

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**  
**TUESDAY, FEBRUARY 20, 2007**

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**7:30 p.m.**

**CLOSED SESSION**

Government Code Section 54956.8, Real Estate Negotiations for potential sites for temporary relocation of Police & Fire Services and City Hall during renovation project.

Property:	405 Kains Avenue; 505/507 Adams Street; Golden Gate Fields adjacent to corporation yard; and University of California Excess Property at Abandoned College of Natural Resources site adjacent to University Village.
Negotiating Parties:	Rachel Kuan & Gary Tang, Hannah Investment, on behalf of the property owner, Cerrito Creek Properties, LLC. Albany Bowl Properties; Magna Entertainment; UC Berkeley. On behalf of the City: City Administrator and City Attorney.
Under Negotiation:	Price and Terms of Payment.

**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; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager;

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

Mayor Lieber reported that Council had a closed session regarding labor negotiations and direction was 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. 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.** City Council minutes, February 5, 2007.

Staff recommendation: Approve.

**4-2.** a. Ratification of City of Albany net payroll in the amount of \$180,921.68; taxes, benefits & withholdings in the amount of \$140,374.83. Total payroll in the amount of \$321,296.51. Payroll period: 02/02/07.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$44,337.27; taxes, benefits & withholdings in the amount of \$35,616.48. Total payroll in the amount of \$79,953.75. Payroll period: 02/02/07.

Staff recommendation: Ratify.

**4-3.** Request to temporarily close portions of Solano Avenue and Jackson Street on March 24, 2007 for the Albany Little League Parade. (File #820-50)

Staff recommendation: Approve an Encroachment Permit and Parade Permit, at no fee, to allow closure of Solano Avenue, between Key Route Boulevard and Jackson Street, and closure of Jackson Street, between Solano Avenue and Buchanan Street, from 9:00 a.m. to approximately 9:45 a.m. on Saturday, March 24, 2007, for the annual Albany Little League Parade.

- 4-4.** Appointment to Alameda County Transportation Authority (ACTIA) Para transit Advisory Planning Committee.  
(File #1060-95)

Staff recommendation: Reappoint Ms. Martha Jo Chalmers.

- 4-5.** Status Report – offer from Bayside Commons, 535 Pierce Street, to convey parcel of land to the City of Albany, located due north of Bayside Common’s parking lot entrance and situated in the City of Richmond.  
(File #670-35)

Staff recommendation: Receive information update.

- 4-6.** Second Quarter Fiscal Year 2006-07 Financial Statements and Projection.  
(File #330-20)

Staff recommendation: Information only.

- 4-7.** 2007-08 Community Development Block Grant (CDBG) City-County Agreement.  
(File 600-40)

Staff recommendation: Approve the recommended use of FY 2007-08 CDBG funds based on an estimated amount of \$86,000 for the following projects: 1) Meals on Wheels program - \$14,000. 2) Access Curb Ramps - \$65,537. 3) Alameda County Homeless Continuum of Care Council - \$1,473. 4) 2-1-1 Program - \$5,000.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar. The following items were removed: Item 4-1 & 4-5.

#### **4-1. City Council Minutes**

Mayor Lieber asked that an additional comment be added to the Good of the City, which he believes is relevant due to the current news. Last week Leon Rimov spoke about the Queen Mary 2 and expressed concern about the safety of the passengers when the ship arrives in the Middle East noting that there are already aircraft carriers in the area and warned of a possible attack on Iran.

#### **4-5. Status Report – Bayside Commons**

Council asked for an update on this subject. The Community Development went over various matters including the Creek Restoration with the City of Richmond and the sewer program with Berkeley.

Mr. Dean Jackson, General Manager Bayside Commons, read a letter on behalf of Bayside Commons expressing concern about the conservation easement and the creek issues being dealt within a reasonable time frame.

**4-5. Status Report – Bayside Commons****MOTION:**

Moved by Council Member Javandel, seconded by Council Member Atkinson to approve the Consent Calendar with the addition to the City Council minutes of February 5, 2007.

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**

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 and asked if anyone would like to speak.

The following people spoke: Jean Safir, on behalf of Caryl O'Keefe, Albany resident; Mr. David Price, President Albany Little League; Allan Maris, Albany resident; Katherine (last name not noted), Albany resident; Ellen Hershey, Albany resident; Leon Rimov, Albany resident; Peggy McQuaid, Albany resident; Bill Dann, Waterfront Committee member;

A summary of the comments is as follows: Asked that the City Council have a policy that all Waterfront Committee meetings be televised. Invited the Council to the annual Little League Parade on March 24<sup>th</sup> with the parade starting at 9:00 a.m. Asked that a presentation be made before the City Council on local emergency response training. Asked that the position of Block Captain be made more formal. Expressed concern about the process being used by the Albany Unified School District on its EIR for Cougar Field noting that they are not giving the public much time to comment. Complained that cars in the Albany Hill vicinity are not being moved for street sweeping, therefore, the sweeper just goes around them and the street is not getting cleaned. Noted that there will be more problems with water seeping into the Community Center especially when the rain starts coming. Handed out to the Council a Parent Resource Guide that was prepared by the Albany Prevention Council. It was noted that this Guide will be mailed to every parent of an Albany High and Middle School student and the postage was paid by the Albany Unified School District. Thanked the City for completing the pedestrian/bicycle path under the freeway that goes to the Waterfront area. Spoke about projects the Waterfront Committee is working on and noted the next meeting is February 22, at 7:30 p.m. and the next consultant meeting will be on March 7, at 7:30 p.m.

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

## **6. PRESENTATION**

### **6-1. Presentation of Certificate of Appreciation to former Commission/Committee/Board Members**

Mayor Lieber stated that all the volunteer Commissions/Committees/Boards assist City Council in running the City. The City Council would like to honor those members who are no longer on a Commission/Committee/Board for all the time they have volunteered.

Council Member Okawachi noted that the City could not function without the help of the Commission/Committee/Board members. Council Member Javandel agreed noting that many times the Council acts on the recommendations of the Commission/Committee/Board members. Council Member Atkinson stated that she knows how much time is spent working on a Commission/Committee/Board. Council Member Wile commented that Albany is fortunate to see democracy in action.

Mayor Lieber read the names of all the Commission/Committee/Board members who no longer serve and presented the Certificate of Appreciation.

## **7. UNFINISHED BUSINESS**

### **7-1. Marin Avenue Reconfiguration and Traffic Calming Project: One-Year Monitoring Results**

(File #590-40)

The Community Development Director reported that in 2005 the Marin Avenue Reconfiguration project was completed. A concept was developed by a consultant to convert the four lanes (two lanes in each direction) to two lanes (one in each direction) with a middle turn lane and bicycle lanes. Parking would generally remain the same.

To help determine the effectiveness of the project it was required that traffic conditions be collected, before and after the project implementation. Korve Engineering completed the one-year report in 2006. During the fall, the Traffic & Safety Commission held several meetings to discuss the report and consider possible adjustments to the project.

Mr. Bill Burton, Korve Engineering, went over the study findings and recommendations.

The following people spoke on this subject: Clay Larson, Albany resident; Kathy Henly, Albany resident; Nick Pilch, Albany resident; Sally Outis, Albany resident; Michael Wallace, Albany resident; Katherine (last name not noted), Albany resident; Thelma Rubin, Albany resident.

A summary of the comments is as follows: Surprised that no mention made of the Fehr & Peers report and noted that the report findings were made during a period where it rained a lot. Concern was expressed about the time limit for crossing the street. Urged the City Council to adopt Resolution #07-7, which accepts the findings of the one-year monitoring results. Believes that pedestrian safety has increased with the three-lane reconfiguration. Asked that signs be put on Marin notifying motorists of pedestrian crossing. Believes that the flashing red hand is confusing to many people especially the

**7-1. Marin Avenue Reconfiguration and Traffic Calming Project: One-Year Monitoring Results**

children when crossing the street. Urged the Police Department to issue tickets to anyone that violates pedestrian rights.

Council Member Atkinson agreed with the suggestion to have pedestrian markers on Marin like they do in Berkeley.

Council Member Wile asked if there was any data available in terms of injuries to pedestrian/bicyclists before and after the reconfiguration. The Police Chief responded that he did a quick search and found the following information: 2005 – 251 accidents; 2006 – 244 accidents.

Council Member Javandel spoke to the concern about the flashing red hand and suggested that the City send out educational material to the schools on a regular basis.

Council Member Okawachi questioned language on page 2 of Resolution #07-7 regarding “preferred detector” and Mr. Bill Burton responded that he prefers video for detection, as it lasts longer.

Mayor Lieber stated that he likes the changes and finds it manageable to cross Marin Avenue and would encourage the Police Department to go back to aggressive traffic enforcement.

Council Member Javandel presented Resolution #07-7 – A Resolution of the Albany City Council Accepting the Findings of the One-Year Monitoring Results for the Marin Avenue Reconfiguration (Traffic Calming) and Authorizing the Traffic and Safety Commission and Staff to Implement Project Modifications Listed in the Resolution, as Funding Allows.

**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 #07-7.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7-2. Charter Review Committee At-Large Appointments**  
(File #110-30)

The Charter Review Committee has two at-large appointments and the City has received three (3) applications from people interested in being appointed to the Charter Review Committee, as follows: Michael Wallace, Ruth Ganong and Bart Grossman.

The three (3) applicants spoke to Council outlining their goals and objectives. Mayor Lieber opened up the nomination process.

Council Member Okawachi nominated Ruth Ganong, Council Member Javandel seconded the nomination.

Council Member Atkinson nominated Michael Wallace, Council Member Javandel seconded the nomination.



**8-1. Medical Marijuana Dispensaries Ordinance #07-01.**

County (the Planning & Zoning Commission has recommended consideration of modifications). 5. Clients would be limited to persons who are legally qualified, by possession of an identification card issued by the Alameda County Public Health Department, to acquire marijuana (The Planning & Zoning Commission has recommended consideration of modifications). 6. Standard use permit conditions would require alarms and security cameras, among other requirements. 7. A set of performance standards would establish ongoing criteria for site management, personnel management and record maintenance.

The Planning Manager noted that the following issues have arisen since the City Council last discussed this subject: Increase in State fee for ID card, which is currently \$13 but will increase to \$142. This high fee would tend to exclude low-income patients. A dispensary could be allowed to issue its own card or accept cards from other dispensaries.

Mayor Lieber opened the public hearing and the following people spoke: Jon Ely, Albany resident; Becky Dekeuster, Berkeley Patient Group; Don Ford, Albany resident; Clay Larson, Albany resident; Kathy Henly, Albany resident; Keith Stevenson, Purple Heart Dispensary, Oakland; Thelma Rubin, Albany resident; Allan Maris, Albany resident.

A summary of the comments is as follows: Notify residents in zones that allow the dispensary, just like any other zoning change. Spoke about the percentage of voters in favor of Proposition 215 and Measure D and expressed concern about the increased cost for a State ID card noting that this will impact low-income patients. Concern expressed about other dispensaries in the Bay Area noting problems include resale, excess inventory, DEA raids and peripheral crime. Asked that a better map be prepared that shows all the locations where a dispensary could be located. Noted that the Berkeley site is currently serving Albany patients well and spoke about High School and Middle School students and the problems with alcohol and drugs. Suggested that the dispensary contribute to the Education Foundation with an anti drug program. Spoke about the Oakland dispensary and noted that they use a background check and that on-site cultivation by patients should be allowed. Oakland Dispensary also accepts other ID Cards than just the State ones. Expressed concern that childcare centers should be noticed and a map prepared showing these businesses. Supported the need for medical marijuana dispensary and that support for drug counseling is important.

Mayor Lieber closed the public hearing. The Planning Manager summarized each element of the decision agenda and the City Council made the following changes:

Page 3, line 31: (Definitions) Replace the limitation which would allow Alameda County identification cards only: f. Identification Card shall mean any identification card issued by an entity whose procedures for validation and issuance have been approved by the Albany Chief of Police.

Page 9, line 1: (Prohibited activities) Add exception for devices, as underlined below: The commercial sale of any product, good, or service is prohibited. The term "commercial sale" does not include the provision of medical marijuana, or devices directly related to the administration of medical marijuana, on terms and conditions that are consistent with this Subsection and applicable law.

**8-1. Medical Marijuana Dispensaries Ordinance #07-01.**

Page 10, line 17: (Location Standards) Add exception to distance requirement to allow flexibility: 5. No medical marijuana dispensary shall be located within a 1,000-foot distance of any of the following: a. any other such dispensary, including any dispensary located in an adjacent jurisdiction; b. any schools, child daycare centers, public libraries or public community centers. c. Any municipal parks or playgrounds. Exception to 1,000-foot distance specified in paragraph 5. Above: The Planning and Zoning Commission may permit a reduction of the required distance between a medical marijuana dispensary and the listed facilities, subject to all of the following findings, provided that in no case shall a distance of less than 500 feet be permitted: a. The applicant has provided documented evidence that no location that meets the 1,000-foot distance standard is reasonably available; and b. In the particular circumstances, a reduced distance will not expose the patrons of the listed facilities to any greater extent than might potentially exist if the 1000-foot standard were observed; and c. That the proposed location of a dispensary is not situated proximate to a pedestrian or bicycle patterns that is regularly used by significant concentrations of minors.

Page 13, line 38: (Standard Conditions) Change regarding residency and acceptable identification cards: Limitations on Clientele. Persons to whom marijuana may be dispensed shall be limited to persons who are residents of Alameda County and who hold Identification Cards issued by any entity whose procedures for validation and issuance have been approved by the Albany Chief of Police.

Page 16, line 4: (Standard Conditions) Statement on privacy rights (formulated by City Attorney): 16. Inspection by City; Right of Entry by Officials. Officials of the City, including the Chief of Police and members of his/her department, shall have the right to enter the premises during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing or health regulations, and for the purpose of determining that the provisions of this section, and other provisions of law, are being complied with. The Chief of Police and the permittee shall endeavor to develop a protocol to conduct inspections that address medical privacy rights of clientele.

Mayor Lieber noted that it is 11 p.m. and to extend the meeting Council must make a motion.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to extend the meeting half an hour.

Motion carried and so ordered.

Page 16, line 21 (Extension of Use Permit) Allow Commission discretion for longer extension: Upon filing of an application for an extension of a valid use permit, the Planning and Zoning Commission may consider extension of the use permit at annual intervals, for no more than 12 months each, after holding a public hearing and considering reports from the Community Development Director and the Chief of Police regarding the dispensary's compliance with applicable laws, requirements and conditions. After granting two 12-month extensions of a use permit, the Planning and Zoning Commission shall have the discretion to extend the interval to 24 months.

**8-1. Medical Marijuana Dispensaries Ordinance #07-01.**

Page 19, line 35: (Performance Standards) Add statement about patient confidentiality: a. City requirements for record maintenance shall not violate state laws regarding patient confidentiality.

Page 20, line 1: (Performance Standards) Delete reference to specific state code and include approval by Chief of Police: c. A dispensary shall maintain records of all Persons with an Identification Card, and primary caregivers, using only the identification card number issued by the county or other entity approved by the Chief of Police, as a protection of the confidentiality of the cardholders.

Page 20, line 15: (Performance Standards) Change 2-hour advance time to 24 hours: Books, records, accounts and any and all relevant data will be produced no later than twenty-four (24) hours after receipt of the written request(s) by the Chief of Police.

**MOTION:**

Moved by Council Member Atkinson, seconded by Council Member Wile to extend the meeting half an hour.

Motion carried and so ordered.

Council Member Javandel introduced Ordinance #07-01 for First Reading with modifications – An Ordinance of the Albany City Council Amending Chapter XX, Planning & Zoning of the Albany Municipal Code to Include Regulations for Medical Marijuana Dispensaries but with Modifications, as Recommended by the Police Chief in a Memorandum dated February 15, 2007.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Wile to approve Ordinance 07-01 for First Reading with modifications.

AYES: CM Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None ABSENT: None

Motion carried and so ordered.

**9. NEW BUSINESS**

**9-1. Civic Center Relocation: Potential Options for Consideration**  
(File #200-30)

The Assistant City Administrator reported that the Civic Center retrofit and renovation project has been in the works for many years. Funding has been secured through two separate bond measures: Measure F in 2003 and Measure C in 2006 and approximately \$11 million has been allocated to the total project. The City has applied for a FEMA grant, still pending and will continue to pursue green building grants to make the overall project as environmental as possible.

Finding a suitable location for police, fire and the three administrative departments began in the summer of 2006. Relocation of the police and fire departments is far more complex than the administrative departments. The goals include retaining the excellent response time (under 4 minutes) for paramedics, fire and police, as well as ensuring that public safety departments continue to function as normally as possible.

### **9-1. Civic Center Relocation: Potential Options for Consideration**

The Assistant City Administrator noted that current available options: 1. 405 Kains at a lease rate of \$7,700 per month with 3478 sq.ft. that could be used for administration and finance departments. Utilities, janitorial and a portion of building and landscaping maintenance would be additional costs. Parking would be an issue and additional spaces would need to be secured for employees. One possibility could be the large parking lot available at Good Year Tires. 2. North Building at Maintenance Center on Cleveland. The City is currently leasing a building at the existing maintenance center that is being used for storage. The building is approximately 1800 sq.ft. This building could be used to relocate the Community Development Department. Parking is limited but it is hoped that the vacant parking lot at the old CARAL building could be leased for parking. 3. Vacated City Hall building. If the administrative departments are relocated, the City Hall building is available for use by the fire department. The available 5000 sq.ft. plus potential use of the Council Chamber is adequate to house the fire department. Kitchen facilities are needed and could be in a separate trailer or existing appliances could be transferred to City Hall. The eastern portion of the parking lot would be used for fire engines and the ambulance and to locate a shower, laundry and decontamination trailer facility.

Staff is recommending that staff go ahead with negotiations for the lease of 405 Kains and develop plans for any renovations necessary to move City staff into the north building at the Maintenance Center and begin planning for the relocation of the fire department into City Hall.

The Assistant City Administrator noted that staff would continue to pursue other options to move everyone at the same time.

Council Member Javandel thanked staff for coming up with this creative solution.

#### **MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Atkinson that 1. Per direction and terms discussed in closed session, authorize the City Administrator to enter into a lease agreement for the lease of 405 Kains, as a temporary relocation site for City Departments. 2) Direct staff to develop plans for any renovations necessary to move City staff into the north building at the City's Maintenance Center; and to begin planning for the temporary relocation of the Fire Department in the vacated City Hall offices.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

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

Council Member Atkinson urged the public to look at the City's website and check out all the monthly meetings.

Council Member Okawachi stated that she attended a meeting on the Alameda County Library systems and noted that many changes are going to take place. Council

Member Okawachi announced that the annual Library book sale was held last weekend and \$3,400 was collected.

Council Member Atkinson asked that a future agenda item be the consideration of moving the announcements to the beginning of the meeting so that people would not have to stay late.

Council Member Atkinson stated that she and Council Member Wile are working on a new Council Member Orientation booklet.

Council Member Javandel announced that the Clean & Green Task Force had its first meeting and has divided into subcommittees.

Mayor Lieber stated that after reading the minutes he is very impressed with the group.

Mayor Lieber announced that he attended the 2x2x2 meeting in which the Cougar Fields project was discussed.

Mayor Lieber announced that he volunteered at a homeless shelter and urged everyone to remember to donate food to the food bank.

## **11. ADJOURNMENT**

11:50 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