

Date Approved: September 6, 2011

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 18, 2011**

6:30 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:

- 1) Labor Negotiations pursuant to Government Code Section 59457.6

Agency Negotiator: City Manager & Glenn Berkheimer, IEDA
Employee Organizations: Albany Fire Fighters' Association

- 2) Executive session pursuant to Government Code Section 54957 to discuss Public Employee Performance Evaluation:

City Manager: Beth Pollard

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, Wile & Mayor Javandel
Absent: Council Member Thomsen (Excused)

*Also sitting as the Municipal Services Authority JPA Board of Directors.

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Randy Leptien, Contract City Engineer; Jeff Bond, Planning Manager; Charlie Adams, Finance Director; Aaron Walker, Human Resource Manager.

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

Mayor Javandel reported that regarding Labor Negotiations, direction was given to staff; and regarding Employee Performance, feedback was provided.

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 5, 2011.

Staff recommendation: Approve

4-2. a. Ratification of City of Albany net payroll in the amount of \$199,997.62; taxes, benefits & withholdings in the amount of \$ 158,474.14. Total payroll in the amount of \$ 358,471.76. Payroll period: 07/01/2011

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$ 50,626.32; taxes, benefits & withholdings in the amount of \$ 36,552.28. Total payroll in the amount of \$ 87,178.60. Payroll period: 07/01/2011

Staff recommendation: Ratify.

4-3. Ratification of bills, claims and demands against the City of Albany in the amount of: \$21,929.37 (07/01/11); \$4,537.52 (07/08/11); \$2,509,894.22 (07/08/11).

Staff recommendation: Ratify

4-4. Pierce Street Pavement Rehabilitation and Segment I Bikeway Project, Resolution No. 2011-39

4. CONSENT CALENDAR

Staff recommendation: Adopt Resolution No. 2011-39 Ratifying decision of City Manager to Grant Ghilotti Construction Relief from their Bid and Award the Contract for the Pierce Street Pavement Rehabilitation and Segment I Bikeway Project to Redgwick Construction in the Amount of \$1,291,625.50.

4-5. Unaudited Financial Statement, June 30, 2011

Staff recommendation: That Council accept the unaudited financial statements for the fiscal year ended June 30, 2011.

4-6. 2011 Pavement Rehabilitation Project

Staff recommendation: Adopt Resolution No. 2011-41 approving Scope of Work, Finding project to be Categorically Exempt under CEQA, calling for Bids, and authorizing the City Manager to Award a Contract (Contract No C 11-12) for 2011 Paving Project, to the lowest responsible bidder for an amount not to exceed \$400,000.

4-7. 2012 Sanitary Sewer Project

Staff recommendation: That the City Council approve the Scope of Work and Budget for Design and Preparation of Construction Bid Documents and Authorize the City Manager to Enter into Standard Form of Agreement with Harris & Associates for the 2012 Sanitary Sewer Project.

4-8. Temporary Street Closure on Key Route "Alberrito Streets" Event

Staff recommendation: Approve the closure of a two-block area of Key Route Boulevard from Thousand Oaks to the El Cerrito border from 12 – 3 PM on Sunday, August 28, 2011 for the "Alberrito Streets" event. Closures will be placed on Key Route Boulevard at the intersections of Brighton and Thousand Oaks Avenue. The City of El Cerrito will be closing Ashbury beginning at A Street to the Albany border.

MOTION:

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

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

NOES: None

ABSENT: Council Member 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

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

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 stated that at this time he would like to present a proclamation to the family of Karin Nelson, which highlights all of the work and dedication, that Ms. Nelson provided to the City. Mayor Javandel also extended on behalf of the Council, condolences to the family on the death of Ms. Nelson.

The following people spoke about Ms. Nelson: Peggy McQuaid, Chair Arts Committee; Jewel Okawachi, Albany resident; Allan Maris, Albany resident; Susan Adame, Arts Committee.

It was also noted that Aldene Nichols, Mother of former Mayor Robert Nichols, passed away and asked that the meeting be adjourned in her memory.

The following people spoke: Karina Tindall, Police Department; Chelle Putzer, Recreation Department; Brian Parsely, Albany resident.

A summary of the comments is as follows: Announced 1) National Night Out, August 2, 2011. 2) Safety Palooza, July 30th, City Hall parking lot. 3) Bike About Town, which begins Friday, August, 2, 2011. It was noted that the City Council has a good opportunity to take a leadership role, by changing their health benefits to match City employee caps. The following announcements were made by the City Manager: 1) The City closed escrow on the Pierce Street Park and that a celebration is scheduled for July 19, across from 725 Pierce Street. 2) City employees have a team for the Relay for Life, which will be held on August 27 -28th.

The City Manager introduced Fern Tiger Associates to speak on the community engagement project on the application of the Lawrence Berkeley National Laboratory/Green Technology Collaborative proposal. Ms. Tigers gave background information on the property, which includes 37 acres that belongs to the City of Berkeley. It was noted that a presentation had been made to the Planning & Zoning Commission, Waterfront Committee and the Arts Committee. Ms. Tiger noted that there will be sessions for the public similar to the *Voices to Vision* workshops and that the Albany website has been updated to include all the information on this project.

A summary of the Council comments is as follows: It was noted that Susan Swartz, Friends of Five Creeks has been nominated for an award that that this would provide an opportunity for the group to win \$500. Thanked the family of Karin Nelson and also noted that the meeting would be adjourned in memory of Karin Nelson and Aldene Nichols.

Mayor Javandel announced the meetings he had attended: 1) Mayor's Conference, which included discussions on pension reform. 2) Participated in a conference call regarding the Statewide Plant Pest Prevention Program.

6. STUDY SESSION

6-1. University Village Mixed Use Project.

The Planning Manager went over the specifics of the application for rezoning and Planned Unit Development at 103-1130 San Pablo Avenue. The approximately 6.3 acre

6-1. University Village Mixed Use Project.

project site consists of two lots located to the northwest and southwest of the Monroe Street/San Pablo Avenue intersection. The applicant would like to construct a grocery store of a size up to 55,000 square feet on the north side of Monroe and a mixed-use development at the south end of the lot, which includes approximately 30,000 square foot of retail space and approximately 175 independent/assisted living senior housing units. Due to the fact that the uses are not related to the educational function of the University, City land use policies apply to the proposed project.

The Planning Manager noted that there are a series of Commission and Council actions needed and noted the top three at this time are: 1) Certification of CEQA Final Environmental Impact Report (EIR) by the City Council. 2) Rezoning by City Ordinance. 3) Planned Unit Development by the Planning & Zoning Commission.

Kevin Hufferd, UC representative, spoke to the Council noting that the University has had great relationships with the City over the years including Little League, youth soccer and softball and the restoration of Codornices Creek.

Mr. Hufferd noted that the property is currently under utilized and the proposed project would bring in retail, senior housing and access to bike trails. The project is medium density and transportation orientated and the senior housing has three levels of care 1) independent living, 2) assisted living, 3) memory care and the facility would be fully licensed.

The following people spoke: Ed Fields, Albany resident; AC Transit representative; Jack Miller, President Little League; Maureen Crowley, Albany resident; John Dalrymple, Sheet Metal Union representative; Jackie Fletcher, Albany resident; Jewel Okawachi, Albany resident; Don Macravetie, Albany resident; Susan Moffatt, Albany resident; Clay Larson, Albany resident; Executive Director, Chamber of Commerce; Daniel Doyle, Albany resident; Mara Duncan, Albany resident; Mac Curty, Albany resident; Kristina Osborne, Albany resident; David Kreps, Albany resident; Ken McCroskey, Chair Traffic & Safety Commission; Nick Pilch, Albany Rollers and Strollers; Brian Parsely, Albany resident; Howard McNenny, Albany resident; Dave Kroyce, Albany Little League; Francesca Papalia, Albany resident; Caryl O'Keefe, Albany resident; Jim Cleveland, Albany resident; Jack Rosano, Albany resident; Peggy McQuaid, Albany resident; Alan Riffer, Albany resident; Eldon Wolfe, Albany resident; Allan Maris, Albany resident; Todd Abbott, Chamber of Commerce.

A summary of the comments is as follows: Support for the project was noted. It was asked that a balance between economic benefits and the impacts be seriously considered. Expressed concern about the impact to the current bus routes and asked that mitigation be implemented and that UC work more closely with AC Transit. A concern was raised that the City not rezone the property noting that once this is done there would be no control over what goes in that area. The project would be very good for the community noting that it will bring in a lot of jobs. Support was given for affordable senior housing noting that many seniors in Albany have to leave the City, as there is no affordable housing. It was noted that this project would revitalize the neighborhood and asked that the Council be vigilant in making sure that all the amenities are completed. Concern was expressed about the height of the project and many felt it should be scaled down. It was noted that 90% of the members of the Chamber of Commerce were in

6-1. University Village Mixed Use Project.

support of this project. Sustainability was an important aspect to some speakers and stated that this project is a piece meal development. It was believed that the project was very vague. Traffic safety issues were addressed specifically at the intersection of Jackson/Buchanan and Ocean View School. It was believed that traffic congestion would increase and asked that the project provide First Class pedestrian/bicycle facilities. It was noted that this project would generate money for the arts and the City, as the land would be put on to the tax rolls. It was stated that if the height of the building is reduced that it would kill the project. It was asked that the Council provide feedback to move the project forward as soon as possible. It was noted that this project would get rid of the blight in that area and would revitalize San Pablo Avenue. Having one grocery store to do all the shopping would eliminate the need to drive all over town. It was believed that Whole Foods is too expensive and urged the Council to provide reasonable shopping. It was stated that this does not have to be a difficult process and urged the Council to move forward with the project.

A summary of the Council comments is as follows: Appreciate UC's time on this project and would like the Council to move forward on the first three items listed and believe the project is consistent with the Climate Action Plan. Would like to see senior housing priority for Albany residents, mitigation for traffic congestion and to make sure the City gets all of the amenities. Agree that the project should move forward, however, did have concerns about the rezoning issues and urged the Council to proceed with caution. Also the City should receive everything in writing and asked that UC work with AC Transit to make the San Pablo corridor work. Would like the Planning & Zoning Commission to take a good look at this project and come back to Council with their recommendations.

The Planning Manager summarized the Council's position, as follows: To move forward with the project and to have Planning & Zoning Commission come back to Council with their recommendations and to give Council more information regarding rezoning and height. To have everything in writing and to have more details on the pedestrian/bike access and transit issues.

7. PRESENTATION/PUBLIC HEARING**8. UNFINISHED BUSINESS****8-1. Request for Proposals – City Attorney services**

The City Manager reported that the voters approved a measure to make the City Attorney position appointed. The City Council appointed a Council subcommittee, comprised of Council Members Lieber and Thomsen, to work with staff to identify alternatives for a process to recruit and select an appointed City Attorney and to develop some initial criteria and structure options.

Council approved the recommendations from the subcommittee and directed staff to return with a draft Request for Proposals for City Attorney services.

8-1. Request for Proposals – City Attorney services

The City Manager noted that the current elected Attorney has been with the City for 33 years and his term ends, December, 2011.

Mayor Javandel asked if anyone would like to speak on this item and the following person spoke: Allan Maris, Albany resident, thanked the City Attorney for his 33 years of service to the City.

MOTION:

Moved by Council Member Wile, seconded by Council Member Lieber to authorize the issuance of the Request for Proposals for City Attorney services and authorized the Council subcommittee and staff to make any minor revisions, if needed.

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

NOES: None

ABSENT: Council Member Thomsen

Motion carried and so ordered.

NEW BUSINESS

9-1. Easement Agreement – Bayside Commons, 535 Pierce Street

The Community Development Director reported that Bayside Commons was built around 1989 and as a condition of approval, the property owner was required to dedicate a trail easement along Cerrito Creek. An 8' wide easement for a public trail was irrevocably offered to the City and recorded in 1997. The location of the recorded easement runs along the "toe of the slope" (creek bank) rather than the "top of the bank" where the existing informal dirt trail/path is located.

Bayside Commons recently approached the City and asked that this issue be revisited, prompted in part by liability concerns. The Bayside Board of Directors unanimously approved to support the City's goal to bring the trail and recorded public trail easement into alignment.

Mayor Javandel asked if anyone would like to speak and the following person spoke: Jack Rosano, President Bayside Commons Association.

A summary of his comments is as follows: The residents of Bayside Commons are very concerned about liability issues noting that the path is used constantly.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to 1) Authorize City staff to work with Bayside Commons Homeowners Association (535 Pierce Street) to finalize Easement Agreements for Trail and Sewer Facilities. 2) Bring Easement Agreements back to City Council in final form for Acceptance for Recordation at a subsequent Council meeting.

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

NOES: None

ABSENT: Council Member Thomsen

Motion carried and so ordered.

9-2. Statewide Plant Pest Prevention Programmatic Environmental Impact Report (Pest PEIR)

Council Member Lieber stated that this is a follow-up from previous Council action regarding pesticides. The State has issued a Notice of Preparation for the Pest PEIR, which is being prepared to obtain advance approval for future pest management programs, using CDFA's current (outdated) approach to pest management. Recently the threat of aerial spraying for the light brown apple moth over the Bay Area was an issue for the City of Albany.

Council Member Lieber recommended that the Mayor be authorized to sign a letter on behalf of the City Council expressing concerns about the Pest PEIR.

Mayor Javandel went over his comments during the conference call with the State and emphasized concerns about the health impacts if this action is approved.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to authorize the Mayor to sign a letter on behalf of the Council expressing concerns about the Pest PEIR.

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

NOES: None

ABSENT: Council Member Thomsen

Motion carried and so ordered.

9-3. Proposal for Golden Gate Fields

Council Member Lieber recused himself from the discussions due to a conflict of interest.

The City Manager reported that Golden Gate Fields (GGF) property in Albany and Berkeley is one of six sites being considered by the Lawrence Berkeley National Laboratory for a second campus. The property owner is developing a proposal for the lab facilities and other developments and amenities.

The community's guidelines for future use of the GGF property that emerged in 2010 from the City's waterfront visioning process – *Voices to Vision* included the desire for at least replacement revenue for the City of Albany and the Albany School District.

Staff of the two cities agreed that a creation of an arrangement by the City of Albany hiring consulting services that could analyze and recommend alternatives, with the understanding that the costs of these consulting services would be included in the reimbursement agreement the City has with the property owner.

The firm Management Partners was selected because of its experience in revenue protection and sharing consultation, its depth of public sector finance knowledge, and because the firm and the primary consultant who would work on the project, Daren Fields, have successfully performed work for both the cities of Albany and Berkeley.

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

A summary of his comments is as follows: Spoke about revenues replacement and asked whether there would be an opportunity to increase the revenues.

9-3. Proposal for Golden Gate Fields**MOTION:**

Moved by Council Member Atkinson, seconded by Council Member Wile to authorize the City Manager to execute a letter agreement with Management Partners to provide consulting services to assist in revenue protection and potential revenue sharing arrangements involving the City of Albany, The Albany Unified School District, the City of Berkeley and other parties associated with the Lawrence Berkeley National Laboratory/Green Technology Collaborative proposal for the Golden Gate Fields (GGF) property, with the cost to be reimbursed by the property owner.

ON THE QUESTION:

Mayor Javandel asked whether the City could seek more revenue than just the replacement and the City Manager responded nothing prohibits that.

VOTE ON THE MOTION:

AYES: Council Members Atkinson, Wile & Mayor Javandel

NOES: None

ABSENT: Council Member Thomsen

RECUSED: Council Member Lieber

Motion carried and so ordered.

9-4. M.O.U. – Local 1021

The Human Resources Manager reported that the City of Albany and Service Employees International Union (SEIU), Local 1021 met and conferred in good faith and have reached an agreement on a Memorandum of Understanding (MOU) for the period April 1, 2011 through March 31, 2014.

Changes included are: 1) Effective July 2011, employees covered by the agreement will pay 4% of wages, as a contribution to the CalPERS retirement system. Effective July 2101, employees will pay an additional 3% of wages as a contribution to the CalPERS. Effective July 2013, employees will pay an additional 1% of wages as a contribution to the CalPERS. 2) Effective July 2012, employees will receive a salary increase of 4%. Effective July 2013, employees will receive a salary increase equal to the increase in the Consumer Price Index (CPI) with a minimum of 2% and a maximum of 4%. 3) Create a lowered CalPERS tier for future hires, who would participate in the 2%@60 plan rather than the 2.5%@55 plan.

Mayor Javandel thanked the Union their participation in helping the City to resolve the financial issues.

Council Member Atkinson presented Resolution No. 2011-40 – A Resolution of the City Council of the City of Albany Approving the Memorandum of Understanding Between City of Albany and Service Employees International Union (SEIU), Local 1021.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Atkinson, and seconded by Council Member Wile to approve Resolution No. 2011-40.

9-4. M.O.U. – Local 1021

VOTE ON THE MOTION:

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

NOES: None

ABSENT: Council Member Thomsen

Motion carried and so ordered.

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

10-1. Ceremony celebrating the City's acquisition of the Pierce Street Parcel, Tuesday, July 19, 5 p.m. across from 745 Pierce Street.

10-2. Next regular City Council meeting will be Tuesday, September 6, 2011.

Mayor Javandel announcements: 1) Would be donating his next Council paycheck to the City of Albany Employees Relay for Life Albany team.

Council Member Lieber announcement: The Courts have upheld a decision to not widen a portion of Highway 101, as redwood trees would be endangered. It was noted that the City took a position of opposition of the widening of this Highway.

11. JPA CONSENT & UNFINISHED BUSINESS

11-1. JPA minutes, September, 21, 2009.

MOTION:

Moved by Authority Member Lieber, seconded by Authority Member Wile to approve the minutes.

AYES: Authority Members Atkinson, Lieber, Wile & Chair Javandel

NOES: None

ABSENT: Authority Member Thomsen

Motion carried and so ordered.

11-2. Amendment to PERS Contract

The Human Resource Manager reported that the City is amending its contract with CalPERS to adopt a lower tier retirement benefit for new hires to go to 2%@60 for employees hired on or after July 26, 2011 and having current and future employees make contributions to CalPERS effective July 11, 2011.

Chair Javandel asked if anyone would like to speak. No one came forward.

Authority Member Lieber presented Resolution No. JPA2011-8 – A Resolution to Approve an Amendment to the Contract Between the Board of Directors of the Albany Municipal Services Joint Powers Authority (JPA) and the Board of Administration of the California Public Employees' Retirement System to Provide a Lower, Second-Tier of Benefits for New Employees.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Authority Member Lieber and seconded by Authority Member Atkinson to approve Resolution JPA2011-8.

11-2. Amendment to PERS Contract

VOTE ON THE MOTION:

AYES: Authority Members Atkinson, Lieber, Wile and Chair Javandel

NOES: None

ABSENT: Authority Member Thomsen

Motion carried and so ordered.

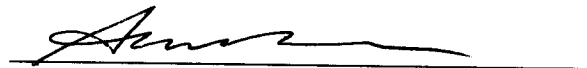
12. ADJOURNMENT

10:30 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting in memory of Karen Nelson and Aldene Nichols and a moment of silence was observed.

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


Farid Javandel
Mayor

Attest:


Anne Hsu
Minute Clerk