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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, NOVEMBER 19, 2007

7:00 p.m.

CLOSED SESSION

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

Property:	Monroe Street Site, University Village
Negotiating Parties:	University of California; City Administrator, on behalf of the City.
Property:	Proposed Pierce Street Park, located across from 737 Pierce Street
Negotiating Parties:	Caltrans, on behalf of the State; City Administrator, on behalf of the City.

Closed session conference with legal counsel due to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code. One potential case to be discussed.

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

The City Attorney informed the Council that there was a threat of litigation made to the Planning Manager by Hanna Law Office when they insisted on changing the Affordable Housing Agreement or litigating if the City did not.

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 Member Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Rich Cunningham, Public Works Manager; Marc McGinn, Fire Chief; Brian Crudo, Battalion Chief;

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

3-1. Mayor Lieber stated that he recused himself from discussions during the Executive Session and left the Conference Room. Vice-Mayor Atkinson and the City Attorney reported that direction was given to staff on the property negotiations and the potential litigation and that no decision was made.

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, November 6, 2007.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$203,145.69; taxes, benefits & withholdings in the amount of \$218,837.71. Total payroll in the amount of \$421,983.40. Payroll period: 10/26/07.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$50,244.78; taxes, benefits & withholdings in the amount of \$54,374.60. Total payroll in the amount of \$104,619.38. Payroll period: 10/26/07.

Staff recommendation: Ratify.

4. CONSENT CALENDAR

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$22,886.00. Period: 11/01/07.
- b. Ratification of bills, claims & demands against the City of Albany in the amount of \$474,489.94. Period: 11/02/07.

Staff recommendation: Ratify.

- 4-4.** Pension payments for the month of October, 2007, in the amount of \$110,761.41.

Staff recommendation: Ratify.

- 4-5.** Community Center Tower Repair.
(File #210-20)

Staff recommendation: Informational.

- 4-6.** Support for Broadband Access regarding the expansion of Internet access and protections for workers and consumers during that expansion.
(File #585-25)

Mayor recommendation: Refer this item to the Social & Economic Justice Commission for review and report back to Council.

- 4-7.** Resolution #07-58 – A Resolution of the Albany City Council Approving the Final Condominium Subdivision Map for Tract 7773 (Villa de Albany, 727 San Pablo Avenue).
(File #410-50)

Staff recommendation: Adopt Resolution #07-58.

- 4-8.** Financing Solar Energy and Energy Efficiency.
(File #405-35)

Staff recommendation: Refer to the Sustainability Committee a review of the City of Berkeley’s conceptual “Sustainable Energy Financing District” for a recommendation to City Council regarding financing solar energy and energy efficiency.

- 4-9.** Set public hearing for Integrated Pest Management Ordinance.
(File #920-20)

4. CONSENT CALENDAR

Staff recommendation: Set public hearing for December 3, 2007, pending action by the Park & Recreation Commission.

- 4-10.** License Agreement for temporary relocation of City operations at the following location: Monroe Street, University of California (formerly 1055-1067 Monroe Street.
(File #600-50)

Staff recommendation: Authorize the City Administrator to enter into a License Agreement between the City and the Regents of the University of California for use of University property located on Monroe Street, in University Village, for temporary relocation of the City's Police and Fire Departments.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar and following items were removed for discussion: Item 4-7 & 4-9.

The City Administrator stated that staff would like Public Hearing Item 6-2 held over until December 3, 2007, as the appellant is sick.

4-7. 727 San Pablo Avenue – Final Subdivision Map

Mayor Lieber recused himself from the item and turned the meeting over to the Vice-Chair and left the Council Chamber.

Mr. William Garrett, Attorney representing the owners of Villa de Albany, 727 San Pablo Avenue; Jeff Bond, Planning Manager & Robert Zweben, City Attorney spoke regarding this item. A DVD of the discussion is made a part of the official record.

Council Member Javandel asked a question regarding Resolution #07-58 and whether language could be taken out on line 33-36. The City Attorney suggested that the following language be added to the Resolution, line 33:....if it is deemed necessary and appropriate.

The following people spoke on this item: Ed Fields, Albany resident; Kristina Osborn, Albany resident; Maureen Crowley, Albany resident; Mara Duncan, Albany resident.

A summary of the comments is as follows: Noted the law is very clear that the Affordable Housing Agreement must be recorded prior to the final map approval; therefore, if a new agreement is drafted the final map should not be recorded. A question was asked about the children's play area that was promised noting there is a small green area, which would not be appropriate for a child's play area. Believes that the developer has not been honest from day one regarding this project and stated that a priority list should be developed for the affordable housing units with Albany residents, seniors and disabled people. Urged the City to get clarification before any approvals are voted on.

Council Member Javandel presented Resolution #07-58 – A Resolution of the Albany City Council Approving the Final Condominium Subdivision Map for Tract 7223

4-7. 727 San Pablo Avenue – Final Subdivision Map

(Villa de Albany, 727 San Pablo Avenue) with the following language change: Line 33 – If the City Administrator deems it necessary and appropriate.

MOTION:

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Okawachi to approve Resolution #07-58 with the noted change.

AYES: Council Members Javandel, Okawachi, Wile & Vice-Mayor Atkinson

NOES: None

ABSENT: Mayor Lieber

Motion carried and so ordered.

Mayor Lieber returned to the Council Chamber and took his seat to chair the meeting.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

For persons desiring to address the City Council on an item that is not on the agenda please note that City policy limits each speaker to three (3) minutes. The Brown Act limits the Council’s ability to take and/or discuss items that are not on the agenda; therefore, such items are normally referred to staff for comment or to a future agenda.

Mayor Lieber opened the Good of the City/Public Forum/Announcements and the following people spoke: Maureen Crowley, Albany resident; Mara Duncan, Albany resident; Kim Linden, Albany resident.

A summary of the comments is as follows: Complained about grocery carts being left on City streets and noted there are approximately a dozen at Kains/Adams and asked the City to do something about this blight. Noted that the Planning & Zoning Commission at their meeting discussed the UC development but no mention was made of the Gil Tract and stated she is counting on Council to work on what has been discussed in the past. Expressed concern that two members of the Planning & Zoning Commission recused themselves on the UC project and is very uncomfortable that only three members made the decisions. Noted that the City is waiting for a response from the UC Regents regarding the new development, which encroaches on the Gil Tract.

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

6. PRESENTATION/PUBLIC HEARING

6-1. Oil Spill in the San Francisco Bay.

(File #520-30)

The City Administrator reported that on November 7, 2007, a cargo ship hit the Bay Bridge and released 58,000 gallons of bunker oil into the San Francisco Bay Area. By Friday, oil had spread to the Albany shoreline and onto the beach, much of the perimeter of the Neck and Bulb, and into the lagoon area adjacent to the Albany Plateau, as well as other areas around the Bay.

6-1. Oil Spill in the San Francisco Bay.

The State and the City proclaimed a State of Emergency and noted that the cleanup is ongoing. The City Administrator thanked, Council, Staff and the public who were involved with the emergency.

Mayor Lieber stated this is a horrible tragedy with a loss of bird life currently around 1,000. Mayor Lieber noted this was a failure on many levels including the first responders and everything that happened after that and believes the State, the County and the cities should have been prepared for this type of emergency.

Mayor Lieber stated that this issue is before the Alameda County Mayor's Conference.

Mayor Lieber also thanked everyone who helped with special acknowledgements to Susan Swartz, Friends of Five Creeks, Mayor Tom Bates, Berkeley, Francisco Papalia and City staff.

Council Member Okawachi also thanked everyone that worked hard on this emergency.

Council Member Wile noted this is a wildlife holocaust and that she continues to be a renegade bird rescuer. It was noted that bits of oil continue to come onto the beach and believe that the community needs to continue working on this disaster.

Council Member Javandel stated that just because the areas look clean now it would change due to tide changes. Council Member Javandel commented that when a disaster hits the people in charge need to think the worst scenario and treat it as such.

Council Member Atkinson spoke to the need for community training noting that many people showed up to volunteer their help but were turned away because they did not have the training.

Mayor Lieber stated that the City Council met in Special Session on Thursday, November 15, 2007 and approved Resolution #07-69, which formally proclaims a local emergency.

The following people spoke: Francesco Papalia, Albany resident; Mara Duncan, Albany resident.

A summary of the comments is as follows: Noted that OSHA has very strict rules and once they become involved the rules change for the volunteers. Compared this disaster to an earthquake and noted the City needs to make sure that it is prepared for future emergencies. Agreed it has been a wakeup call and that people need to be prepared for any emergency.

The Fire Chief stated that when a disaster occurs in the waterways it is the responsibility of the US Coast Guard and not the local Fire Departments; however, if problem occurs within the creeks then it becomes the local Fire Department's responsibility.

The Fire Chief stated that the US Coast Guard needs to be equipped properly to handle this type of spill and noted that it is expected that a 50% of oil will come back to the beaches.

The City Administrator stated that Assembly Person Loni Hancock held a meeting and has asked for questions and comments to be submitted from City Councils.

6-1. Oil Spill in the San Francisco Bay.

A citizen asked if they could go and volunteer to help cleanup the beach and the City Administrator responded that a contractor has been hired to cleanup the beach and noted that once the contractor leaves it may be necessary to get volunteer help.

The City Administrator stated that the City Council must confirm at each regular meeting that the local emergency still exists and once it is over a Resolution of Termination must be adopted by the City Council.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Wile to confirm that a local emergency still exists pursuant to Resolution No. 07-69.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

8. NEW BUSINESS

8-1. Ohlone Greenway Concept Design

(File #600-30)

The Community Development Director reported that the Ohlone Greenway runs through Albany and El Cerrito and parts of Richmond on the surface below the BART aboveground tracks. BART is doing a project to seismically upgrade the tracks along the Greenway and has acknowledged its obligations to repair and replace existing landscaping and hardscape.

This project provides the City with a unique opportunity to work jointly on improvements to the Greenway and must move quickly to take advantage of this financial opportunity to develop concept plans for its desired improvements.

The City of El Cerrito is in a similar position and has solicited and reviewed proposals from landscape architects to prepare design plans and selected Gates & Associates. The City of Albany has an opportunity to “piggy back” on El Cerrito’s efforts by selecting Gates & Associates to perform similar work in Albany. By hiring this firm, Albany can begin its planning process quickly, be in a better position to meet BART planning timelines, and also more efficiently and accurately plan the Greenway in the overall context of the two cities.

The City of Albany has two modifications to the proposal from Gates & Associates, as follows: 1) Conducting a community workshop near the onset of the planning process to gather ideas from pedestrians and bicyclists, as key users of the Greenway paths, and other members of the public. 2) Clarify placement of the planning process under the purview of the Parks & Recreation Commission for recommendation to City Council.

The following people spoke on this item: Ed Fields, Albany resident; Kim Linden, Parks & Recreation Commission.

8-1. Ohlone Greenway Concept Design

A summary of the comments is as follows: Expressed concern about the \$75,000 fee for the consultant and asked whether City staff could do the same work. Asked that the BART retrofit come before the Parks & Recreation Commission and would like to know the timeline.

Council Member Atkinson stated she would like to see more enhanced use of art and seating in the area and to keep the area as natural as possible.

Council Member Javandel stated this is a good idea and would like to see the improvements.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Okawachi to authorize the City Administrator to execute a contract with Gates & Associates to prepare concept plans for renovation of the Ohlone Greenway Park, at an estimated cost of \$75,000.

ON THE QUESTION:

Council Member Okawachi stated that she would like to see interpretive signs along the area.

Mayor Lieber commented that it is appropriate for the City to “piggy back” with El Cerrito and noted that the City should not go back to the old way of watering the grass but come up with new concepts for renewable and sustainable.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

8-2. Ordinance #07-07 – Amending the City Code

(File #440-10)

The Planning Manager reported that the Planning & Zoning Commission voted to recommend adoption of proposed changes to the Building & Housing, Fire Prevention and Grading Chapters of the Municipal Code.

The adoption of Ordinance#07-07 are related to: a) The adoption of the 2007 versions of the California Building Code, Fire Code, Electrical Code, Mechanical Code and Plumbing Code; b) repair and reconstruction of damaged structures; c) safety inspections and posting official placards during an emergency.

Council Member Okawachi asked how many permits have been taken out for Unreinforced Masonry and the Planning Manager responded that he would have to come back with the numbers on this.

Council Member Atkinson introduced Ordinance #07-07 – An Ordinance of the Albany City Council Amending Chapter XII, Building and Housing, Chapter XI Fire Prevention and Chapter XX111 Grading Ordinance of the Albany Municipal Code to Include Regulations Adopting the California Building Code and Fire Code. First Reading.

8-2. Ordinance #07-07 – Amending the City Code

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Atkinson and seconded by Council Member Javandel to approve Ordinance #07-07 for First Reading.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

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

Council Member Atkinson announced the following: 1) The City’s website address so that people can go to the website and check out what is happening in the City; and also gave the website for people to contact regarding the saving of the birds due to the oil spill. 2) Planning & Zoning Commission meeting, November 20, which is focused on residential design. 3) Albany students Anna Reutinger and Grace Au are working part-time for the City and welcomed Tony Walker, the City’s Urban Forest employee.

Council Member Okawachi announced the following: 1) County Library Board met in Albany and discussed concerns regarding State funds being cut. 2) YMCA Youth in Government held its session at the Council Chamber with herself and the City Administrator. Also noted that the students would be going to Sacramento in February to visit Dotson Wilson, Albany’s parliamentarian.

Mayor Lieber announced the following: 1) Attended the League of California Cities meeting and the Mayor’s Conference where the oil spill was the topic of discussions. 2) Noted that PG&E has grants available for remodel buildings that go green.

10. ADJOURNMENT

10:05 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

10. ADJOURNMENT

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

ROBERT S. LIEBER
MAYOR

ATTEST:

JACQUELNE L. BUCHOLZ, CMC
CITY CLERK