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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**TUESDAY, FEBRUARY 21, 2006**

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**Pursuant to the Brown Act this is to notify the public that Council Member Robert Lieber will be teleconferencing from 66953 San Rafael Road, Desert Hot Springs.**

**7:15 p.m.**

**EXECUTIVE SESSION**

**CALL TO ORDER**

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

The following people spoke to the Council regarding the El Cerrito Plaza Project: Mr. David Farrell; Mr. Manual Plumar, Talbot Avenue; Michael Green, Kains Avenue; Ms. Monique Finnegar, Behrens Avenue, El Cerrito; Mr. Wayne Jiang; Ms. Eleanor Moses; Mr. Gene Helwig, Brighton Avenue.

A summary of the comments is as follows: The Albany Unified School District is not satisfied with the EIR and El Cerrito did not follow community based process to find out what the neighborhood would want; concerned with traffic and noise; urged the City to pursue litigation; concerned about the parking issues in the neighborhoods; El Cerrito has not been respectful during this process; the streets involved are very narrow; it was noted that the City would have the support and some contribution from the Behrens Avenue Association and NANA; concern was expressed about density, sound issues and the impact on children; it was noted that while attending the El Cerrito City Council meeting no one in favor of the project spoke; expressed concern about quality of life in the neighborhood; concern was noted about the difficulty of residents trying to get out of their driveways due to the traffic and urged the City to close the streets.

Pursuant to Government code Section 54946.9 the City Council will meet with Legal Counsel to discuss anticipated litigation – one (1) potential case.

**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; Rich Cunningham; Randy Leptien, City Engineer.

**3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION**

Mayor Maris announced that Council met in Executive Session pursuant to Government Code Section 54946.9 to discuss potential litigation and noted that no decision was made but direction was given to the City Attorney.

**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.)

**3-1.** City Council minutes, February 6, 2006

Staff recommendation: Approve.

**3-2.** a. Ratification of City of Albany net payroll in the amount of \$174,889.07; taxes, benefits & withholdings in the amount of \$137,540.80. Total payroll in the amount of \$312,429.87. Payroll period. 02/03/06.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$43,519.65; taxes, benefits & withholdings in the amount of \$33,184.96. Total payroll in the amount of \$76,704.61; Payroll period: 02/03/06.

Staff recommendation: Ratify.

**3-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$444,063.60. Period: 01/27/06.

**4. CONSENT CALENDAR**

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$14,039.08. Period: 02/01/06.  
(File #300-40)

Staff recommendation: Approve.

**3-4.** 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. Second Reading-Pass-to-Print.  
(File #720-60)

Staff recommendation: Approve Ordinance #06-02 for Second Reading-Pass-to-Print.

**3-5.** Resolution #06-3 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute an Agreement to Receive Taxpayer Information with the Franchise Tax Board.  
(File #600-50)

Staff recommendation: Approve Resolution #06-3.

**3-6.** Request to temporarily close portions of Solano Avenue and Jackson Street for the April 1, 2006 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, April 1, 2006 for the annual Albany Little League Parade.

**3-7.** Consideration of Claim #AL523; Stewart v. City.  
(File #170-60)

Staff recommendation: Reject Claim #AL523 and authorize the City Clerk to send out the appropriate rejection letter.

**3-8.** Council Member Lieber appointing Joanne Wile to the Parks & Recreation Commission.

Staff recommendation: Information only.

**4. CONSENT CALENDAR**

- 3-9.** Call for Bids and Award of Contract to the lowest responsible bidder for the Pierce-Cleveland Sanitary Sewer Replacement – Contract No. 06-04. (File #600-30)

Staff recommendation: Authorize the City Administrator to Call for Bids and Award Contract No. 06-04 to the lowest responsible bidder for the Pierce-Cleveland Sanitary Sewer Replacement in an amount not to exceed \$120,000.

Mayor Maris asked if anyone would like to remove an item from the Consent Calendar for discussion. Mayor Maris pulled Item 3-9.

- 3-9. Contract #06-04.**

Mayor Maris stated that he would like to encourage staff to try and recover costs for sewer damage from Caltrans and East Bay Municipal Utility District.

**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.

Ms. Sally Outis, Albany Education Foundation, spoke regarding a comment made by Ms. Deborah Kalama on the money the Foundation received from Caruso Affiliates.

Ms. Outis noted that the Foundation is an independent nonprofit group that does not endorse political candidates or take any political position. Ms. Outis also noted that the newsletter sent out by the Foundation is the same format as the previous one but with a different color.

Ms. Outis stated that she received a letter of apology from Ms. Kalama who also donated a check to the Albany Education Foundation.

Ms. Outis announced that each month the Solano Grill hosts a benefit for the Albany Education Foundation entitled “Food for Thought” and encouraged the Council to attend.

Mayor Maris thanked the Albany Education Foundation for all their help in the community.

#### **4. GOOD OF THE CITY/PUBLIC FORUM**

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

#### **5. PRESENTATION/PUBLIC HEARING**

##### **5-1. Library Parcel Tax Measure** (File #390-110)

The Assistant City Administrator reported that the Albany Library Board is recommending that the City put a Library Parcel Tax measure on the June, 2006 ballot in the amount of \$24.00 with a 5% increase annually. This increase would raise the tax to \$81.36 (Library Services Act of 1994 - \$57.34 per single-family residential parcel).

In one year, approximately \$16,000 or 10% of the funds would be used to restore staff reductions that took place in 2005/06 (18 hours were lost). 50% of the funds (\$82,244) will be used to fund the addition of four-hours on Sunday and the remaining 40% of the funds will be placed in a discretionary fund to be used as a reserve for one-time material costs, an emergency reserve, and to make ensure that library services are not reduced in the future. The Library Board will annually make recommendations about the expenditure of these funds.

The Assistant City Administrator stated that the Albany Library receives funding from three sources: the County Library Property Tax (collected in Albany); the Library Services Tax (collected in Albany and administered by the City); and from other County Library Funds.

The County Library Fund provides approximately 50% of the funds for the library and is significantly higher on a per capita basis than that provided to other, larger cities. The County has indicated its interest in at least freezing, if not reducing, this funding level.

The City Attorney advised that the ballot language should stated the new tax as an increase onto the existing tax, rather than just stating the amount of the new tax. Staff cautioned the Council that they consider the cumulative financial impact of two measures on the taxpayers if the City decides to put a tax on the ballot.

Mayor Maris opened the public hearing and the following people spoke: Ms. Linda Yamamoto, Chair Albany Library Board; Mr. Richard Cross, Albany Library Board, Ms. Joan Larson, Vice-Chair Albany Library Board; Mr. Manual Webster; Ms. Caryl O'Keefe, Library Board; Ms. Jean Hofacket, County Librarian; Mr. Alan Riffer, Jackson Street.

A summary of the comments is as follows: Urged the Council to put on the June ballot and to word it as a separate \$24 tax and not combine with the existing tax, as this might confuse the voters; noted that the discretionary funding is there to protect the Library in the event the State or the County reduces current funding; it was noted that the County would not reduce the funding but might cap the amount.

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

The City Attorney stated that regarding the Library Board's recommendation to keep the tax as a new one on the ballot so as to not confuse the voters he would like to

### **5-1. Library Parcel Tax Measure**

comment that when he prepares the Attorney's Impartial Analysis it would include the existing tax.

Council Member Lieber suggested that the Library Tax and the City's Tax be combined into one measure noting that he believes having one measure with a low tax amount would have a better chance of passing. Staff stated that this would be a possibility.

Council Member Okawachi noted that the Library Board would prefer having separate tax measures and she would have to think about the issue of combining the two measures. Council Member Okawachi stated that initially she believed that adding the new tax amount to the existing was the way to go; however, after listening to the public testimony maybe it would be better to have a supplemental tax on the ballot. Council Member Okawachi expressed concern about the discretionary funds and how high the amount has been set.

Council Member Good agreed that it probably was not a good idea to combine the two tax measures. Council Member Good agreed that the \$24 amount seems reasonable but is concerned about the 5% COLA adjustment each year.

Council Member Javandel stated that he likes the idea of a supplemental tax for \$24 and agreed that the escalation should go with the CPI and not a flat 5%.

Mayor Maris asked if there was a way to increase labor costs and Ms. Caryl O'Keefe replied that the City should look at the Employment Cost Index (ECI) but noted this is not specifically for the Bay Area.

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to direct staff to prepare ballot language for the Library Parcel Tax Measure for the June, 2006, ballot in the amount of \$24 with an escalation based on the Employment Cost Index (ECI).

#### **ON THE QUESTION:**

Council Member Good stated that he would prefer to see the old and new tax based on the CPI.

The City Attorney asked for clarification on the motion and that the Library Tax and the City Tax will be two separate measures. The City Council responded that is correct.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

## **6. UNFINISHED BUSINESS**

### **6-1. City Tax Measure for June, 2006 Election**

(File #390-115)

The Assistant City Administrator that on February 6, 2006, a public hearing was conducted on a potential tax measure to fund capital improvements, with a focus on

**6-1. City Tax Measure for June, 2006 Election**

streets and storm drain needs and to also consider the costs if the Civic Center project. Staff was directed to come back with options for a tax measure on the June 2006 ballot.

Staff provided Council with various options for tax vehicles, which might best serve the City's needs for a street paving and storm drain facility improvement ballot measure. The analysis includes the issues raised regarding the equity of various kinds of tax measures.

The Assistant City Administrator noted that using a parcel tax would enable the City to provide service to the community on a "pay as you go" basis. This option would avoid the financing charges and overhead of bond issuance or other lending mechanism, although it would allow for internal borrowing, as needed. The City Engineer agrees that this option is a very viable one for the improvements being considered.

Staff is recommending a \$100 "pay as you go" parcel tax and would provide approximately a 15-year time frame for the top five issues (depending on inflation on construction costs). For the "pay as you go" option an expiration date is not recommended. This would enable future projects to be funded and would also recommend indexing tied to the Consumer Price Index (CPI).

The Assistant City Administrator stated that a \$100 parcel tax would raise approximately \$700,000 annual revenues for street paving and storm drain facility improvements.

Council Member Good stated that the City should not include the Veterans' Building until all the necessary information is complete.

All Council Members expressed their support for a "pay as you go" \$100 parcel tax.

The City Engineer stated that Council might want to consider the Construction Cost Index (CCI) for the escalator rather than the CPI.

Mayor Maris stated that the Council should discuss what the tax amount should be for condominium owners. The City Engineer responded that the Council might consider having the condominium owner pay \$75 and the single-family property owner would pay \$100.

The following people spoke to the Council: Mr. Bob Outis, Ventura Avenue; Mr. Clay Larson, Adams Street.

A summary of the comment are, as follows: The City needs to be candid about its needs and wonder whether \$100 parcel tax is enough; noted that at one time it was discussed there might be a special assessment district set up and asked the status of this stating that it might be helpful to the voters to know how this is progressing.

The Community Development Director responded that some informal discussions with the affected property owners have been held but there are no conclusions at this time.

The City Administrator cautioned the Council about the amount of the tax and suggested the City may want to put a tax on the ballot for \$95.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member to direct staff to prepare ballot language and resolutions necessary to place a parcel tax measure on the June, 2006 ballot in the amount of approximately \$100 per Equivalent Residential Unit

**6-1. City Tax Measure for June, 2006 Election**

and will be a “pay as you go” parcel tax. Asked staff to provide the Council with options regarding an escalator for either a Consumer Price Index (CPI) or Construction Cost Index (CCI).

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Good to direct staff to provide further information to Council regarding proceeding with the “Two-Plan” option for the Civic Center retrofit and the potential for a new measure addressing the Fire/Police/EOC expansion and renovations for the November, 2006 ballot.

**ON THE QUESTION:**

Council Member Lieber stated that he agreed with Council Member Good regarding the Veterans’ Building and that more information is needed. Council Member Lieber noted that he believes the Council should consider looking at the Two-Plan option for retrofitting the Civic Center, as right now the City is not getting what they need for the high costs.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**6-2. U.S. Mayors’ Climate Protection Agreement**

(File #405-35)

The Assistant City Administrator reported that the Social & Economic Justice Commission met and have recommended that the City Council adopt the U.S. Mayors’ Climate Protection Agreement and that a Task Force be established to seek methods of implementation.

The Assistant City Administrator noted that many of the recommendations in the Climate Protection Agreement have already been implemented, such as promoting bicycle trails, retrofitting city facilities with energy efficient light and increasing recycling rates in the City; or are in the process of implementation, such as promoting sustainable building practices and purchasing “Energy Star” equipment and appliances. The Commission is also reviewing the City’s 2003 Sustainability Inventory.

Council Member Good noted that he is pleased to see that the City is doing something independently of the Federal Government.

Ms. Peggy Thomsen, Chair, Social & Economic Justice Commission, stated that a number of cities in Alameda County are participating in this and that the Commission is still discussing the Task Force and would recommend the Council set it aside for now.

Mr. Tom Kelly, Berkeley, KyotoUSA, stated that he is with a volunteer organization that is trying to do something about the “green house gases” and noted that all 14 cities in Alameda County have agreed to support this mission. Mr. Kelly commented that KyotoUSA is available to help the City get started on this process.

**6-2. U.S. Mayors' Climate Protection Agreement**

Council Member Lieber stated that he is very pleased to see this matter before the City Council and thanked the Social & Economic Justice Commission for dealing with this so promptly.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Lieber to adopt the U.S. Mayors' Climate Protection Agreement.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7. NEW BUSINESS**

**7-1. Charter Amendment – Council Compensation**

(File #660-25)

The City Administrator stated that the Charter Review Committee has made a recommendation that a Charter Amendment be submitted to the voters to provide a mechanism for adjusting the compensation of the City Council.

Mr. Bob Outis, Chair, Charter Review Committee, stated that the Charter Review Committee believes that Council compensation should not be fixed in the City Charter and would recommend that the actual compensation issue should be sent to citizen committee if the voters agree to the Charter Amendment.

Mr. Outis noted that there needs to be some equity for the Council Members, as currently some Members participate in the City's health and dental and others do not. A citizen committee needs to look at the total compensation package offered to its elected Council Members.

Mr. Outis volunteered himself and Mr. Bart Grossman to write the argument in favor if this does go before the voters.

Council Member Lieber stated that he is very pleased to see the work of the Charter Review Committee and would support a ballot measure for the June election.

Council Member Good stated that he does not want to complicate the issue and believes it would be better to have a set amount of compensation to be voted on by the voters instead of leaving it up to another citizen committee.

Council Member Javandel stated he views this office as a voluntary one but does realize that some people may not be able to run for office due to the lack of compensation and would like the raise voted in by the voters.

Council Member Okawachi stated an increase would be helpful but she does not depend on it.

Mayor Maris noted there is an inequity issue but also believes there are other volunteer commissions/committees that work just as hard as the Council and they receive no compensation.

**MOTION:**

Moved by Council Member Lieber, seconded by Council Member Javandel to place a Charter Amendment on the June, 2006 ballot regarding the Method of

**7-1. Charter Amendment – Council Compensation**

Determining Council Compensation; directed staff to come back to Council with language and that the Amendment would not be implemented until June 1, 2009.

**ON THE QUESTION:**

Council Member Good indicated that he would vote no, as he believes the actual amount of compensation should be in the Charter and voted upon by the voters.

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

NOES: Council Member Good ABSENT: None

Motion carried and so ordered.

**7-2. Ordinance #06-03 – Prohibition on Aggressive Solicitation  
(File #100-95)**

The Assistant City Administrator reported that the issue of panhandling was referred to the Social & Economic Justice Commission and after various discussions with the City Attorney and the Chief of Police a motion was made to recommend that the City Council adopt the panhandling ordinance.

The Social & Economic Justice Commission noted that the intent of this ordinance is to enable the Albany Police Department to intercede in situations of aggressive panhandling and to ensure that individuals know the guidelines for panhandling in Albany.

The City Attorney noted that this ordinance is based on the City of Berkeley’s ordinance, which has overcome much public scrutiny.

Council Member Javandel introduced Ordinance #06-03 – An Ordinance of the Albany City Council Creating Section 8-21 “Prohibition and Limitation Against Certain Time, Place and Manner of Aggressive Solicitation. First Reading.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Good to approve Ordinance #06-03 for First Reading.

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

NOES: None ABSENT: None

Motion carried and so ordered.

**8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS**

The following items were requested by individual Council Members to come back for discussion on a future agenda: Council Member Lieber – Teleconferencing for Council and Commission/Committee members; Council Member Javandel – Waterfront Planning Process; Mayor Maris – appointment process of East Bay Regional Park District Board member.

Mayor Maris stated that there have been complaints about Waste Management and the bins left in the street, which cause traffic hazards and wondered whether this should be on a future agenda. The City Administrator noted that staff is aware of this and can be referred to the Council Waste Management Subcommittee.

**8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS**

Mayor Maris announced that he and Council Member Javandel attended the Congestion Management Authority (CMA) retreat. Council Member Javandel noted that various people spoke including Caltrans and a Legislative Analyst regarding possible bond measure for infrastructure and transportation.

It was noted that the focus of CMA is not on I-80, as they realize the challenge to find a solution for this congested area; also that there will be additional money coming to cities to fix their streets.

**9. ADJOURNMENT**

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

Minutes submitted by Jacqueline Bucholz, CMC, City Clerk.

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ALLAN MARIS  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK