

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, SEPTEMBER 17, 2007**

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**7:30 CLOSED SESSION**

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

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

Property: 1495 Solano Avenue; 1050 San Pablo Avenue, Gill Tract, University of California & 405 Kains.

Negotiating Parties: JL Lemm & Associates; University of California; Rachel Kuan & Gary Tang, Hannah Investment, on behalf of the property owner, Cerrito Creek Properties, LCC. City Administrator, on behalf of the City .

**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; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Kim Denton, City Treasurer; Charles Adams, Finance Director; 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 regarding the real property 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.** Council Minutes, September 4, 2007.

Staff recommendation: Approve.

**4-2.** a. Ratification of City of Albany net payroll in the amount of \$177,583.20; taxes, benefits & withholdings in the amount of \$211,513.07. Total payroll in the amount of \$389,096.27. Payroll period: 08/17/07.

b. Ratification of City of Albany net payroll in the amount of \$215,978.11; taxes, benefits & withholdings in the amount of \$154,500.31. Total payroll in the amount of \$370,478.42. Payroll period: 08/31/07.

c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$50,687.85; taxes, benefits & withholdings in the amount of \$51,631.22. Total payroll in the amount of \$102,319.07. Payroll period: 08/17/07.

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$51,717.90; taxes, benefits & withholdings in the amount of \$37,430.86. Total payroll in the amount of \$89,148.76. Payroll period: 08/31/07.

Staff recommendation: Ratify.

**4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of: \$491,107.00 & \$195,156.50- Period: 7/27/2007; \$21,251.00 - Period: 8/1/07. \$334,706.98 & \$125,871.52 – Period: 8/10/07. \$1,481,674.24 - Period: 8/27/07; \$23,176.00 – Period: 9/1/07; \$614,505.17 – Period: 9/10/07.

**4. CONSENT CALENDAR**

Staff recommendation: Ratify.

- 4-4.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of June 30, 2007, as required by Section 53646 of the California Government Code.  
(File #300-10)

Staff recommendation: Note and file.

- 4.5.** Resolution #07-55 – 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: Adopt Resolution #07-55.

- 4-6.** Consideration of Claim #AL552; Zamir v. City.  
(File #170-60)

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

- 4-7.** Consideration of Claim #AL558; Scidona v. City.  
(File #170-60)

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

- 4-8.** SB840, “California Health Insurance Reliability Act” and AB8, “Health Care Reforms”.  
(File (660-40)

Social & Economic Justice Committee recommendation: Authorize the Mayor to send a letter of support of SB840, “California Health Insurance Reliability Act”, and in opposition to AB8, “Health Care Reforms” to the Governor, Speaker of the Assembly and Senate President, per motion passed by the Commission on September 5, 2007.

- 4-9.** Civic Center Relocation: Lease Option for 405 Kains Avenue  
(File #200-30)

Staff recommendation: Authorize the City Administrator to send a letter to Cerrito Creek Properties, LCC, indicating the City’s intention to exercise an additional one-year option on the lease at 405 Kains Avenue.

Mayor Lieber asked if anyone would like to remove an item for discussion and item 4-8 was removed.

#### 4. CONSENT CALENDAR

##### 4-8. SB840 – California Health Insurance Reliability Act.

Mayor Lieber stated that instead of sending a letter he would suggest that the previous Council Resolution that was passed be resent with a minor revision to delete any reference to AB8, as this bill is not going to happen. Mayor Lieber asked that the Resolution be sent to the Governor, Senate and Assembly.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to approve the Consent Calendar as submitted with the revision to Item 4-8.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

#### 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.

Council Members made the following announcements: 1) Music in the Park at Memorial Park. 2) Electronics drop-off 10-5 at Albany High School on September 29. 3) Had a block party on the 1000 block of Key Route with the Fire Department making a presentation on disaster preparedness. It was noted that people signed up to be a Block Captain and hoped that other residents would do the same. 4) Council Member Javandel attended the League of California Cities conference in Sacramento and had some very good session and attended the beach cleanup last Saturday. 5) There will be a memorial on Saturday, September 22, 1:30 p.m., at the Community Center to honor the life of Ruth Meniketti and invited everyone to attend. 6) That Curtis Street will also be having a block party on Sunday, September 23<sup>rd</sup> and the Fire Department will also be in attendance. 7) October 3, will be National Walk to School Day. 8) There will be a community forum on September 19, 6:30 – 8 p.m. at the Veterans Memorial Building to discuss the proposed Safeway remodel.

The following people spoke: Henry Olson, Albany resident; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Commented on a statement made at the last Council meeting regarding the Civic Center Oversight Committee, which reflected badly on City staff and believe that an apology is in order. Asked that the City provide a truck for the next beach clean up that would go out to the bulb so that the volunteers do not have to carry the heavy bags so far.

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

## 6. PUBLIC HEARING

### 6-1. Ordinance #07-04 – Art in Public Places Program

The Planning Manager reported that the Arts Committee and the Planning & Zoning Commission have been discussing the issue of Art in Public Places Program. The Planning & Zoning Commission approved a Resolution of Intention to consider an amendment to the Code.

The Arts Committee also endorsed the draft Ordinance #07-04 – An Ordinance of the Albany City Council Amending Chapter 20 of the Planning & Zoning Code Establishing an Art in Public Places Program, which includes that an exemption should be applied to applications in R-1 districts where it can be documented that the property owners intend to occupy the home. Projects in an R-1 district that exceed the project threshold that are intended for sale or rent, however, would be subject to the requirements of the program.

The Planning & Zoning Commission approved proposed Ordinance #07-04 but had a substantial discussion regarding the appropriate level of fee; the general consensus was that the fee should not be set to a level that would be an obstacle to otherwise acceptable projects and that the fee level was more in the purview of the Council than the Commission.

The Planning Manager noted the financial impact for public projects under this Ordinance would correspond to the cost of the required art. In addition, the proposed ordinance would increase the amount of staff time associated with the design review process for larger public and private projects. In particular, the added step of review by the Arts Committee would increase the number of meetings that staff must prepare for.

Mayor Lieber opened the public hearing and the following people spoke: Francesca Papalia, Albany resident; Susan Adame, Chair, Arts Committee; Nan Wishner, Arts Committee member; Allan Maris, Albany resident.

A summary of the comments is as follows: Concerned about the consistent taxing of people who are giving the most and asked that the City consider a property tax, which is a more fair and equitable way of taxing people. Noted that this Ordinance was taken from ordinances that other cities are using and is considered a National Standard. Commented that this tax is for new development and is a way to incorporate organic art. Asked what the process would be for accepting gifts of public art and believe that the proposed Ordinance should address this question. The Chair of the Arts Committee responded to the last comment noting there is a procedures section that deals with gifts.

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

Council Member Atkinson stated that she supports the work that has been done by the Arts Committee.

Council Member Javandel stated that he would like to see the fee in the Master Fee Schedule noting the fee can be adjusted at any time.

Council Member Okawachi commented that she agrees with the fee, as long as it could be changed if necessary. Council Member Okawachi asked what happens if there is vandalism on the public art and the Planning Manager responded it would be dealt with on a case-by-case situation.

**6-1. Ordinance #07-04 – Art in Public Places Program**

Council Member Wile stated that she is impressed with the work on this Ordinance and noted she would like to modify the 1.75% fee, but if the rest of the Council was comfortable with amount then she would support it.

Mayor Lieber stated this Ordinance has been a long time coming and agreed with putting the percentage and the threshold in the Master Fee Schedule.

Council Member Javandel introduced Ordinance #07-04 – An Ordinance of the Albany City Council Amending Chapter 20 of the Planning & Zoning Code Establishing an Art in Public Places Program – First Reading.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Atkinson to approve Ordinance #07-04 for First Reading with the change that the threshold and the fee be put into the Master Fee Schedule.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7. UNFINISHED BUSINESS**

**7-1. 128-Unit Condominium Project at El Cerrito Plaza**

(File #420-35)

The Community Development Director recommended that the City Council direct staff to file an appeal on the decision of the El Cerrito Design Review Board to the El Cerrito City Council regarding the proposed 128-unit Condominium Project at the El Cerrito Plaza; and urge that the southernmost parking garage access (off of Evelyn Avenue) be eliminated from the project.

The Community Development Director noted that due to the short appeal deadline that an appeal has been filed and that direction is requested as to whether to withdraw or further pursue the appeal.

The Community Development Director noted that in 2006 the El Cerrito City Council approved the Environmental Impact Report and approved a Use Permit for a 128-unit condominium project at the El Cerrito Plaza. During an Albany City Council meeting an idea was promoted to encourage the developer to construct a cul-de-sac at the end of Evelyn Avenue and convert Evelyn Avenue into a two-way street, thereby allowing direct access to the proposed condominium project. However, this concept would be based on a design that eliminated Plaza traffic onto Evelyn Avenue and continues the pedestrian/bicycle trail to extend through the entire project.

The Mayor and staff met with the project applicant and presented the concept. On September 5, 2007, the El Cerrito Design Review Board reviewed the revisions made by the applicant. Albany staff submitted a letter advocating that the new south side entrance into the parking garage off of Evelyn Avenue be eliminated.

### 7-1. 128-Unit Condominium Project at El Cerrito Plaza

Council Member Atkinson stated that she was shocked by the action and believes El Cerrito should find a way to figure this out so that Albany would not be impacted.

Council Member Javandel expressed his disappointment with the revision, which makes the situation worse rather than better and expressed concern about the two-way entrance and exit.

Council Member Wile stated that most communities are trying to get people out of their cars and making the community pedestrian/bicycle friendly. Council Member Wile suggested that some type of mediation between the two cities would be appropriate and suggested that Assembly Woman Hancock be the mediator.

Council Member Okawachi agreed that mediation is a good idea and that there may be other mediation possibilities.

Mayor Lieber stated that Albany went out of its way to offer a positive alternative for the development and noted that Albany is still thinking about closing the streets into the Plaza except for Kains.

The following people spoke: Preston Jordan, Albany resident; Mara Duncan, Albany resident; Caryl O'Keefe, Albany resident; Lisa Schneider, Albany resident; Jason Foster, Albany resident.

A summary of the comments is as follows: Thanked the Council for keeping this issue open and stated that a main concern with the garage is the trail and noted that El Cerrito should be a partner in this matter. Suggested that the City pursue whatever legal means is available. Supported the idea of mediation between the two cities and suggested that maybe the Albany Unified School District should be involved in this matter. Expressed concern for safety of the school children in the area and supported the idea of developing a forceful strategy. Noted that Albany does have a responsibility to protect the residential streets.

Council Member Javandel noted that the current design makes the situation worse and that Albany has tried to work with El Cerrito to make the design acceptable to both cities. Council Member Javandel stated that he supports the appeal.

Mayor Lieber suggested that maybe he and Council Member Javandel could meet with the Mayor or Council of El Cerrito and discuss the proposal and options.

The City Attorney recommended that the Council attend the El Cerrito public hearing on this matter noting it is important that Albany go on the public record with the issues and talk about closing the streets.

Council Member Okawachi agreed that the City should go ahead with the appeal.

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to direct staff to appeal the decision of the El Cerrito Design Review Board to the El Cerrito City Council, regarding the 128-Unit Condominium project at El Cerrito Plaza; and urge that the southernmost parking garage access (off of Evelyn) be eliminated from the project.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7-1. 128-Unit Condominium Project at El Cerrito Plaza**

Council Member Wile stated that she would still like the Council to consider mediation and to invite Assembly Woman Hancock to be the mediator. Mayor Lieber agreed that if Assembly Woman Hancock agreed that it would be great.

Consensus of the Council agreed to some type of mediation.

**8. NEW BUSINESS****8-1. 2008 Centennial Celebration**

(File #910-60)

The Recreation & Community Services (R&CS) Director stated that the Historical Society has taken the lead in contacting community service organizations in an effort to get input on the Centennial Celebration.

Staff is recommending that the City host two special events: one that would serve as a “kick-off” event towards the beginning of the year and the second event held towards the end of the year. It is recommended that the events meet three objectives: 1) involve as much of the community as possible; 2) be available for the entire family; and 3) be low-cost or free to participants.

The “kick off” event would be held in February and it is suggested that the City host a birthday-type celebration with an old-fashioned games theme. The second recommendation is to host an “alumni” weekend in September with former City staff, City Officials, School District Officials to be invited for a street celebration with food and celebration.

Council Member Atkinson suggested that there some type of event every month beginning in January and would like to see a community day, a jazz festival using local talent. Council Member Atkinson also suggested that anyone 100 or more in age have a special invitation.

Mayor Lieber suggested a parade, as well as the Solano Stroll parade and that the City send out letters to other governmental agencies requesting proclamations celebrating Albany’s centennial.

The following people spoke on this matter: Joan Larson, President, Historical Society; Caryl O’Keefe, Albany resident; Mara Duncan, Albany resident; Ruth Ganong, Vice-President, Historical Society.

A summary of the comments is as follows: Announced that the Historical Society would have a web page regarding the Centennial with a calendar of scheduled events and suggested that the Solano Stroll parade start in Albany next year and involve Cornell School, as it also will be 100 years old next year. Suggested that other cities with the same name as Albany be invited to send a letter. Noted that McGregor School has a great culinary program and include it in the celebration. Asked that the student community be involved in this project.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Atkinson to 1) Authorize a City of Albany Centennial Year kick-off event and an Albany Alumni weekend to celebrate the 100-year anniversary of the City of Albany in 2008. 2)

**8-1. 2008 Centennial Celebration**

Encourage Albany organizations to incorporate a centennial theme in their community events and activities in 2008 and endorse community participation in these centennial celebrations. 3) Thank the Albany Historical Society for their compilation of *Images of America: Albany* and for their continued work in commemoration of Albany’s Centennial.

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

NOES: None ABSENT: None

Motion carried and so ordered.

**8-2. Impeachment of President & Vice-President**  
(File #585-25)

The Social & Economic Justice Commission submitted to Council for adoption Resolution No. 07-57 – A Resolution of the Albany City Council Calling for the Impeachment of President George W. Bush and Vice-President Richard Cheney.

The following people spoke: Peggy McQuaid, Albany resident; Francesca Papalia, Albany resident; Jackie Fletcher, Albany resident; Mara Duncan, Albany resident; Allan Maris, Albany resident.

A summary of the comments is as follows: Do not support adoption of the Resolution, as this is not a local issue but should be done through Representatives at the Federal level. Supported the Resolution and believe that it is a local issue and it is about the “rule of law”.

Council Members Atkinson, Javandel, Wile & Mayor Lieber all stated that they support the adoption of Resolution No. 07-57. Council Member Okawachi did not support the Resolution stating that she was elected to set policy for Albany.

Council Member Javandel noted a correction on page 2, line 4, stating that word and is typed twice.

Council Member Javandel presented Resolution No. 07-57 – A Resolution of the Albany City Council Calling for the Impeachment of President George W. Bush and Vice-President Richard B. Cheney.

**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 adopt Resolution No.07-57.

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

NOES: Council Member Okawachi ABSENT: None

Motion carried and so ordered.

**8-3. Livable Wage Ordinance**  
(File #585-25)

Mayor Lieber stated that he would like to refer to the Social & Economic Justice Commission the issue of Livable Wage Ordinance.

**8-3. Livable Wage Ordinance**

Council Member Javandel stated that he believes some of the dollar amounts are off and noted that the Council needs to look at how this would impact new people coming into the community. Council Member Javandel commented that the Council has to be clear on what it is asking for.

Mayor Lieber stated a motion was not needed if there was consensus of the Council.

Council agreed.

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

**9-1.** Peace Day, sponsored by the Social & Economic Justice Commission, **September 23, 2007, 1-4 p.m.** Memorial Park, near the Tennis Courts and in front of the Veteran’s building.

Council Member Okawachi announced the following: 1) Attended the Water Transit Board meeting and encouraged people to attend the next meeting on December 5, as the State has taken over several ferry systems for emergency purposes. 2) Attended the Veteran’s meeting and was impressed with the number of elderly Veterans in attendance. 3) Albany Library held their 50-cent book sale and cleared \$2,666.

Mayor Lieber announced the following: 1) Announced a community meeting on September 19, 6:30 – 8:00 at the Veteran’s Building with Safeway regarding its proposed remodel project. 2) Attended a meeting with St. Mary’s High School regarding field renovation. 3) Introduced Congress Woman Barbara Lee at the recent Veteran’s event. 4) Attended a peace day event in Berkeley.

Council Member Javandel thanked staff for working with BART to reduce the high level of noise that the system makes.

**10. ADJOURNMENT**

9:45 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