

Date Approved: December 5, 2011

NOTE: These minutes are subject to Council approval and are not verbatim; however, recordings are available for public review.

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

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**7:00 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 items. There will be another closed session following “Other Business, Reports on Meetings Attended, Announcement of Events/Future Agenda Items” and prior to Adjournment.

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

**7:30 p.m.**

**CALL TO ORDER**

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; Jeff Bond, Community Development Director; Nicole Almaguer, Environmental Specialist.

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

Mayor Javandel reported that City Council has selected Craig Labadie as the first appointed City Attorney. Action on his contract will be on the next Council agenda.

**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, November 7, 2011**

Staff recommendation: Approve

**4-2. a. Ratification of City of Albany net payroll in the amount of \$ 192,439.25; taxes, benefits & withholdings in the amount of \$165,272.71. Total payroll in the amount of \$ 357,711.96. Payroll period: 11/4/2011.**

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$45,1763.24 ; taxes, benefits & withholdings in the amount of \$ 31,944.34. Total payroll in the amount of \$ 77,117.58. Payroll period: 11/4/2011.

Staff recommendation: Ratify.

**4-3. Vice Mayor Atkinson appointed Max Wei to the Sustainability Committee.**

Staff recommendation: Information only

**4-4. Camera purchase to support live event production for KALB**

Staff recommendation: That the Community Media Access Committee support and recommend the purchase of 3 Panasonic AG-HPX370 shoulder mount cameras and accessories to be used for live, multi camera video production of Albany events, to be filmed by youth involved in the City of Albany A/V Mentorship and the Albany Student Broadcast programs.

**4-5. Letter of Support to Stopwaste.org for development of an ordinance regulating the distribution of Single Use Bags, for purposes of reducing waste and litter**

Staff recommendation: Approve as a follow up to the October 17, 2011 presentation by Stopwaste.org

Mayor Javandel asked if anyone would like to remove an item and item 4-4 were removed for discussion.

Council Member Lieber clarified that the approval of item 4-4 is independent of a later item on tonight's agenda for upgrading the Edith Stone room. Council Member Atkinson is concerned with security issues. Clay Larson, Community Media Access Committee Member and Albany resident, hopes that Council will rectify the decision made earlier in the year to eliminate one part-time position for the cable channel.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Wile 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.

Please go to our website at [www.albanyca.org](http://www.albanyca.org) to view all future Commission and Committee meetings.

Mayor Javandel opened Good of the City/Public Forum/Announcements.

Clay Larson, Albany resident expressed concerns about the critical role the City Attorney plays if there is a citizen's initiative coming up next year. He stated that the City should retain current City Attorney's expertise and services during the transitioning period to the new City Attorney.

Beth Pollard, City Manager, added that current City Attorney has agreed to overlap his services in January 2012. She also gave an update to the Golden Gate Field Task Force. The Task Force, at their last meeting, identified and pros, cons, and opportunities and compiled some information to pass on to the City Council for the special work session to be held on Sunday, December 4<sup>th</sup> at 6:30p.m. in the Community Center.

**6. PRESENTATION/PUBLIC HEARING**

**7. UNFINISHED BUSINESS**

7-1 Follow up on budget balancing strategies from 2011-12 fiscal year discussions

## Staff recommendations:

- 1) Review the strategies that have emerged to date for continued budget balancing, and provide initial direction to staff on additional information needed and/or priorities to continue to pursue for 2012 – 2013 and beyond.
- 2) Consider conducting a public opinion survey to help inform choices among and approaches to the strategies.

Beth Pollard, City Manager, delivered the staff report and presented the pros and cons of each individual strategy as listed in the staff report that Council may be interested in pursuing. The strategies that require Council direction are as follows: sales tax; property transfer tax; parking meters and other paid parking; sponsorships, advertising supporting City's media; lease options for wireless facilities and/or electronic billboards; consulting fees for Community Development staff; streamline process for businesses; limitation on taking new policy issues; shared services (staff); street sweeping area enforcement. Many of these strategies will impact the community, and therefore recommended conducting a community survey to determine areas of interest and support.

A summary of Council's comments are: 1) Community surveys are necessary. It will be a 2 months process and in time for either June or November ballots. 2) There is defunding of programs and money taken by the State. If increase in sales tax or property transfer tax, it would be comparable to other cities or the county that had the increase or will propose on the next elections. 3) Parking meter or other paid parking would not have to go to the voters. Drivers should have to pay for using their cars. 4) Survey needs to include the parking meter technology issues. 5) City needs to speak to business owners regarding parking meter issue. 6) Sustainability Committee should take up this issue and form a subcommittee. 7) Advertising on cable channel is a good idea, may be a way to fund and replace the one part-time position laid-off employee earlier in the year. 8) Billboards are blights, with electronic ones, it's even more distracting. 9) City needs to locate a wireless site that will work for multiple carriers to relieve the City from so many applications submitted over and over again. 10) The Community Development Director stated that there is a cost recovery system for big-sized projects for staff time and excessive use of Community Development staff time on small projects has not gotten out-of-hand. 11) The new policy issues should be treated case by case depending on the issue. There should be some independence but making sure the time is not spent on issues with non-allocated resources. 12) The City currently shares the Fire Chief with City of Piedmont. There is possibility to share IT management services, Fire Marshal, and/or back-up Building Inspector. 13) The City should crackdown on streets that do not participate in voluntary street sweeping streets. 14) Enforcement should be for improving sweeper access, not just to generate revenue by issuing more citations.

The following Albany residents spoke on this subject: Clay Larson; Peggy McQuaid; Caryl O'Keefe; Alan Riffer; Ed Fields; Preston Jordan. A summary of their comments are as follows: 1) The City should encourage wireless carriers to co-locate and possibly to the existing monopole at City Hall. 2) A public survey with different issues and combined with the School District issues, library services and the UUT tax (will be discussed later in the agenda) is supported. 3) Current proposals will be hurting either residents or businesses. 4) Information on deficit forecast is needed. 5) Permitting process for all types of businesses should be streamlined. 6) Street sweeping is not to just

meet the requirements, but a broader environmental issue. 7) City should spend less money on contracting with high-priced consultants. 8) Parking meters only net about 20% after expenses. 9) What are the cost savings this year and the projected savings for 2012-2013 after City employee shares the cost of PERS? 10) With Waste Management's new contract, the City will be gaining additional franchise fees and also a \$45,000 annually to fund a sustainability coordinator. 11) There are contradictions in Albany's policies such as the parking space v.s. sidewalk issue. City should monetize parking spaces to help fund for sidewalk maintenance.

Council Member Lieber added that one of the school district taxes will sunset soon. Council liked the idea of combining issues in the community survey with the School District. It will be useful to see where the community wants to put the money and not waste time on something that will not pass.

**MOTION:**

Moved by Council Member Lieber, seconded by Council Member Thomsen to instruct staff to put together a concept survey for the community, return it to Council at a later date for approval. This survey should take into consideration of the Council's and the public's comments from tonite.

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

NOES: None                      ABSENT: None

Motion carried and so ordered.

**7-2. Climate Action Plan Funding Proposal**

Staff recommendation: That the Council:

- 1) Review the Climate Action Plan Funding Proposal submitted to City Council by the City's Sustainability Committee; and
- 2) Provide direction to staff and the Sustainability Committee regarding any next steps associated with the possibility of pursuing a Climate Action Plan Funding measure on the ballot.

Nicole Almaguer, Environmental Specialist, delivered the staff report. Council approved the City's Climate Action Plan (CAP) in 2010 and also requested the Sustainability Committee prepare recommendations on the implementation plan for the CAP. The Committee identified that there is currently no funding source to implement CAP. The Sustainability Committee formed a finance subcommittee to review the possible funding sources and identified the preferred funding mechanism is using a 2% increase in the Users Utility Tax (UUT). Charging the UUT would be an educational and behavior changing tool. The average increase per residence is approximately \$20 per year and approximately \$220 per year for commercial. If the Council chooses to propose the increase in UUT, it could be a ballot measure either for June or November 2012. It would be a special tax and requires 2/3 vote to pass. The potential revenue will be approximately \$205,000 per year. Also, staff is seeking direction from Council on whether PG&E CARE customers (low-income) who are currently not exempt from the UUT tax would be exempt from this increase in the future. If Council chooses to exempt

CARE customers from UUT tax, there will be a fee to the City from PG&E to administer the exemption.

Janet Smith-Heimer, Vice Chair of Sustainability Committee, clarified that the CARE customers would pay the UUT on the already lowered utility bills if not exempt from UUT. PG & E will do the billing at no cost to the City.

A summary of the Council's comments are: To include this on the survey is helpful, but measure still needs to be on the ballot for the residents to vote. The survey will get more attention and may be helpful in getting the ballot measure to pass if residents know and discuss about it beforehand.

The following people spoke on this issue: Preston Jordan, Carbon Neutral Albany Organization; Caryl O'Keefe; Ed Fields. A summary of the comments are: 1) Albany's emission hasn't grown since 2004. There are no growth, but no reduction either. 2) The taxes should be based on per kilowatt hour/therm. 3) The survey would be strengthened by adding information of what the fund would be used for. More specific information are needed. 4) How does Albany's CAP fit in with SB375 and One BayArea Plan? 5) Reiterated support for this ballot measure. 6) PG&E's CARE customer pays approximately 72% less in utility bills than regular customers.

#### **MOTION:**

Moved by Council Member Lieber, seconded by Council Member Thomsen to include the Climate Action Plan Funding Proposal in the community survey and that Council provide concrete projects that the City will be funding taking into account the public's comments.

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

NOES: None                      ABSENT: None

Motion carried and so ordered.

## **8. NEW BUSINESS**

### **8-1. Bequest for books and equipment for the Albany Public Library.**

Staff recommendation:

- 1) Accept, with gratitude, the bequest of \$188,551.51 from the estate of Gardener and Margaret Young, to be used for the purpose of purchasing books and equipment; and
- 2) Ask the Albany Library Advisory Board for suggestions on the use of the funds, with direction for including audio/visual equipment for the Edith Stone Room, and designating a majority of the funds for allocation in the future.

Beth Pollard, City Manager, delivered the staff report. This generous donation was from the proceeds of the sale of Gardener & Margaret Young's estate. This bequest is to be used for books and equipment but exclude salaries and overheads. Staff has discussed with the Library Board, staff, and Friends to implement project to upgrade the Edith Stone Room. This item is tentatively agendaized for Albany Library Board's November 30<sup>th</sup> meeting.

A summary of Council's comments are: 1) Library Board will bring back recommendation for Council to approve the expenditures. 2) Supports the upgrade for Edith Stone Room. 3) There are many great program materials for our cable channel if able to record in that room. 4) Council needs to refer to the Media Access Committee to help the Library with the upgrade. 5) Council should look into ways to memorialize the Young's, which may be addressed in the Naming Policy item in future agenda.

Ronnie Davis, Albany Library Manager, stated that the Library accepts this gift with gratitude and agrees with the staff recommendation to improve Edith Stone Room. There are many great programs and presentations to be recorded that can be broadcasted on cable channel. Alan Riffer, Chair of Albany Library Board and Treasurer for Friends of Albany Library, supports the recording for cable channel programs and also inquired about how fast this money would have to be spent.

**MOTION:**

Moved by Council Member Lieber, seconded by Council Member Thomsen to

- 1) Accept, with gratitude, the bequest of \$188,551.51 from the estate of Gardener and Margaret Young, to be used for the purpose of purchasing books and equipment; and
- 2) Ask the Albany Library Advisory Board for suggestions on the use of the funds, with direction for including audio/visual equipment for the Edith Stone Room, and designating a majority of the funds for allocation in the future.

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.**

(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).

City Council discussed about smaller-sized cans without wheels available from Waste Management. The smaller-sized cans are light enough to be moved even without wheels. There are backyard services for disabled residents. There are also senior discounts available.

Council Member Atkinson announced that Senior Center will have a Holiday Bazaar on Saturday, December 3<sup>rd</sup> from 10am – 4pm.

Council Member Lieber wishes all Happy Thanksgiving.

**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--EXISTING LITIGATION Pursuant to Government Code Subdivision (a) of Section 54956.9

Name of case: Before the Public Utilities Commission of the State of California, the Application of Crown Castle Solutions Corp. (U-6936-C) and Crown Castle GT Company LLC for Preemptive Approval of the Swap-Out of Four Antennas on Existing Cellular Tower in Albany, California on Behalf of Verizon Wireless

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (One case)

To provide opportunity for City Council to discuss litigation threatened by Crown Castle Solutions Corp. and Crown Castle GT Company LLC, on Behalf of Verizon Wireless, related to the denial of the application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo

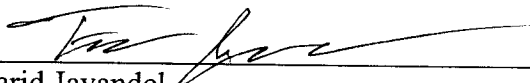
**11. RECONVENE TO OPEN SESSION AND REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**

Mayor Javandel reported that no action was taken.

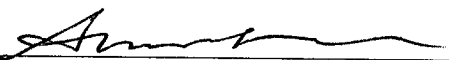
**12. ADJOURNMENT**

9:44 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.

  
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Farid Javandel  
Mayor

Attest:

  
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Anne Hsu  
Minute Clerk