, Mihaly & Weinberg.

A summary of the comments is as follows: Spoke in favor of contracting legal services with a law firm and noted that the fees can be negotiated to work within the parameters of what the City requires.

A summary of the Council comments is as follows: Thanked the subcommittee, which consists of Council Members Lieber & Thomsen, and staff for the report.

The City Manager noted that the next step is for the subcommittee to work with staff on preparing the RFP.

No Council action needed.

7-2. Shared Fire Chief Services with the City of Piedmont

The City Manager noted that with the retirement of the Fire Chief staff and Council have had discussion on how to proceed with a replacement. On March 7, 2011, the Council introduced the concept of sharing a Fire Chief with the City of Piedmont on a trial basis.

The proposal is for one-full time Chief to be the Chief Administrator of two fire departments, on a trial basis. The shared Chief will consider the needs of the both agencies, as he manages the two departments, think strategically about efficiencies in operations, purchasing, training, etc, as well as innovations to advance service delivery, and represent both cities at county and regional meetings.

The proposal is to enter into a contract for a trial period of 12 months, with a review after 9 months and a 60-day termination clause for either party to withdraw if there is dissatisfaction that cannot be rectified.

The total annual cost, reflecting current benefit rates, for a shared chief is \$266,751 or \$133,376 per City. The estimated cost savings to Albany is approximately \$85,000 for the next 12 months.

The City Manager introduced Chief Tubbs who spoke to the Council thanking them for this opportunity noting that it is a unique and challenging idea. Chief Tubbs

noted that he has big footsteps to fill and thanked Chief McGinn for his dedicated work and stated that he would work to make this a seamless transition.

Mayor Javandel asked if anyone would like to speak and the following person spoke: Del Price, Albany resident.

A summary of the comments is as follows: Applauded the Council for this innovative approach and urged the Council to think about the staff in the Fire Department and provide them with the tools to do the extra work that will be required.

A summary of the Council comments is as follows: Welcomed Chief Tubbs and stated that they are looking forward to him working for the City of Albany. It was noted that during the fire last Saturday that Piedmont Fire helped and looked forward to more shared services.

Council Member Wile presented Resolution No. 2011-16 – A Resolution of the Albany City Council Authorizing Execution of an Agreement with the City of Piedmont for Fire Chief Services.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Wile and seconded by Council Member Atkinson to approve Resolution No. 2011-16.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-3. Purchase of the Pierce Street Property

Council Member Thomsen and Mayor Javandel both recused themselves due to living within 500' of the property and left the Council Chamber. Vice-Mayor Atkinson took over chairing the meeting.

The City Manager reported that on January 17, 2011, the Council adopted a Resolution authorizing the purchase agreement between the City and Caltrans for the Pierce Street property.

The acquisition of the now vacant Pierce Street parcel is critical to moving the City's maintenance center off of Cleveland Avenue to allow for commercial development to occur and to relieve the City of ongoing lease payments for the current facility.

The use of portions of the parcel for a neighborhood park and trail will provide needed open space and recreational facilities for a very densely populated portion of the City. The bicycle trail will ultimately connect the Ohlone Greenway/BART station with the Bay Trail.

Purchase of the parcel will sue a redevelopment tax increment and other non-General Fund funding sources. Acquisition and development of a City-owned Maintenance Center will relieve the City of the obligation of lease payments, which currently are close to \$200,000 a year. The City will seek grant funds for design and development of the trails.

Vice-Mayor Atkinson asked if anyone would like to speak and the following people spoke: Del Price, Albany resident; Jackie Armstrong, Albany resident.

A summary of the comments is as follows: Thanked Council and staff for their hard work and noted it has been a very long process and expressed support for the passage of the Resolution.

Council Member Lieber presented Resolution No. 2011-17 – A Resolution of the Albany City Council Authorizing the Purchase of the Pierce Street Property Site from Caltrans and Identifying the Public Uses of the Property.

MOTION:

After reading the title, and waiving reading of the entire Resolution, it was moved by Council Member Lieber and seconded by Council Member Wile to approve Resolution No. 2011-17.

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

NOES: None

ABSENT: Council Member Thomsen & Mayor Javandel (Recused)

Motion carried and so ordered.

Council Member Thomsen and Mayor Javandel came back into the Council Chamber.

8. NEW BUSINESS

8-1. Community Farmer’s Market

The Planning Manager reported that the Council approved Climate Action Plan that was adopted in April, 2010 calls for the establishment of an Albany Farmer’s Market to strengthen the regional food system and serve as a community resource.

Staff sent out a RFP and selected the Ecology Center, a nonprofit, to locate and develop a farmer’s market customized to Albany. The proposed site selected is the 1000 block of Solano Avenue, west of San Pablo Avenue. The market would be seasonal, held between May-October on Wednesdays from 3 p.m. – 7 p.m.

Mayor Javandel asked if anyone would like to speak and no one came forward. A summary of the Council comments is as follows: Expressed concern about the increased traffic and suggested that appropriate signage be placed so that drivers have a choice of where to drive. Believe that this will be a nice addition for the community. It was suggested that the signage regarding street closure should be eastbound Jackson/Solano, northbound Buchanan/Solano, Adams/Buchanan and southbound Washington/Solano.

MOTION:

Moved by Council Member Atkinson, seconded by Council Member Wile to authorize 1) Closure of the 1000 block of Solano (1025-1060 Solano Avenue) from May-October, 2011 each Wednesday from 2 p.m. – 8 p.m. for the Albany Community Farmer’s Market. 2) Waiver of fees for the processing of the application for a conditional use permit.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-2. 100% Workplace Smoke Free

Mayor Javandel commented that before Council is a Resolution supporting 100% smoke-free indoor workplaces in California and noted that this is in line with past policies.

Mayor Javandel asked if anyone would like to speak and no one came forward. A summary of the City Council comments is as follows: Definitely support the Resolution and noted that it is also supported by the American Red Cross. It was suggested that language be incorporated into the Resolution regarding SB575 and recommended no action be taken tonight and that it come back with additional language. Mayor Javandel stated that he would incorporate that language and bring back to Council.

8-3. Clean Air Act

Council Member Lieber stated that he would like Council to support sending a letter to Albany’s US Senators urging them to protect the Environmental Protection Agency ‘s (EPA) ability to enforce the Clean Air Act. Through this campaign work is being done to block efforts currently circulating in Congress to gut the EPA’s ability to enforce clean air standards.

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

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to authorize the Mayor to send a letter to Senator Boxer and Feinstein urging them to protect the Clean Air Act.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-4. Rubber Surface at City Parks

The Recreation & Community Services Director reported that additional rubber surface is required for the Dartmouth Tot Lot and Jewel’s Terrace Park. Staff is recommending that funding come from Measure WW funds. The Measure allocated funds to cities based on population and so far have used \$190,000 leaving a balance of \$581,363.

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

MOTION:

Moved by Council Member Lieber, seconded by Council Member Thomsen to approve 1) The installation of additional rubber surfacing under the tot lot swing set at Jewel’s Terrace Park. 2) The installation of rubber surfacing under the play structure and swing set at Dartmouth Tot Lot. 3) Use of Measure WW in an amount not to exceed \$36,000 to fund both projects.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

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

9-1. In observance of Passover the Monday, April 18th regular meeting of the City Council will be cancelled. A special meeting of the City Council will be held on **Tuesday, April 19th at the Community Center, 1247 Marin Avenue.** The time will be announced later.

The City Manager reported that this special meeting will be a work session on the City budget and if necessary a short business meeting will be held before the work session. The tentative starting time is 7 p.m.

Council announcements: 1) Future agenda items: The Resolution for 100% smoke free workplace and Council description of their regional agency work. 2)