

Date Adopted: September 4, 2012



CITY OF ALBANY

**JOINT MEETING OF THE ALBANY CITY COUNCIL
AND THE ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY
MINUTES
CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE
MONDAY, JULY 16, 2012**

Council Member Robert Lieber teleconferenced from 37520 Sawyer Bar Road, Forks of Salmon, CA 96031.

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 (via teleconference), Thomsen, Wile, Vice Mayor Atkinson, Mayor Javandel

Absent: None

Staff Present: Beth Pollard, City Manager; Craig Labadie, City Attorney; Todd Williams, Legal Counsel; Anne Hsu, Deputy City Clerk; Nicole Almaguer, City Clerk; Jeff Bond, Community Development Director; Anne Hersch, City Planner; Charles Adams, Finance and Administrative Services Director; Randy Leptien, City Engineer; Kim Denton, City Treasurer; Ed Tubbs, Fire Chief; Brian Crudo, Fire Battalion Chief.

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

4. CONSENT CALENDAR

4-1. a) Minutes, July 2, 2012

Staff recommendation: Approve

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$ 189,420.29; taxes, benefits & withholdings in the amount of \$157,484.04. Total payroll in the amount of \$346,904.33. Payroll period: 6/29/2012

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$47,691.65; taxes, benefits & withholdings in the amount of \$33,257.07. Total payroll in the amount of \$80,948.72. Payroll period: 6/29/2012

Staff recommendation: Ratify.

- 4-3.** Ratification of bills, claims and demands against the City of Albany in the amount of: \$480,084.66 (5/25/2012)

Staff recommendation: Ratify

- 4-4.** Resolution No. 2012-41 to approve the updated benefits booklet and salary schedule for City Treasurer.

Staff recommendation: Approve Resolution No. 2012-41, a resolution of the Albany City Council approving the updated benefits booklet and salary schedule for City Treasurer.

- 4-5.** Annual Adoption of City Investment Policy, Resolution No. 2012-43 – A Resolution of the Albany City Council Re-Delegating Investment Authority to the City Treasurer and Adopting the Investment Policy for the City of Albany.

Staff recommendation: Adopt Resolution No. 2012-43 – A Resolution of the Albany City Council Re-Delegating Investment Authority to the City Treasurer and Adopting the Investment Policy for the City of Albany.

- 4-6.** Resolution No. 2012-44 – A resolution of the Albany City Council establishing the Appropriation Limit for the 2012-13 Fiscal Year at \$16,362,332.

Staff recommendation: Approve Resolution No. 2012-44 – A resolution of the Albany City Council establishing the Appropriation Limit for the 2012-13 Fiscal Year at \$16,362,332.

- 4-7.** Contract No. C12-15 with Nelson/Nygaard Consulting Associates, Inc. to develop 35% concept design and public process for a Complete Street Project for San Pablo Avenue and Buchanan Street.

Staff recommendation: Authorize the City Manager to enter into Contract No. C12-15 with Nelson/Nygaard Consulting Associates, Inc. in the amount of \$75,315 for

the development of 35% Design and public process for a Complete Streets Project for San Pablo Avenue and Buchanan Street.

4-8. Contract award for tennis court resurfacing at Jewel's Terrace Park

Staff recommendation: That Council authorize the City Manager to enter into a contract with First Serve for the resurfacing of the tennis courts at Jewel's Terrace Park not to exceed \$35,000.

4-9. Authorize staff, for a period of three years, to issue Street Event Encroachment Permits to Promotion of Albany High School Sports (PAHS) to allow a street closure for the Albany Community Triathlon and to the Berkeley Bicycle Club for the annual Berkeley Bicycle Club Criterium; and waive encroachment permit fees for the events.

Staff recommendation: That the Albany City Council:

- 1) Authorize staff, for a period of three years, to issue a Street Event Encroachment Permits to the Promotion of Albany High School Sports (PAHS) to allow a street closure for the Albany Community Triathlon and to Albany Little League to allow a street closure for the Annual Little League Parade;
- 2) Waive encroachment permit fees for each event; and
- 3) Require staff to refer the application back to the City Council for consideration if the nature of the events were to change significantly, or if currently unforeseen policy issues arise.

4-10. Ordinance No. 2012-05, Amending Chapter XXII (Subdivision) of the Albany Municipal Code to Amend Regulations for Parkland Dedication Requirements – Second Reading – Pass-to-Print.

Staff recommendation: Approve Ordinance No. 2012-05 - An Ordinance of the City of Albany City Council Amending Chapter XXII (SUBDIVISION) Of the Albany Municipal Code To Amend Regulations for Parkland Dedication Requirements – Second Reading - Pass to print.

4-11. Ordinance No. 2011-07, Approving University Mixed Use Project Zoning Map Amendment – Second Reading – Pass-to-Print.

Staff recommendation: Approve Ordinance No. 2011-07 - An Ordinance of the City of Albany City Council Approving University Village Mixed Use Project Zoning Map Amendment – Second Reading - Pass to print.

4-12. Ordinance No. 2011-06, Approving University Village Mixed Use Project Zoning Overlay District – Second Reading – Pass-to-Print.

Staff recommendation: Approve Ordinance No. 2011-06 - An Ordinance of the City of Albany City Council Approving University Village Mixed Use Project Zoning Overlay District – Second Reading - Pass to print.

- 4-13.** Ordinance No. 2012-04, adopting a Development Agreement between the City of Albany and the University of California – Second Reading – Pass-to-Print.

Staff recommendation: Approve Ordinance No. 2012-04 - An Ordinance of the City of Albany City Council Approving University Village Mixed Use Project Development Agreement – Second Reading - Pass to print.

Mayor Javandel asked if anyone would like to remove an item. Item 4-11, 4-12 and 4-13 were pulled from the Consent Calendar for discussion by Council Member Lieber. Lieber moved that Council continue this item and direct staff to revise the development agreement to include language (or alternatively, direct staff to enter into negotiations with the applicant to include revised language) for an Exclusive Easement for an area on the Gill Tract bounded by Jackson Street on the east, Buchanan Street on the north; Village Creek on the south; and 100 feet from San Pablo Avenue on the east; and that this easement would be exclusively for the purposes of open space; agriculture, farming, or gardens; ball fields or playfields; Albany Unified School District facilities and uses; and ancillary structures that support all of the stated uses.

The following people spoke: Francesco Papalia, Rob Stoker, Jewel Okawachi, Ed Fields, Tina Quipman, David Krebs, Clay Larson, Gary Class, Ulan McKnight, Hinhanska Haney, Mara Duncan, Eric Larsen, Peggy McQuaid, Gerard Brostrom, Tarina Larsen, Paul O'Curry.

A summary of comments is as follows: easement should be included as part of the planning process that will be conducted via the subcommittee working on issues related to the Gill Tract, Alameda Building Trades Council support for community opportunities, construction jobs and potential youth apprenticeship programs created from the project, general support for the project, concern regarding rezoning and interest in R-3 zoning category, interest in affordable housing, support for motion made by Lieber regarding easement, request dialogue with Ohlone representatives, support for Occupy the Farm and Albany Farm Alliance, appreciation for Mayor Javandel's managing of the special meeting on July 9th.

Kevin Hufford, University of California Berkeley Project Planner stated that the motion regarding the easement is a unilateral proposal, is not consistent with the collaborative efforts of the University and the City to date, and that the University would be unable to agree to such a requirement on the Development Agreement. The University has incorporated a number of significant changes based on direction from Council including a priority for Albany residents at the senior housing units, a commitment to Albany Little League for ten years and funding the relocation of the Little League fields if necessary, and a reduction in building height from five stories

to four stories.

A summary of Council comments is as follows: confirmed that the 2004 UC Village Master Plan is a guiding document and is not binding, clarification regarding parking and zoning items.

Todd Williams, Legal Counsel responded to Council questions regarding parking and zoning items. The Inclusionary Ordinance that requires an initial affordable rent is invalid per the Palmer decision.

The parking waiver was not conducted via contract between the City and the applicant, but provided per State density bonus law.

Bond added that staff reviewed and confirmed that the level of parking is consistent with similar projects and zoning ordinances within other cities.

Bond also clarified that the R-3 zoning does not allow for the same level of residential density that would be provided by SPC, and that the Overlay zone ensures the land remains as senior housing.

Council Member Lieber's motion was not seconded.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Wile to approve the Consent Calendar items 4-1 through 4-10.

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

ABSENT:

NOES: None.

Motion carried and so ordered.

MOTION:

Moved by Council Member Wile, seconded by Council Member Thomsen to approve the Consent Calendar items 4-11 through 4-13.

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

ABSENT:

NOES: Council Member Lieber

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:

Council Member Wile reported that the subcommittee working on issues related to the Gill Tract has extended an invitation to meet with members from Occupy the Farm, Albany Farm Alliance and Transition Albany to discuss the Gill Tract. The subcommittee is meeting with the Dean of the College of Natural Resources to further discuss opportunities for making a center for urban agriculture.

City Manager Pollard announced the Homeless Task Force Workshop scheduled for Thursday from 5:30 – 8:30pm in the Council Chambers, and National Night Out scheduled for August 7th.

The following members of the public spoke: Winkie Campbell-Notar, Albany Chamber of Commerce; Allan Maris, Ed Fields, Nick Pilch, David Krebs, Ulan McKnight, Paul O'Curry, Caryl O'Keefe, Tarina Larsen, Eric Larsen, Allison Horton, Francesco Papalia, Daniel Cardozo.

A summary of comments is as follows: announced Solano Stroll scheduled for September 9, 2012 and upcoming workshop for those with booths at the stroll, announced the Albany Triathlon scheduled for September 29, 2012 along with website for event: www.albanytri.com, request the Council endorse the United Nations Declaration on the Rights of Indigenous Peoples, concern that the UUT to fund the City's Climate Action Plan is not included on the Council agenda, interest in participating on the Homeless Task Force, appreciation for maintenance work at Hillside, question whether the University Village project will utilize union workers, encourage use of City committees and commissions as the place to raise items for discussion, question of how to hold a dialogue with City representatives and groups.

Council Member Lieber noted that he would be bringing forward an item regarding the United Nations Declaration on the Rights of Indigenous Peoples.

6. PRESENTATION/PUBLIC HEARING

6-1. Appeal of Planning Commission Decision Denying Planning Application #08-038 - Conditional Use Permit & Design Review for a New AT&T Wireless Facility at 1035 San Pablo Avenue

City Council Review: At the appeal hearing on July 2, 2012, the City Council voted 3-2 to continue the appeal hearing to a date certain of July 16, 2012 pending preparation of the following additional information to be further examined:

- 1) AT&T and staff to further evaluate the 979 San Pablo Avenue site with regard to technical feasibility and availability
- 2) Determine if there is any way to change roof coverage at the 1035 San Pablo site to prevent a net increase

City Planner Anne Hersch delivered the staff report. Per Council direction, staff worked with AT&T to further evaluate 979 San Pablo as a potential alternative location for the project. Per staff analysis, the site at 979 San Pablo remains a viable alternative site that is less intrusive and the landlord is willing to lease to AT&T. AT&T has reported that they are working with the landlord of 1035 San Pablo to identify opportunities to reduce the roof-top penthouse area.

AT&T Legal Counsel John DiBene presented an updated site plan for 1035 San

Pablo, indicating the roof coverage was decreased by eight square feet. DiBene also provided images of the potential towers at 979 San Pablo and added that the roof is currently accessed via roof hatch.

The following people spoke: Ulan McKnight, Julie Beck, ARROW; Ed Fields, Francesco Papalia, Clay Larson, Stephanie Spellwoman, Winkie Campbell-Notar, Tarina Larsen, Mara Duncan, Caryl O'Keefe, Michael Barnes, Paul O'Curry, Eric Larsen, Toni Stein.

A summary of comments is as follows: support for ARROW's comments against project, site is non-conforming and is in last priority zone, concern regarding health impacts from wireless, support for the USDA site, encourage a focus on preference zones, support for better cellular coverage throughout the City and to support small businesses, suggest item be returned to Planning & Zoning Commission, suggest change in code language, current code stresses co-location, 10% roof coverage is an old rule and is arbitrary, question public health claims raised by ARROW.

AT&T Legal Counsel John DiBene responded to comments raised indicating that the current plan decreases the non-conformity, and adding that health concerns are not to be taken into account. The USDA site does not provide enough coverage, and would require higher towers. AT&T has made attempts but has been unable to meet with USDA to conduct a site visit. Per Government Code 65964c the site can't be mandated. Returning the item to Planning and Zoning Commission is not an option, and there is a shot clock rule per the Federal Communications Commission regarding the City's review of the application.

A summary of Council comments is as follows: asked for clarification regarding the amount of roof coverage, asked if the penthouse could be razed, concern that AT&T did not conduct ample research regarding other possible sites, support for looking into the USDA site more, acknowledge project has decreased in non-conformity, concern with obstacles of USDA site.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Wile to adopt Resolution No. 2012-49 including written findings.

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

ABSENT: None.

NOES: Council Member Thomsen, Mayor Javandel.

- 6-2.** Public Hearing on the Levy of Assessments within Assessment District No. 1988-1 and No. 1996-1 for Fiscal Year 2012/13 pursuant to the Landscaping and Lighting Act of 1972

Staff Recommendation:

- 1) Conduct Public Hearing.
- 2) Approve Resolution No. 2012-46 - A Resolution of the Albany City Council

Confirming the Diagram and Assessment and Levying Assessments Assessment District No. 1988-1 for Fiscal Year 2012/13 (pursuant to the Landscaping and Lighting Act of 1972)

- 3) Approve Resolution No. 2012-47 - A Resolution of the Albany City Council Confirming the Diagram and Assessment and Levying Assessments in Assessment District No. 1996-1 for Fiscal Year 2012/13 (pursuant to the Landscaping and Lighting Act of 1972)

Mayor Javandel announced that Council Members Wile, Thomsen and Javandel live within 500 feet of particular projects identified in the plan. Names were drawn to identify the Council Member to participate in the discussion on the item resulting in Council Member Wile being selected, Council Member Thomsen and Mayor Javandel recused themselves.

City Engineer Randy Leptien delivered the staff report. On May 7, 2012 Council approved Resolution No. 2012-29 and 2012-30 directing the Engineer to prepare and file the annual report for LLAD No. 1988-1 and 1996-1. Annual assessments for LLAD No. 1988-1 have not increased since FY 1993/94. LLAD No. 1988-1 provides funding for landscaping maintenance at park and recreational facilities, street lighting on Solano Avenue, maintenance of medians on Buchanan and San Pablo Avenue, payment of Bonds for the Community Center and Maintenance Center, street trees and the urban forestry program and the repair of sidewalks damaged by street trees, and maintenance of street lights along the Ohlone Greenway.

LLAD No. 1996-1 provides funding for acquiring and maintaining open space on Albany Hill, creating recreational playfields and restoring creeks. The assessment amount has not increased since formation of the District in 1996.

Vice Mayor Atkinson opened the public hearing. There was no public comment on the item. Vice Mayor Atkinson closed the public hearing.

MOTION:

Moved by Council Member Wile, seconded by Council Member Lieber to approve Resolution No. 2012-46, and Resolution No. 2012-47

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

ABSENT:

NOES: None.

RECUSED: Council Member Thomsen, Mayor Javandel.

6-3. Resolution No. 2012-48 - Capital Improvement Plan

Staff recommendation: Approve Resolution No. 2012-50 adopting the Capital Improvement Plan (CIP) for period fiscal year 2012-13 to fiscal year 2016-17.

Mayor Javandel noted that staff will be including additional detail regarding particular projects in the CIP to present to Council at the September 4, 2012 meeting.

MOTION:

Moved by Council Member Thomsen, seconded by Vice Mayor Atkinson to continue item 6-3 to the September 4, 2012 Council agenda.

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

ABSENT:

NOES: None.

6-4. Resolution No. 2012-48 - Operating Budgets for Fiscal Years 2012-13 and 2013-14 and Goals and Objectives for 2012-13

Staff recommendation: Approve Resolution No. 2012-48 adopting the General Fund Operating Budgets for fiscal years 2012-13 and 2013-14, and Goals & Objectives for fiscal year 2012-13, with the condition that City staff present options to balance the revenue and expenditures for fiscal year 2013-14, prior to July 1, 2013.

Finance & Administrative Services Director Charlie Adams delivered the staff report. The proposed budget contains estimates of revenues received from current revenue sources including property taxes, franchise fees, sales tax and real property transfer tax. Seventy-five to eighty percent of the General Fund expenditures are on salaries and benefits.

Two additional objectives have been added to the budget including the reorganization of public works management and engineering, and support of a Council subcommittee in collaboration with the Parks & Recreation Commission to work through issues related to the future use of the Gill Tract and opportunities for urban agriculture/gardening throughout the City.

Fiscal Year 2012-13 projected revenues are 1% greater than the budget for fiscal year 2011-12. Revenues for fiscal year 2013-14 are estimated to increase one percent over fiscal year 2012-13. Expenditures for fiscal year 2013-14 are estimated to increase tow percent over fiscal year 2012-13.

The following people spoke: Caryl O'Keefe, David Krebs.

A summary of comments is as follows: concern regarding tight margin, asked if new pension accounting rules have impacted General Fund, concerns regarding costs for overtime.

A summary of Council comments is as follows: interest in grants covering staff time, request updates throughout the year to further analyze the deficit.

MOTION:

Moved by Vice Mayor Atkinson, seconded by Council Member Thomsen to approve Resolution No. 2012-48 adopting the General Fund Operating Budgets for fiscal years 2012-13 and 2013-14, and Goals & Objectives for fiscal year 2012-13, with the

condition that City staff present options to balance the revenue and expenditures for fiscal year 2013-14, prior to July 1, 2013.

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

ABSENT:

NOES: None.

7. UNFINISHED BUSINESS

- 7-1. Calling for a General Municipal Election and Requesting Consolidation with the Statewide General Election for the Purpose of Electing Three Persons to fill the Office of City Council Member, Two Persons to fill the Office of Member of the Board of Education, and one Person to fill the Office of City Treasurer and Seeking Voter Approval of a One-half of One Percent (.5%) Transactions and Use Tax for the Next Eight years to fund General Municipal Services

Staff recommendation:

1. Adopt Resolution No. 2012-42 – A Resolution of the Albany City Council Calling and giving Notice of Holding a General Election to be Held on November 6, 2012 and Requesting the Board of Supervisors of Alameda County to Consolidate Said Election with the Statewide General Election; Authorizing the City Clerk or Her Duly Authorized Officers to Carry Out all the Necessary Procedures for Said Election; and Submitting to the Voters a Proposed Ordinance Amending Chapter IV "Finance" of the Albany Municipal Code by the Addition of Article 4-12, "Transactions and Use Tax".
2. Form an ad hoc Council subcommittee with responsibility for preparing and filing a written argument in favor of the ballot measure and a written rebuttal to an argument against the measure, if filed, as identified in Resolution No. 2012-42.

City Clerk Nicole Almaguer delivered the staff report pertaining to consolidation of the election. City Manager Beth Pollard discussed the proposed ballot language for the half-cent sales tax.

The following people spoke: Allan Maris, Winkie Campbell-Notar.

A summary of comments is as follows: concern regarding candidate statement fee, the Albany Chamber of Commerce has not taken a position regarding the proposed sales tax measure, encourage promotion of economic development to strengthen local economy.

A summary of Council comments is as follows: interest in public financing of candidates.

City Manager/JPA Executive Director Beth Pollard delivered the staff report. Based on Council direction the Public Works Division is intended to be restructured by recruiting a Public Works Director/City Engineer, transitioning from the current Public Works Manager position, and terminating the contract with the City's existing consulting City Engineer. The JPA's contract with the California Public Employees Retirement System allows the JPA to offer two years of additional service credit to certain employees who retire during a designated period.

No comment from the public.

A summary of Board comments is as follows: appreciation for the service provided by Public Works Manager Rich Cunningham.

MOTION:

Moved by Vice Chair Atkinson, seconded by Board Member Wile to approve Resolution No. JPA2012-2 - A resolution of intention to grant a designated period for the "Two Years Additional Service Credit" provision (§20903) for the classification of Public Works Manager.

AYES: Board Members Lieber, Thomsen, Wile, Vice Chair Atkinson, Chair Javandel.

ABSENT:

NOES: None.

11. ADJOURNMENT

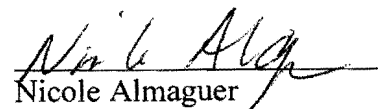
10:51 p.m. There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Nicole Almaguer, City Clerk.



Farid Javandel
Mayor

Attest:



Nicole Almaguer
City Clerk