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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, FEBRUARY 6, 2006

7:15 p.m.

EXECUTIVE SESSION

Call to Order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

Pursuant to Government Code Section 54956.9 the City Council will meet with Legal Counsel to discuss anticipated litigation – one (1) potential case.

Mr. Preston Jordan spoke to the Council on the anticipated litigation regarding the El Cerrito Plaza development. Mr. Jordan stated that a lot of negotiation will take place and suggested the City try to obtain from the developer during those negotiations the following: Sound walls around the BART area; a parking survey and parking permit program; additional delighting of the creek.

Mr. Jordan mentioned some potential legal concerns: Issue with density and encouraged the City to look into the CEQA process regarding noise and the project not providing the appropriate baseline data.

7:20 p.m.

Council adjourned into Executive Session.

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; Charles Adams, Finance & Administrative Services Director; Richard Cunningham, Public Works Manager.

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

Mayor Maris announced that no decision was made but direction was given to the City Attorney regarding anticipated litigation that may be filed.

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, January 17, 2006.

Staff recommendation: Approve.

4-2. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$131,773.40. Period: 12/30/05.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$213,665.24. Period: 01/13/06.
(File #300-40)

Staff recommendation: Ratify.

4-3. 2006-2007 Community Development Block Grant (CDBG) City-County Agreement.
(File #600-40)

Staff recommendation: That the City Council approve the recommended use of FY 2006/07 CDBG Grant Funds in the amount of \$89,154 for the following projects: a) \$13,860 Meals on Wheels Program, b) \$75,294 to Ocean View Park restrooms.

4. CONSENT CALENDAR

- 4-4.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of December 31, 2005, as required by Section 53646 of the California Government Code.

Staff recommendation: Information only.

- 4-5.** Council Member Good appointing Richard Trout to the Parks & Recreation Commission.

Staff recommendation: Information only.

- 4-6.** Ratification of pension payments for the month of January, 2006, in the amount of \$102,757.40.

Staff recommendation: Ratify.

Mayor Maris asked if anyone would like to remove an item from the Consent Calendar for discussion. The City Clerk removed Item 4-1 and Mayor Maris removed Item 4-3.

4-1. Council Minutes, January 17, 2006

The City Clerk stated that she has a correction to the minutes, as follows: Page 7, Item 7-2, 5th paragraph: added the following language.... an agreement including one with the Veteran’s Organization, as needed.

4-3. 2006/07 CDBG Block Grant

Mayor Maris noted that the Block Grant funds could be used for low-income services and is being used for Meals on Wheels and Ocean View Park restrooms. Council Member Maris noted that there are still some funds available and if anyone has any thoughts on how these funds could be used they should contact the City with their idea.

MOTION:

Moved by Council Member Okawachi, seconded by Council Member Lieber to approve the Consent Calendar with the correction to the City Council minutes.

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

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 five (5) minutes. The Brown

5. GOOD OF THE CITY/PUBLIC FORUM

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.

Ms. Marge Atkinson spoke to the Council regarding allowing the public to speak on an item that was not on the agenda. Mayor Maris stated that Council would be reviewing this in the future.

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

6. PRESENTATION/PUBLIC HEARING

6-1. Presentation from Vista College on name change to Berkeley City College

Ms. Judy Walters, President, made a presentation before the City Council informing that Vista College has changed its name to Berkeley City College. Ms. Walters reported that 48% of the students come from the Albany/Berkeley/Emeryville area, with 4% actually from Albany. Ms. Walters noted that the College would be doing an outreach program at the local High Schools.

Council thanked Ms. Walters for the informational presentation.

6-2. Infrastructure Tax Measure – June, 2006 Election (File #390-115)

The Assistant City Administrator was directed by the City Council to provide information regarding a potential tax measure for the June, 2006 ballot addressing streets and storm drain facilities. The Albany Library will provide a separate recommendation at a public hearing scheduled for February 21, 2006.

The Assistant City Administrator stated that the County must receive final language for the June ballot by March 10, 2006. Other outstanding issues, which were considered as part of the City's unfunded needs include the Veteran's Memorial Building, Pierce Street Park, Citywide maintenance and youth programs. These items could be considered for a later ballot.

The Assistant City Administrator reported that the highest priority project in the Storm Drain category is the resolution of the problems experienced at the Curtis-Neilson neighborhood, which is estimated to cost approximately \$1.2 million. In addition, there are six other storm drain projects not yet completed that are listed as short-term priorities in the Watershed Management Plan. These six projects have an estimated 1998 cost of \$1.8 million, or \$2.7 million in current estimated dollars. The City Engineer at an estimated cost of \$500,000 identifies other curb and gutter work that causes localized drainage problems. Also, working with Caltrans to alleviate inadequate culvert capacity under the freeway is a high priority project for which \$100,000 should be allocated at the

6-2. Infrastructure Tax Measure – June, 2006 Election

early planning stage. The total cost for the above storm drain priorities is \$4.5 million in current estimated dollars.

The Assistant City Administrator stated that regarding the Street Paving and Road Rehabilitation the City is currently in the third year of the five-year CIP street paving program and has accomplished substantial street paving. The highest priority remaining streets are the arterials: Masonic, Pierce, Portland, Santa Fe and Solano. The estimated cost for the arterials, which need either reconstruction or substantial overlay work, is \$2.2 million in 2003 dollars, or \$2.7 million in current/future dollars. The remaining street paving recommended by the Nichols Report is a cost of approximately \$4.5 million in 2003 dollars or \$5.6 million in current/future dollars. The total cost for street repairs is \$6.7 million in 2003 dollars or \$8.3 million in current/future dollars.

The Assistant City Administrator noted that Council Lieber raised the possibility of delaying some or all of the Civic Center project and returning to the ballot for approval of additional funds that would authorize the full project. This option could be done in the following ways: 1) The entire project could be put on hold pending the outcome of a separate ballot measure to obtain funds for an expanded Civic Center project that includes an Emergency Operations Center (EOC). The \$6.5 million authorized by Measure F could be reallocated to street repairs and/or set aside for the future Veteran's building. An additional separate ballot measure would be needed for Storm Drain facility repair funding. 2) The seismic only Civic Center project could move forward and the estimated cost for this modified project is approximately \$4 million. A separate ballot measure could be proposed that authorized funding for the remainder of the Civic Center project, including the EOC and the second story and other expansions. 3) The City could proceed with construction drawings for different scopes of work. One set of plans would be the scenario that would be built if the tax measure fails, while the other would be the scenario if the tax measure passed. The cost estimate of a duplicate plan is approximately \$250,000.

The Assistant City Administrator discussed the various tax measure financing: 1) Parcel Tax, 2) General Obligation Bond and 3) a Storm Drain Clean Water fee.

Council Member Lieber commented that the City is facing a difficult time for its tax measure, as the School District just passed a tax. Council Member Lieber noted his concerns that the current plan for the Civic Center is a remodel without an EOC and is opposed to spending this much money and not getting an EOC.

Council Member Lieber believes that the Measure F money should be used to upgrade the building seismically and to have the bathrooms at the Fire Station redone. Anything else should be put on another ballot and have the people vote on it.

Council Member Lieber stated that whatever measure goes on the ballot it should be small and that the important streets and storm drains be take care of. Council Member Lieber also suggested a \$5 surcharge, as part of the tax measure, for a five-year period that would help to fund a community planning process at the Waterfront.

Mayor Maris opened the public hearing and the following people spoke: Ms. Signey Madison, Albany resident; Mr. Peter Rosenfeld, Albany resident; Mr. Sol Strand, Albany resident; Mr. Trevor Grayling, Albany resident; Ms. Andrea Garner, Albany

6-2. Infrastructure Tax Measure – June, 2006 Election

resident; Mr. Michael Mazur, Albany resident; Ms. Gloria Allen, Albany resident; Mr. Robert Cheasty, Albany resident; Mr. Ernst (did not hear last name), Albany resident.

A summary of the comments are, as follows: That the City avoid bond financing; to keep the ballot language simple and avoid tagging a lot of different items onto one measure; that the streets and storm drains be kept as a separate measure from the City Hall project, the Library, etc.; to keep the total amount of the tax as small as possible; opposition to a flat tax was expressed and recommended this subject should be referred to the Social & Economic Justice Commission for their review; recommend that a bond be issued, as that is the fairest way to tax people; urged the City to work with the Caruso group to bring in money to the City and noted that a parcel tax will probably fail and that a General Obligation Bond is unfair; noted that the money from any project at the Waterfront will not come in immediately and can not be relied upon to meet the current needs of the City; disagreed that any source of revenue should be dismissed because it is not readily available and the City should look for a reasonable way to increase the revenue that would benefit the entire City; the City needs to come up with long-term solutions and short-term solutions; suggested that the needs of the City Civic Center should be looked at for the next 25 years; in favor of retrofitting and consider the larger picture of what the City wants the City Hall to look like in 25 years; discussed the current flooding problems and hoped the City would follow through with a solution.

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

Council Member Lieber stated that maybe the City should reconsider the idea of parking meters, as people who use the cars are tearing up the streets and agreed that the most pressing issues must be looked at immediately. Council Member Lieber believes that the tax should be kept below \$100.

Council Member Okawachi agreed with the idea of parking meters and believes that the City should concentrate its efforts on the storm drains and the street issues and that the tax should be small.

Mayor Maris stated that the Council needs to decide how much the tax should be and that whatever financing is done that it is equitable and agreed that the General Obligation Bonds are inequitable.

The Assistant City Administrator stated that she would come back at the next meeting with some suggestions from the City Engineer.

Council Member Javandel agreed with the previous comments and believes that the funding for the streets and storm drains should be separated from the City Hall complex issue. Council Member Javandel noted that the tax amount should be small enough that it will pass.

Council Member Good stated that he would like additional information on the storm drains and believes that staff has enough information to provide that.

The Assistant City Administrator asked if there was consensus for a \$100 tax and noted that the survey the City had done came back with an amount of \$145; however, that was before the School District passed their tax measure.

Mayor Maris stated that he would like to see a matrix of options ranging from \$80-\$120 tax amount and to look at three different levels with prioritization included.

6-3. Presentation from Citizens for the Albany Shoreline
(File #410-20)

Mayor Maris thanked the Citizens for the Albany Shoreline (CAS) for their efforts on this issue.

Mr. Bill Dann, Co-Chair CAS, presented a Fact Sheet on the Albany Shoreline and a Fact Sheet – draft Citizen’s Initiative. Mr. Dann also gave some background on Golden Gate Fields.

Mr. Dann noted that CAS is looking for a community process to look at the entire Waterfront area and plan in case the racetrack leaves Albany.

Mr. Norman LaForce, Sierra Club and Land Use Attorney, spoke to the Council and went over the draft Citizen’s Planning Initiative. Mr. LaForce spoke on the following issues: 1) Takings, noting there is protection in the Initiative; 2) Fair Return to property owners; 3) Moratorium.

Mr. LaForce disagreed with the comments from staff on the cost of an EIR process noting that he did not believe it would cost \$1million.

Council Member Javandel stated that he supports any open planning process that is responsive to all citizens of the City and noted that the Plan must have short and long term components.

Council Member Javandel commented that people must also think about the Berkeley side of the Track. Council Member Javandel expressed concern about the setback in the Initiative noting there needs to be some flexibility and noted that under the composition of the Citizen’s Committee believes the City should take up this matter. Council Member Javandel stated that one group that was not mentioned to be represented is the Friends of Five Creeks.

Council Member Okawachi agreed adding that she believes other civic groups should be included, such as: Rotary and Lions Club.

Mayor Maris stated that he would like to see other groups in the Citizen’s Committee, such as the sports field users and housing advocates.

Council Member Good stated that any development must be approved by the voters pursuant to Measure C but noted the Council has the prerogative to say not any development before it goes to the voters.

Mayor Maris asked if anyone would like to speak and the following people spoke:

Mr. Robert Outis, Albany resident; Ms. Lubor Mazur, Albany resident; Ms. Andrea Gardner, Albany resident; Mr. Peter Tunney, Golden Gate Fields; Mr. Charles Pagnor, Albany resident; Mr. Preston Jordan, Albany resident; Ms. Trish Thomas, Albany resident; Ms. Caryl O’Keefe, Albany resident; Ms. Evelyn Hershey, Albany resident; Mr. Howard McNenny, Albany resident; Mr. Michael Halderman, Albany resident; Mr. Michael Mazur, Albany resident; Ms. Marge Atkinson; Albany resident; Ms. Diana Sloan; Albany resident; Ms. Nan Wishner, Albany resident; Mr. Peter Moss, Albany resident; Ms. Debra Kaloma(sp) Albany resident; Ms. Maureen Crowley, Albany resident; Mr. Trevor Gralying, Albany resident; Ms. Julie Grades, Albany resident; Ms. Ella Wild, Albany resident; Ms. Sally Outis, Albany resident; Mr. Ray Anderson, Albany resident; Ms. Thelma Rubin, Albany resident; Mr. Robert Cheasty, Albany resident; Mr. Sol Strand, Albany resident.

6-3. Presentation from Citizens for the Albany Shoreline

The following is a summary of the comments made by the speakers. Disappointed that the Council would agree to have every organization involved. That the regular City planning process should be followed and believes the Initiative is ill conceived. Concerned that anyone who is interested in reasonable development is shut out and believes this is way to drive out Golden Gate Fields. Asked why CAS is afraid to let the citizen's vote on any development plan. Noted that Golden Gate Fields has a proud history in Albany and has donated to many community groups. Noted that Magna Corporation supports a public process and that Golden Gate Fields is not closing the track. That the Waterfront area is the only place left in Albany for a tax base and revenue coming into the City and expressed concern about the homeless camps on the open space areas. Agreed that a planning process should take place but expressed concern about the composition of the Citizen's Committee and not agreeing with the guiding policies. Would like to see other events down at Golden Gate Fields when the racing is not in season and also a hotel. Expressed concern about unknown facts and environmental issues and would like to see more information on the costs. Expressed concern about the draft Initiative and agreed a planning process should take place but done in a public and fact driven way. Noted that the Waterfront Coalition has the same concerns about the Waterfront: parks and open space, completion of the Bay Trail, Wildlife Habitat, sustainable design and alternate source of revenue. Against the Initiative as presented and don't think it will work. Spoke about the Caruso proposal noting it is not based on community input and believes there should be an open planning process. Believes the Caruso proposal has changed due to community input and could support the Sierra Club proposal if it would include a way to receive revenue for the City. Noted that many people in Albany want maximum open space and expressed concern over the way the Caruso group excluded many citizens from attending informative meetings in private homes. Expressed support for the Initiative and noted would love to see the Caruso Plan and was in favor of the shoreline and open space. Noted that most people in Albany want to see open space. Concern about the lack of invite to the "Caruso Coffee get together" and noted a suspicion of the Caruso Group. Expressed trust for the Albany voter more than the developers. Support for the Initiative and against development of a mall at the Waterfront. Spoke about gambling and the history of gambling in Albany. Asked that everyone keep an open mind. Agreed that the racetrack has been a very good neighbor to the City and noted that Initiatives in general are usually poorly written and votes against all initiatives. Noted that the Waterfront Coalition has the same footprint as the Caruso Plan and supported the Initiative process, as developers are not driving it. Believes that the City Council, as elected officials, should be guiding this process and that the Initiative is a power grab.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to extend the meeting 30 minutes.

Motion carried and so ordered

Mayor Maris stated that Item 7-2 – U.S. Mayors' Climate Protection Agreement would be continued to the next Council meeting.

6-3. Presentation from Citizens for the Albany Shoreline

Council Member Good stated that the guiding policies are very restrictive and they should not be included in the Initiative.

Council Member Okawachi commented that the guiding policies do not represent an open process.

Council Member Lieber stated that he supports the community planning process and hoped that CAS will hear some of the comments made tonight.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Good to extend the meeting to 12 midnight.

Motion carried and so ordered.

Council Member Javandel stated that the guiding policies need flexibility and agreed with the speaker who stated that the Council should be involved and guide this process; however, the matter of funding should go on the ballot.

Council Member Good stated that people do not trust the Council.

Mayor Maris expressed concern about the composition of the Citizen's Committee and the fact that the sport field users were not mentioned in the makeup of this Committee. Urged CAS to make this broader and that the limitations are not so restrictive.

No Council action required.

7. UNFINISHED BUSINESS

7-1. Golden Gate Fields Property

(File #410-20)

The City Administrator reported that staff was directed to establish a consultant team to advise the City on the Golden Gate Fields property. This team would cover areas such as law, land use and park planning, economics, environmental review, and any other specialized services that pertain to a potential development application, property acquisition, community plan development, and/or other processes directed by the City Council.

Caruso Affiliated has advised staff that it intends to file an application to allow development on a portion of the Golden Gate Fields property and will probably not be filed before mid-April. The type of development they are seeking does not conform to the property's waterfront zoning, otherwise known as Measure C; therefore, would require the approval of the voters of Albany.

Staff has begun to identify the types of expertise that will be needed to assist in the processing of the application.

In the area of legal services, Mike Zischke, Morrison & Foerster, has been assisting staff in advising on the environmental review process.

Planning services are needed to advise City staff, Commission, Council and the community on various aspects of the application. The City is in the process of hiring a new Planning Manager, which will have a bearing on what outside consultant services will be needed.

7-1. Golden Gate Fields Property

Staff will be issuing a request for qualifications (RFQ) for a planning/environmental firm to conduct the environmental review and to prepare the environmental impact report. Staff intends to exclude from the RFQ list firms that have performed work for the applicant.

Mr. Mike Zischke, Morrison & Foerster, spoke to the Council and the public about the EIR & CEQA process, as it pertains to this project and is in place to protect the environment and to provide public participation. The City's role is as an impartial observer and by law must have an independent review of the CEQA documents. Mr. Zischke went through the EIR process for the Council and public.

Mr. Norman LaForce stated any EIR alternatives to be studied should be reasonable and feasible.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to extend the meeting for 30 minutes.

Motion carried and so ordered.

The City Administrator stated that three City of Albany Commissions would hold public meetings during February to hear a presentation by Caruso Affiliated on their conceptual proposal for the Golden Gate Fields property.

Due to the public interest shown in the Waterfront Committee meeting about the proposal the Council has the option of having the meetings televised in a similar manner as the City Council meetings. However, there is no City budget for this so it would be staff's intent to charge Caruso Affiliated for the televising costs.

Staff has heard concerns from community members that believe the televising is a biased approach; therefore, staff is requesting Council direction. The City Administrator noted that to address concerns about bias, the Council could authorize funding to also televise Commission meetings that have a CAS presentation.

Council Member Lieber stated that he is opposed to having a televised presentation at this time. When the City receives an application, then the Council should look further into this issue.

Council Member Okawachi disagreed and believes that televising would make the presentation available to a lot more residents.

Council Member Good agreed with Council Member Lieber and suggested that a special meeting be held with both sides debating and have that televised.

Council Member Javandel stated that he understands the perception of the City favoring one side over another.

Mayor Maris stated that he would like to see both sides make a presentation and that it be televised.

The following people spoke: Ms. Sally Douglas, Albany resident; Mr. Ed Fields, Albany resident; Ms. Andrea Gardner, Albany resident; Mr. Ray Anderson, Albany resident; Mr. Bill Dann, Albany resident; Mr. Norman LaForce, Sierra Club; Ms. Lubov Mazur, Albany resident; Mr. Bob Outis, Albany resident; Ms. Marge Atkinson, Albany resident.

7-1. Golden Gate Fields Property

A summary of the comments is as follows: Equal time should be given to all sides on this issue. Questioned the hiring of legal counsel for the EIR & CEQA process noting that after looking online about the law firm it appears they have represented developers. Comment was made that who the City hires make a big difference. Support for televising all meetings regarding this issue. There should be at least two different views televised. Believe that the citizen's planning process should come before the EIR process. A comment was made about the resignation of a Parks & Recreation Commissioner regarding this subject. Agreed to televise if alternatives are also televised. Agreed that the televising of all meetings regarding this subject is important to get out the information to all Albany residents. A comment was made that tonight the meeting was televised and the open space proponents were allowed to make their pitch. If the meeting is not normally televised then why change now.

MOTION:

Moved by Council Member Lieber that if an application is received from Caruso Affiliated and the City enters into the CEQA process then all public input is taken for hiring of the consultants.

Motion died for lack of second.

Council discussed in length the issue of allowing Commission meetings to be televised for the Caruso proposal.

MOTION:

Moved by Council Member Lieber, seconded by Council Member Javandel to extend the meeting for 5 minutes.

Motion carried and so ordered.

MOTION:

Moved by Council Member Lieber, that the matter of hiring a consultant be agendaized for a future meeting. That the reimbursement agreement be sent to Council for their option to put on the agenda.

That the City allows and pay for televising Commission meetings and invite Caruso Affiliated and is mandated that representatives from the other side have the opportunity to have a presentation.

ON THE QUESTION:

Council Member Javandel asked to modify the motion to allow opposing view. Council Member Lieber stated that he is still opposed to having the Commission meeting televised; however, if it is televised then would want the opposing view to have equal time.

Council Member Javandel seconded the motion.

ON THE QUESTION:

Council Member Okawachi expressed concern about the length of Commission meetings in allowing two presentations.

Ms. Sally Outis reminded the Council that the motion may be in violation of the Brown Act, as two of the Commission meetings meet this week and may not have the 72 hours required to post the agenda.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Lieber to allow the televising of the Planning & Zoning Commission meeting, which meets at a later time only if CAS is given equal time for a presentation at the same meeting.

VOTE ON THE MOTION:

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

NOES: Council Member Okawachi ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

9. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

9-1. City Offices will be closed on Monday, February 20, 2006, in observance of Presidents' Day.

9-2. The next regular scheduled Council Meeting will be on **Tuesday, February 21, 2006.**

Mayor Maris announced that he has one extra ticket for the Mayors' Conference, which is scheduled for Wednesday, February 8, 2006.

10. ADJOURNMENT

1:00 a.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting in memory of Jean Siri, East Bay Regional Park District, Board of Directors. A moment of silence was observed.

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

ALLAN MARIS
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK