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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION,
COMMUNITY CENTER, 1249 MARIN AVENUE
MONDAY, JUNE 15, 2009

7:00 p.m.

CLOSED SESSION

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

Closed session to discuss labor negotiations pursuant to Government Code Section 54957.6:

| | |
|------------------------|--|
| Agency Negotiator: | Glenn Berkheimer, IEDA; Beth Pollard, City Administrator |
| Employee Organization: | (SEIU, Local 1021) |

7:30 p.m.

Mayor Atkinson, who led the Pledge of Allegiance to the Flag, called the regular meeting of the Albany City Council to order on the above date.

ROLL CALL

Present: Council Members Javandel, Thomsen, Wile & Mayor Atkinson
Absent: Council Member Lieber (excused)

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Randy Leptien, Contract Engineer; Richard Cunningham, Public Works Manager; Charlie Adams, Finance Director; Mike McQuiston, Police Chief; Penelope Leach, Recreation & Community Services Director.

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

Mayor Atkinson stated that the City Council gave directions to negotiator regarding labor negotiations.

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, June 1, 2009.

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$211,890.77; taxes, benefits & withholdings in the amount of \$175,829.38. Total payroll in the amount of \$387,720.15. Payroll period: 06/05/09.
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$74,037.30; taxes, benefits & withholdings in the amount of \$51,515.16. Total payroll in the amount of \$125,552.46. Payroll period: 06/05/09.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims and demands against the City of Albany in the amount of \$539,788.08. Period: 05/29/09.
b. Ratification of bills, claims and demands against the City of Albany in the amount of \$43,954.47. Period: 06/01/09.
c. Ratification of bills, claims and demands against the City of Albany JPA in the amount of \$286.00. Period: 05/29/09.
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** Request for Temporary Street Closure around Memorial Park for the July 19, 2009, Berkeley Bicycle Club Criterium (Races)
(File #820-70)

Staff recommendation: Approve the request by Berkeley Bicycle Club and East Bay Velo Club to close off the streets immediately around

Memorial Park (and Albany High School) on Sunday, July 19, 2009 from 6:30 a.m. to 5:00 p.m. for their annual bike races.

- 4-5.** Solano Stroll Permit and Financial Support.
(File #820-50)

Staff recommendation: 1. Direct staff to issue a no fee encroachment permit to the Solano Avenue Association for the 2009 Solano Stroll event, scheduled for Sunday, September 13, 2009 between 7:00 a.m. and 7:00 p.m. (event is 10:00 a.m. to 6:00 p.m.). 2. Waive fees for paramedics to be on-site from 9:00 a.m. to 6:30 p.m., police overtime and City maintenance services. 3. Approve allocation of \$5,000 in financial support for the Solano Stroll.

- 4-6.** 2009 Accessibility Ramps Project.
(File #600-10)

Staff recommendation: 1) Amend previous authorization to call for bids for the 2009 Accessibility Ramps Project – CIP Project P27 to include additional CDBG-R Funds. 2) Authorize the City Administrator to award the construction bid to the lowest responsible bidder. 3) Authorize the City Administrator to execute a Professional Services Agreement with Jacobs Engineers to provide construction management services for the 2009 Accessibility Ramps Project for an amount not to exceed \$22,000.

- 4-7.** Renewal of Animal Control Contract with City of Berkeley.
(File #600-40)

Staff recommendation: Authorize the City Administrator to enter into a two-year contract with the City of Berkeley for \$26,127 annually to provide animal control services for the City of Albany from July 1, 2008 to June 30, 2010.

- 4-8.** Ordinance No. 09-08 – An Ordinance of the Albany City Council Amending Section 10-4.2 Animals At-Large of the Albany Municipal Code. Second Reading – Pass-to-Print.
(File #500-20)

Staff recommendation: Approve second reading, waiving reading of entire Ordinance, Pass-to-Print.

- 4-9.** Resolution No. 09-28 – A Resolution of the Albany City Council Adopting the Yearly Tax Rate for the Pension Plans of the City of Albany Submitted and Approved by the Albany City Council in Accordance with Assembly Bill 377 and Assembly Bill 13, the Tax Rate Adopted is for the Fiscal Year Beginning July 1, 2009 and Ending June 30, 2010.

City Council Minutes

(File #390-85)

Staff recommendation: Approve Resolution No. 09-28.

- 4-10.** Resolution No. 09-29 – 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.

(File #320-40)

Staff recommendation: Approve Resolution No. 09-29.

- 4-11.** Resolution No. 09-31 – A Resolution of the Albany City Authorizing the City Administrator to Enter into a Grant Funding Agreement with the Alameda County Transportation Improvement Authority (ACTIA) in the amount of \$130,000 for the Completion of the City's First Pedestrian Master Plan and the Update of the Existing Bicycle Master Plan.

(File #00-40)

Staff recommendation: Approve Resolution No. 09-31.

- 4-12.** Consideration of Claim #AL596; Brown v. City of Albany.

(File #170-60)

Staff recommendation: Reject the claim and authorize the City Clerk to out rejection letter.

- 4-13.** Waste Management of Alameda County Annual Rate Adjustment Request.

(File #810-30)

Staff recommendation: Authorize the Annual Rate Adjustment of 0.107% by Waste Management of Alameda County.

- 4-14.** East Bay Green Corridor Partnership.

(File #405-35)

Staff recommendation: Authorize joining the East Bay Green Corridor Partnership.

- 4-15.** Temporary Closure of Buchanan Street on July 4, 2009.

(File #820-70)

Staff recommendation. Approve the temporary closure of Buchanan Street west of the I-80/580 freeway interchange on July 4, 2009 from 5:30 p.m. to 10:00 p.m.

- 4-16.** Temporary Street Closure around Memorial Park for the July 4, 2009 Celebration.
(File #820-70)

Staff recommendation: Approve the closure of a two-block area of Portland Avenue between Carmel Avenue and Pomona Avenue in front of Memorial Park on July 4, 2009 from 6:00 a.m. to 5:00 p.m. for the Dog Jog and the Fourth of July Celebration.

- 4-17.** Sewer System Management Plan.
(File #1030-20)

Staff recommendation: Set a public hearing on the adoption of the City's Sewer System Management Plan (SSMP) for July 6, 2009.

Mayor Atkinson asked if anyone would like to remove an item and the follow items were removed for discussion: Items 4-5, 4-6, 4-7 & 4-17.

4-5. Solano Stroll Permit & Financial Support

The following people spoke: Brian Parsley, Albany resident and Bob Outis, Albany resident.

A summary of the comments is as follows: Expressed concern that the requested \$5,000 financial support is a lot of money during this economic climate. Noted that the City should have an open container ordinance, which could be enforced during the Stroll. Stated that the Solano Stroll is a publicly supported event and should not be manipulated for political purposes.

4-6. Accessibility Ramps Project

The following people spoke: Nick Pilch, Albany resident and Randy Leptien, Contract Engineer.

A summary of the comments is as follows: Noted that this is a worthwhile project and spoke about diagonal and perpendicular cuts noting that perpendicular is the preferred type. Stated that this would be referred back to Jacobs Construction to look at this but noted sometimes diagonal is the only option available.

4-7. Animal Contract with Berkeley

Mayor Atkinson asked if this contract included services for the problem with feral cats and was advised that this question would be asked of Berkeley.

4-13. Waste Management Annual Adjustment

Mayor Atkinson asked if there was a recycling program on Pierce Street at the Condominiums and was informed that the City would find out the status. Council

Member Wile, Waste Management representative, noted that this question has come up and it has been a struggle in multi family dwelling units.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Wile to approve the Consent Calendar, as submitted.

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

NOES: None

ABSENT: Council Member Lieber

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

The City Administrator stated that staff is aware of the residents of Jackson Street who are at the meeting to speak about two abandoned houses on the 900 block of Jackson. The City Administrator noted that staff is aware of the concerns and that the Community Development Director did meet with some of the neighbors to discuss the concerns.

The City Administrator explained that when a City has to deal with this type of a nuisance it takes a lot of time, expertise and resources. The City Council needs to look at allocating money for this type of work and maybe think about working with a neighboring City and contracting for services.

The City Attorney cautioned the people here tonight on what they speak about noting that at some point the City Council may have to serve as an Appeals Board on the code enforcement issue and if they are bombarded with a lot of facts they may have to recuse themselves from any action.

The City Attorney urged the City Council to give staff the resources to deal with these problems.

The following people spoke: Ray Anderson, Albany resident; Jennifer Dymnt, Albany resident; Barbara Chambers, Albany resident; Brian Parsley, Albany resident; Leah DiMathews, Albany resident; Gus Ludy, Albany resident; Carol Richardson, Albany resident; Todd Abbott, Chamber of Commerce President; Alan Cain, Solano Avenue Association Director.

A summary of the comments is as follows: Announced a sidewalk sale on Solano Avenue this weekend and encouraged everyone to shop in Albany. Citizens spoke to the Council about the abandoned homes on Jackson Street noting that a petition with over 100 signatures has been turned over to the City and that they want the City to enforce Chapters 12 & 18 of the Municipal Code. Noted the City has spent a lot of money on the Waterfront, landscaping and City offices and they now need to set a priority on acting on nuisances throughout the City. Expressed concern about the Tom Bates Regional Sports Facility and the JPA meetings noting that these meetings are not transparent. It was noted that \$20 million has been spent on this facility and asked what the citizens have received for that money. Also asked for an explanation on the difference between baseball, softball, soccer and ADA issues. Announced a joint mixer with the Albany and Berkeley Chamber of Commerce on Wednesday, June 17. Noted that the Chamber of Commerce did not submit a request for financial support this year, as the Chamber had a great year. Thanked the City for supporting the 35th annual Solano Avenue Stroll and

also noted that the Solano Avenue Association supports four other events throughout the year and reminded everyone to attend the sidewalk sale this coming weekend.

The City Administrator stated that before Council is Resolution 09-34, which needs to be treated as an emergency item because the information came after the agenda was approved and would need a unanimous vote of the Council. The City Administrator noted that Resolution No. 09-34 would be under New Business, item 8-2.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Thomsen to approve putting Resolution No. 09-34 as an emergency under New Business Item 8-2.

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

NOES: None

ABSENT: Council Member Lieber

Motion carried and so ordered.

6. PRESENTATION/PUBLIC HEARING

6-1. Certificate of Appreciation

Mayor Atkinson presented a Certificate of Appreciation to Linjun Fan for her work on developing Albany Today.

Ms. Fan thanked the Council for the Certificate and noted that she would be returning to China to teach journalism but that another journalist would be taking over Albany Today.

All four members of the Council thanked Ms. Fan for the fair coverage, time and effort and positive contribution to the community and wished her all the best in her future endeavors.

6-2. Landscaping & Lighting Assessment District 1988-1 & 1996-1
(File 360-20)

The Community Development Director reported that this is the annual public hearing on the proposed assessments for Landscaping and Lighting District No. 1988-1 & 199-1. The Parks & Recreation Commission discussed the proposed budgets, which they approved at its May meeting,

LLDA 1988-1: This Assessment District was established in 1988 to provide landscaping and lighting improvements and maintenance throughout the City. The assessments are not proposed to increase from the fiscal year 2008-09 level and have not increased in eighteen years. The majority of funds will go toward maintaining Albany's existing lighting and landscaping infrastructure, including street trees, graffiti abatement, tennis courts, street lights on Solano and Ohlone Greenway, sidewalks, the urban forest program, street medians and upgrading park and recreation facilities. The only project identified for the 2009-10 fiscal year is a contribution toward the Community Center Tower repair.

LLDA 1996-1: This Assessment District was established in 1996 for the Open Space, Recreational Playfields, and Creek Restoration Assessment District (also known as Measure R). The assessments are not proposed to increase from the 2008-09 levels and have not increased since 1996. The Parks & Recreation Commission has

recommended a one-time expenditure of up to \$30,000 (\$20,000 more than is currently budgeted) for fire prevention maintenance, the removal of English Ivy, French Broom and other invasives on Albany Hill.

Mayor Atkinson opened the public hearing and the following people spoke: Doug Donaldson, Albany resident; Jim Cleveland, Albany resident.

A summary of the comments is as follows: Expressed concern about the eucalyptus trees on Albany Hill and the danger of fire and urged the Council to approve the modification to the budget to include fire prevention on Albany Hill. Expressed concern about weeds and noted the Fire Chief has done a great job in clearing the area but there are still some that are as high as the stop sign.

There being no one else wishing to speak Mayor Atkinson closed the public hearing.

Council Member Thomsen presented Resolution No. 09-32 – A Resolution of the Albany City Council Confirming the Landscaping & Lighting Assessment District Diagram and Assessment and Levying Assessment for LLDA No. 1988-1 for Fiscal Year 2009-10.

Council Member Thomsen presented Resolution No. 09-33 – A Resolution of the Albany City Council Confirming the Landscaping & Lighting Assessment District Diagram and Assessment and Levying Assessment for LLDA No. 1996-1 for Fiscal Year 2009-10.

MOTION:

After reading the titles, and waiving reading of entire Resolutions, it was moved by Council Member Thomsen and seconded by Council Member Wile to approve Resolution No. 09-32 & 09-33.

ON THE QUESTION:

Council Member Javandel supported the idea to manage the vegetation on Albany Hill.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: Council Member Lieber

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. Monthly Progress Report: Civic Center Project
(File #200-20)

The Public Works Manager reported that the work is approximately 67% completed and the total amount expended between Contractor and retention paid into escrow to date is \$5,821,368.32. There were some delays due to the incorporation of change orders and unresolved issues during the period of transition between new management and staff estimates that completion will happen around the end of October. Next month's report, all current pending issues will be resolved, so that staff can accurately project a completion date.

Two contract change orders were issued during the past month. The first one was to cover changes to doors, frames and hardware for Police doors that were not properly

covered on the design plans (\$7,732). The second one was related to the modifications of new plumbing valves that result on extra framing change (\$1,612).

The City Administrator stated that Council has done a walk through but noted the Brown Act was not violated, as no more than two (2) members at one time attended.

8. NEW BUSINESS

8-1. General Fund Operating Budget Fiscal Year 2009-10

(File #330-20)

The Finance Director reported that in 2008 the Council adopted the operating budgets for fiscal years 2008-09 and 2009-10. However, because the FY 2009-10 budget projected an operating deficit of \$216,514 and the fact that estimates of revenues and expenditures are likely to change significantly prior to July 1, 2009, the Council directed staff to review fiscal year 2009-10 budgets prior to the beginning of the fiscal year and to propose changes that would produce a balanced budget.

The object of amending the budget is to endure that the budget remains a valid and effective instrument for the control of the City's financial operations, that is serves as a benchmark for measurement of the City's financial status, and to ensure that the City's financial resources are utilized in accordance with plans and objectives that have been discussed and approved by the Council.

The increases and decreases to revenues, expenditures and transfers yield a net change in excess of revenue over expenditures of \$240,480 between the adopted and revised budgets. If the budget results are achieved the excess of revenue over expenditures for the fiscal year will be \$23,96. This increases the General Fund operating reserves, is in line with expressed City goal of maintaining adequate operating reserves. Adoption of the revised budget will enhance the usefulness of the budget, as a tool for controlling the financial affairs of the City.

The Finance Director stated that an unknown component of the property tax revenue is the revenue from supplemental assessments and staff has lowered its estimate from \$175,000 to \$150,000.

Sales tax revenue is down 5.4% and is significant, however, it is less than what has occurred in other cities in the county. Should the economic recession continue, this revenue source could be further impacted.

Business license tax revenue is running below budget and the projection of \$540,426 has been reduced to \$530,000.

Property transfer tax was originally budgeted at \$1,250,000 and has been reduced to \$1,000,000 with the projected actual revenue for FY 2008-09 at \$900,000.

The racetrack wager tax projection has been increased from \$351,192 to \$399,886, as a result of an increase in the number of race days at Golden Gate Fields.

Investment earnings have fallen from around 5% to 1% and a small recovery in interest rates could yield significant revenue to the City.

The Finance Director reported on the expenditures, as follows: A savings of approximately \$257,000 for fiscal year 2009-10 in CalPERS retirement due to a payoff of the safety employee side funds.

Reductions in the provisions for a cost of living wage adjustment included in the adopted budget, saving \$115,000.

Elimination of one police officer position, as a result of the discontinuance of the School Resource Officer program, saving \$60,000. Restructuring of the crossing guard staffing, saving \$25,000. Restructuring of Recreation staff, saving \$50,000. Combining functions of the building and sewer inspections into one position, and replacing sewer inspection position with maintenance worker position, saving \$13,500. Replacing accounting supervisor with an accountant, saving \$20,000. Curtailing non-essential police activities, saving \$50,000, has cut overtime in the Police Department.

Deferring work on the General Plan update, saving \$200,000, has lowered professional services.

Savings for recruitment advertising expense by using less expensive media, saving \$10,000.

The following people spoke: Jim Cleveland, Albany resident; Bob Outis, Albany resident.

A summary of the comments is as follows: Questions were raised about the budget transfers and spoke about the economy getting worse and noted it is prudent to plan conservatively at this time. A question was asked about the PERS side funds and how confident the Finance Director was about the 5% property transfer tax. Also commented on the \$600,000 spent on the Waterfront Visioning Process.

The Finance Director responded to the PERS question noting that by the City paying off the side funds the City is able to save money and not put future funds at risk. The Finance Director responded to the property transfer tax question by saying this is a wildcard and have to keep an eye on this fund.

Council Member Javandel presented Resolution No. 09-30 – A Resolution of the Albany City Council Amending the City of Albany Budget General Fund Operating Budget for the Fiscal Year 2009-10.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Wile to approve Resolution No. 09-30.

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

NOES: None

ABSENT: Council Member Lieber

Motion carried and so ordered.

8-2. Resolution No. 09-34 – Opposing the Seizure by the State of the City's Street Maintenance Funds

(File #330-20)

The City Administrator reported that this item is considered an emergency item, as it came to the City's attention after the agenda was prepared and earlier in the meeting the Council approved putting this on as an emergency item.

The City Administrator reminded the Council that an emergency item must be approved by a 4/5 vote of the Council.

The Resolution authorizes the City Attorney to cooperate with the League of California Cities, other cities and counties in litigation challenging the constitutionality of

any seizure by the State of the City's street maintenance funds. If the State does seize this money, Albany's share would be \$281,000 that would have to be cut to the budget that was just amended.

The League of California Cities is urging everyone to contact his or her local legislators opposing this action. Albany's contacts are Senator Loni Hancock and Assembly Member Nancy Skinner.

Council Member Javandel agreed that this is a bad idea, which digs the City into a deeper hole.

Council Member Thomsen stated that the State needs to remember that "the buck stops here" and not on the backs of local government.

Council Member Javandel presented Resolution No. 09-34 – A Resolution of the Albany City Council Authorizing the City Attorney to Cooperate with the League of California Cities, Other Cities and Counties in Litigation Challenging the Constitutionality of any Seizure by State Government of the City's Street Maintenance Funds.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Thomsen to approve Resolution No. 09-34.

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

NOES: None

ABSENT: Council Member Lieber

Motion carried and so ordered.

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

Council Member Wile announced an upcoming meeting with the cities of Berkeley, Richmond and the Board of Supervisors to discuss a Clean Energy Policy for an alternative to coal generated energy. A report will come back to the Council.

Council Member Thomsen reminded citizens to attend the Voices to Vision meetings and noted that people can attend any date. Due to the popularity of this new sessions have been added: June 27th and July 1st.

Council Member Javandel encouraged the Council to join the Albany Team to drive less.

Mayor Atkinson announced that she attended the Mayor's Conference and had a tour of the Ohlone College campus. Also attended the memorial for Barry Whittaker, City Project Manager and a block party on the 800 block of Evelyn.

10. ADJOURNMENT

9:25 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

MARGE ATKINSON
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK