



CITY OF ALBANY
MINUTES FROM THE
JOINT MEETING OF THE ALBANY CITY COUNCIL
AND THE ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, JULY 2, 2012

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 54957.6
Agency Negotiator: City Manager & Glenn Berkheimer, IEDA
Employee Organizations: Albany Peace Officers' Association
- 2) Executive session pursuant to Government Code Section 54957 to discuss Public Employee Performance Evaluation:

Public Employee: Beth Pollard, City Manager

7:30 p.m.

CALL TO ORDER

Mayor Javandel called the regular meeting of the Albany City Council to order on the above date.

1. PLEDGE OF ALLEGIANCE

Mayor Javandel led the Pledge of Allegiance to the Flag.

2. ROLL CALL

Present: Council Members Lieber, Thomsen, Wile, Vice Mayor Atkinson, Mayor Javandel

Absent: None

Staff Present: Beth Pollard, City Manager; Craig Labadie, City Attorney; Anne Hsu, Deputy City Clerk; Charles Adams, Finance and Administrative Services Director; Penelope Leach, Assistant City Manager; Karina Tindol, Community

Engagement Specialist; Jeff Bond, Community Development Director; Anne Hersch, City Planner; Mike Parenti, IT Manager.

- 3. REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**
Mayor Javandel reported that the Council provided feedback and that no action was taken.

4. CONSENT CALENDAR

- 4-1.** Minutes, June 18, 2012

Staff recommendation: Approve

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$198,394.99; taxes, benefits & withholdings in the amount of \$277,700.20. Total payroll in the amount of \$476,095.19. Payroll period: 6/15/2012

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$46,215.38; taxes, benefits & withholdings in the amount of \$55,350.17. Total payroll in the amount of \$101,565.55. Payroll period: 6/15/2012

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of: \$108,296.00 (5/11/2012); \$277,901.60 (6/8/2012); \$26,638.15 (6/11/2012).

Ratification of bills, claims and demands against the City of Albany Joint Powers Authority in the amount of: \$ 897.20 (6/8/2012).

Staff recommendation: Ratify

- 4-4.** Ratification of Police & Fire Pension Plan payments in the amount of \$111,056.32 for the month of June, 2012.

Staff recommendation: Ratify.

- 4-5.** Appointment of Auditors

Staff recommendation: That the Council approve the appointment of Badawi & Associates, CPAs, to serve as independent auditors for the City of Albany, the Albany Municipal Services Joint Powers Authority, and the City of Albany Police and Fire Relief or Pension Fund for fiscal years ending June 30, 2012 and June 30, 2013, with options for years ending June 30, 2014 through June 30, 2016.

- 4-6. Intention to Order Improvements and Levy Assessments in Assessment District No. 1988-1 and Assessment District No. 1996-1 for the 2012/13 Fiscal Year, and Set a Public Hearing for July 16, 2012 on the proposed assessments.

Staff recommendation:

- 1) Approve Resolution No. 2012-35 - A Resolution of Intention to Order Improvements and Levy Assessments in Assessment District No. 1988-1 for the 2012/13 Fiscal Year (Pursuant to the Landscaping & Lighting Act of 1972), set a public hearing for July 16 , 2012 on the proposed assessment; and
- 2) Approve Resolution No. 2012-36 – A Resolution of Intention to Order Improvements and Levy Assessments in Assessment District No. 1996-1 for the 2012/13 Fiscal Year (Pursuant to the Landscaping & Lighting Act of 1972), set a public hearing for July 16, 2012 on the proposed assessment.

- 4-7. Contract for Redesign and Reconfiguration of the City’s Computer Network

Staff recommendation: That Council authorize the City Manager to enter into a contract with CORE Education and Consulting Services for an Infrastructure Analysis, Systems Assessment, Network Roadmap, Redesign, Reconfiguration, and Security Protocols for City Information Technology systems in an amount not to exceed fifty-thousand dollars (\$50,000)

- 4-8. Final progress report on 2010-12 City Council Objectives.

Staff recommendation: Receive final report.

Mayor Javandel asked if anyone would like to remove an item. Vice Mayor Atkinson pulled item 4-7 and expressed support for the item to ensure availability of functional technology for the City.

MOTION:

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

AYES: Council Members Lieber, Thomsen, Wile, Vice Mayor Atkinson, Mayor Javandel.

ABSENT: None

NOES: None.

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

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

The following people spoke: Allen Cain; Del Price; Karina Tindol, Community Engagement Specialist; Winkie Campbell-Notar, Albany Chamber of Commerce; Alexa Houser; Peggy McQuaid.

A summary of comments is as follows: announced upcoming Solano Stroll; recommend analyzing social impacts of decisions made by Council and Committees/Commissions including impacts on low income residents; announced upcoming National Night Out and Safety Palooza, announced upcoming Chamber of Commerce ice cream giveaway at the 4th of July festival; expressed interest in an urban farm/educational center at the Gill Tract; announced Albany Police Activities League Car Show at the upcoming 4th of July event.

Council Member Lieber stated that Police Chief Mike McQuiston had reported that the City of Albany would not be participating in the joint effort with City of Berkeley and University of California, Berkeley on the grant for an armored vehicle.

Council Member Thomsen announced that two former City of Albany employees passed away: Fire Chief Mike Koepke, and Don Armstrong.

Council Member Thomsen also asked that the Tweet regarding Occupy the Farm on Twitter that appears to be from Council Member Thomsen be disregarded as this was not sent by Council Member Thomsen.

Council Member Wile reported that she and Council Member Thomsen visited the Gill Tract and are coordinating a one-time volunteer group to weed on the Gill Tract, and inviting only people that do not have charges against them from any illegal activities on the Gill Tract. Council Member Wile further reported that the research being conducted on the Gill Tract is intended to further sustainable food production in Central America.

City Manager Beth Pollard announced that the Planning & Zoning Commission has recommended approval of the UC Village/Whole Foods/Senior Housing/Retail Project and forwarded the project to the City Council for action. Council will be holding a special meeting regarding this project on July 9 2012, at 7:30 p.m..

City Manager Pollard also announced the recent City newsletter that was distributed Citywide including ways to get involved within the City, and also announced the upcoming 4th of July event.

6. PRESENTATION/PUBLIC HEARING/UNFINISHED BUSINESS

6-1. Resolution No. 2012-40 to adopt a Master Fee Schedule

Staff recommendation: Approve Resolution No. 2012-40 – A resolution of the Albany City Council establishing and amending the City of Albany Master Fee Schedule for various permits, services and fines effective July 3, 2012.

Finance and Administrative Services Director Charlie Adams delivered the staff report. The Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area has increased 2.6% over the prior year, and the proposed Master Fee Schedule includes an adjustment to reflect this CPI increase. The Community Development Department fees are generally related to the review of plans and processing of permits for proposed developments.

MOTION:

Moved by Council Member Lieber, seconded by Vice Mayor Atkinson to approve Resolution No. 2012-40 – a Resolution of the Albany City Council establishing and amending the City of Albany Master Fee Schedule for various permits, services and fines effective July 3, 2012.

AYES: Council Members Lieber, Thomsen, Wile, Vice Mayor Atkinson, Mayor Javandel.

ABSENT: None

NOES: None.

Motion carried and so ordered.

6-2. Appointments to the Homeless Task Force

Staff recommendation: That each Council Member identify an appointee to the Homeless Task Force based on applications received.

Assistant City Manager Penelope Leach delivered the staff report. A total of twelve applications were received by members of the community interested in serving on the Homeless Task Force. The Social and Economic Justice Commission and Waterfront Committee will be appointing their members at their next meetings.

The first meeting of the Task Force is scheduled for 7:00pm on August 16, 2012.

The following people spoke: Paul O'Curry, Social and Economic Justice Commission; Gordon McCarter, Waterfront Committee

A summary of comments is as follows: questioned how the appointees from the Waterfront Committee and Social and Economic Justice would be appointed, expressed continued interest in serving on the Task Force. There are reportedly approximately 40 – 70 people living on the Bulb.

A summary of Council comments is as follows: Mayor Javandel appointed Lisa Kleinbub.

City Manager Pollard listed the other appointments: Council Member Lieber: Julie Ann Winklestein; Council Member Thomsen: Barbara Chambers; Council Member Wile: Steve Thrush/Andrew Franklin, Solano Community Church; Vice Mayor Atkinson: Sharon Pipkin. She noted that an educational workshop is scheduled for July 19, 2012 from 5:30 – 8:30 pm.

Appointees Pipkin, Winkelstein, and Chambers introduced themselves and provided detail regarding their experience on the matter.

- 6-3. Appeal of the Planning and Zoning Commission Decision Denying Planning Application #08-038 – Conditional Use Permit and Design Review of a New AT & T Wireless Facility at 1035 San Pablo Avenue.

Planning & Zoning Commission Action: Denial of the application for Design Review and Conditional Use Permit for a new roof-mounted wireless facility at 1035 San Pablo Avenue based on the attached findings.

City Planner Anne Hersch delivered the staff report. The Planning and Zoning Commission denied Planning Application #08-038 – Conditional Use Permit & Design Review for a New AT&T Wireless Facility at 1035 San Pablo Avenue. AT&T is seeking City approval to install a new wireless facility, and the project was presented to the Planning & Zoning Commission on several occasions. Based on action by the Planning & Zoning Commission on May 8, 2012 to deny the request for a new wireless facility at 1035 San Pablo Avenue, AT&T filed an appeal of the Planning & Zoning Commission denial decision on May 22, 2012. The existing site is a Sprint facility, considered legal non-conforming as it pre-dates the City's Wireless Communication Facilities Ordinance.

AT&T's legal counsel has identified six issues within the appeal letter. The alternatives analysis that has been included within each staff report has indicated that the building at 979 San Pablo Avenue is an available alternative that is less intrusive.

Hersch reviewed the potential actions by Council including interpretation for denial and interpretation for approval.

City Attorney Craig Labadie provided guidance regarding proper appeal hearing procedures. The Planning & Zoning Commission decision is not binding. The City Council has full right and authority to approve or deny the appeal and make modifications to the application if an approval is granted.

AT&T representatives Barbara Leslie, External Affairs Director, and Legal Counsel John Di Bene presented their appeal: there is an existing need to fill the gap in wireless coverage. Per AT&T, 340 residents have signed supporter cards for better wireless service in Albany, and over 100 small businesses along San Pablo and Solano Avenue have signed supporter cards for better wireless services within Albany.

AT&T has been working for four years on the application. There is an existing significant gap in wireless service within Albany. AT&T currently does not have a site within Albany. Under Federal Law this gap in coverage needs to be filled. The site at 1035 San Pablo Avenue is a less intrusive design as compared to 979 San Pablo due to the height that would be needed for the 979 San Pablo site. The penthouse equates to 9.2% of the rooftop coverage. AT&T suggests that the penthouse is not a similar structure to a chimney, and alternatively should be defined as a storage facility for mechanical structures, subject to the 20% coverage

rule. Subject to the 20% mechanical coverage rule, the project meets the coverage rules. 1035 San Pablo also allows for co-location.

The following people spoke: Julie Beck, Albany Residents for Responsible Oversight of Wireless (ARROW); Winkie Notar-Campbell, Executive Director of the Albany Chamber of Commerce; David Sanger; Dimitri Belsur, Executive Director for the Center for Accessible Technology Berkeley; Ed Fields; Geraldo Santana; Raj Martho, Hammitt & Edison Consulting Engineers (retained by AT&T); Eric Burkman; Antoinette Stein; Del Price; Doug Donaldson; Sarah Sunstein; Bob Outis; Caryl O'Keefe; Clay Larson; Todd Abbott; Peggy McQuaid; Michael Barnes; Alan Riffer; Allen Cain.

A summary of comments is as follows: approval of the application violates City codes and laws, including rooftop coverage limits, the site borders a residential neighborhood and is a third priority zone for the technology, recommended USDA rooftop as a potential site, concern over EMF radiation; support for the appeal and an interest in equity for all users within the City, clarification that USDA has indicated they cannot allow any antennas on the site due to security issues, encourage a business-friendly approach to encourage businesses to the City; AT&T repeatedly made the changes requested by the Planning & Zoning Commission, concerns associated with not having the ability to utilize a cellular phone in an emergency due to poor coverage, the 10% coverage limitation is not typical in other cities; usability of a cellular phone is a major safety issue for persons with disabilities; analyzed the site and confirmed the proposed project would comply with FCC limits for exposure; there are higher priority locations that can be selected that would minimize potential exposure risk to the community; interest in additional sites to ensure coverage throughout the City; background regarding wireless ordinance, potential health risks are not rational, the Planning & Zoning Commission focused on rooftop coverage, but should have also looked at the wireless ordinance calling for co-location, recommend amendment and simplification to the wireless ordinance, encourage consideration of public policy issue; the wireless ordinance does not conform with federal law, suggest simplification and deference to federal law; screening is included with placement of antennas, concern over potential legal exposure including associated time and money; discourage irrational fear-based decision making; encourage opportunity to co-locate and service for the community and businesses, the existing code is arbitrary; recommend rescinding users utility tax for wireless if there is not adequate coverage within the City.

Rebuttal was provided by John Di Bene, legal counsel from AT&T: AT&T has proven compliance with the FCC standards; the alternatives are not viable; the penthouse at 1035 San Pablo Avenue is a mechanical appurtenance; the proposed project will result in 1 square foot of additional coverage; 10% coverage is required by law to collocate, 20% coverage for mechanical equipment. Urge the Council to reverse the decision of the Planning & Zoning Commission.

A summary of Council comments is as follows: respect for decision made by the Planning & Zoning Commission, consider USDA a viable alternative; the City is

looking to identify a City-sponsored site and could potentially locate all carriers at the City-sponsored site in the future; asked whether the site at 979 San Pablo Avenue would be a conforming site with the towers, and asked for clarification regarding the roof coverage thresholds; the existing ordinance is written to protect the residents; interest in applicant pursuing site at 979 San Pablo Avenue; ordinances are written to protect the community; clarification regarding how appurtenances are calculated including split-level roofs such as a penthouse, asked if there was an option to relocate Sprint mechanical equipment into the penthouse area to decrease coverage area, USDA should not be considered as a currently viable alternative based on issues with previous projects, asked if the size of the penthouse could be removed to allow for additional coverage.

Community Development Director Jeff Bond provided clarification to the questions raised by Council – the design for 979 San Pablo Avenue would require review by the Planning & Zoning Commission; the rooftop penthouse combined with the Sprint facility are in excess of the 10% coverage threshold, addition of the AT&T equipment would result in an additional excess in coverage to approximately 14%.

John Di Bene, legal counsel from AT&T responded to Council questions indicating that they are seeking a one square foot of additional roof coverage for the project.

Bond provided an update regarding the wireless study conducted by consultants. The Request for Proposals was issued and two proposals were received. A selection panel will be developed shortly. The timeline for a City-sponsored site is likely beyond the necessary timeline for the proposed AT&T project.

MOTION:

Moved by Council Member Lieber, seconded by Vice Mayor Atkinson to uphold the Planning & Zoning Commission decision, with reference to written findings in the staff report.

Mayor Javandel made an alternative motion to ask for AT&T and staff to further evaluate the 979 San Pablo Avenue site with regard to technical feasibility and availability, and to determine if there is any way to change roof coverage at the 1035 San Pablo site to prevent a net increase, and continue the hearing to the July 16, 2012 Council meeting, seconded by Council Member Thomsen.

AT&T Legal Counsel affirmed they would be willing to work with staff to identify potential changes to the proposed project.

Mayor Javandel asked the Council whether they had any interest in considering a temporary/mobile site.

Bond reported there is no precedent for a temporary/mobile site.

Bond clarified with the Council that the public comment period of the public hearing was closed, and the continuation of the hearing is intended for staff and the applicant to return with information as requested by Council.

AYES: Council Members Thomsen, Wile, Mayor Javandel.

ABSENT: None

NOES: Council Member Lieber, Vice Mayor Atkinson.

Motion carried and so ordered.

Council Member Lieber withdrew his previous motion.

Motion to extend the meeting made by Council Member Wile, seconded by Council Member Lieber.

AYES: Council Members Lieber, Thomsen, Wile, Vice Mayor Atkinson, Mayor Javandel. ABSENT: None

NOES: None.

Motion carried and so ordered.

7. NEW BUSINESS

None.

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

8-1. Announcements

- a) Safety Palooza on July 22, 2012, 1pm – 4 pm at the Police Station
- b) National Night Out with Block Parties on Tuesday, August 7, 2012
- c) City of Albany 4th of July Event – Memorial Park, Noon – 4 pm
- d) Pierce Street Park Public Workshop – July 12, 6pm Site Tour (meet at Cleveland/Washington Streets), 7:30 pm
Community Meeting at City Hall Council Chambers
- e) Berkeley-Albany Mental Health Commission Vacancy in a seat nominated by the Albany City Council

9. JPA NEW BUSINESS

- 9-1.** Resolution No. JPA2012-1, to approve the updated benefits booklet and salary schedule for management and confidential employees.

Staff recommendation: Approve Resolution No. JPA2012-1, a resolution of the Board of Directors of the Albany Municipal Services Joint Powers Authority approving the updated benefits booklet and salary schedule for management and confidential employees.

City Manager Beth Pollard delivered the staff report. City Employees in the Management and Confidential Employees categories of the Albany Municipal Services Joint Powers Authority began contributing 3.5-4% of wages to CalPERS

(California Public Employees Retirement System) effective July 11, 2011. These employees will now increase their contributions to 7-8% of wages to CalPERS effective July 9, 2012. This compensation change will include a salary increase of 4%, intended to be an equivalent exchange for the employees' paying the second half of the employees' portion of the pension premium. The last salary increase for these employee categories was received on June 30, 2008. The benefits booklet must be updated to reflect the proposed changes to the benefits package. The Salary schedule also includes a new position of Public Works Director/City Engineer.

MOTION:

Moved by Board Member Lieber, seconded by Board Member Thomsen to approve Resolution No. JPA2012-1, a resolution of the Board of Directors of the Albany Municipal Services Joint Powers Authority approving the updated benefits booklet and salary schedule for management and confidential employees.

AYES: Board Members Lieber, Thomsen, Wile, Vice Chair Atkinson, Chair Javandel. ABSENT: None

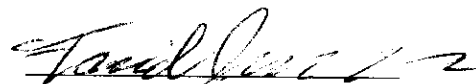
NOES: None.

Motion carried and so ordered.

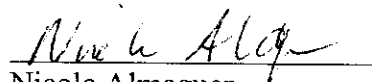
10. ADJOURNMENT

10:47 p.m. Adjourned in memory of Fire Chief Mike Koepke and Don Armstrong. There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Nicole Almaguer, City Clerk.


Farid Javandel
Mayor

Attest:


Nicole Almaguer
City Clerk