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**MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, SEPTEMBER 19, 2011**

6:30 PM

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) Conference with legal counsel – Anticipated litigation. Significant exposure to litigation pursuant to Section 54956.9(b) (One case): Planning Application #11-004. Appeal of the Planning and Zoning Commission’s Decision to Deny the Application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo. Applicant: Crown Castle for Verizon Wireless

Mayor reported that no action was taken.

- 2) Employment and Appointment of a Public Employee pursuant to Government Code Section 54957.7 – Recruitment and selection of City Attorney

Mayor reported that Council provided directions to staff.

7:30 p.m.

Mayor Javandel called the regular meeting of the Albany City Council to order on the above date and lead 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; Anne Hsu, Minute Clerk; Penelope Leach, Recreation & Community Services Director; Jeff Bond, Community Development Director; Rich Cunningham, Public Works Manager; Kim Denton, City Treasurer; Anne Hersch, City Planner; Aleida Andrino-Chavez, Transportation Planner; Randy Leptien, City Contract Engineer.

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

On the first item, the Mayor reported that no action was taken. On the second item, the Mayor reported that Council provided directions to staff.

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 6, 2011

Staff recommendation: Approve

4-2. a. Ratification of bills, claims and demands against the City of Albany in the amount of: \$1,072,011.35 (7/22/11), \$464,087.85 (8/1/11), \$149,519.85 (8/5/11), \$220,241.66 (8/5/11), \$30,308.73 (8/19/11), \$625,214.93 (8/19/11), \$18,479.37 (9/1/11), \$54,896.97 (9/2/11), \$1,264,911.43 (9/2/11)

b. Ratification of bills, claims and demands against the Joint Powers Authority in the amount of: \$240.00 (7/22/11)

Staff recommendation: Ratify

4-3. Ratification of Police & Fire Pension Plan payments in the amount of \$118,755.60 for the month of August, 2011.

Staff recommendation: Ratify.

4-4. Ordinance No. 2011-03, an Ordinance of the City Council of the City of Albany enacted pursuant to Health and Safety Code Section 34193 to elect and implement

participation by the City of Albany and the Albany Community Reinvestment Agency in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law (ABx1 27, the Voluntary Program Act). – Second Reading

Staff recommendation: Pass to Print

- 4-5. A rendering of the quarterly Cash and Investments Treasury Report of the city of Albany as of June 30, 2011, as required by Section 53646 of the California Government Code.

Note and file – for information only

- 4-6. Contract for New Recreation & Community Services Software

Staff recommendation: That Council Authorize the City Manager to enter into a contract with Vermont Systems for new registration and facility reservation software for the Recreation & Community Services Department.

- 4-7. Resolution No. 2011-43 – of the City Council of the City of Albany approving and Authorizing the Execution of the Agency Transfer payment agreement with the Albany Community Reinvestment Agency Pursuant to Part 1.9 of the Redevelopment Law.

Staff recommendation: Approve Resolution No. 2011-43

Mayor Javandel asked if anyone would like to remove an item and the following items were removed by Council Member Thomsen: Item 4-4 & Item 4-7.

- 4-4. Ordinance No. 2011-03, an Ordinance of the City Council of the City of Albany enacted pursuant to Health and Safety Code Section 34193 to elect and implement participation by the City of Albany and the Albany Community Reinvestment Agency in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law (ABx1 27, the Voluntary Program Act). – Second Reading

Staff recommendation: Pass to Print

- 4-7. Resolution No. 2011-43 – of the City Council of the City of Albany approving and Authorizing the Execution of the Agency Transfer payment agreement with the Albany Community Reinvestment Agency Pursuant to Part 1.9 of the Redevelopment Law.

Staff recommendation: Approve Resolution No. 2011-43

Council Member Thomsen asked that these two item should be a separate motion from the rest of the consent calendar item due to her need to be recused.

MOTION:

Moved by Council Member Atkinson, seconded by Council Member Wile to approve the Consent Calendar, as submitted with the exception of Item 4-4 & 4-7.

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

NOES: None ABSENT: None

Motion carried and so ordered.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Atkinson to approve Item 4-4 & 4-7 as submitted.

AYES: Council Members Atkinson, Lieber, and Wile

NOES: None ABSENT: None

RECUSED: Council Member Thomsen & Mayor Javandel

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 Good of the City/Public Forum/Announcements and the following people spoke:

Ray Anderson, Lion's Club; Caryl O'Keefe, Friends of Albany Library; Penelope Leach, Recreation & Community Services Director; Valerie Fellows, Albany resident.

A summary of the comments is as follows: The following announcements were made: 1) Solano Avenue Restaurant Walk, October 4, 6-9 PM. Money made will benefit Albany Lions Club and the West Berkeley Lions Club and will go back to be used in our community. 2) Albany Library 50 cent Book Sale on September 24. 3) Wednesday, October 5, the Albany Friends annual membership meeting with business meeting starting at 7:15pm, and program meeting starting at 7:30pm in the Edith Stone Room at the Albany Library. 4) Pedestrian injured while running on sidewalk of Buchanan Street by bicyclists. Need to have "Yield to Pedestrians" signs installed. 5) Albany Local Week: Monday - Dinner Swap; Tuesday - Garden & Clothing Swap; Wednesday - Farmer's Market & Concert at the Park; Thursday - Event sponsored by Little Star Pizza and Solano Cellar at the corner of Ordway and Solano similar to a block party; Friday - Bike About Town, Blood Drive; Saturday - Book Sale, Movie in the Park; Sunday - Skill Share Event.

Council Member Lieber thanked the Lions Club for the \$500 donation to the kids program. He also reported that he attended the Associated Community Action Program and voted for a new retention and review policy on all records. Also the agency is making the recommendation to change the Joint Powers Agreement to turn the agency over to the Chief Operating Officers of the communities (City Managers). This Joint

Powers Agreement would have to be signed by all the cities and will come back to Council for approval.

6. PRESENTATION/PUBLIC HEARING

6-1. Proclamation Supporting Alameda County Libraries' *Banned Books Week 2011* Celebration in the City of Albany

Ronnie Davis, Albany Library Branch Manager, Alan Riffer, Chair of Albany Library Board, and Caryl Okeefe, President of Friends of Albany Library were there to receive the Proclamation.

Mayor Javandel presented the Proclamation and proclaimed that American Library Association of Banned Books Week is on 9/24 – 10/1/2011 this year.

6-2. Appeal of the Planning and Zoning Commission's Decision to Deny the Application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo

Staff recommendation: That the City Council uphold the decision of the Planning and Zoning Commission and deny the application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo, based on the recommended findings.

Community Development Director delivered the staff report. Crown Castle for Verizon Wireless is applying for Use Permit to replace four existing antenna enclosures where four enclosures currently existing on a legal non-conforming 65-foot monopole at the rear of 423 San Pablo Ave.

City's legal consultant, Greg Stepanicich stated that the City reserve the rights to request additional info on the alternative site analysis and can deny the application if sufficient information is not received.

Joe Parker representing Crown Castle for Verizon Wireless, along with Stephano Iachella - Verizon RF Engineer, John Dome – Zoning Manager for the site, Gary Gochberg – Property Specialist for the site presented a PowerPoint presentation on the project showing the alternative solutions analysis. The applicant's evaluation of reducing the pole's height, relocating Verizon's facilities to existing buildings, constructing new monopoles, or relocating Verizon's facility to other existing sites shows that no other alternative solution is feasible. They have stated that this application is merely maintenance of a legal non-conforming site. These replacements will provide better services to Albany community. The site will not change in mass, bulk or height. And they cannot operate at lower height due to the second carrier located at the same site at that height.

The following Albany residents spoke about the project: Ed Fields, Julie Beck, Clay Larson, and Mara Duncan. A summary of the comments are: 1) City need our own independent engineer consultant to analyze this project. 2) There are no analysis to other available zones and sites such as in CMX and PF. 3) This project is not to repair site for cell phones but for other services such as TV, internet, and the new 4G LTE. 4) If City

approves this, it would set a precedent to other sites and the City should not be intimidated by legal threats. 5) Council should uphold Planning & Zoning Commission's decision and limit the owner's ability to expand. 6) Safety is a concern. The City should look into the effects of these antennas on children.

The Council's comments are as follows: 1) This project is setting a different frequency and providing more service, therefore, should be considered as an upgrade. 2) City definitely need more time to obtain our own independent engineer to review and analyze the project and need more information from the applicant.

MOTION:

Moved by Council Member Thomsen, motion amended by Council Lieber, seconded by Council Member Wile to 1) postpone action until next meeting pending an independent review by a City selected technical advisor; 2) ask for written documentations of the actual alternative analysis conducted by the applicant.

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

NOES: None ABSENT: None

Motion carried and so ordered

It was noted by City legal consultant that this item will return to Council at the next meeting which is the first meeting in October. The City may need more time for consultant to review and staff would be communicating this to the applicant.

7-1. Resolution No. 2011-47 - 2011 Pavement Rehabilitation Project

Staff recommendation: Adopt Resolution No., 2011-47 awarding Contract No. C11-12, 2011 Pavement Rehabilitation Project to MCK Services, Inc. in the amount of \$529,507.60 and authorizing staff to negotiate a change order for the construction of Speed Humps in the 800 and 900 block of Carmel Street, and either one or two speed humps on the 950 block of Ordway.

Council Member Wile recused herself.

Community Development Director Jeff Bond delivered the staff report. This item is to award contract to MCK Services for the project to pave streets including San Gabriel, Santa Fe, Peralta, and to negotiate a change order for the construction of speed humps on Carmel and Ordway. The project would begin in October and be completed in January. When the speed hump issue last came before the Council, the Council's direction was to authorize the construction of two speed humps subject to the confirmation for the homeowners immediately facing the humps to agree to the installation. Overall, there is a high percentage of neighbors who agreed to two speed humps. Council Member Lieber and Mayor Javandel asked staff if suitable location has been located for one speed hump and if there was a policy that resident has the veto power against the installation of the speed hump in front of their house. Transportation Planner responded that the speed hump would replace the temporary speed hump that was removed last year. Finding a new location for the second speed hump has been a problem because of the new standards and the fact that resident didn't want it in front of their house. It wasn't a policy for the resident to veto but it was the Council's decision that if resident doesn't want the speed hump in front of their house, the

project cannot proceed unless brought back to Council for direction. Due to the wide turning radius, the cars make fast speed turns, and a second speed hump would help deter cars from the fast speed.

The following residents spoke on this subject: Debra Dove, Debra Brennen, Rich Patton, Christina O'Connor, Walt Paladini, Ann Whitehead, Peggy McQuaid, Francesco Papalia, David Greensfelder. A summary of the comments are: 1) Confirming the desire and support for two speed humps that will benefit all residents. It would reduce the speed and make the turn slower. 2) Concern of children's safety when crossing the street with speeding cars without speed humps. 3) Oppose the speed humps to be installed directly in front of the house. 4) Oppose the speed humps because of the noise and slows down the emergency vehicles' response time. Asked that the speed humps to be placed in front of those who wants humps.

Council Member Thomsen clarified that 67% resident approvals were needed for the project.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to Adopt Resolution No., 2011-47 awarding Contract No. C11-12, 2011 Pavement Rehabilitation Project to MCK Services, Inc. in the amount of \$529,507.60 and authorizing staff to negotiate a change order for the construction of Speed Humps in the 800 and 900 block of Carmel Street, and two speed humps on the 950 block of Ordway. Also a statement was added to the motion to authorize staff to determine the locations that are most technically feasible with some leeway while with minimal oppositions.

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

NOES: None ABSENT: None

RECUSED: Council Member Wile

Motion carried and so ordered.

Council Member Wile returned.

7-2. Update on upcoming BART seismic retrofit construction

Staff recommendation: That Council receive information regarding the BART construction project scheduled to commence October 2011.

Council Member Atkinson recused herself.

Public Works Manager delivered staff report. This BART seismic project is the largest public works project since the reconstruction of lower Solano Avenue. In addition, there will be an already agreed upon landscaping plan. The primary emphasis of the presentation is communication.

Council Member Lieber asked if EBMUD has agreed to extend the connection for the reclaimed water. Public Works Manager responded that City is hoping that EBMUD will meet half way and get past their indecision point.

Nathan Hood, BART Earthquake Safety Program, made the Power Point presentation. The reason of this project is due to the prediction of 62% chance for a 6.7 magnitude or greater earthquake between 2003 – 2032. BART runs along major fault lines. The existing foundation is too small for aerial guideway and the posts need to be

strengthened so they will not crumble like the Cypress Freeway. The impacts are: 1) Ohlone Greenway will be closed 2-3 blocks at a time. 2) The project site area will be surrounded with 6 feet fence with visible barriers. 3) All direction vehicle/bicycle/pedestrian traffic will not be affected. 4) There is a bus stop at Solano & Masonic. Currently working with AC Transit to relocate hopefully not too far and for not too long of a period. 5) City Arborist attends weekly project meetings and closely monitoring the tree protection, removal and landscaping. The schedules are: 1) Dartmouth – Solano: 10/2011 – 9/2012; 2) Portland – Brighton: 10/2011 – 2/2012; 3) Brighton – Fairmount: 1/2012 – 9/2012; 4) Solano – Portland 6/2012 – 1/2013; 5) Berkeley border to Dartmouth: TBD. The communications: 1) Mail notifications for properties within 500 feet. 2) Post “Coming Soon” signs. 3) When Ohlone Greenway closes, there will be hand delivered notifications, metal construction detour signs with notifications and maps, and “In Progress” signs running along the construction fence with contact information. General information line, email and web-site for residents with general project questions.

No questions from the Council.

Question from the public: Ray Anderson, resident. Will there be weekend construction work and if aware of the Albany construction hours. Nathan Hood responded that there will be minimal weekend work if any since no station in Albany. BART is aware the construction hour starts at 8am and construction will be 8 hour shift. Some beginning setup work may happen at night. Residents will be notified if there will be night construction work. The loudest may be the backup alarms from construction vehicles used at minimum.

INFORMATION ITEM ONLY. NO ACTION FROM COUNCIL REQUIRED.

Council Member Atkinson returned.

- 7-3. Progress report on Voices to Vision 2 community information and engagement process on the proposal for the Golden Gate Fields property to be the site of the second campus of the Lawrence Berkeley National Laboratory.

Staff recommendation: 1) Receive progress report from Fern Tiger Associates; 2) Receive and file correspondence from City Manager; 3) Approve next steps in the community information and engagement process, including formation of a task force, subject to reimbursement by the property owner.

Council Member Lieber recused himself.

City Manager delivered staff report. The Council authorized to hire Fern Tiger Associates to engage and inform the community regarding the project of the second campus of LBNL locating at Golden Gate Fields property. This item is to receive report from Fern Tiger; listen to the community comments and concerns to date; and to decide the next step for V2V2.

Fern Tiger from Fern Tiger Associates presented the report. Though the community engagement process, some residents learned that this may be the moment in time to get to see a new public open space at waterfront. However, many concerns surfaced, including the scale of the development, the proposed building height, the number of cars, traffic, and parking, the lack of certainties about tax revenues, and the assertion about the minimum amount of private developments needed to support the

project's infrastructure. There is growing awareness of more information needed to understand the project's real impact to the community. The report, based on community's view, is suggesting three options: 1) Establish a task force to meet in the public area. 2) V2V2 would conclude the work now. A final report would be created. 3) Host one more series of participatory sessions by end of December or January.

The following Albany residents spoke: Robert Urhammer, Robert Cheasty, Marsha Mars, Richard Anderson, resident, Diane Ichiatzu, Brian Parker, Francesco Papalia, Carl Protrofsky, Ann Foreman, Alice Meed, Caryl O'Keefe, Mara Duncans, Clay Larson, Peggy McQuaid, Alan Riffer, Thelma Reuben, Norman LaForce, Bill Dann.

Many speakers urged Council to take Option 2, not to waste any more time and stop the process now. Many supported City Manager's letter to request to allow the process to provide for the community to obtain and analyze the relevant information before making a decision. Also supported Option 1 to form a task force to obtain more information.

Council Members wants more information and form the task force to obtain that information as well as to obtain community feedbacks. There are too many unanswered questions. Two-way communications is needed. If there is no time for information, a negative decision will be made. Council Member Atkinson spoke against forming the task force as what is being proposed by the developer is not what was desired by the community.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Wile to 1) Receive progress report from Fern Tiger Associates; 2) Receive and file correspondence from City Manager; 3) Approve next steps in the community information and engagement process, including formation of a task force

AYES: Council Members Thomsen, Wile & Mayor Javandel

NOES: Atkinson ABSENT: None

Motion carried and so ordered.

It was noted that per the recommendation in the report, each Council member is to appoint 3 members of the public to form the task force.

Council Member Lieber returned.

- 7-4. Council to discuss Charter Review Committee (CRC) proposal to review options for electing local officials and provide guidance and timeline to CRC for preparing recommendations to Council. Councilmember Lieber has suggested this could include methods for using the public's election of Council members as a mechanism for selection of Mayor and Vice Mayor every two years.

City Manager recommended that this item be postponed due to lateness of hour. Recommendation was approved.

- 7-5. Ordinance #2011-04 to amend the contract between the City of Albany and the California Public Employees' Retirement System to provide the "Different Level of Benefits" Provision (§20475) for local miscellaneous members – First Reading

Staff recommendation: Introduce Ordinance No. 2011-o4, an ordinance of the Albany City Council authorizing an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System, to provide a lower, second-tier of benefits for new employees – First Reading. The final ordinance will be on the October 17, 2011 City Council Agenda.

No questions from the Council nor the public.

MOTION:

Moved by Council Member Wile, seconded by Council Member Atkinson to Introduce Ordinance No. 2011-o4, an ordinance of the Albany City Council authorizing an amendment to the contract between the City of Albany and the Board of Administration of the California Public Employees' Retirement System, to provide a lower, second-tier of benefits for new employees – First Reading. The final ordinance will be on the October 17, 2011 City Council Agenda.

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

NOES: None ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

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

(Council and staff announcements: Council Member reports on State, regional and local boards, commissions and committees to which they are appointed by the City Council; Council Member announcement of requests for future agenda items. No public comment will be taken on announcement of future agenda items).

Council Member Atkinson reported meeting with Fern Tiger Associates. She also attended the Solano Stroll. The Luau Dinner will be this weekend at the Senior Center.

Council Member Thomsen will represent the City at the League of California Cities annual conference and business meeting.

Council Member Wile attended the Waste Management meeting with five different cities reporting on the mandatory recycling.

Mayor Javandel thanked the volunteers for the Solano Stroll.

10. ADJOURNMENT

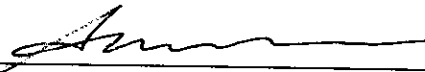
11:01 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Anne Hsu, Minute Clerk.



Farid Javandel
Mayor

Attest:



Anne Hsu
Minute Clerk