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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
TUESDAY, JANUARY 17, 2006

8:00 p.m.

Mayor Maris 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 Good, Javandel, Lieber, Okawachi & Mayor Maris
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; Ed Phillips, Interim Planning Manager; Rich Cunningham, Public Works Manager; Randy Leptien, City Engineer; Charles Adams, Finance & Administrative Services Director; Aaron Walker, Personnel Manager.

3. 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.)

3-1. City Council minutes, December 19, 2005.

Staff recommendation: Approve.

3-2. a. Ratification of City of Albany net payroll in the amount of \$211,024.36; taxes, benefits & withholdings in the amount of

3. CONSENT CALENDAR

\$158,963.48. Total payroll in the amount of \$369,987.84. Payroll period: 12/09/05.

b. Ratification of City of Albany net payroll in the amount of \$269,811.76; taxes, benefits & withholdings in the amount of \$264,109.27. Total payroll in the amount \$533,921.03. Payroll period: 12/23/05.

c. Ratification of City of Albany net payroll in the amount of \$176,950.90; taxes, benefits & withholdings in the amount of \$144,634.22. Total payroll in the amount of \$321,585.12. Payroll period: 01/06/06.

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$42,621.96; taxes, benefits & withholdings in the amount of \$34,072.10. Total payroll in the amount of \$76,694.06. Payroll period: 12/09/05.

e. Ratification of Albany Municipal Services JPA net payroll in the amount of \$40,690.02; taxes, benefits & withholdings in the amount of \$43,814.23. Total payroll in the amount of \$84,504.24. Payroll period: 12/23/05.

f. Ratification of Albany Municipal Services JPA net payroll in the amount of \$43,928.46; taxes, benefits & withholdings in the amount of \$31,620.11. Total payroll in the amount of \$75,548.57. Payroll period: 01/06/06.

Staff recommendation: Ratify.

3-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$975,593.68. Period: 12/19/05.

b. Ratification of bills, claims & demands against the Albany Municipal Services JPA in the amount of \$896.20. Period: 12/19/05.

c. Ratification of bills, claims & demands against the City of Albany in the amount of \$16,039.08. Period: 01/01/06.
(File #300-40)

Staff recommendation: Approve.

3-4. Pension payments in the amount of \$103,900.31 for the month of December, 2005.

3. CONSENT CALENDAR

Staff recommendation: Ratify.

- 3-5.** Resolution #06-1 – A Resolution of the Albany City Council Accepting Improvements and Directing the Filing of Four Notices of Completion (four contractors) under Contract No. 05-04 for the Marin Avenue Traffic Calming Project and the 2005 Citywide Pavement Resurfacing Project. (File #600-30)

Staff recommendation: Approve Resolution #06-1.

Mayor Maris asked if anyone would like to remove an item from the Consent Calendar for discussion. No items were removed.

MOTION:

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

AYES: Council Members Good, Javandel, Lieber, Okawachi & Mayor Maris

NOES: None

ABSENT: None

Motion carried and so ordered.

4. 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 five (5) 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 Maris opened the Good of the City/Public Forum and asked if anyone would like to speak and as no one came forward the Good of the City/Public Forum was closed.

5. PRESENTATION/PUBLIC HEARING

- 5-1. Public Hearing – Status of Sewer, Storm Drainage & Capital Facilities In-Lieu Fees (AB 1600)**
(File #390-95)

The Community Development Director reported that after the passage of Proposition 13 in 1978, many cities began charging fees on new development to fund public improvements and services such as streets, transit facilities, sewers and storm drains.

To make sure these fees were spent in a timely manner and on appropriate projects, the State Legislature passed a bill known as AB 1600. Albany is using the fees, as follows: To partially fund the City’s Sewer Compliance Plan; Storm Drain/Impact Fees- funds collected to fund the development of the Watershed Management Plan; Capital Facilities Impact Fees – fees collected in fiscal years 1999/00 to 2002/03 were

5-1. Public Hearing – Status of Sewer, Storm Drainage & Capital Facilities In-Lieu Fees (AB 1600)

spent on a variety of capital projects citywide. A portion of fees collected in fiscal years 2003/04 and 2004/05 have been held in reserve for future projects, which may include a traffic signal at the intersection of Buchanan and Eastshore Highway; Parkland In-Lieu Fees – no fees were collected in fiscal year 2004/05. The fund balance carried forward from fiscal year 2002/03 was used to fund the Albany Parks, Recreation & Open Space Master Plan in fiscal year 2003/04.

The Community Development Director stated that no action is required by Council and all revenues and expenditures reported are for prior fiscal periods. There are no unexpended funds requiring refund.

Mayor Maris opened the public hearing and asked if anyone would like to speak on this issue. There being no one wishing to speak Mayor Maris closed the public hearing.

Mayor Maris noted that there may be some additional funding from the State for transportation issues and urged staff to obtain as much funding as possible for the traffic signals at Buchanan/Eastshore Highway.

5-2. Pacific Steel Casting Air Quality Issues
(File #405-30)

A presentation was made by the West Berkeley Alliance regarding the current status of their efforts regarding air quality complaints surrounding Pacific Steel Casting's operations.

It was noted that there are three (3) buildings at Pacific Steel Casting, which is located at 2nd and Gilman and that only two (2) of the buildings have pollution control. There is a long history of people complaining of headaches and nausea.

The speakers stated that it is not their intention to force the Company out of West Berkeley, as they provide many jobs for local residents; however, they do want them to clean up the air pollution.

There will be a meeting on January 31 and urged Albany residents to attend the meeting.

Council discussed this issue and felt it appropriate to put this issue on a future agenda with a letter of support or other official action to be taken. Staff indicated that they would prepare something and work with the Mayor to put this on a future agenda.

It was the consensus of the Council to put this on a future agenda for Council action.

6. NEW BUSINESS

6-1. Retirement Upgrade for Fire Safety Members
(File #720-60)

The Personnel Manager reported that during contract negotiations with the Albany Firefighter's Association, the City agreed to contract with the California Public

6-1. Retirement Upgrade for Fire Safety Members

Employees' Retirement System (PERS) for the 3% @ 55 formula for fire safety members, effective April 2006.

This formula provides a monthly pension payment equal to the number of years of service multiplied by 3% of the monthly salary when an employee retires at age 55.

PERS estimates that the approximate cost of this benefit enhancement will be an additional 5.9% of covered payroll. Funds for this benefit are budgeted within the City's fiscal year 2005/06 operating budget. The estimated future annual cost, based upon budgeted Fire Department salaries, as of April 2006 is \$145,000.

Council Member Lieber introduced Ordinance #06-02 – An Ordinance of the Albany City Council Authorizing an Amendment to the Contract Between the Albany City Council and the Board of Administration of the California Public Employees' Retirement System. First Reading.

Council Member Lieber presented Resolution #06-2 – A Resolution of Intention to Approve an Amendment to the Contract Between the Albany City Council and the Board of Administration of the California Public Employees' Retirement System.

MOTION:

After reading the titles, and waiving reading of entire Ordinance and Resolution, it was moved by Council Member Lieber, seconded by Council Member Javandel to approve for First Reading Ordinance #02-02 and Resolution #02-2.

AYES: Council Members Good, Javandel, Lieber, Okawachi & Mayor Okawachi

NOES: None

ABSENT: None

Motion carried and so ordered.

7. UNFINISHED BUSINESS

7-1. Curtis-Neilson Area Storm Drain Problems – Status Report

(File #10-30-70)

The Community Development Director reported that homes in the 1000 block of Neilson and Curtis Streets experience chronic flooding. As a result, the City Council asked staff to investigate the feasibility of installing a new storm drain pipe between Neilson Street and Santa Fe Avenue, and a pressure pipe (relief drain) in Santa Fe Avenue. This project is identified in the Watershed Management Plan as a priority.

In response to the City Council's direction, the City Engineer recently completed plans for a new 24" storm drain that would extend from Neilson Street to Santa Fe Avenue to Codornices Creek.

A preliminary cost estimate prepared by the City Engineer for the project, which is estimated to be between \$800,000 and \$1.2 million. Part of the reason for the range in cost is due to the potential complication of an existing EBMUD water line that may require sheet piling to protect it.

The resources the City currently has are insufficient to construct this project and staff will continue to explore alternative funding sources and discuss this issue with the Neilson/Curtis residents.

7-1. Curtis-Neilson Area Storm Drain Problems – Status Report

Council asked a number of questions including discussion on forming an assessment district and whether the repair could be done in two steps and just repair the 24” section at this time.

Mr. Peter Rosenfeld, Neilson Street, spoke to the Council indicating his support for fixing just one section at this time. Mr. Rosenfeld also stated that he would not be opposed to forming a special assessment district but would like to know more about the costs.

No Council action required.

7-2. Proposed Tax Measure for the June, 2006 Election
(File #330-40)

The Assistant City Administrator reported that in 2005 the City Council decided to delay a possible ballot measure in order to allow the School District’s parcel tax the best chance for success in the November 2005 election.

The voters approved the School District tax and a \$250 parcel tax is now in place. Staff stated that it is worth considering the impact of the school parcel tax and noted that it may be more difficult to pass a large City tax increase following the slim margin received for the school parcel tax.

The proposed projects have been broken down into Capital Projects – Veteran’s Building, Street Rehabilitation, Storm Drains and Pierce Street Park; Operational Programs – Street paving maintenance, youth services, library services and park and landscape maintenance.

The City’s infrastructure needs and deteriorating conditions have become more glaring with the recent winter storms; therefore, staff is recommending that Council consider placing a tax measure on the June ballot to fund storm drain and street improvements.

The City received the Consultant’s report on the Veteran’s Memorial Building, which estimates \$4.9 million in construction costs, which does not include planning, design or project management work that would bring the estimated cost to approximately \$6.5 million.

This estimate has not been reviewed by staff, presented to the public or considered by the Parks & Recreation Commission and the costs may change.

The Assistant City Administrator stated that if the City chose to issue General Obligation Bonds, the cost to the property owners would be approximately \$50 per \$100,000 of Assessed Valuation to raise about \$8.5 million in revenue. If Council prefers to levy a parcel tax, the equivalent amount would be about \$95 per parcel, raising revenues of approximately \$650,000 annually.

The total estimated pending list of street paving and storm drain projects is approximately \$14 million at this time, subject to increase in cost of construction and the emergence of new repair and improvement needs.

For library services a parcel tax of \$18.13 per ERU would provide on-going annual revenues of approximately \$120,000.

7-2. Proposed Tax Measure for the June, 2006 Election

The Assistant City Administrator reported that a June election would require that ballot language be provided to the County by March 10, 2006. For the November election, ballot language would need to be provided to the County by mid-August, 2006.

Council Member Lieber urged staff to pursue an agreement and negotiate with the County regarding the Veteran's Memorial Building and asked that this process be expedited.

Council Member Javandel stated that he is satisfied with the general direction that the City is going in now and don't know if anything else is needed.

Council Member Okawachi stated that what is being done now is sufficient for her.

Mayor Maris stated that he would like this expedited and asked staff to provide a schedule with a goal of getting an agreement including one with the Veteran's Organization, as needed.

Council discussed the plan and agreed that maybe this was the "cadillac version"

The City Administrator clarified that staff will be negotiating with the County and and that a plan that the City could afford should be looked at. Council Member Lieber stated that he has concerns about the City Hall project and the increasing costs and noted that for approximately \$8 million the only thing accomplished will be a remodel. Therefore, he believes the Council should be considering putting the City Hall issue on the ballot thereby saving the Measure F monies, which then could be used for retrofitting the Veteran's Building.

Council Member Lieber stated that he no longer has the confidence in spending money for a remodel when it doesn't consider the basic needs of the community and suggested this be a future agenda item and that it be added to the tax measure language.

Council Member Okawachi stated that it would bother her to add anything else on the tax measure.

Council Member Javandel stated that the urgent maintenance issues should be pursued at this time.

Mayor Maris stated that he believes the street paving project is the "cadillac version" and that the Council needs to decide what level they want and at what cost. Mayor Maris noted that the Neilsen/Curtis issue should be a priority.

The Branch Manager of the Albany Library stated that the Library is ready to go ahead with a measure on the June ballot and agree that it should be a separate issue from the City's measure.

Ms. Mara Duncan, Solano Avenue, indicated that she will support the library tax and would like to see a coordinated effort and a clear vision of what the City needs, as that would help her as a voter to determine what she would vote for.

Council Member Good noted that he would be abstaining on the vote, as he lives close to the Veteran's Building.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Okawachi to approve staff's recommendation, as follows: 1) Schedule a public hearing for February 6, 2006, for community review and comment on placing a tax measure on the June, 2006

7-2. Proposed Tax Measure for the June, 2006 Election

ballot to fund capital improvements to storm drain facilities and for Citywide Street repair and rehabilitation. 2) Ask the Albany Library Board and Alameda County Library for a

recommendation on a potential June, 2006 ballot measure to fund library services and schedule a public hearing on their recommendations for February 21, 2006. 3) Continue to consider the following items for a future ballot measure, such as November, 2006: Acquisition, improvements, operations and maintenance of the Veterans' Memorial Building and Pierce Street Park; Citywide maintenance and youth programs.

AYES: Council Members Javandel, Lieber, Okawachi & Mayor Maris

NOES: None

ABSTAIN: Council Member Good

ABSENT: None

Motion carried and so ordered.

7-3. Moratorium on Medical Marijuana Dispensaries

(File #450-20)

The Interim Planning Manager reported that in May, 2005 the City Council adopted an interim urgency Ordinance, which restricts and/or prohibits, suspending and/or denying any permits for medical marijuana dispensaries for 45 days. Subsequently, in June, 2005 the Council adopted an Ordinance, which extended the moratorium for an additional ten months and fifteen days to May 2, 2006.

The Interim Planning Manager stated that staff is recommending that they be directed to initiate an extension of the interim ordinance for an additional one year beyond May 2, 2006. Also that they advise staff as to preferred options for an ordinance regarding medical marijuana dispensaries.

Council Member Lieber stated that he is a little miffed, as he thought that Council had given direction to staff to either refer this matter to the Planning & Zoning Commission and/or prepare a ballot measure.

Council Member Javandel stated that he would like staff to pursue drafting an ordinance in support and against the medical marijuana dispensaries and that an indemnification clause for liability be inserted into the ordinance.

Mayor Maris stated that he shares the concerns that something has not been prepared and agreed that the Council should look at both approaches.

Mr. Dave Wittengress(sp), Oakland, spoke to the Council indicating that he would like to open a dispensary in the City of Albany and that an extension of the moratorium is not necessary.

Ms. Mara Duncan asked if the City would receive revenue from the sale of marijuana and Mr. Wittengress stated that the City would not receive revenue; however, the City of Oakland has a fee schedule in place where the City receives some revenue.

Ms. Duncan expressed concern about this being in the middle of the I-80 corridor and asked if anyone could use the dispensary and was told that yes anyone with a prescription could use the facility.

7-3. Moratorium on Medical Marijuana Dispensaries

Ms. Thelma Rubin, Hillside Avenue, stated that she does not see any problem in extending the moratorium and urged the Council to take more time in assessing this.

Council Member Good stated that Federal law supercedes local laws and the Council should not have a policy that violates Federal law. However, he also would support this going to the voters for their decision.

The City Attorney stated that the timetable if this goes before the Planning & Zoning Commission is dictated by their agenda and what is currently before them.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to proceed with the process of submitting draft ordinances pro and con to the Planning & Zoning Commission with a view toward the possibility of a tentative November ballot and advise the Council of the timeline with the possibility of extending the moratorium if necessary.

AYES: Council Members Good, Javandel, Lieber, Okawachi & Mayor Maris

NOES: None

ABSENT: None

Motion carried and so ordered.

7-4. 2005/06 City Council Goals

(File #100-30)

The City Administrator submitted the second status report on the 2005/06 goals. The report includes each of the goals, current status, and next steps.

Council Member Lieber asked if the City Administrator had responded to the Chronicle article regarding the lights at the Ohlone Greenway. The City Administrator replied that when everything is complete she would notify the Chronicle.

Mayor Maris thanked the City Administrator for providing the updates and noted the following: That the City seems to be financially healthy with a reasonable reserve of 25%; however, staff should continue to look for additional sources of revenue. That the City needs to improve communication with the public and to continue cable casting of Council meetings and maybe some of the other Commission/Committee meetings dealing with critical issues, such as Golden Gate Fields and park improvements. Continue with traffic and pedestrian safety, affordable housing on San Pablo Avenue and landscaping. Acquire and develop Pierce Street Park and open space on Albany Hill.

Council Member Okawachi stated that she attended the Waste Management Recycling Board meeting and that the City made a presentation on its recycling efforts. Council Member Okawachi reported that Albany is at 63% and that the Recycling Board has realized that the 75% by 2010 is not realistic. Council Member Okawachi stated that Albany is doing a very good job with its recycling efforts.

Council accepted the report.

8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

Council Member Lieber stated that he has received a letter from Citizens for Albany Shoreline indicating that they would like to make a presentation before the City Council and would like this on the next Council agenda.

8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

The City Administrator noted that the February 6th meeting is very full and that some items may have to be removed. Mayor Maris stated that he and the City Administrator will look at giving this item priority but need to see what other items are scheduled. Council Member Good stated that a special meeting could be scheduled for the presentation.

Mr. Alan Riffer, asked the Council how this plan will be any different from early proposals that have been discussed and resolved.

Council Member Lieber asked for a Point of Order noting that under current policy Council Members announce an item for a future agenda ahead of time and does not feel comfortable with citizens being able to discuss the item. Council Member Good agreed noting that the announcement of an item for a future agenda is a good idea but that no discussion should be allowed.

Council Member Okawachi announced that she attended a health summit that was sponsored by the Albany schools.

Mayor Maris announced the following: 1) That through the Congestion Management Authority the City might be able to receive \$100,000 for repair of streets. 2) Attended the El Cerrito City Council meeting regarding the Plaza Development and the City's appeal. 3) Cable Subcommittee is considering televising Commission/Committee meetings and the City Administrator stated that this would be on the next agenda for Council direction. 4) Attended the Parks & Recreation Commission meeting and noted that there are still some issues that need to be resolved. 5) Attended the Mayors' Conference that had a presentation from Eden Housing regarding referrals for the homeless. 6) Attended the Martin Luther King, Jr. parade in El Cerrito and asked that the Social & Economic Justice Commission consider an appropriate way for the City to celebrate this day in Albany. 7) Noted that the new landscaping in the medians on Buchanan looks great.

9. ADJOURNMENT

10:30 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

9. ADJOURNMENT

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

ALLAN MARIS
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK