4:00 p.m. SPECIAL MEETING

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:

1. Public employee appointment or employment pursuant to Government Code Section 54957. Position to be filled: City Manager.

2. Conference with legal counsel pursuant to subdivision (d)(2) of Government Code Section 54956.9 regarding significant exposure to litigation against the City arising out of Planning Application 06-053 for Mitigated Negative Declaration and Conditional Use Permit for St. Mary’s College High School located at 1600 Posen Avenue: (One case).

3. Conference with legal counsel to discuss pending litigation pursuant to Government Code Section 54956.9(d)(1): Cody et al. v. City of Albany et al. United States District Court Case No. C13-5270

7:30 p.m.
Albany Municipal Services JPA meeting held at 7:30 p.m. – minutes for the JPA meeting are provided in a separate document. The Regular City Council meeting was called to order immediately following the JPA meeting.

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.

3. **REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**  
   1. Mayor Thomsen reported that Council gave direction to the Mayor  
   2. Mayor Thomsen reported that the Council received information from legal counsel.  
   3. City Attorney Craig Labadie announced that he appeared in Federal Court this afternoon in response to an application for a Temporary Restraining Order in response to the City’s planned enforcement of the no camping ordinance. Labadie read the findings issued by the Court denying the Temporary Restraining Order.

4. **CONSENT CALENDAR**

4-1. Minutes, November 4, 2013; November 7, 2013  
   Staff recommendation: Approve

4-2.  
   a. Ratification of City of Albany net payroll in the amount of $210,792.20; taxes, benefits & withholdings in the amount of $178,350.67. Total payroll in the amount of $389,142.87. Payroll period: 11/1/2013.

   b. Ratification of Albany Municipal Services JPA net payroll in the amount of $42,055.74; taxes, benefits & withholdings in the amount of $28,809.32. Total payroll in the amount of $70,865.06. Payroll period: 11/1/2013.

   Staff recommendation: Ratify


   Staff recommendation: Ratify

4-4. Vice Mayor Wile Nomination of Bart Grossman to the Berkeley/Albany Mental Health Commission

   Vice Mayor Wile recommendation: that the Council approve nomination of Bart Grossman to the Berkeley/Albany Mental Health Commission

4-5. Adoption of Master City Employee Pay Rate Schedule In Accordance With Adopted MOU’s / Salary Adjustments and Updated Part-Time Classification Listing

   Staff recommendation: that the Council adopt Resolution No. 2013-64 confirming
the pay rates for all City of Albany established positions, including newly listed part-time classifications

4-6. Addition to City of Albany Master Fee Schedule – Sewer Service Rate Schedule

Staff recommendation: that the Council approve the addition of the Fiscal Year 2013-14 Sewer Service Rate Schedule to the City of Albany Master Fee Schedule effective September 4, 2013

4-7. Appointment of Dustyn Wiggins and John Weitzel to the Board of Police and Fire Pension Fund Commissioners as Fire Department Board Member and Fire Department Alternate Respectively

Staff recommendation: that Mayor Thomsen appoint Dustyn Wiggins as the Fire Department Board Member, and John Weitzel as the Fire Department Alternate to the Board of Police and Fire Pension Fund Commissioners

Mayor Thomsen asked if anyone would like to remove an item. No items were removed from the consent calendar.

MOTION:
Moved by Vice Mayor Wile, seconded by Council Member Maass 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. PRESENTATION

6. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Thomsen opened the Good of the City/Public Forum/Announcements. The following people spoke: Zachary Mallet, BART; Paul O’Curry; Kim Denton; Signe Madison; Joseph Fenton.
A summary of comments is as follows: discussed issues with BART negotiations and intended agreement; there are homeless in other parts of Albany besides the Bulb; announced upcoming Relay for Life event on May 17 & 18 2014; asked about how City will address housing security for the community; encouraged Council to provide long term solutions regarding homelessness in Albany.
7. **PUBLIC HEARING**

7-1. Appeal of PA06-053 St. Mary's College High School Mitigated Negative Declaration & Conditional Use Permit

Staff recommendation: that the Council approve Resolution No. 2013-65 and Resolution No. 2013-66 upholding the Planning & Zoning Commission decision approving a Mitigated Negative Declaration (MND) and Conditional Use Permit (CUP) for St. Mary's College High School, and adopt findings affirming, with any modifications, the approval of Application #PA 06-053

City Planner Anne Hersch delivered the staff report, and provided an application timeline overview. The application process has been ongoing since April 2011. The Planning & Zoning Commission granted Design Review & Conditional Use Permit approval for a new two-story single-family home at 726 Cerrito Street. The existing property is a vacant 4,452 sq. ft. lot. The Conditional Use Permit allows a front yard setback reduction that varies between 6' and 7'. An appeal of this decision was filed on September 25, 2013 and cites discrepancies with the property survey and building height as the basis for the appeal. Mediation sessions were held and new conditions were included as a result of the mediation. Hersch reviewed the options for City Council action, reviewed the proposed project and use permit.

Mayor Thomsen opened the public hearing. The appellant Donna Deidemire accurate language, unambiguous and enforceable provisions. Raised issue with enrollment totals and increase with enrollment, details regarding the Chapel usage is lacking. The applicant Vivian Kahn, planning consultant, net addition of approximately 27% in floor area, not seeking approval for an increase in enrollment because the current environmental review enrollment amount is 630. St. Mary's has agreed to a number of new conditions, participated in mediation sessions, and has agreed to conduct a traffic management plan, have agreed to limiting hours of construction, limiting use of the proposed chapel.

The following people spoke: Kwame Thompson; Carla Harkness; Myra O'Leary; Gloria Espinoza; Scott Stanfield; Laurie Capitelli; Wayne Shipman; D. Kevin Shipp; Chris Hamilton; Amy Tick; Hanna Bankier; Andrew Watry; Lori Copan; Susannah Bell; Sara Cohr; Michael Delehunt; Jennifer Winch; Meghan Harrington.

A summary of comments is as follows: expressed support for proposed improvements to the campus, encouraged support for higher education and quality facilities; lowering enrollment of the school could impact the ability to support school programs; St. Mary's has shown a strong willingness to work with the neighbors, encouraged denial of the appeal; asked for clarified language in the use
permit to ensure enforceability; raised concern with the CEQA analysis; expressed concern that the usage of the Chapel is not clearly defined; objected to increased enrollment; asked for a Chapel baseline usage summary; asked for corrections to the statement of facts.

St. Mary’s legal counsel Michael Delahunt addressed the Council noting there are established uses for the Chapel, there has been no favoritism with regard to treatment of St. Mary’s throughout the plan review process, the permit conditions govern land use management without infringing upon religious rights.

A summary of Council comments is as follows: expressed appreciation for St. Mary’s agreeing to additional conditions, expressed concern with micromanaging functions at the Chapel, traffic mitigations are in planning, including St. Mary’s funding for traffic monitors, expressed support for school and neighborhood collaboration; acknowledged the mediation process.

**MOTION:**
Moved by Vice Mayor Wile, seconded by Council Member Barnes to approve Resolution No. 2013-65 and Resolution No. 2013-66 upholding the Planning & Zoning Commission decision approving a Mitigated Negative Declaration (MND) and Conditional Use Permit (CUP) for St. Mary’s College High School, and adopt findings affirming, without modifications, the approval of Application #PA 06-053.

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


Staff recommendation: that the Council approve Resolution No. 2013-67 upholding the Planning & Zoning Commission decision approving Design Review and a Conditional Use Permit for a new single family home at 726 Cerrito St., and adopt findings affirming, with any modifications, the approval of Application #PA 13-044, by Linvill Pond Architects for Barrie Quan and Noel Diaz (property owners)

The Planning & Zoning Commission granted Design Review & Conditional Use Permit approval for a new two-story single-family home at 726 Cerrito Street. The existing property is a vacant 4,452 sq. ft. lot. The Conditional Use Permit allows a front yard setback reduction that varies between 6’ and 7’. An appeal of this decision was filed on September 25, 2013 and cites discrepancies with the property survey and building height as the basis for the appeal.

Hersch reviewed the options for City Council action, reviewed the proposed project
and use permit. The story poles denoting proposed height of the project are correct as depicted currently.

Mayor Thomsen opened the public hearing. John Gutierrez, legal counsel for the appellant raised issue with the planning process for the project including errors with the application, and concern with the accurate height of the story poles. The project architect Chris Linvill, Berkeley Design Build, addressed the Council noting that any outstanding errors in the application have been addressed and rectified, and the existing story poles accurately depict proposed building height.

The following people spoke: Kim Cleveland, Jim Cleveland. A summary of comments is as follows: the plans for the project are misleading, expressed concern with the FAR (floor-area-ratio), and height of story poles.

A summary of Council comments is as follows: asked about discrepancy in story pole height and how to ensure the development will not exceed height limits. Community Development Director Jeff Bond responded that staff will monitor the development project to ensure compliance with height limits. The story poles are below the maximum allowable height, as are the plans for the project.

**MOTION:**
Moved by Vice Mayor Wile, seconded by Council Member Maass to approve Resolution No. 2013-67 upholding the Planning & Zoning Commission decision approving Design Review and a Conditional Use Permit for a new single family home at 726 Cerrito St., and adopt findings affirming, with any modifications, the approval of Application #PA 13-044, by Linvill Pond Architects for Barrie Quan and Noel Diaz (property owners).

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

7-3. 2013 Building & Fire Codes Ordinance – Ordinance No. 2013-03

Staff recommendation: that the Council introduce for first reading Ordinance No. 2013-030, Amendments to the Building & Housing, Fire Prevention, Chapters of the Municipal Code related the Adoption and Local Amendments to the of the 2013 California Building Standards Code

Community Development Director Jeff Bond delivered the staff report. Pursuant to State law, the City is required to adopt and enforce a series of building and fire codes prepared by the California Building Standards Commission, which collectively are known as the California Building Standards Code. The Codes are
updated by the state every three years. The 2013 codes become effective January 1, 2014.

The following people spoke: Amber Whitson.
A summary of comments is as follows: asked about relation to the Albany Bulb.

**MOTION:**
Moved by Vice Mayor Wile, seconded by Council Member Barnes to introduce for first reading Ordinance No. 2013-030, Amendments to the Building & Housing, Fire Prevention, Chapters of the Municipal Code related the Adoption and Local Amendments of the 2013 California Building Standards Code.
AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.
ABSENT: None
NOES: None
Motion carried and so ordered.

7-4. Ordinance No. 2013-02 Amending Section 15-2.4 of the Albany Municipal Code to Authorize Collection of Delinquent Garbage Bills by Placement on the County Tax Rolls

Staff recommendation: that the Council introduce for First Reading Ordinance No. 2013-02 amending Section 15-2.4 of the Albany Municipal Code to authorize collection of delinquent garbage bills by placement on the Alameda County tax rolls

Sustainability & Transportation Coordinator Claire Griffing delivered the staff report. The City’s Franchise Agreement with Waste Management of Alameda County requires the City to adopt a special assessment process to address delinquent accounts for residential garbage service. The proposed Ordinance ultimately authorizes a special assessment to be placed on properties with past due accounts, following a number of attempts to collect from the property owner. For health and safety reasons, WMAC is required by the Franchise Agreement to continue regular weekly collection of garbage and recycling services for residential customers even when unable to obtain payment for past due bills. The 2011 Franchise Agreement calls for the establishment of a special assessment collection process in order for WMAC to recover unpaid amounts where service has continued. As of November 7, 2013, 491 accounts were delinquent. City staff has worked with WMAC to create a lower service level for residents who generate small amounts of waste and have difficulty paying for garbage service. This new rate will allow for monthly collection of recycling and the 10 gallon trash can but continues weekly collection of organics.

For accounts that fall into the 90-days past due category, WMAC will provide a total of four delinquency notices that explain the special assessment process. The
City will send out a final request for payment to owners of all remaining delinquent accounts before WMAC finalizes the special assessment list. Public hearing notices will be sent to all accounts on the final list before it is presented to Council for approval. Once approved, the Finance Department will send the special assessment list to the County. The City will receive payment from the County, less the County fees, collect the administrative fee and franchise fees and pay the remaining amount to WMAC. WMAC will perform a final reconciliation of all accounts involved.

A summary of Council comments is as follows: asked about noticing process, options for decreased service levels, and how the decreased service levels would be properly serviced.

David Tucker WMAC responded that collection trucks include computers denoting pickups and that trash put out would be serviced. If an account has a monthly collection limit, any additional set out of containers would be collected and charged to the customer.

MOTION:
Moved by Vice Mayor Wile, seconded by Council Member Maass to introduce for First Reading Ordinance No. 2013-02 amending Section 15-2.4 of the Albany Municipal Code to authorize collection of delinquent garbage bills by placement on the Alameda County tax rolls.
AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.
ABSENT: None
NOES: None
Motion carried and so ordered.

8. UNFINISHED BUSINESS

9. NEW BUSINESS

9-1. Discussion of Community Choice Aggregation and Recommendation to Join the Marin Energy Authority

Staff recommendation: that the Council authorize submittal of a letter to the Marin Energy Authority requesting consideration as a member

Sustainability & Transportation Coordinator Claire Griffing delivered the staff report. Marin County launched the first Community Choice Aggregation (CCA) in California in May 2010. It is operated by a Joint Powers Authority called the Marin Energy Authority (MEA), which is comprised of all 11 cities in Marin County, a County representative, and the City of Richmond.
Energy consumption in Albany's residential, commercial, and industrial buildings generates almost two-thirds of the City's GHG emissions. The Albany Climate Action Plan (CAP), adopted in 2010, identifies purchasing a higher percentage of clean energy through a CCA as a key measure for reducing greenhouse gas emissions.

Dawn Weisz, Executive Officer from Marin Clean Energy presented information regarding the CCA opportunity.

The following people spoke: Dan Lieberman, Sustainability Committee; Caryl O'Keefe.

A summary of comments is as follows: expressed support for the CCA opportunity to help achieve the City's Climate Action Plan.

A summary of Council Comments is as follows: expressed support for the potential for a CCA, asked how wind power is mitigated to protect birds, and renewable energy credit purchasing; suggested the Council support only if grant funding is available; expressed concern with the CCA concept.

Weisz responded that wind power is a smaller portion of the overall portfolio. MCE is currently researching the opportunity to improve and customize a wind power site to better protect birds. Renewable energy credits are purchased in California and neighboring north western states. Weisz anticipates that MCE could return to the Council regarding the CCA feasibility in March.

MOTION:
Moved by Vice Mayor Wile, seconded by Council Member Maass to authorize submittal of a letter to the Marin Energy Authority requesting consideration as a member
AYES: Council Members Atkinson, Maass, Vice Mayor Wile, Mayor Thomsen.
ABSENT: None
NOES: Council Member Barnes.
Motion carried and so ordered.

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

10-1. City of Albany Annual Donation Drive – through December 20th.
Donate new toys, clean used or new coats, canned/jarred or dry food (non-perishable). Items will be donated to Operation Dignity, for distribution at the Albany Temporary Transition Shelter, the Bay Area Rescue Mission, and the Alameda County Food Bank.

Donation bins can be found at the following City buildings:
Albany City Hall - 1000 San Pablo Avenue
Albany Community Center Lobby - 1249 Marin Avenue
Albany Senior Center Lobby - 846 Masonic Avenue (food only)

Council Member Atkinson announced the upcoming holiday sale at the Senior Center on December 7th.

11. ADJOURNMENT

10:29 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.

[Signature]

Peggy Thomsen
Mayor

Attest:

[Signature]

Nicole Almaguer
City Clerk