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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**MONDAY, JULY 17, 2006**

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**7:30 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; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager.

**3. UNFINISHED BUSINESS**

**3-1.** Elections Code Section 9212 Report on the Albany Shoreline Specific Plan Initiative  
(File #630-30)

The City Attorney reported that the Elections Code requires the Council to place the Initiative on the ballot or to adopt it without change. Measure C applies to this and supercedes the Elections Code option to allow the Council to adopt, as presented.

Staff recommends that the Council adopt Resolution #06-47, which submits the Initiative to the voters at the November 7, 2006 election.

The 9212 Reports consists of two components. A legal analysis from Mr. Fred Woocher and a staff report from the Planning Manager, which addresses various planning and fiscal issues related to the implementation of the Initiative.

Both these reports are on file in the City Clerk's Office.

The City Council discussed both reports with staff asking many questions and then opened the floor to the public.

**3-1. Elections Code Section 9212 Report on the Albany Shoreline Specific Plan Initiative**

Mayor Maris asked that he would like the Proponents of the Initiative to make a presentation and then have individual speakers.

Mr. Robert Cheasty, spoke on behalf of the Initiative Proponents, stating that the Initiative came about because the City did not take the lead to pursue a planning process for the Waterfront area. Mr. Cheasty spoke about the horseracing industry, the purchase price of the property and noted that the Initiative spells out what kind of land use the people want on the Waterfront.

The following people spoke: Ms. Annette Weaver, Albany resident; Mr. David Farrell, Albany resident; Ms. Joanne Wile, Albany resident; Mr. David Greensfelder, Albany resident; Mr. Peter Moss, Albany resident; Ms. Diane ?, Albany resident; Ms. Lauren Moss, Albany resident; Mr. Sol Strand, Albany resident; Albany Merchant; Mr. Trevor Grayling, Albany resident; Ms. Karen ?, Albany resident; Ms. Sydney Madson, Albany resident; Mr. Geoff Pilar; Albany resident; Ms. Donna Dedameyer; Ms. Joyce Jackson, Albany resident; Mr. Peter Hobart, Albany resident; Mr. John Dykeman; Mr. James Cleveland, Albany resident; Mr. Ken Shapiro, Albany resident; Ms. Marge Atkinson, Albany resident; Mr. Mark Evangelides, Albany resident; Mr. Bill Dann, Albany resident; Mr. Dimetri Blazedale, Albany resident; Mr. Charles Paghter, Albany resident; Mr. Bob Outis, Albany resident; Ms. Debra ?; Mr. Alan Riffer, Albany resident; Ms. Sally Outis, Albany resident; Ms. Snyder, Albany resident; Mr. Norman LaForce, Sierra Club; Ms. Nan Wishner, Albany resident; Mr. Joseph Como, Albany resident; Ms. Mara Duncan, Albany resident.

A summary of the comments is as follows: The right of the people to vote on issues and asked that Mr. Caruso hire a hall and invite the entire community to see the application; Expressed concern that the Albany Board of Education was not part of the Task Force noting the Board is a stakeholder; spoke about misinformation being put out by the Concerned Albany Neighbors; asked that the scope of study be broadened and other alternatives put on the table; concern was expressed that the merchants on Solano and San Pablo were afraid of their business being hurt; asked that the City consider revitalization of Solano and San Pablo Avenue; support was given for the Initiative; concern that the City process failed; comment was made that the Initiative was poorly written; asked that the City look at this issue very carefully and spoke of the gambling issue; invited people to look at the Waterfront Coalition website for information and asked that the Council write an argument against the Initiative; indicated that the Initiative is misleading and vague; support for the Caruso application; spoke about the Waterfront property being stolen property; stated that the Initiative shuts out the City and sets the stage for legal challenges; noted that the Initiative should be put on the ballot so that people have the right to vote on this issue; urged the Council not to put the Initiative on the ballot; spoke of the importance of retaining Albany's downtown and that the City should not be divided; noted that the people need to know what the Initiative will cost the taxpayers; support for protection of the shoreline; asked that the ballot question be changed; concern expressed about the expansion of the City's tax base; stated that the Council does have the authority to keep the Initiative off the ballot; noted a correction on page 2, line 12; noted that the losers are the people of Albany if the Initiative passes and

**3-1. Elections Code Section 9212 Report on the Albany Shoreline Specific Plan Initiative**

that the City deserves better; spoke to the way the signatures were collected and that people are confused about this issue; spoke about the developer’s vision for the City and noted that no signature gatherer was paid; believe it is an insult to the Albany voter that they did not understand the Initiative before they signed it; noted that people questioned the signature gatherer and definitely knew what they were signing; spoke about the lawsuit regarding the technicality.

Ms. Jean Safir, Albany resident, submitted a letter commenting on some of the areas in the staff report and urged the Council not to place the Initiative on the ballot.

Council Member Lieber presented Resolution #06-47 – A Resolution of the Albany City Council Submitting to the Voters a Citizen Initiative Measure Enacting Waterfront General Plan Policies and Conservation and Recreation Element Policies and Requiring the Formation of a Special Task Force to Create a Specific Plan for Development and Open Space at the Waterfront.

**MOTION:**

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Lieber, seconded by Council Member Good to approve Resolution #06-47 to be submitted at the November 7, 2006 election.

**ON THE QUESTION:**

Council Member Okawachi expressed concern about the possible legal challenges that would follow and stated that she would be reluctantly voting to place the Initiative on the ballot.

Mayor Maris stated that he would be voting for placing this on the ballot and letting the people decide the issue. Mayor Maris spoke to the problems in this Initiative and expressed concern that the process is unfunded and that information needs to be given to the public so they can make the right decision.

Council Member Javandel stated that he would vote to put this on the ballot and noted this is a procedural issue and not what the Council thinks about the Initiative. Council Member Javandel reiterated his hope that the City does pursue a City planning process for the Waterfront.

**VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**RECESS**

9:25 p.m. – Council recessed

9:30 p.m. - Council reconvened

**3-2. Proposal to Process a Development Application by Caruso Affiliated**  
(File 410-20)

The Community Development Director reported that in May, 2006, the City Council passed Resolution #06-20 regarding a City commenced planning process. Staff met with the Initiative supporters, the property owner and pending applicant to explore whether they would participate in a City process that included preparation of an EIR.

The Initiative supporters decided to proceed with filing the Initiative. After review and consideration, the applicant decided that due to legal concerns, it would decline to participate in the property City-directed planning process that included preparation of an EIR.

Council Member Okawachi had asked that a resolution be put on the agenda, which deals with the processing of a Caruso Affiliated application. Before Council tonight is that Resolution, #06-46, which includes the City's agreement to accept and process an application, complete any required CEQA review, consider certification of the Final EIR in compliance with CEQA and then consider whether to place the project on the ballot for final consideration by the voters in accordance with Measure C. Included in the process would be the development of two project alternatives to be studied as part of the EIR.

The Community Development Director stated that Caruso Affiliated primarily drafted the proposed Resolution and staff cannot recommend its adoption. Due to the short time frame since receiving the Resolution, staff has not had the opportunity to analyze and evaluate fully the significance of the Caruso Resolution. Staff is concerned that this Resolution, as written could be interpreted in a way that would not serve the interests of the City. However, if the City Council would like to consider the concepts contained in the Resolution, staff recommends that Council direct staff to prepare a Resolution that contains this direction, for Council consideration at the next meeting.

In reviewing the Resolution, there appears to be at least two key issues: One is whether to commit to the complete processing of an application including an EIR. The second is whether development of the two alternatives should be prepared as part of the EIR process, or as part of a separate City-initiated process.

The Community Development Director noted that on July 12, 2006, the Planning & Zoning Commission discussed the City-initiated planning process and recommend the following: That the City initiate a Waterfront land use planning process incorporating: Citizen program desires; necessary technical studies (legal, geological, financial, etc.); the Planning & Zoning Commission serve as the primary body to sponsor the process, in collaboration with the City Council and pertinent commissions and committees; part of the process should be to study the appropriateness and impacts of applicable General Plan and Zoning Ordinance amendments; the process should be set up with the assistance of staff, the City Attorney to review the viability and liability of placing alternative plans on a ballot subject to instant run-off voting.

The City Attorney and Mr. Michael Zischke, Morrison & Foerster, both spoke addressing this issue.

Council Member Good commented that it makes sense to him to process this application, as the City usually does.

### 3-2. Proposal to Process a Development Application by Caruso Affiliated

Council Member Lieber noted that the City Council received numerous letters regarding this issue and would like the public to know that he has read all of them. Council Member Lieber stated that no one has prevented Caruso Affiliated from filing an application. If the Council sees an application, City staff will proceed with the application process and if an EIR is appropriate then the City will proceed down that road.

Council Member Lieber expressed concern about giving away everything before the Council has seen the application noting that the idea of pre-approving a project before the City knows what is included is not ok. The applicant needs to commit to follow all the City rules and regulations before the Council takes any action.

Council Member Okawachi stated that the City needs to get this process started and to show good faith and noted that the bottom line is any application will go before the voters pursuant to Measure C.

Mayor Maris stated that the Council needs to have a clear picture of what the developer is proposing and would like to see the process better defined.

The City Attorney advised against processing Resolution #06-46 and stated that if Council indicates that they would like an EIR for this project direct staff to come back with an appropriate resolution and direct staff to continue to proceed with a City initiated process.

Council Member Javandel stated that he also read all the e-mails that were sent and noted most of the City would like to see the application so that it can be evaluated.

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Good to extend the meeting to 11:30 p.m.

Motion carried and so ordered.

Mr. Rick Caruso stated that all he is asking for is a level of certainty to get the application filed. Mr. Caruso commented that this proposal will cost over \$1 million and do not want to be in a position to be treated unfairly and noted that the voters should be given an opportunity to vote on the application pursuant to Measure C.

Mayor Maris asked if anyone would like to speak: The following people spoke: Mr. Mike Golden, Albany resident; Mr. Blake Yaeman; Mr. Peter Hobart; Mr. David Madson, Albany resident; Mr. Ken ?; Mr. Sol Strand,; Mr. Normal Laforce; Mr. Brian Parker; Mr. Steven Messingburk, Local 280; Mr. Rick ?, Gateview Association; Mr. Michael Mazur; Mr. Roger Carlsen; Mr. Ruth Ganong; Ms. Caryl O'Keefe; Ms. Stephanie Travis; Mr. Howard McNenny; Mr. Mike Skinner; Ms. Ann Berry; Mr. Mark ?, Ms. Marsha Skinner; Mr. John Dykeman; Ms. Peggy McQuaid; Ms. Lubov Mazor; Mr. Bill Dann; Ms. Nan Wishner; Ms. Marge Atkinson; Mr. Ray Anderson; Ms. Sally Douglas; Mr. Peter Moss; Mr. Dimetri Blazedale; Mr. James Cleveland; Ms. Sandy Reid; Ms. Hillary Miller; Mr. Peter?; Ms. Mara Duncan; Mr. Robert Cheasty; Ms. Thelma Rubin.

A summary of the comments is as follows: Allow the Caruso Project to go forward and accept his offer to pay; no compelling reason to deviate from current practice and the City should pay for the application; believe that the Initiative will fail once people see how much it will cost and the City needs to get the ball rolling and do not



**3-2. Proposal to Process a Development Application by Caruso Affiliated**

Mayor Maris stated that he agrees with Council Member Javandel and noted that the Council needs to see the EIR and CEQA process and not be bound by anything. Mayor Maris noted that the Waterfront is very important to everyone and there needs to be a thorough public hearing and planning process.

Mayor Maris stated that he would support a motion to send this back to staff so they could write a resolution, which he believes is more appropriate than a resolution written by the developer.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Lieber that Council takes no action.

AYES: Council Members Good & Lieber

NOES: Council Members Javandel, Okawachi & Mayor Maris

Motion Failed.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Lieber that the City will accept application and process, as it would any other application that is received.

AYES: Council Members Good, Javandel & Lieber

NOES: Council Member Okawachi & Mayor Maris                      ABSENT: None

Motion carried and so ordered.

**MOTION:**

Moved by Council Member Javandel that direction be given to staff that the Council would like clarification of its ability to undergo public alternative development process within the context of the EIR scoping process for a project EIR.

Motion Died for Lack of a Second.

Council Member Lieber stated that he would prefer staff to come back with information rather than a resolution. Council Member Lieber spoke to the question of City Commissions & Committees involvement in this process.

It was noted at this time that the hour was late and maybe the meeting should be continued to next week.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Lieber to continue this issue to next week, July 24, 2006.

Motion carried and so ordered.

**4. ADJOURNMENT**

12:45 a.m. – There being no further business before the City Council it was moved and seconded to continue the meeting to July 24, 2006.

**4. ADJOURNMENT**

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

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ALLAN MARIS  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK