

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, April 9, 2007

6:25 p.m.

Closed Session

Pursuant to Government Code Section 54947(b)(1)

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 Personnel pursuant to Government Code Section 54957(b)(1); and to discuss labor negotiations pursuant to Government Code Section 54959.8

Agency Negotiator:	City Administrator and Glen Berkheimer, IEDA
Employee Organization:	Albany Fire Fighters Association Albany Municipal Services JPA

ADJOURN TO CLOSED SESSION

7:00 p.m.

COUNCIL EMERGENCY RESPONSE TRAINING

8:00 p.m.

CALL TO ORDER

1. PLEDGE OF ALLEGIANCE: 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.

2. ROLL CALL

Present:	Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber
Absent:	None

STAFF PRESENT

Beth Pollard, City Administrator; Ann Chaney, Community Development Director; Judy Lieberman, Assistant City Administrator; Robin Mariona, Office Assistant.

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

Pursuant to Government Code Section 54947(b)(1)

Mayor Lieber stated that no decisions had been made in the closed session regarding employee issues.

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. 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.)

Mayor Lieber asked if the Council would like to remove any items for discussion and the following items were removed: Items 4-1, & 4-10.

4-1. City Council minutes, March 19 & 26, 2007.

Mayor Lieber stated that he wanted to cross out the section on page nine of the March 26th minutes that reported he stated the cost would be \$350,000 or more, as he did not say it. He further asked to remove the reference to seven motions as he only made one, which was there.

Staff recommendation: Approve the March 19, 2007 minutes with the clarification of a second by Council member Atkinson to the motion under Item 7-2.

Mayor Lieber asked if any member of the public would like to remove an item from the consent calendar.

An Albany resident asked that items 4-4 and 4-9 be removed.

4-2. a. Ratification of City of Albany net payroll in the amount of \$171,433.10; taxes, benefits & withholdings in the amount of \$206,605.46. Total payroll in the amount of \$378,038.56. Payroll period: 03/16/07.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$42,707.86; taxes, benefits & withholdings in the amount of \$48,695.17. Total payroll in the amount of \$91,403.03; Payroll period: 03/16/07.

c. Ratification of City of Albany net payroll in the amount of \$175,009.94; taxes, benefits & withholdings in the amount of \$128,521.46. Total payroll in the amount of \$303,531.40. Payroll period: 03/30/07.

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$44,558.01; taxes, benefits & withholdings in the amount of \$33,687.12. Total payroll in the amount of \$78,245.13. Payroll period: 03/30/07.

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$368,685.09. Period: 03/23/07.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$16,980.82. Period: 04/01/07.

Staff recommendation: Ratify.

4-4. Ratification of pension payments in the amount of \$106,569.49 for the month of March 2007.

An Albany resident questioned whether this amount was a typical monthly pension payment for the City. City Administrator Pollard stated that it was, and it included 29 people from the police and fire pension fund. Other pension payments for City workers were made through PERS.

Staff recommendation: Ratify.

4-5 Consider Claim #AL543; Hasrajani v. City of Albany.

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

4-6. Mayor Lieber appointing Robert Cheasty to the Civil Service Board.

Staff recommendation: Information.

4-7. 2008 Sewer Project – East Albany Hill.

Staff recommendation: 1) Approve the scope of work and budget for Consulting Services Agreement with Nute Engineering for sewer design services and engineering services during construction for the 2008 Sewer Project – East Albany Hill. The estimated cost for scope of work is \$126,000. 2) Authorize the contract City Engineer (LCC, Inc.) to provide surveys for the 2008 Sewer Project – East Albany Hill under existing agreement. Cost estimate for scope of work is \$25,000.

4-8. Award of Contract(s), 2007 Parks Rehabilitation Projects: Terrace Park, Memorial Park and Ball Field & Ocean View Park.

Staff recommendation: Authorize the City Administrator to execute the following contracts for the parks renovation project: 1) Contract C2-07 to American Civil Contractors, Martinez, CA in the amount of \$198,000 for the renovation of Terrace Park. 2) Contract C3-07 – to Hanford Applied Restoration and Construction in the amount of \$1,092,139 for the renovation of Memorial Park. 3) Contract C4-07 to Hanford Applied Restoration and Construction in the amount of \$1,272,476 for the renovation of Ocean View Park. 4) Amend the contract with John Cahalan, Landscape Architect, for additional compensation in the amount of \$101,163 for the necessary additional design and bid preparation work for the project.

4-9. Resolution #07-16 – A Resolution of the Albany City Council Directing the Filing of the Landscaping and Lighting Assessment District Annual Report (Assessment District No. 1988-1 and 1996-1).

An Albany resident stated that resolution #07-16 deserved more attention than just appearing on the consent calendar and she could not find a report on it from reviewing previous agendas. City Administrator Pollard stated that it was simply a report to hire an engineer to perform the work and a further report would come back to the Council and public for review at a later date most likely in May.

Staff recommendation: Approve Resolution #07-16.

4-10. A Proclamation declaring April 15-21, 2007 as National Library Week, in the City of Albany.

Mayor Lieber read a proclamation on behalf of the City for National Library Week. The President of the Albany Library Board Joan Larson and Head Librarian Ronnie Davis thanked the Council, the Friends and the public for helping to provide the funding to open the library on

Sundays. Ronnie Davis further stated that Sunday library attendance was steadily increasing.

Staff recommendation: Approve.

MOTION:

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

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

NOES: None

Motion carried and so ordered.

5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS

Mayor Lieber asked if anyone would like to speak on an item not on the agenda.

Roxanne Wiley from the Albany Community Foundation stated that a sculpture on Key Route that was provided by the Foundation had been vandalized and hoped for support in encouraging the public to respect art in the community.

Sally Outis, Ventura Ave. stated that an incorrect statement by a member of the audience regarding the participation of the Planning and Zoning Commission in a residential project on Marin Ave., had been made at a previous Council meeting and should be corrected for the public record. She stated it was unfair to judge the Commission on a project they had not participated in. She also stated that pedestrian crosswalks on Marin Ave. were not safe. City Administrator Pollard agreed that the Planning and Zoning Commission had not participated in the house remodel project on Marin Ave.

A student from UC Berkeley hoped that there would be community involvement in the upcoming planning for the barracks at UC Village.

Council Member Atkinson stated the schedules for the meetings of the Albany Arts Committee, the Park and Recreation Commission, the Planning and Zoning Commission, the Social And Economic Justice Committee and invited the public to attend. She further stated that there was a drop off for used batteries at City Hall and the Albany Summer Activity Guide was available.

6. PRESENTATION/PUBLIC HEARING

7. UNFINISHED BUSINESS

7-1. Pierce Street Bike Path and Striping Plan for the 500 Block.

Community Development Director Chaney summarized the process history whereby the bike path and striping plan for Pierce St. had evolved, the existing conditions and the striping options approved by the Traffic and Safety Commission.

With a grant of \$100,000 in 2002 through Coastal Conservancy, ABAG Bay Trail and the cooperation of the Cities of Richmond and El Cerrito, the City

of Albany was given the charge of administering and studying the possibilities of a bike path connecting the Cerrito Bay Creek with the San Francisco Bay Trail. In 2003 public meetings and notifications, including all three cities, were held to discuss the Cerrito Creek/Bay Trail Connector Feasibility Study. The study recommended the path travel south along Pierce St. to the Bay Trail possibly intersecting CALTRANS property. Concerns had been raised, particularly by some Gateview residents, about the loss of parking. Albany used some remaining funds to study this issue further resulting in the recommendation that a Class 1 bike lane be created on Pierce St. south until it narrowed at which point it would become a Class 3 to Buchanan Overpass, attempting to preserve as many parking spaces as possible.

City engineers and consultants formulated three options. After consideration and discussion staff recommended the adoption of Option 3, as it seemed to take into account as much as possible the needs of all concerned. The City Engineer recommended doing the pavement and bike path renovations at the same time, as there would be cost savings.

Council members questioned the engineer with regard to the planned direction of the path, loading areas at the condominium complexes and bus stops. The engineer stated that these issues needed more investigation.

The following people spoke: Rick Ostrove, President of the Board of the Gateview Homeowner's Association; Clara Rae Genser, Gateview resident; Abe Credola, Albany resident; Saul Strand, Pierce St. resident; Dee Jacobson, Pierce St resident; Preston Jordon, Albany resident; Joby Thomas, Bridgewater resident; Nick Pilch, Albany resident; Melanie Mince, El Cerrito Public Works; Peggy Thomson, Pierce St. resident; Chris Kent, Albany resident; Susan Schwartz, Head of the Friends of Five Creeks; Janet Lin, Albany resident. There were several other residents who spoke, but did not identify themselves.

A summary of the comments is as follows: Spoke on the concerns regarding the number of people impacted by the bike path, parking spaces and traffic safety issues. Stated the need to do a traffic study and have further discussions with the Pierce St residents to come to a reasonable agreement. Stated that the residents had not been adequately notified for meetings and the quality of life for residents would be impacted negatively. Expression of concern with regard to the safety of bicycle riders, pedestrians, and the need to do more maintenance on the trees. Stated concern about no parking at all on 4th Wed. of the month, parking spaces that would be too small and Pierce St. being too busy a street for a bike path.

Bike path was affirmed as a good thing but not on Pierce St. as it would be a bike path to nowhere. A Gateview family resident stated that elimination of parking on one side would endanger her family walking on the sidewalk, and asked that the road be fixed, but do not put in a bike lane. Stated that there had been a petition with 537 signatures specifically against a Class 1 bike path, the safety of 60 degree angle parking and traffic too close to the sidewalk.

Stated that Pierce St. residents concern over a Class 1 bike path had been dismissed as irrelevant at a Traffic and Safety Commission meeting. There was an appeal to the Council to hear 10% of the Albany population that lived on Pierce

St., urged the Council to take more time to study the safety issues and just pave the street until more study was done.

Stated support for the Class 1 bike path on Pierce St. and also supported slowing traffic. Welcomed a safe bike path. Spoke in support of Option 3 and complemented staff in coming up with a solution that tried to address everyone's needs and urged the Council to adopt the Resolution. Commended the City of Albany for the bicycle facility projects recently completed, for providing good bicycle connections and supported a Bay Trail connector.

Stated that the passive park area on Pierce St should be put in place first before the bike trail. Stated support for the Class 1 bike path, understood the safety concerns, but Pierce St was the most logical route. Spoke generally in favor of the trail, stated that many people were enjoying the improvement of the bike trail along Cerrito Creek and supported Option 3 for approval.

Stated that residents of Pierce St. did not want the bike path or the crime that might come along with the path, but wanted the bus stop replaced and repaving of the street. Spoke with concern about the lighting along the path for cyclists and in favor of an easement from CALTRANS to complete the path so people would use it.

Council Member Javandel acknowledged a challenge due to past mistakes in vision regarding lack of parking in the Gateview Complex, but did not want to lose the possibility of the bike path. He further stated that there were still issues with the design despite improvements, but there had been great effort to listen and accommodate concerns and he didn't want to preclude opportunities to improve things. Council Member Javandel urged more study for a solution.

Council Member Atkinson agreed that there needed to be more discussion and that perhaps the situation needed to be looked at in a different way. She acknowledged that the Gateview residents needed to be heard, agreed that there were valid safety issues for the neighborhood and stated that a Class 1 path may penalize the residents of Pierce St. too much. Council Member Atkinson urged listening more to the residents before voting in favor of the plan.

Council Member Okawachi stated that the bike path was a regional issue and acknowledged the need for the path. She expressed concern for the safety of going from a Class 1 to a Class 3 path at 555 Pierce St, agreed with residents that their lives would be affected daily and perhaps it should be a Class 3 path until the issues with CALTRANS could be resolved. Council Member Okawachi stated that she wanted to hear what the rest of the Council had to say.

Council Member Wile stated that she might be in the minority in her feelings about the need for change with regard to reliance on cars, but her conscience led her to the conclusion that Option 3 needed to be approved.

Mayor Lieber posed questions to City Engineer Randy Leptien regarding issues that he felt were not adequately answered, the first of which was the concern regarding traffic moving at excessive speeds next to the sidewalk. Engineer Leptien stated that there would be three raised crosswalks and narrowing of the street to slow traffic. There was also the possibility of stop signs but they were not warranted, so remained unconfirmed. The second question was regarding the size of the lanes and the distance between the lane and the sidewalk.

Lynn Filson a consultant from Kimley Horn explained that travel lanes were normally 12' wide and the distance to the sidewalk at that width would be 2'. She suggested reducing the size of the travel lane to give more space between the sidewalk and travel lanes. The last question regarded loading zones. Director Chaney stated that Bridgewater never had a designated loading zone and Gateview had a formal loading zone already.

Mayor Lieber stated that the issue was difficult, affirmed that the plan still needed work and he wanted to meet with residents regarding their concerns, but felt strongly that there were things the residents needed to hear. He stated that the commitments to ABAG, The Land Conservancy, the Cities of El Cerrito and Richmond and to the entire City of Albany to complete the Cerrito Trail to the Bay Trail overrode the concerns regarding parking. Due to those commitments, Mayor Lieber stated that he believed the residents needed to come to the understanding that a Class 1 bike trail was going to be happening in the future and they would need to come to the discussion table with that in mind.

Council Member Okawachi stated that she would like to wait for an agreement with CALTRANS before putting in a Class 1 bike path.

Director Chaney stated that she was convinced that if the path was implemented, that the other Cities and organizations would help to put pressure on CALTRANS to complete the path through the property.

Council Member Javandel stated that the Alameda County CMA designated the connection to the Bay Trail through Albany as a high priority item for the region.

Council Member Atkinson stated that it would be better to work with AC Transit and the residents before a motion was made.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Wile to conduct a safety study for the project, and to refine the Option 3 design working out details with the residents of Pierce St. with the goal of accommodating the Class 1 bike path. Part 2 of the motion was to make an attempt to negotiate with AC Transit to reduce lane widths on Pierce St. and the possibility of a warranted stop sign.

AYES: Council Members Javandel, Wile & Mayor Lieber

NOES: Council Members Atkinson & Okawachi

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Update on Cable TV Issues.

Recommendation: Per the recommendations from the February 20, 2007 joint meeting of the AdHoc Cable TV committee and the Council Cable TV committee:

1. Suspend any further actions to negotiate a franchise agreement with Comcast.
2. Establish by ordinance a PEG fee of 1% of gross revenues.

3. Adopt by ordinance or resolution an appeal procedure for denials of an encroachment permit sought by a state franchise holder.
4. Adopt an ordinance establishing the state prescribed penalties for violation of customer service standards.
5. Rewrite the city's existing Cable TV ordinance.
6. Pursue an agreement with the City of Berkeley and the Berkeley Media Access Center to enable Albany residents to use the Berkeley Media Access Center.
7. Pursue the ability of Albany to carry the Berkeley Cable TV station and of Berkeley to carry our Cable TV station.
8. Staff Recommendation: Enter into an agreement with Mr. Greg Stepanicich in the amount of \$10,000 to assist the City in preparation of the ordinances noted in items 2, 3, 4, and 5 above

Assistant City Administrator Judy Liebermann stated that the staff report covered the process of the franchise agreement with Comcast dating back to 2004. The passing of AB 2987 in 2006 required attention to some items and rewriting of some ordinances. Recommendations were made on the staff report items. The attorney consulted recommended going with the state franchise program. Priorities were stated as the remote production capabilities at the Community Center and wiring in the Edith Stone Room at the cost of \$80,000. It was also recommended to rewrite the ordinances by January 2008 and staff recommended allocating \$10,000 to draft the ordinances.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Atkinson to approve staff recommendations

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

NOES:

Motion carried and so ordered.

8-2. Design, Fabrication and Installation of a Tile Project at Terrace Park.

Arts Committee recommendation: Authorize the City Administrator to enter into a contract with Josef Norris in an amount not to exceed \$9,449 for the design, fabrication and installation of a tile project for Terrace Park.

Interim Director of Recreation and Community Services Dennis Smith introduced Arts Selection Committee Chair, Nan Wishner, who stated a short history of the tile project for the Terrace Park restroom wall and brought the contract for approval. She showed a sample of work done by the chosen artist for the project Josef Norris and stated that there were to be community workshops conducted by the artist, for tile contributions from the public with an installation date of July 2007. There was some discussion about vandalism to the mural. Chair Wishner stated that the tile chosen was impervious to damage and that the extensive public process in the selection invested the community in the final product.

MOTION:

Motion to authorize the City to enter into a contract with Josef Norris made by Council Member Okawachi and seconded by Council Member Atkinson.

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

NOES:

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).

Mayor Lieber announced that Alameda County Waste Management Board passed a resolution calling for mandatory recycling in all member cities by 2010 mostly aimed at businesses. He further reported that he had met with a number of Bay Area decision makers, East Bay Regional Parks and State Parks representatives. The first Port o’ Potty in the East Shore State Park would be installed very shortly. The parks representatives also agreed to enter into a Mayor’s Ad Hoc Committee to look at the steps necessary to include the Albany Bulb into the East Shore State Park. The group would begin the discussions in 2 to 3 months and bring back steps that would allow the project to happen. Grants and funds for land purchases were also discussed.

9-1. The next regular schedule Council meeting is **Monday, April 23, 2007.**

10. ADJOURNMENT

10:42 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Robin Mariona.

ROBERT S. LIEBER
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC

CITY CLERK