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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**TUESDAY, SEPTEMBER 4, 2007**

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**7:15 p.m.**

**CLOSED SESSION**

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

Closed session to discuss litigation pursuant to Government Code Section 54956.9(a):

Lopez v. City of Albany

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

- |                      |  |
|----------------------|--|
| Property:            | 1050 San Pablo Avenue, Gill Tract, University of California & 405 Kains.   |
| Negotiating Parties: | University of California; Rachel Kuan & Gary Tang, Hannah Investment, on behalf of the property owner, Cerrito Creek Properties, LCC. City Administrator, on behalf of City. |
| Under Negotiation:   | Terms and conditions to obtain license for temporary Relocation of City operations.  |

**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; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Barry Whittaker, Project Manager; Penelope Leach, Recreation & Community Services Director;

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

Report on Government Code Section 54956.9(a): Instructions given to the City Attorney and staff. Report on Government Code Section 54956.8: Instructions given 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, July 2 & 16, 2008**

Staff recommendation: Approve.

**4-2. a.** Ratification of City of Albany net payroll in the amount of \$189,822.34; taxes, benefits & withholdings in the amount of \$227,612.39. Total payroll in the amount of \$417,434.73. Payroll period: 07/20/07.

**b.** Ratification of City of Albany net payroll in the amount of \$206,705.06; taxes, benefits & withholdings in the amount of \$147,612.96. Total payroll in the amount of \$354,318.02. Payroll period: 08/03/07.

**c.** Ratification of Albany Municipal Services JPA net payroll in the amount of \$47,709.89; taxes, benefits & withholdings in the amount of

\$52,115.55. Total payroll in the amount of \$99,825.44. Payroll period: 07/20/07.

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$56,574.99; taxes, benefits & withholdings in the amount of \$43,628.32. Total payroll in the amount of \$100,203.31. Payroll period: 08/03/07.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$1,092,491.05. Period: 07/13/07.  
(File #300-40)

Staff recommendation: Ratify.

- 4-4.** a. Pension payments for the month of July, 2007, in the amount of \$113,884.52.  
b. Pension payments for the month of August, 2007, in the amount of \$110,761.41.

Staff recommendation: Ratify.

- 4-5.** Consideration of Claim #AL553; Yang vs. City of Albany.  
(File #170-60)

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

- 4-6.** Consideration of Claim #AL554; West Coast Wire Rope & Rigging vs. City of Albany.  
(File #170-60)

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

- 4-7.** Consideration of Claim #AL548; Meyer vs. City of Albany.  
(File #170-60)

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

- 4-8.** Resolution #07-24 – A Resolution of the Albany City Council Authorizing the Destruction of Certain Records and the Donation of Certain Records to the Albany Historical Society.  
(File #160-70)

Staff recommendation: Adopt Resolution #07-24.

- 4-9.** Resolution #07-51 – A Resolution of the Albany City Council Establishing a Goal of 75% Reduction of Waste Going to Landfills by 2010 for the City of Albany in Accordance with the Countywide 75% Waste Reduction Goal.  
(File #810-90)

Staff recommendation: Approve Resolution #07-51.

- 4-10.** Resolution #07-52 – A Resolution of the City Council of the City of Albany Approving a Joint Powers Agreement Among the Counties and Cities Within Alameda and Contra Costa Counties Forming the East Bay Regional Communications System Authority.  
(File #600-40)

Staff recommendation: Adopt Resolution #07-52.

- 4-11.** Resolution #07-53 – A Resolution of the Albany City Council Authorizing the City Administrator to Accept a “Target & Blue” Grant from Target Corporation for Funds in the amount of \$1,500 to Assist in Funding the Police Department’s Annual National Night Out Program.  
(File #345-70)

Staff recommendation: Approve Resolution #07-53

- 4-12.** a. Council Member appointments: Arts Committee: Christina Martin, Council Member Atkinson. Sustainability Committee: Janet Smith-Heimer, Council Member Javandel; Caryl O’Keefe, Council Member Okawachi; Miya Kitahara, Council Member Wile; Suzanne Schrift, Council Member Atkinson; Thomas Cooper, Mayor Lieber.

b. The Sustainability Committee still has one Youth Member vacancy, which will be filled by the School Board in September and one Council at-large vacancy. If interested in the at-large seat, please contact the City Clerk for an application.

Staff recommendation: Note and file.

- 4-13.** Award of professional Services Contract to Nichols Engineering for Update of Albany’s Pavement Management Program.  
(File #600-30)

Staff recommendation: Approve proposed contract in the amount of \$18,500 with Nichols Consulting Engineers to update the City’s pavement management program.

- 4-14.** Schedule a public hearing for first reading of an ordinance to amend the Planning & Zoning Code for purposes of creating an Art in Public Places Program.  
(File #450-20)

Staff recommendation: Authorize the City Clerk to schedule a public hearing for Monday, September 17, 2007.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar and the following items were removed.

**4-8. Resolution No. 07-24 – Destruction of Records**

Sally Outis, Albany resident, asked if the Historical Society is notified when records are to be destroyed and was informed that all requests for destruction go through Council.

**4-13. Pavement Management Program**

Sally Outis noted that staff has referred to two sources of income available – Measure F and State 1b money and asked if the State money was competitive or just there for the taking. The Community Development Director responded that the State money is competitive and Albany has been guaranteed an amount of approximately \$500,000 available in January, 2008.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi 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.

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

Mayor Lieber opened the Good of the City/Public Forum/Announcement and the following people spoke: Ray Anderson, Albany resident; Robert Cheasty, Albany resident; Allan Maris, Albany resident; Sally Outis, Albany resident.

A summary of the comments is as follows: Announced that the Lions Club is accepting donations of old prescription glasses at the following locations: Chamber of Commerce, at the Solano Stroll, at the pancake breakfast before the Stroll. Announced

the Solano Stroll is scheduled for Sunday, September 9, beginning with the parade at 10 a.m. and the theme this year is "Going Green". The Social & Economic Justice Commission is planning a Peace Day on September 23, 1-4, at Memorial Park. Noted that the County has money available for low-income residents for small/medium housing projects.

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. Letter of Thanks – First Annual Albany National Night Out**

Mayor Lieber read a letter thanking Sergeant Bettencourt and the Albany Police Department for their work on the first annual Albany National Night Out on August 7, 2007.

## **7. UNFINISHED BUSINESS**

### **7-1. Gilman Street Sports Field Project** (File #600-40)

The Recreation & Community Services Director reported that in November, 2003 five cities in Alameda County entered into a Joint Powers Agreement (JPA) to cooperate in the development of a regional sports field project on the Gilman Street purchased by East Bay Regional Park District from the Golden Gate Fields Racetrack.

In order to complete the project on schedule, the lights need to be ordered by September 15, 2007 and installing the lights now could save up to \$10,000, as it is more cost effective to install the lights at a rough site.

The JPA is requesting that each member City contribute \$50,000 for a total of \$250,000, as soon as possible to act as the construction contingency. This contingency fund would allow the use of the current reserve to fund the remaining sports lights in Phase 1.

Mayor Lieber noted that the crane needed to raise the poles is \$50,000 and believe this is a wise expenditure, but only support if all the member cities contribute the requested money.

Tom Bates, Mayor of Berkeley, thanked the City of Albany for all the hard work on this project noting that Albany is leading the way. Mayor Bates stated that he believes it is prudent to spend money now to save in the future and noted that Phase 1 should be completed by December 1, 2007. Mayor Bates commented that there will be some type of official ceremony and would like a representative from Albany to participate.

The following people spoke on this issue: Robert Cheasty, representing, CESP, CAS and the Sierra Club, stated this a truly a win-win situation and that Albany should be very proud of it efforts and thanked Mayor Bates for working so hard on the project. Noted that Albany has a long history of supporting this project and that it is a need that is being filled for the youth of the community. Expressed concern about the JPA not

**7-1. Gilman Street Sports Field Project**

adhering to Section 3 of the JPA Agreement and believe that this needs more discussion and noted that the Burrowing Owl project will be coming up in the future.

Council Member Javandel noted that this is an expense that the City would have at some point and believe that saving money is the responsible thing to do and support this request.

Council Member Wile asked if Measure R & F would cover the \$50,000 and whether some of this money could be used for the Burrowing Owl project. Staff responded that Measure R & F would cover the \$50,000 and it was expected that it would also cover the owl project costs.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to approve the appropriation of \$50,000 to the City of Berkeley to be used as construction contingency funds for the Gilman Street Sports Field Project.

**AMENDED MOTION:**

Mayor Lieber asked if the maker and second would support an amendment to the motion that this money only be authorized if all the member JPA cities contribute the same amount.

Maker and second agreed to the amendment

**VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7-2. Charter Amendment – Directly Elected Mayor**

(File #660-25)

The City Administrator reported that the Charter Review Committee would like direction from Council on a time frame, if any, for a Charter Amendment regarding a directly elected Mayor to appear on a future ballot.

The Committee has been discussing this issue and there are different viewpoints among the Committee members ranging from providing ballot language immediately and then discussing the pros/cons, to believing that the Committee cannot provide language without first having explored the issue thoroughly, which would take an undetermined amount of time.

Mayor Lieber stated that he would like this amendment to be on the February, 2008 ballot with all the other Charter amendments and would prefer the directly Mayor not to appear on the general election ballot.

Council Member Atkinson commented that it is important to get the citizens to weigh in on this issue before it appears on the ballot and would prefer a lot of information on this matter, for example, what other cities have done regarding this issue.

Council Member Okawachi stated that she would prefer to hear more information, such as how other cities function and noted that Albany is a small City and that most bigger cities with a directly elected Mayor have their Council elected by district.

**7-2. Charter Amendment – Directly Elected Mayor**

Council Member Javandel noted there are a lot of questions that should be answered, for example, what would the term of the elected Mayor be, would the current term limitation apply? There are a lot of variables that need to be discussed in detail and would like careful deliberation and let the process unfold.

Michael Wallace, Chair Charter Review Committee, stated that he was not at the last Committee meeting but believes that staff has summed up discussion and noted that his viewpoint is to take this slow.

Thelma Rubin, Charter Review Committee, stated that the Committee does not take this lightly, as it is a major change in how Albany is governed. Ms. Rubin noted that there is no big rush and would prefer to discuss this for as long as necessary.

The following people spoke on this issue: Francesca Papalia, Albany resident; Bob Outis, Albany resident; Allan Maris, Albany resident; Robert Cheasty, Albany resident; Sally Outis, Albany resident.

A summary of the comments is as follows: Asked for more information, such as, would the Mayor have veto power and noting that many people will not even know what this issue is about. Believes that the Charter Review Committee should act independently and not concern themselves with what the Council would like. Spoke on the number of cities that have an elected Mayor noting it doesn't appear to be too many and agreed that this should be an independent process. Agreed that the Committee should take as much time, as necessary to make an informed decision. Disagreed with putting this issue on the ballot quickly noting that the community deserves to know all the issues involved.

Council Member Atkinson stated that she agrees this issue should not be rushed into quickly and that the issue of how Albany fits into regional government with an elected Mayor or an appointed Mayor.

Council Member Javandel commented there are many questions to be answered, such as: should the Council Members run at large or by district and this change needs to be considered regarding the impact on the rest of the government process. Agreed that this issue should have a thorough investigation.

Mayor Lieber stated that he believes the elected Mayor should have the same power as the rest of the City Council, but would like the Committee to consider the longevity of the Mayor on regional boards.

Consensus of the Council is to have the Charter Review Committee take as much time as needed to make an informed recommendation.

The City Administrator announced that the next meeting of the Charter Review Committee is Tuesday, September 11 at 7 p.m. and noted that two guests have been invited: former Mayor of San Leandro and Fremont.

**7-3. Civic Center Improvement Oversight Committee**

(File #200-30)

The Public Works Manager reported that the Civic Center Improvement Project has undergone a considerable number of changes in concept and design since it was first proposed and approved with the passage of Measure F – 2002. Subsequent to that the

### 7-3. Civic Center Improvement Oversight Committee

voters approved Measure C in 2006 to fund incorporation of specific features including an Emergency Operations Center (EOC).

Mayor Lieber asked that the subject of establishing an ad-hoc committee to provide financial oversight for the completion of the project be agendaized. If Council wishes to establish this Committee the following recommendations are submitted: Composition: Each Council Member to appoint one member and that it be composed of community members with skill, knowledge, ability and/or experience in reviewing construction projects. Charge and Reporting: The charge would be financial oversight of the completion of the Project. The work plan would consist of reviewing the progress and expenditures of the project at specific milestones and submit reports to the Council. The recommended milestones are 25%, 50%, 75% and 100% completion points.

The following people spoke: Bob Outis, Albany resident; Thelma Rubin, Albany resident.

A summary of the comments is as follows: Believe the establishment of an oversight committee is a very bad idea and that staff should submit periodic reports and Council should oversee the entire project. Disagreed with the establishment of an oversight committee and agreed with the comments made previously.

Council Member Javandel stated that he would like to have detailed and regular reports from staff on the progress of the project.

Council Member Okawachi agreed noting that the City has very qualified staff that should report to the Council.

Council Member Wile agreed that the "buck should stop with the Council" but agree there should be periodic reports to the Council.

Mayor Lieber agreed that the "buck should stop with the Council" but in the past staff has not done a very good job of reporting to the Council and the questions should be is the Council getting all the information needed or will it get a surprise.

**MOTION:**

Moved by Council Member Wile, seconded by Council Member Javandel that staff provides monthly reports to the City Council on the Civic Center Improvement Project.

**ON THE QUESTION:**

Mayor Lieber asked for an amendment to the motion that the monthly staff reports be put on the agenda.

Maker and second agreed to the amendment.

**VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

## 8. NEW BUSINESS

### 8-1. Association of Bay Area Government's Regional Housing Needs Allocation

(File #140-10)

The Planning Manager reported that State law mandates that all local governments prepare and maintain policies to address the State's housing needs. From Albany's perspective, one of the most significant components of State policy is the requirement that the City adopts and maintains the Housing Element, as part of its General Plan.

The City's current Housing Element was approved in 1992, as part of the comprehensive update to the City's General Plan. Since that time, draft updates have been prepared by the City and reviewed by the State Department of Housing & Community Development (HCD). The recent updates, however, have not been formally adopted by the City nor approved by HCD.

The Planning Manager noted that for 2007, the City of Albany's share of the Regional Housing Needs Allocation is 276 housing units, of which 159 units will be required to meet affordability thresholds.

The Planning & Zoning Commission met on July 24, 2007, and unanimously concurred with the staff recommendation that a request for revision not be submitted. Although the proposed allocation represents a significant amount of housing compared with recent pace of development in the City, the proposed allocations represent a significant land use policy challenge for nearly every city in the Bay Area.

Mr. Francesca Papalia, Albany resident asked what the City has done since 1999 and believe this is just an exercise nothing will happen.

Council Member Javandel responded that several projects have been built since 1999 and the most recent is the development on San Pablo Avenue where the old mortuary used to be, which has four Inclusionary units.

Council Member Atkinson noted that Albany does have the Measure D parking requirements, which restrict a lot of developments but the City does need to be serious about this issue.

Mayor Lieber concurred with previous comments.

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Member Atkinson that the City not submit a request for revisions to the Association of Bay Area Governments on the proposed Regional Housing Needs Allocation.

AYES: Council Member 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 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).

- 9-1. Solano Stroll, **Sunday, September 9, 2007, 10-6**, beginning with a parade at 10 a.m.
- 9-2. Coastal Cleanup Day, **Saturday, September 15, 9-Noon**, Albany Waterfront Trail and Beach, foot of Buchanan Street.
- 9-3. Recognition of Veterans, sponsored by Congress Woman Barbara Lee, **Saturday, September 15, 2007, 10-12**, at the Albany Community Center, 1249 Marin Avenue.

Council Member Javandel announced that he would be attending the annual League of California Cities conference in Sacramento Thursday – Saturday.

Council Member Okawachi announced that the Historical Society is selling the newly published book about Albany and noted that order forms are at the back of the Chamber.

Council Member Okawachi announced that on September 27, 1:30, Community Center, there will be a Memorial Service for Ruth Meniketti and if anyone would like to help please contact her.

Council Member Atkinson announced that she attended a League of California Cities conference in Monterey, which was very helpful and thanked the City for allowing her to attend.

**10. ADJOURNMENT**

9:35 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