

NOTE: These minutes are subject to Council approval and are not verbatim; however, tapes are available for public review.

**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**MONDAY, DECEMBER 17, 2007**

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**7:30 p.m.**

**CLOSED SESSION**

Closed session to discuss real property pursuant to Government Code Section 54956.8:

Property: 979 San Pablo Avenue  
Negotiating Parties: Red Oak Realty, on behalf of 979 San Pablo Avenue and City Administrator, Assistant City Administrator and City Attorney, on behalf of the City.  
Under Negotiation: Terms and conditions to obtain lease agreement for temporary relocation of City operations.

**OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS**

**ADJOURN TO CLOSED SESSION**

**8:00 p.m.**

Mayor Lieber, 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 Atkinson, Javandel, Okawachi, Wile & Mayor Lieber  
Absent: None

**STAFF PRESENT**

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

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

Mayor Lieber reported that Council gave instructions to staff.

**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. Council Minutes, December 3, 2007.**

Staff recommendation: Approve.

**4-2. a. Ratification of City of Albany net payroll in the amount of \$207,672.63; taxes, benefits & withholdings in the amount of \$168,605.74. Total payroll in the amount of \$376,278.37. Payroll period: 12/07/07.**

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$54,721.99; taxes, benefits & withholdings in the amount of \$42,781.41. Total payroll in the amount of \$97,503.40. Payroll period: 12/07/07.

Staff recommendation: Ratify.

**4-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$528,756.63. Period: 11/30/07.**

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$30,626.00. Period: 12/1/07.

c. Ratification of bills, claims & demands against the City of Albany JPA in the amount of \$210.00. Period: 11/30/07.

Staff recommendation: Ratify.

**4-4. Maintenance of Albany Bulb Emergency Vehicle Access.  
(File #490-20)**

Staff recommendation: That the Albany Bulb emergency vehicle access (EVA) be restored pursuant to the list of improvements and location map.

**4. CONSENT CALENDAR**

- 4-5.** Resolution No. 07-71 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C2-07 Park Renovation Projects – Terrace Park (American Civil Constructors).  
(File #600-30)

Staff recommendation: Adopt Resolution No. 07-71.

- 4-6.** Resolution No, 07-72 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C07-18 2007 Paving Project.  
(File #600-30)

Staff recommendation: Adopt Resolution No. 07-72.

- 4-7.** Resolution No. 07-74 – A Resolution of the Albany City Council Amending the Investment Policy for the City of Albany.  
(File #320-40)

Staff recommendation: Adopt Resolution No. 07-74.

- 4-8.** Resolution No. 07-75 – A Resolution of the Albany City Council Authorizing the Use of Funding from the Department of General Services (DGS), California State 9-1-1 Emergency Communications Office and Authorizing a Contract with AT&T to Upgrade the Police and Fire 9-1-1 System in an Amount not to Exceed \$133,840.  
(File #600-50)

Staff recommendation: Adopt Resolution No. 07-75.

- 4-9.** City Treasurer AB 1234 Report – Progressive Solutions Software Seminar.  
(File #640-15)

Staff recommendation: Information only.

- 4-10.** Confirmation of Continued Existence of a Local Emergency on the Albany Shoreline.  
(File #520-30)

Staff recommendation: Confirm the continued existence of a local emergency pursuant to Resolution #07-69.

Mayor Lieber asked if anyone would like to remove an item for discussion. No items were removed.

**4. CONSENT CALENDAR**

**MOTION:**

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

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

**5. COUNCIL REORGANIZATION**

**5-1. a. Amendment to or Suspension of City Council Reorganization Policy on the Selection of the Position of Mayor and Vice-Mayor.**

(File #610-20)

The City Charter states that the Council shall elect one of its members as its presiding officer, who shall have the title of Mayor and also to designate one its members as Vice-Mayor. The chosen officials shall hold their respective offices subject to the pleasure of the Council

In 1984, the City Council adopted a policy that the position of Mayor and Vice-Mayor shall rotate to a different member of the Council by election among the Council Members. In 1985, the Council voted to suspend the policy for one year.

The following people spoke on the possible amendment or suspension of the Council reorganization policy regarding the selection of Mayor and Vice-Mayor.

Christine Koundakjian, Albany resident; Howard McNenny, Albany resident; John Dykeman, Albany resident; Joseph Como, Albany resident; Francesco Papalia, Albany resident; Mara Duncan, Albany resident; Robert Cheasty, Albany resident; Nan Wishner, Albany resident; Brian Parker, Albany resident; Allan Maris, Albany resident; Bill Dann, Albany resident; Peter Hobart, Albany resident; Robert Outis, Albany resident; Geoff Piller, Albany resident; Jim Cleveland, Albany resident; Debra Dove, Albany resident;

A Summary of the comments is as follows: Supported the current policy of rotating the position of Mayor and Vice-Mayor. Spoke about building relationships with the property owner at Golden Gate Fields and how important it is to be able to negotiate and compromise. Spoke about current projects in the City that the majority of the Council have been involved with and urged the Council to work together for the good of the City. Expressed appreciation to Mayor Lieber for his hard work over the past year and for building the relationships with other Mayors in the area. Believe that the current policy should stay and that the voters should make the decision about the Mayor and not a majority of the Council. Expressed appreciation for the vision that the majority of the Council have for a sustainable Albany. Spoke in favor of changing the current policy so that the Mayor of Albany could have the time to build the necessary relationships with other politician’s county and statewide. Spoke in favor of changing the policy. Noted that many citizens are proud of the progressive majority of the Council. Urged the Council to elect Council Member Okawachi as Mayor, as she received the most votes out of all the Council Members. Spoke about the treatment Mayor Lieber received when he

## 5. COUNCIL REORGANIZATION

was a minority on the Council and quoted the Charter, which states the Mayor is selected at the pleasure of the Council. Noted that the current procedure for appointing the Mayor is tearing the community apart and urged Mayor Lieber to step aside and let someone else become Mayor. Believes that the voters should be the ones to change this policy. Expressed concern with the action taken at the last meeting and the possible violation of the Brown Act when this matter was discussed. Urged the Council to get back to civility and that the Council should start working together. Supported the directly elected Mayor and the healing of the community.

Council Member Javandel suggested that maybe there should be a “super majority” to appoint the Mayor and believes the rotation of the position avoids the negativity. Council Member Javandel asked the Council to put aside their egos and noted that he voted against his nomination for Mayor when he was previously nominated for Vice-Mayor.

Council Member Wile stated that she definitely supports the directly elected Mayor and believes the current rotation policy puts Albany at a disadvantage with other elected Mayors at the County and State level.

Council Member Atkinson stated that she believes Mayor Lieber has done a good job and agrees it makes sense to continue as Mayor for the continuity.

Council Member Okawachi stated that she would like to see Council Member Javandel be appointed Mayor and believes that he would do a good job.

Mayor Lieber noted that currently Albany has a very progressive Council and it is very important who is Mayor and supports the Waterfront and sustainability. Mayor Lieber stated that the majority of the Council has a vision for the future and the City needs a directly elected Mayor.

Mayor Lieber noted that the policy needs to be changed, as the policy doesn't actually say there will be an annual reorganization of the Council.

### **MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Javandel to not change the policy but to leave it as it stands until the Charter Review Committee comes back to Council with a recommendation on a directly elected Mayor.

### **MOTION:**

Moved by Council Member Wile, seconded by Council Member Atkinson to suspend the current policy, which does not allow a consecutive term for Mayor and Vice-Mayor.

### **ON THE QUESTION:**

Mayor Lieber asked for an amendment to include language for a yearly reorganization and to strike the last sentence of the current policy.

Council Member Wile stated that at this time she would prefer to suspend the current policy and deal with a change some time in the future.

### **VOTE ON FIRST MOTION:**

AYES: Council Members Javandel & Okawachi

NOES: Council Members Atkinson, Wile & Mayor Lieber ABSENT: None

Motion Failed.

## 5. COUNCIL REORGANIZATION

### VOTE ON SECOND MOTION:

AYES: Council Members Atkinson, Wile & Mayor Lieber

NOES: Council Members Javandel & Okawachi ABSENT: None

Motion carried and so ordered.

### 5b Nominations for Mayor and Vice-Mayor

Mayor Lieber asked for nominations for the position of Mayor: Council Member Okawachi nominated Council Member Javandel, which was seconded by Council Member Javandel.

Council Member Wile nominated Mayor Lieber, which was seconded by Council Member Atkinson.

Council Member Javandel stated that he supports a rotation and asked Council Member Atkinson, Okawachi & Wile if they would consider a nomination and all members declined the nomination.

Council Member Javandel expressed his disappointment and spoke to the action of the Mayor at the last meeting where he tried to make Council Member Javandel vote on an item he believed was illegal.

Council Member Javandel stated that he hopes that Mayor Lieber will learn from this experience and start to listen to people, as the Council needs to start working together and building consensus.

The following people spoke on this item: Robert Cheasty, Albany resident; Francesco Papalia, Albany resident; Trevor Grayling, Albany resident; Howard McNenny, Albany resident; Ellen Hershey, Albany resident; Allan Maris, Albany resident; Peter Schakow, Albany resident; Peter Hobart, Albany resident; Debra Dove, Albany resident; Clay Larson, Albany resident; Mara Duncan, Albany resident; Jim Cleveland, Albany resident; Bill Dann, Albany resident; Brian Parson, Albany resident; Jackie (didn't hear last name), Albany resident; Mike Fletcher, Albany resident. Stephanie Travis, Albany resident; Nan Wishner, Albany resident.

A summary of the comments is as follows: Supported going forward with a 2 term Mayor in lieu of a directly elected Mayor and agreed this was the best for Albany as far as continuity on regional bodies. Asked that the Council consider the interests of all Albany residents. Supported the nomination of Council Member Javandel and noted that this is all about the Waterfront and there needs to be negotiations with Magna and believes Mayor Lieber has burned his bridges with them. Spoke about the Waterfront Planning Process and the money to fund it, which is paid by taxes from all residents of Albany and believes all residents should be given a fair hearing. Stated that the actions tonight maybe perceived by some residents as not being an open process. Agreed that it is great to have a progressive City Council but believes other Council Members could lead this Council. Supported Mayor Lieber for a second term noting that he could be counted on and he has a vision for Albany that is fair and just and wants a sustainable community. Urged the majority of the Council to nominate Council Member Javandel

**5b Nominations for Mayor and Vice-Mayor**

for the position of Mayor, as they still have the majority votes. Noted that the Sierra Club and Citizens for Albany Shoreline endorsed Council Member Javandel. Spoke about other issues in the City and believes it is time for a change. Expressed concern that Golden Gate Fields is private property and that they have been alienated by the City and there needs to be negotiations between Magna and the City. Supports a Mayor who has a strong commitment to the environment and noted this is not only about the Waterfront.

Council Member Javandel apologized for anything harsh said tonight and wants to work for the good of the City with the entire Council. Council Member Javandel thanked everyone who attended the meeting and gave his or her input.

Council Member Wile noted that building relationships with other Mayors takes a lot of time and does not believe that Council Member Javandel has the time to spend on this that Mayor Lieber does.

Council Member Atkinson believes it is important to have consistency and healing and hopes that the Council will work on this.

**VOTE ON COUNCIL MEMBER JAVANDEL NOMINATION**

AYES: Council Members Javandel & Okawachi

NOES: Council Members Atkinson, Wile & Mayor Lieber                      ABSENT: None  
Nomination Failed.

**VOTE ON MAYOR LIEBER NOMINATION**

AYES: Council Members Atkinson, Wile & Mayor Lieber

NOES: Council Members Javandel & Okawachi                                      ABSENT: None  
Nomination carried.

Council Member Wile nominated Council Member Atkinson for the position of Vice Mayor, which was seconded by Mayor Lieber.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None    ABSENT: None  
Nomination carried.

**6. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS**

Mayor Lieber read a proclamation for the Ellis Island Band 27<sup>th</sup> anniversary and Mrs. Lieber accepted the proclamation on behalf of the band.

Mayor Lieber announced the kick off the Albany centennial on February 23<sup>rd</sup> at the Veterans Memorial Building. Also noted that he attended a leadership luncheon with Congress Woman Barbara Lee and attended a meeting with UC Berkeley regarding their development project. Attended the employee luncheon and commented on how the Community Center had been decorated. Attended a meeting with Loni Hancock and Caltrans regarding Pierce Street Park and noted that Council Member Javandel also attended.

Council Member Wile thanked the City Administrator for the green bags given out to the employees at the employee recognition luncheon

The following people spoke: Nan Wishner, Albany resident; Robert Cheasty, Albany resident; Howard McNenny, Albany resident; Brian Parker, Albany resident;

## 6. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Allan Maris, Albany resident; Caryle O'Keefe, Albany resident; Jackie ?, Albany resident; Bill Dann, Albany resident.

A summary of the comments is as follows: Announced the arrival of the sculpture for Ocean View Park. Expressed concern about aerial pesticide spraying the public health issues associated with this. Mayor Lieber noted that he attended a meeting at the City of Berkeley regarding the issue of aerial pesticide spraying and asked that this be on a future agenda. Spoke about the development at UC Village and suggested that food from the farm at the Gil Tract be used in the retail development. Noted that Santa was on Solano Avenue both at the Berkeley end and the Albany end. Thanked the volunteers who are helping to pick up trash on Solano Avenue and invited people to join each Thursday morning. Complained about the new building on San Pablo Avenue noting the bad colors and the bad architectural style. Spoke about rumors concerning the ball fields, which was addressed by another speaker who noted they are definitely rumors and not true. Mayor Lieber asked that a report be on a future agenda regarding this issue. Complained about action taken at the Waterfront Committee regarding the scope of work noting it is different from what the Council discussed. Concerned about Whole Foods coming to the UC property noting the food there is very expensive and asked that an alternative be discussed. Thanked the Park & Recreation Commission and the Traffic & Safety Commission for their hard work on the BART lights.

There being no one else wishing to speak Mayor Lieber closed the Good of the City/Public Forum/Announcements.

## 7. PRESENTATION/PUBLIC HEARING

### 7-1. Public Hearing on the Annual Report on the Status of Sewer, Storm Drainage and Capital Facilities In-Lieu Fees (AB 1600).

(File #390-95)

The Finance Director reported that after the passage of Proposition 13 in 1978, many cities began charging fees on new development to fund public improvements and services such as streets, transit facilities, sewers and storm drains. These fees are known as development impact fees.

The Legislature passed AB 1600 to make sure that the fees collected were spent in a timely manner and on projects for which they were being collected. The City Municipal Code has established provisions for collecting the following fees: Sewers/Connection Fees; Storm Drain Impact Fees; Capital Facilities Impact Fees; Parkland and In-Lieu Fees.

Mayor Lieber opened the public hearing and the following person spoke: Allan Maris, Albany resident. A summary of his comments is as follows: Asked about the storm drains on Terrace and when this project will be completed noting it should be done as soon as possible. The Community Development Director responded that temporary measures have been implemented for this area for the coming winter rains and hopefully the project will be completed by next year.

**7-1. Public Hearing on the Annual Report on the Status of Sewer, Storm Drainage and Capital Facilities In-Lieu Fees (AB 1600).**

There being no one else wishing to speak Mayor Lieber closed the public hearing. No Council action needed.

**8. UNFINISHED BUSINESS**

**8.1 Volunteer Cleanup regarding the Cosco Busan Oil Spill**  
(File #520-30)

The Recreation & Community Services Director reported that the United States Coast Guard has contracted with the O'Brien Group to clean up many of the Bay Area waterfronts affected by the Cosco Busan oil spill. The crews are working on a daily basis and are not expected to work past December 10, 2007; however, they will have standby crews available until the end of the year.

The Office of Emergency Services, the National Oceanic and Atmospheric Administration, the Department of Fish and Game and East Bay Regional Park District are all involved with this problem.

Council Member Wile suggested that once the "hot shot teams" are gone the City should have volunteers trained and ready to go if necessary. The Recreation & Community Services Director responded that individual cities are being encouraged to not send out its own volunteers.

Mayor Lieber expressed concern with the first responders starting at the top and going to the bottom. Mayor Lieber stated that he has spoke to Supervisor Carsen about this and the County is going to look into local responses and noted that the local fire departments should be given the tools needed.

Council Member Javandel spoke about autonomy and the command structures and to learn how the local command structures fit into the State structures.

Allan Maris, Albany resident, asked when the Adopt a Trail group and the Five Creeks group would be contacted to work as volunteers. The Recreation & Community Services Director responded the City is working through the Office of Emergency Services and the East Bay Regional Parks District.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to authorize staff to work with other agencies to maximize effectiveness and minimize costs for training and mobilizing volunteers for waterfront cleanup due to the Cosco Busan oil spill.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

**9. NEW BUSINESS****9-1. CEQA Review of the University Village Mixes Use Project**

(File #600-30)

The Planning Manager reported that the California Environmental Quality Act (CEQA) requires the City to undertake environmental review of public and private projects that are anticipated to result in a physical change in the environment.

Robert LaLanne, consultant for the University of California, Berkeley has submitted an application to the City for various planning approvals associated with a mixed-use development of a portion of University Village located at the northwest and southwest corner of San Pablo Avenue and Monroe Street. The proposal includes a grocery store, associated retail and senior housing.

In August, 2006, the City issues a Request for Qualifications to planning consultants interested in assisting the City in the preparation of CEQA documents. Based on the statements of qualifications, interviews and reference checks, staff recommends LSA associates. LSA has prepared a CEQA analysis of this site in 2004, and therefore, is familiar with issues associated with the project. The 2004 analysis was prepared under contract to the University, however, LSA is no longer under contract to the University and the new CEQA would be prepared pursuant to direction from the City.

Mara Duncan, Albany resident, expressed concern about conflict of interest with LSA Associates and the cities Planning Manager noting that they both have worked with the University previously.

Council Member Javandel noted that he feels very comfortable with the City's choice noting that the firm would be providing data and not opinions.

Council Member Atkinson stated that she had the same concerns but after speaking with staff feels comfortable with the choice.

Council Member Okawachi stated that she believes LSA is a good choice after reading their references and believes that the Planning Manager's knowledge with UC will help the City.

Mayor Lieber stated there are negatives and positives to all firms and have no reason not to accept LSA and noted that the City would be very involved in this process and that both the City and the community would have a say in this process.

Council Member Javandel agreed that the City should look at the idea of food being grown at the Gil Tract to be sold at the store.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Atkinson to authorize the City Administrator to enter into a Professional Services Contract with LSA Associates, Inc, related to California Environmental Quality Act Review of the University Village Mixed Use Project.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

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

(Council and staff announcements: Council Member reports on State, regional and local boards, commissions and committees to which they are appointed by the City Council; Council Member announcement of requests for future agenda items. No public comment will be taken on announcement of future agenda items)

The City Administrator announced that the City is sponsoring a food drive through April 30 with food barrels at the Community Center.

Council Member Atkinson announced she attended an ACAP meeting and a breakfast at MacGregor School noting that MacGregor has a culinary kitchen and the breakfast was a big success. Announced that the YMCA has an after school program at the MacGregor campus.

Council Member Wile announced that Council Member Okawachi spoke to a standing room only crowd at the Library on her experiences regarding her interment during WW11.

**11. ADJOURNMENT**

10.45 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.

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ROBERT S. LIEBER  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK