

Date Approved: October 17, 2011

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**MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, OCTOBER 3, 2011**

6:00 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 items. There will be another closed session following New Business and prior to Public Hearings.

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

Mayor reported that no action was taken.

- 2) Labor Negotiations pursuant to Government Code Section 59457.6

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

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; Anne Hsu, Minute Clerk; Jeff Bond, Community Development Director; Nicole Almaguer, Environmental Specialist; Ed Tubbs, Fire Chief; Brian Crudo, Fire Battalion Chief.

3. REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**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 19, 2011.

Staff recommendation: Approve

4-2. a. Ratification of City of Albany net payroll in the amount of \$ 205,647.61; taxes, benefits & withholdings in the amount of \$ 196,802.92. Total payroll in the amount of \$ 402,450.53. Payroll period: 9/9/2011

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$ 67,009.93; taxes, benefits & withholdings in the amount of \$ 52,519.70. Total payroll in the amount of \$ 119,529.63. Payroll period: 9/9/2011

c. Ratification of City of Albany net payroll in the amount of \$ 217,540.48; taxes, benefits & withholdings in the amount of \$ 292,103.99. Total payroll in the amount of \$ 509,644.47. Payroll period: 9/23/2011

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$ 45,795.20; taxes, benefits & withholdings in the amount of \$ 52,514.10. Total payroll in the amount of \$ 98,309.30. Payroll period: 9/23/2011

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims and demands against the City of Albany in the amount of: \$373,607.57 (7/22/11), \$385,362.02 (9/16/11)

b. Ratification of bills, claims and demands against the Joint Powers Authority in the amount of: \$250.00 (9/16/11)

Staff recommendation: Ratify

4-4. Alameda County Emergency Medical Services FRALS contract renewal

Staff recommendation: Approve the contract which allows the Alameda County Emergency Medical Services (EMS) & the City of Albany Fire Department to maintain a working First Responder Advance Life Support (FRALS) agreement.

Mayor Javandel asked if anyone would like to remove an item and the following items were removed for discussion: Item 4-1.

4-1. Minutes, September 19, 2011

Council Member Thomsen stated that the motion on 7-3 was moved by her and not Council Member Atkinson.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Wile to approve the Consent Calendar, as submitted including Item 4-1 with the correction.

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

NOES: None ABSENT: None

Motion carried and so ordered.

5. ORDINANCES

5-1. Ordinance No 2011-05 Amendments to the Fire Prevention Chapter of the Municipal Code related to Self-Closing Doors in Residential Structures.

Staff recommendation: That the City Council approve for first reading Ordinance No. 2011-05 "Amendments to the Fire Prevention Chapter of the Municipal Code related to Self-Closing Doors in Residential Structures", which requires that exterior doors in existing multi-family residential buildings that open to an exit access be self-closing.

Community Development Director, Jeff Bond, delivered the staff report. Fire Department and Community Development Department have been collaborating in the preparation of this Ordinance for review. This safety mechanism is common in new construction. However the Code does not retroactively require the installation of this in existing buildings. This mechanism will help in controlling the spread of smoke and flame in the event of a fire. The draft Ordinance will allow the Fire Chief in implementing procedures and allows for making exemptions of hardship or unique situation. This Ordinance will be in addition to the Fire Prevention of Chapter of the Municipal Code.

Council Member Lieber clarified that this self-closing door mechanism is currently required in new constructed buildings but not in existing buildings. This mechanism may save someone's life. Council Member Atkinson commented that staff should be working with Condos as well.

No comments from the public.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Thomsen to approve for first reading Ordinance No. 2011-05 "Amendments to the Fire Prevention Chapter of the Municipal Code related to Self-Closing Doors in Residential Structures", which requires that exterior doors in existing multi-family residential buildings that open to an exit access be self-closing.

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

NOES: None ABSENT: None

Motion carried and so ordered.

Mayor Javandel noted that the meeting will take item 12-1 out of order due to the late development.

12. PUBLIC HEARINGS

Informational Update: Staff will be recommending that the City Council not take action on the appeal in order to provide the applicant and the City more time to prepare and review the City Council's request for detailed background information on the applicant's RF engineer's presentation at the September 19, 2011 City Council meeting.

12-1. 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, Jeff Bond, delivered the staff report. This is a continuation of the appeal. Staff recommended to postpone to the November 7th meeting in order to allow time for the applicant to provide information requested by the City to the City. And also allow the City's consultant to review the information provided. This postponement is at the request of the applicant.

No comments from the public.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to postpone this item to the November 7, 2011 City Council Meeting.

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

NOES: None ABSENT: None

Motion carried and so ordered.

6. 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.

Please go to our website at www.albanyca.org to view all future Commission and Committee meetings.

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

Valerie Valtr, President of Albany Lions Club, invites all to the Solano Avenue Restaurant Walk hosted by the Albany and West Berkeley Lions Club on October 4, 6-9 p.m. All proceeds will go back to the community.

The following announcements were made by the City Manager: 1) Fern Tiger Associates will hold an orientation session for the Golden Gate Fields Task Force on Sunday, October 9, sometimes starting at 4-7 p.m. at the Community Center. The appointees from the School Board are Amy Tick, Dolores Dalton, Charlie Blanchard, Spencer Perry, Edward Gong with Spencer and Edward being the two high school members. Also the Chairs/Vice Chairs of City Commissions/committees that will be members are: Francesco Papalia, David Arkin, John Miki, Tom Cooper, Gary Class from Waterfront Committee, Planning & Zoning Commission, Traffic & Safety Commission, Sustainability Commission, and Parks & Recreation Commission respectively. The Council Members announced each of their appointees to date. Council Member Atkinson: John Dykman, Anne Foreman, and Brian Parker. Council Member Lieber recused himself from this issue, but commented that he is currently asking the City Attorney to check with FPPC if he is exempt from appointing members and is awaiting for answer. Council Member Thomsen: Pamela Denny Radkey, Bob Fierce, and Robert Urhammer. Council Member Wile: Robert Cheasty, Brian Johns, and Ellen Toomey. Mayor Javandel: Peggy McQuaid, and currently in discussion to fill the other 2 positions. 2) City launched a "new" e-notification system – Around Your Block. The residents are encouraged to sign up for Around Your Block to find out about what's going on in town.

Mayor Javandel announced to delay item 7-1 until representative from Nancy Skinner's office arrives.

8. UNFINISHED BUSINESS

8-1 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.

City Manager, Beth Pollard, delivered the staff report. This item is brought by a memorandum of the Charter Review Committee. Similar memorandum also goes to the Albany Board of Education which met with the Charter Review Committee last week and received initial feedback. This is asking the Charter Review Committee to examine the instant run-off voting/rank choice voting method which is available in Alameda County. An action is not needed tonight, but Council could take action if choose to.

Council Member Lieber has some reservation on Rank-Choice Voting. If it can solve the issue of direct elected Mayor, then he would consider this and bring it to the voters. Council Member Thomsen stated that the voters are not clamoring for changes from the current system. The Charter Review Committee has the obligations to do research if this system can be creditable and unbiased. Some of the researches that Charter Review Committee should do are: 1) Types of voting system used by all California Cities listed by size. 2) Who benefits and why and how? 3) What are the costs, political and financial? 4) Does the system allow candidates to manipulate the election? 5) What Cities have changed to the methods other than plurality at large electoral system and then return to that voting system? Which systems did they experiment? 6) Would any State laws impact possible changes of voting system in Albany, or just changes in the Charter Review is all that would be needed? Council Member Atkinson has the same concerns. This Rank-Choice Voting system is to avoid runoffs which have not been experienced in Albany. It seems that Albany has no voice due to no elected Mayor. She would like to see elected Mayor to have a voice at regional level. Council Member Wile is concerned about cost, and wants to know how many other small communities like ours are using this system. Mayor Javandel commented that the purpose of this Rank-Choice Voting system, if done well, is to allow public to voice their positions better. He is concerned with the logistics and the costs. He also commented that the Committee needs to work on the mathematical aspect of this system.

Charter Review Committee Chair, Preston Jordan, understood that Council wants the Charter Review Committee to look at which criteria fits and is important to Albany and also how to interlink with electorates selecting Mayor and Vice Mayor. The deadline to have this process done is August 2012 if it is on the November 2012 ballot. A three step process is laid out: 1) Establishing the criteria. 2) Canvassing and finding different methods. 3) Judging methods against the criteria. Charter Review Committee would like to know the timeline of when Council would like it to check back and also if it would be a reasonable approach to do outreach to some of the community groups to draw inputs. Preston Jordan also commented on the School Board of Education's responses in respond to Council Member Wile's question. Board of Education is defined in the Charter. They are interested in the criteria that provide methods of incentives for more people to run for office, methods that support greater diversity. They want Charter Review Committee to report back every two months and suggested to check-in with school PTAs for source of inputs.

Council Members commented that this process should look at all the systems and if there is value in such a change, make the recommendation for the change. Charter

Review Committee should report back in the interim and once the criteria is defined for Council to refine feedbacks. The goal is to have the best people elected with best knowledge and with the best method.

No comments from the public.

Mayor Javandel commented that no motion is needed for this item, only to provide guidance for the Committee.

Mayor Javandel noted that agenda will return to item 7-1.

7. PRESENTATIONS

- 7-1. Assembly Member Nancy Skinner Presentation of Resolution of Commendation to Ann Chaney for her service as Community Development Director.

Maha Ibrahim representing Assembly Member Nancy Skinner's office of District 14 thanked Ann Chaney for what she has done for the City of Albany by ways of helping Albany for Assembly District 14. Assembly Member Skinner issued this Assembly Resolution commending Ann Chaney.

Ann Chaney commented that this honor is not just to her, but an honor to the City of Albany. Achievements are not done by one person, but done through teamwork.

Mayor Javandel thanked Ann Chaney on behalf of the City Council and appreciates the sharing of the honor with everyone in the City. Mayor Javandel also thanked Maha Ibrahim and Assembly Member Skinner for presenting this resolution.

Preston Jordan, Albany resident, commented that the Former Executive Director of East Bay Bicycle Coalition says Ann Chaney was amongst the top of well speakers. Preston Jordan also thanked Ann Chaney for her services.

- 8-2. Update regarding status of negotiations with Waste Management of Alameda County and request to initiate a competitive solicitation process for collection, processing and disposal of solid waste, recycling and organics materials.

Staff recommendations: That the Council:

- 1) Receive an update regarding status of negotiations with Waste Management of Alameda County for a renewed franchise agreement.
- 2) Authorize staff to utilize the remaining two 1-year extensions of the existing franchise agreement with Waste Management of Alameda County Inc. as necessary.
- 3) Authorize staff to initiate a competitive solicitation process for a new franchise agreement.
- 4) Approve a contract amendment with R3 Consulting to provide technical assistance throughout the competitive bid and negotiation process including development of a franchise agreement for collection, processing, and disposal of solid waste, recycling and organic materials.

Environmental Specialist, Nicole Almaguer, delivered the staff report. This is an update to the one year long negotiation process. Waste Management raised new additional items: 1) elimination of the 5% cap. 2) opportunity for a mutually agreed extension of the agreement where currently City has sole discretion. 3) Allow a 10-day window for the strike provision. Staff was recommending the Council direct staff to go out for competitive bidding which will be a 7 months process and an additional year for the new company to prepare to service Albany. Staff has received new information since the staff report. Staff has negotiated the no cap down to a 10% cap. Waste Management is willing to change the term regarding strike provision which allows a 5-day window where services are not required but will do best effort to provide service. And Waste Management is now more flexible in allowing City to have sole discretion of the extension of the agreement.

A summary of the Council Members questions are as follows: 1) If the contract goes out to bid, does the contract for the consultant firm need to go out to bid as well? 2) Since there is now movement in the negotiation, is this good enough for the City or does it still need to go out to bid? 3) What is the RRI? 4) What are the health & safety issues with the 5-day strike window?

Environmental Specialist responded that the City will be using sole source for consultant contract due to their familiarity, and the original work had been bid. RRI is similar to the CPI but more specific for garbage & waste hauling industry. This number will include Local 70 labor rate. For a 5-day strike window, in residential: it's like one missed pick-up. It will be a significant concern for commercials especially businesses dealing with food waste and organics. From conversation with Waste Management, the 10% cap is a non-negotiable item. The Range of the RRI has been 1-3% in the previous years. Staff would need direction on if 10% cap on an annual rate increase is acceptable.

Don Bensurey - President of Local 70 and David Tucker - Waste Management spoke in favor of the Council authorizing continued negotiation. The labor contract was signed from 2007 to 2012. Due to good relationship, the labor union has already agreed to extend the contract to 2017. The drivers make an average of \$60,000 to \$90,000 per year depending on hours of overtime. The 10% raise will be in extreme situations. The average has been below 5%. Council is urged to direct staff to continue working with Waste Management.

Preston Jordan, Albany resident, asked if there would be any low income rates added to the agreement.

Council Member Lieber indicated that he would like to see improvement for the 10% cap, language for low income discounts, and the 5-day window for the strike provision, perhaps to include language of guaranteed commercial pick-ups. Council Member Atkinson agreed and stated that the Waste Management bill bi-monthly is less expensive than utility bills monthly. Council Member Thomsen agrees with staff recommendation to go out to bid. Council Member Wile would like to see negotiation to continue. She commented that rather than giving people discounts, residents should be encouraged to have less garbage and resulting in less fees. Mayor Javandel commented on the good progress in negotiating. He supports the staff to continue with negotiation and can always come back to Council for directions.

MOTION:

Moved by Council Member Atkinson, seconded by Council Member Wile to:

- 1) Receive an update regarding status of negotiations with Waste Management of Alameda County for a renewed franchise agreement.
- 2) Authorize staff to utilize the remaining two 1-year extensions of the existing franchise agreement with Waste Management of Alameda County Inc. as necessary.
- 3) Continue to use R3 Consulting to provide technical assistance throughout the negotiation process including development of a franchise agreement for collection, processing, and disposal of solid waste, recycling and organic materials.

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

NOES: Council Member Thomsen ABSENT: None

Motion carried and so ordered.

9. NEW BUSINESS

- 9-1.** A Resolution of the Albany City Council Approving the Application For Grant Funds for the California River Parkways Grant Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for the Codornices Creek/San Pablo Avenue Gateway Project.

Staff recommendation: Approve Resolution No. 2011-48.

Community Development Director, Jeff Bond, delivered the staff report. This resolution is brought to Council to seek grant funds to continue the implementation of creek restoration. Phase I, II, III are now complete. The grant is to seek funding to complete the restoration of Codornices Creek from 8th Street to San Pablo Avenue. This Project has already won the ABAG Growing Smarter Together Award. The improvement of this project involves three sections: 1) From San Pablo Avenue to 10th Street, substantial rehabilitation of that stretch of the creek, and is independent from the University Village project. There will be pathway, flood control improvements, and habitat improvements. 2) It has been a challenge but may be able to fit in a bike/path way between the existing Little League Field and the creek without disturbing the functions of the Little League Field and improving the access for the field. 3) Improvements will be done for the stretch next to the University Village staff parking lot without disturbing the work already done by volunteers. This will connect the creek to the stretch of creek with work that was just finished at 8th street.

Preston Jordan – Albany Strollers & Rollers and Allan Maris – former Little League coach spoke in support for the City to apply for this grant. This will help to implement a critical link in the Active Transportation Plan. And the creek will be improved with the retention of the after-school, youth, family-oriented programs.

Community Development Director, Jeff Bond, clarified the questions raised by Council Member Atkinson and Council Member Lieber. The City is not competing against ourselves but competing against other communities for this grant. University

Village is not committing to enhance the creek except right next to the creek. And Little League will remain to be functional.

MOTION:

Moved by Council Member Thomsen - Council Member who started this project, seconded by Council Member Atkinson to approve Resolution No. 2011-48.

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

NOES: None ABSENT: None

Motion carried and so ordered.

10. OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEM PRIOR TO COUNCIL ADJOURNING TO CLOSED SESSION ON THE FOLLOWING:

- 10-1. 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 Javandel noted that Council will not go into closed session due to this item has been continued to November 7th meeting.

11. RECONVENE TO OPEN SESSION AND REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY

Item postponed to November 7th meeting.

13. 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 Thomsen represented the City at the League and passed resolution: 1) Relating to alternative public meeting notices. 2) Calling attention and working with others on bullying. 3) Transparency in the legislature. 4) Funding prisoners transferring to local jurisdictions. 5) Did not approve the resolution commanding the City of Bell for being legal and ethical in follow up actions after its compensation scandal.

Council Member Wile reported working with City of Berkeley around the proposal for new prevention money that Albany may be eligible for relating to innovative projects on trauma and mental health issues.


Council Member Atkinson attended the Senior Center Luau. She enjoyed the fun program.

Mayor Javandel attended his daughter's wedding where he presented a proclamation.

11. ADJOURNMENT


9:12 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