CALL TO ORDER
Mayor Thomsen called the regular meeting of the Albany City Council to order on the above date.

1. PLEDGE OF ALLEGIANCE
Mayor Thomsen led the Pledge of Allegiance to the Flag.

2. ROLL CALL
Present: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.
Absent: None
Staff Present: Beth Pollard, City Manager; Craig Labadie, City Attorney; Anne Hsu, Deputy City Clerk; Jeff Bond, Community Development Director; Anne Hersch, Senior Planner; Ray Chan, Public Works Director/City Engineer.

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

4. CONSENT CALENDAR

4-1. Minutes, February 4, 2013

Staff recommendation: Approve

4-2. a. Ratification of City of Albany net payroll in the amount of $190,486.44; taxes, benefits & withholdings in the amount of $266,392.42. Total payroll in the amount of $456,878.86. Payroll period: 1/25/2013

b. Ratification of Albany Municipal Services JPA net payroll in the amount of $47,829.72; taxes, benefits & withholdings in the amount of $56,643.33. Total payroll in the amount of $104,473.05. Payroll period: 1/25/2013
Staff recommendation: Ratify.

4-3. Safe Routes to School Project for the Marin Avenue-Santa Fe Avenue Intersection and Pedestrian Improvements around Marin Elementary School

Staff recommendation: That the City Council adopt Resolution No. 2013-5 approving and accepting improvements and directing the filing of the Notice of Completion for the Marin Avenue-Santa Fe Avenue Signal and Intersection Improvements Project- Caltrans Project No. SR2SL-5178(010), Contract No. C12-3

Mayor Thomsen asked if anyone would like to remove an item. Council Member Atkinson pulled item 4-3 from the consent calendar.

Council Member Atkinson acknowledged the project came in under budget, and asked for clarification regarding the art in public places funding. City Manager Pollard provided clarification regarding the project budget.

MOTION:
Moved by Vice Mayor Wile, seconded by Council Member Barnes to approve the Consent Calendar as submitted.
AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, Mayor Thomsen. 
ABSENT: None
NOES: None.
Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Thomsen opened the Good of the City/Public Forum/Announcements. The following people spoke: Pareen Shah.
A summary of comments is as follows: expressed concern regarding the wild turkeys in Albany and requested an ordinance or other be adopted to discourage feeding of wild animals.

6. PRESENTATION/PUBLIC HEARING

6-1. Proclamation in Appreciation of Judy Lieberman

Mayor Thomsen presented the Proclamation to Judy Lieberman. Judy Lieberman expressed thanks to the City, staff and community. City Manager Beth Pollard expressed appreciation for Judy Lieberman’s service to the City of Albany.
A summary of Council comments is as follows: appreciation for all of Judy’s hard work for the City including the relocation of City Hall during the retrofit project, and for the work with the Pierce Street neighbors.

6-2. Appeal of Planning and Zoning Commission decision approving Application #PA12-050 by AT&T Wireless for Design Review and a Conditional Use Permit approval of a new wireless antenna facility at 1035 San Pablo Avenue

Recommendation: That the City Council approve Resolution No. 2013-6 denying the appeal filed on January 30, 2013 by Heike Abeck and adopt findings affirming, with modifications, the approval of Application #PA12-050, by AT&T Wireless, for Design Review and a Conditional Use Permit approval of a new wireless antenna facility at 1035 San Pablo Avenue.

Planning Commission action: The Planning Commission voted 4-0 to approve Design Review and a Conditional Use Permit for a new AT&T roof-mounted wireless facility at 1035 San Pablo Ave.

City Planner Anne Hersch delivered the staff report. The Planning & Zoning Commission voted 4-0 to approve the Design Review and a Conditional Use Permit for a new AT&T roof-mounted wireless facility at 1035 San Pablo Avenue. AT&T currently has no facilities in the City of Albany, and has been working with the City beginning with an application for a new wireless facility filed in 2008. After several plan modifications, the project was denied by the Planning & Zoning Commission on May 22, 2012. AT&T filed an appeal of the Planning & Zoning Commission decision, and on July 16, 2012 the City Council upheld the denial decision.

AT&T filed a lawsuit against the City of Albany seeking declaratory and injunctive relief on August 15, 2012. The City Attorney, outside legal counsel and City staff prepared required records and court filings associated with the litigation. The current application from AT&T for a Conditional Use Permit and Design Review approval was filed on October 5, 2012.

An appeal was filed on January 30, 2013 by Heike Abeck, which identified five items as the basis for the appeal:
1. Existing building height is non-conforming
2. Lack of antenna screening
3. 50 foot setback from residential property line has not been satisfied
4. Lack of due diligence on alternative sites analysis
5. Lack of radio frequency (RF) exposure testing by the City

Hersch provided analysis regarding each of the five items included in the appeal. Hersch reviewed the five actions available to the Council regarding the project.

Heike Abeck presented her appeal of the project, identifying concerns with the project and reviewing the five items listed above.

AT&T staff Valerie Tallerico responded to the appeal, noting conformity with the
City’s codes. Additionally, AT&T legal counsel has provided responses to the appeal and to the letter recently submitted to the City by ARROW (Albany Residents for Responsible Oversight of Wireless).

The following people spoke: Rick Saul; Erick Bergman; Signe Madison; Eric Larsen; Ed Fields; Maureen Crawley; Geraldo Santana; Caryl O’Keefe; Clay Larson; David Sanger; Peggy McQuaid; Nan Wishner; Alan Riffer.

A summary of comments is as follows: concern about health and welfare resulting from erection of wireless facilities; concern about cumulative RF exposure from neighboring cities combined with Albany; concern that the City has not conducted the RF testing every two years as required; the project exceeds the FCC exposure levels; interest in independent monitoring by the City; expressed support for the Planning & Zoning Commission decision; expressed support for the Planning & Zoning Commission decision; encouraged the Council to review and clarify the City’s Ordinance regarding wireless facilities; expressed concern with lack of conditions of approval associated with the project including increased setback; expressed concern regarding lack of cell phone coverage including health and safety such as inability to call 911 during an emergency, locating wireless facilities at USDA would not be subject to the City’s Zoning Code; expressed preference for the USDA site.

A summary of Council comments is as follows: asked about the City’s efforts to identify alternative wireless sites including the USDA facility; asked why RF testing has not been conducted every two years; asked about relocation of the wireless antennas to a more central location on the rooftop; asked the City Attorney for clarification regarding compliance with City codes; there are no legal issues regarding the project; local governments are not allowed to make independent determinations on the health effects of RF; interest in providing cell phone service as a public service and to ensure safety; improvements to non-conforming structures have been allowed in the past; the Planning & Zoning Commission is allowed variance for design reviews; AT&T has reviewed a number of alternative sites; interest in requiring applicants to pay for RF testing to be conducted by the City; interest in conducting RF testing for citizen awareness; asked AT&T if they would commit to RF testing, and whether the antennas could be moved back further on the rooftop; asked for clarification regarding the decision by the Planning & Zoning Commission to not require screening.

Community Development Director Jeff Bond responded that a report from the consultant retained by the City to analyze possible wireless sites will be forthcoming in the near future. Staff has been working in a reactive mode regarding wireless applications including legal suits, and appeals. Monitoring of RF and reviewing the wireless ordinance are both goals that staff would like to pursue when time allows.

City Attorney Craig Labadie responded to Council questions regarding the application.
AT&T staff responded they would be willing to conduct RF testing, and that relocating the antennas was determined to impact coverage.

City Planner Hersch clarified that the Planning & Zoning Commission found that screening would be more intrusive than painted antennas.

**MOTION:**
Moved by Vice Mayor Wile, seconded by Council Member Barnes to approve Resolution No. 2013-6 denying the appeal filed on January 30, 2013 by Heike Abeck and adopt findings affirming, with modifications, the approval of Application #PA12-050, by AT&T Wireless, for Design Review and a Conditional Use Permit approval of a new wireless antenna facility at 1035 San Pablo Avenue; with condition of approval that AT&T conduct RF frequency per the City’s Ordinance every two years.

AYES: Council Members Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.

ABSENT: None

NOES: Council Member Atkinson.

Motion carried and so ordered.

7. **UNFINISHED BUSINESS**

7-1. Assembly Bills 39, 48, and 127, regarding distribution of funds from Proposition 39, regulations on the sale of firearms and ammunition, and elimination of toxic chemicals from building insulation, respectively

Staff recommendation: That the City Council consider approving letters of support for Assembly Bills 39, 48, and 127 as requested by Assemblymember Nancy Skinner’s Office.

City Manager Beth Pollard delivered the staff report and reviewed the proposed Assembly Bills noting that there is no opposition expressed by the City’s management in the Fire and Police Departments, nor by the Albany Unified School District.

Amelia Lopez representing Assemblymember Nancy Skinner’s office provided additional detail to the Council regarding the proposed Assembly Bills. The bills have been referred to committee but have not yet been heard.

There was no public comment on this item.

**MOTION:**
Moved by Council Member Atkinson, seconded by Vice Mayor Wile to approve
letters of support for Assembly Bills 39, 48, and 127 as requested by Assemblymember Nancy Skinner’s Office.

AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.
ABSENT: None
NOES: None
Motion carried and so ordered.

8. NEW BUSINESS

8-1. Gun Buy-Back Program

Mayor Thomsen recommendation: That the City Council direct staff to report back on the options, pros and cons, resources needed, and feasibility of conducting a gun buy-back program for Albany residents.

City Manager Beth Pollard introduced the report. Interest in gun buy-back programs has increased due to recent incidents such as the incident in Newtown Connecticut.

Police Chief Mike McQuiston addressed the Council regarding the item. The police department can conduct additional research on the item. Based on research conducted to date, gun buy-back programs tend to target the wrong guns (not the guns typically involved in firearms violence), and are a costly program to operate, including a significant amount of staff time. Firearms violence is an ongoing issue, however there is currently a lack of firearms violence in the Albany community. The Albany Police Department regularly receives guns from anyone wishing to dispose of a gun. When guns are received there is a mandatory destruction policy. The buy-back program can be structured to suit the City, and would require additional research to determine best practices for the program.

The following people spoke: Ruth Cashmere - SEJC Chair; Julie Wakelee-Lynch, St. Albans Pastor; Peggy McQuaid.

A summary of comments is as follows: interest in targeting gun safety and including young males who may be at-risk, expressed conducting additional research on the item to identify other programs that may work for the City; expressed concern for local gun violence including the recent shooting at the Ohlone Greenway, expressed interest in collaborating with the City regarding gun safety awareness; interest in including mental health issues in the research.

A summary of Council comments is as follows: interest in learning about partnering with other cities, and identifying how to target at-risk males; asked whether the buy-back values varied by gun type; interest in conducting outreach to the community regarding gun disposal and alternatives to a gun buy-back.
program; asked how many registered guns are in the City; and incidents of firearms discharges; asked what the most productive gun awareness program would be for the City.

The City Council requested that staff review additional program opportunities, including ways to bring in young people and target those at-risk, and identify opportunities to involve the schools and incorporate restorative justice.

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

Vice Mayor Wile announced that Stopwaste is working with eight Bay Area counties to form a regional energy network. Stopwaste will serve as the lead for regional energy efficiency programming. Council Member Barnes distributed the latest California Agriculture magazine, which included information regarding outreach programs on nutrition and health. Mayor Thomsen reported that she and City staff met with officials from the University of California, who are moving forward with hiring and with scheduling a community meeting. Council Member Atkinson announced that she attended the Senior Center pancake breakfast and encouraged continued support of the Senior Center.

10. ADJOURNMENT

9:58 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.

Peggy Thomsen
Mayor

Attest:

Nicole Almaguer
City Clerk