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

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**7:15 p.m**

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

Closed session to discuss real property negotiations pursuant to Government Code Section 54956.8:

Property: 405 Kains Avenue  
Negotiating parties: Rachel Kuan & Gary Tang, Hannah Investment, on behalf of the property owner, Cerrito Creek Properties, LLC; City Administrator and City Attorney.  
Under Negotiation: Price and Terms of Payment

**ADJOURN TO CLOSED 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; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Amber Curl, Assistant Planner; Richard Cunningham, Public Works Manager.

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

Mayor Maris reported that direction was given to staff regarding negotiations on the property at 405 Kains Avenue.

**4. CONSENT CALENDAR**

**4-1.** City Council minutes, October 16 & 30, 2006

Staff recommendation: Approve.

**4-2.** a. Ratification of City of Albany net payroll in the amount of \$172,498.22; taxes, benefits & withholdings in the amount of \$158,118.88. Total payroll in the amount of \$330,617.10. Payroll period: 10/13/06.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$45,036.56; taxes, benefits & withholdings in the amount of \$32,397.62. Total payroll in the amount of \$77,434.18; Payroll period: 10/13/06.

c. Ratification of City of Albany net payroll in the net amount of \$181,606.48; taxes, benefits & withholdings in the amount of \$195,652.34. Total payroll in the amount of \$377,258.82. Payroll period: 10/27/06.

d. Ratification of Albany Municipal Services JPA in the net amount of \$43,846.30; taxes, benefits & withholdings in the amount of \$45,479.56. Total payroll in the amount of \$89,325.86. Payroll period: 10/27/06.

Staff recommendation: Ratify.

**4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$123,943.86. Period: 08/04/06.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$167,716.54. Period: 08/11/06.

Staff recommendation: Ratify.

**4-4.** Ratification of pension payments in the amount of \$105,634.96 for the month of October, 2006.

Staff recommendation: Ratify.

**4. CONSENT CALENDAR**

- 4-5.** Approval and acceptance of Notice of Completion for Pierce Street Sewer Rehabilitation project.

Staff recommendation: Adopt Resolution No. 06-69 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. 06-04, Pierce Street Sewer Rehabilitation.

- 4-6.** Alternate Pedestrian and Bicycle Path under the I-80/580 Overpass.

Staff recommendation: That the City Council awards a contract to Grade Tech, Inc., to construct the Alternate Pedestrian and Bicycle Path under the I-80/580 overpass for an amount not to exceed \$96,800 (Contract #06-19).

Mayor Maris asked if anyone would like to remove an item from the Consent Calendar and noted that he would like to remove item 4-6.

- 4-6. Alternate Pedestrian and Bicycle Path – I/80/580 Overpass**

Mayor Maris stated that he is pleased to see that this project is finally going to happen and asked when the project would start. The Community Development Director responded that hopefully before the rain starts otherwise it would have to be put off until spring.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Lieber to approve the Consent Calendar.

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 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 asked if anyone would like to address the Council. Ms. Maureen Crowley stated that winter is coming and expressed concern about the homeless people in Albany. Ms. Crowley asked what specific plans the City has to address this problem and noted that they should be treated in a humane manner.

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

**6. PRESENTATION/PUBLIC HEARING**

**6-1. Ordinance #06-013 – Restricting the Parking of Food of Beverage Vending Vehicles within 300 feet of Schools**

(File #100-95)

The Community Development Director reported that officials of the Albany Unified School District (AUSD) have expressed concerns about ice cream vendors who station their vehicles within the public street adjacent to school sites. The School District believes that the sale of ice cream products runs contrary to its efforts to provide nutritious and healthy foods for the students. Additionally, the presence of vendors, including the ringing of bells, could be distracting to school functions both in the classroom and on the school grounds.

The proposed ordinance amendment would add a stipulation that no food or beverage vending vehicles would be allowed to be located within 300 feet of the property line of any school serving grades pre-kindergarten through twelfth grade during certain hours.

The proposed ordinance contains a proposed finding that the amendment is exempt from CEQA. The City will endeavor to prepare a multi-lingual handout for vendors, as well as speak with them, about the new regulation. If a violation should arise, Community Development staff will respond and only involve the Police Department if compliance cannot be achieved.

Mayor Maris opened the public hearing and asked if anyone would like to speak.

Dr. William Wong, AUSD Superintendent reiterated the District’s request noting that the State has legislation regarding the type of food that can be distributed to children. Dr. Wong urged the Council to pass this Ordinance to help the schools provide more nutritious food.

Ms. Lubov Mazur, Albany resident, asked if this would prohibit “popsicle day” and was informed that it would.

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

Council Member Lieber agreed that it is very important to address the need for more nutritious food that children consume and believe this is a small step that the City can take and will definitely support it.

Council Member Okawachi introduced for First Reading Ordinance #06-013 – An Ordinance of the Albany City Council to Amend Chapter XIV of the Albany Municipal Code to Restrict the Parking of Food or Beverage Vending Vehicles within 300 feet of Schools.

**MOTION:**

After reading the title, and waiving reading of the entire Ordinance, it was moved by Council Member Okawachi and seconded by Council Member Lieber.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**7. UNFINISHED BUSINESS**

## **8. NEW BUSINESS**

### **8-1. Green Building Program**

(File #405-25)

Mayor Maris stated that he has spoke with David Arkin, Green Architect and Dana Milner, Construction firm owner, who has experience with working on green buildings about this subject.

The Planning Manager stated that the City Council held a work session on the Green Building and Bay Friendly Landscaping Ordinance. Green building is a construction process that minimizes the use of resources, reduces harmful effects on the environment and creates healthier environments for people. The benefits of green design include both environmental and economic benefits, such as reduction in air pollution, water pollution and solid waste, healthier and safer indoor environments, reduction in operating costs and optimization of life cycle economic performance.

Staff has determined that the proposed ordinance is categorically exempt from the requirements of CEQA.

If approved, all projects subject to discretionary planning review would be evaluated on a checklist of specific pre-construction, construction and materials requirements and criteria. Currently there are two sources for the checklists: 1) US Green Building Council, which has developed the Leadership in Energy and Environmental Design (LEED) rating system. 2) Alameda County's StopWaste.Org, which has developed the Green Points rating system. Points would be earned for various green building features.

**Non-Residential Checklists:** LEED checklists are written to rate the environmental attributes and sustainable features of new and renovated commercial and institutional buildings. The LEED system utilizes a list of performance criteria, divided into six categories: Sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, innovation and design process. Four levels of LEED certification are possible, depending on the number of criteria met. The base level is certified, with silver, gold and platinum levels awarded for projects with a higher level of attainment of environmental design and construction.

**Residential Building Checklists:** StopWaste.Org checklists are intended for use in the construction and remodeling of residential projects. The checklists are similar to the LEED system in that they use six categories of potential performance-based credits and prerequisite criteria. Unlike LEED, the Green Points checklists do not have "certified, silver, gold and platinum levels" but is simply points based.

**Bay Friendly Landscaping Guidelines:** These guidelines are written and maintained by StopWaste.Org. They are intended to provide an integrated approach to environmentally friendly landscaping. They are organized around seven basic principles for protecting the environment.

The Planning Manager stated that any project including new construction, remodels and additions would be subject to the proposed requirements. The Water Reuse Ordinance requires that recycled water be used for designated project areas, as decided byEBMUD, subdivisions, and projects with over 10,000 sq.ft. of non-residential space.

### **8-1. Green Building Program**

The Construction and Demolition Debris Recycling Ordinance would require that projects that exceed a valuation threshold of \$75,000 for construction and renovation projects and \$25,000 for demolition projects be required to divert at least 50% of all construction and demolition debris from going into a landfill and instead go to a facility that can recycle or reuse the material.

The Planning Manager noted that it is proposed that the Green Building Program be implemented using existing Community Development Department staff. The principal direct fiscal impact will be cost of staff training and incidental costs of producing application and educational materials to assist applicants. These costs will be evaluated as part of the City's annual budget process.

A secondary impact will be that additional time may be required to process planning and building applications. Staff expects that for applicants unfamiliar with green building processes, the proposed program could add two to four weeks to the City review process.

Mayor Maris opened the public hearing and the following people spoke: Mr. David Arkin, Albany resident; Mr. Dana Milner, Albany resident; Mr. Peter Schakow, Albany resident; Ms. Nan Wishner, Albany resident; Ms. Mara Duncan, Albany resident; Mr. Clay Larson, Albany resident.

A summary of the comments is as follows: Noted that 90% of the permits taken out in Albany are residential and that this is not intended to restrict but to make it an educational tool; hoped that Measure C passes so that the Civic Center could become a green building; believes this will be very good for Albany and the entire county and that the checklists are a way for people to become more creative; asked that goals be set so that the gold and platinum levels could be reached; believe this ordinance will provide the leadership needed; asked that roof top renovations be looked at; asked what the impact would be on affordable housing.

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

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Member Lieber that a public hearing be scheduled for November 20, 2006 for the First Reading of the Ordinances.

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

Council Member Okawachi asked whether a representative from StopWaste.Org would be present at the public hearing?

Council Member Lieber stated that he is very proud of the City Council and the Planning & Zoning Commission for bringing this item forward and believe that the City is taking the lead on this issue.

Mayor Maris agreed and stated that for residential buildings it should be made easier in the beginning for them to participate in the program. Mayor Maris noted that the passage of Measure C would really help the City in this program.

Mayor Maris asked for more information on why the threshold is \$75,000 and is concerned about the 50% diversion recommendation. Would also like a better sense of the budgetary issues – cost impacts and make available some real cost permit information

### **8-1. Green Building Program**

for the application. Mayor Maris asked if the chief enforcement is denial of the permit and the Planning Manager responded yes or would withhold the Certificate of Occupancy.

Council Member Okawachi stated that the City should pat itself on the back and noted that Albany is already at a 70% waste diversion rate for recycling, and close to the County goal of 75% and far ahead of other cities. Council Member Okawachi thanked staff for obtaining this goal.

**VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

### **8-2. New City Motto**

(File #150-25)

The Assistant City Administrator reported that in October, 2006, the Council reviewed signage options for permanent metal “banners” on the Buchanan medians. At that time, Council requested that staff also address the need to update the City’s motto, which is “Northern Gateway to Alameda County”. This motto has been part of the City’s seal for at least thirty years.

Staff is recommending that a community contest be held in the development of a new motto with the Social and Economic Justice Commission (SEJC) formulating the parameters of the contest and would select a limited number of entries for consideration by the City Council for final selection.

The Assistant City Administrator suggested specific guidelines for the motto, as follows: short enough to fit onto the City of Albany seal (no more than 8 words), positive message about the community, descriptive of our existing community and/or hopes for our future as a community, something that will last for the next 50 years.

The costs of funning a contest will be minimal with possible copying and mailing costs. Once a new motto is adopted it will be incorporated into the City’s seal, which may involve some costs to develop the City seal and to make it available in appropriate computer or print formats. Also City letterhead, business cards, signage, etc, will need to be replaced.

Mayor Maris asked if the SEJC would make the decision on the new motto and the Assistant City Administrator responded that it is recommended that it come back to Council for their approval.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Lieber to refer a City motto contest to the Social & Economic Justice Commission for review and direction and that the SEJC return to Council with a selection of three to five recommended new mottos.

**8-2. New City Motto****VOTE ON THE MOTION:**

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-3. Turf Removal Method for the Memorial Park Field Renovation**

(File #920-20)

Council Member Good recused himself from this item and left the Council Chamber.

The Public Works Manager reported that the Park & Recreation Commission made a recommendation to the Council that the turf at Memorial Park be removed through the mechanical method (excavate and off-haul) using Measure F funds for the additional cost.

The reason behind this choice of removal method included concerns from some members of the public and some members of the Commission about health and environmental impacts from the use of chemicals and the related concern from some members of the Commission that continued discussion about the issue would delay the renovation project.

Mayor Maris stated that he asked for this issue to come back for Council discussion because during the interviews for the Integrated Pest Management (IPM) consultant, they made comments that they might choose a chemical treatment equally or preferably over the scrape and haul method.

Mayor Maris noted that Mr. Ash, Albany's IPM consultant – selected from the Consultant Interview Process stated: "I probably would tend towards, sight unseen, the Roundup, just feeling that it is the lesser of the two impacts overall."

Mayor Maris noted that several experienced sports field people at the Parks and Recreation Commission meetings supported use of Roundup, as an appropriate treatment of the Memorial Park field in preparation for the new turf installation.

Mayor Maris recommended that the IPM consultant be given an opportunity to visit the site, make a recommendation to the Park & Recreation Commission for their meeting of November 9, 2006.

Council Member Okawachi asked if any consideration had been give to planting a competitive Bermuda grass. The Public Works Manager responded that the Bermuda grass does not go well with athletic use and also does not grow in a foggy climate like Albany noting that when the weather is cool the grass goes dormant.

Council Member Lieber stated that the City has had extensive outreach and many people spoke at the hearings and is not inclined to change the decision at this time. Council Member Lieber stated that he preferred as the best for the ecology of the area the till and cover method, which was recommended by all the consultants. It would have very little dust, no herbicides, no diesel and would save money. Its only drawback is that the City may lose part of one whole sports season.

Council Member Javandel stated that he likes the idea of crowding the weed out with a competitive grass but that method does not work in Albany's climate.

### **8-3. Turf Removal Method for the Memorial Park Field Renovation**

The following people spoke on this issue: Mr. Roger Carlson, Albany resident; Mr. Geoff Piller, Albany resident; Ms. Kim Linden, Albany resident; Ms. Nan Wishner, Albany resident; Ms. Sidney Madison, Albany resident; Mr. Mark Doman, Albany resident; Ms. Mara Duncan, Albany resident.

A summary of the comments is as follows: Asking that the Council consider a one-time use of chemicals to remove the weeds; cautioned the Council about sending this back to the Park & Recreation Commission noting many concerns have been noted including the shut down of the park, many citizens opposed to any chemical use; noted that after balancing all the needs of all the different groups the Park & Recreation Commission decided on the best decision; noted that the Park & Recreation Commission received a clear mandate from the residents that no chemicals should be used; asked why no one has discussed mitigating the dust issue and using water to control that dust; comment was received about the dangers of chemicals and the adverse impact they have on people; believes the concern about chemicals was due to a lack of knowledge or a specific political agenda and noted that chemicals when applied properly have far less danger than many products we use everyday; urged the Council not to put the community through more discussions on this issue.

#### **MOTION:**

Moved by Mayor Maris to refer this issue back to the Park & Recreation Commission for their review of chemical removal.

Motion Died for Lack of a Second.

### **8-4. Ordinance #06-015 – Procedure for Providing Notices through Publication**

(File #100-95)

The City Attorney reported that this Ordinance would add a section to the Municipal Code *Publication of Notices* to allow the City Council to designate newspaper(s) of its choosing, as being of general circulation within the City of Albany; and authorizes the use of these designated newspaper(s) for purposes of publication of any notice that is required by the Municipal Code of State law.

The Ordinance would allow notices that are currently required to be published in an adjudicated newspaper to be published in any newspaper the Council designates as being of general circulation. Staff believes it is more important that the newspaper is of general circulation within the City than it is being an adjudicated newspaper.

The following people spoke on this issue: Ms. Nan Wishner, Albany resident; Ms. Sally Outis, Albany resident.

A summary of the comments is as follows: Makes sense to choose a newspaper that is widely read in the City and believe it is a good idea. A question was raised if this would apply to the public for Initiative, Recall or Referendum. The City Attorney responded that this Ordinance only applies to City business and everyone else must follow State law.

**8-4. Ordinance #06-015 – Procedure for Providing Notices through Publication**

Council Member Okawachi introduced for first reading – Ordinance #06-015 – An Ordinance of the Albany City Council Establishing the Procedure for Providing Notices Through Publication.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Okawachi and seconded by Council Member Javandel to approve Ordinance #06-015 for first reading.

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

NOES: None

ABSENT: Council Member Good

Motion carried and so ordered.

**9. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS**

**9-1.** Election Day, November 7, 2006, poll hours 7 a.m. – 8 p.m.

**9-2.** The next meeting of the Waterfront Planning Consultant Selection Group has been scheduled for November 16, 2006, 7:30 p.m. in the City Council Chamber. The City has received eight statements of qualifications from interested consulting firms. The primary purpose of the November 16, 2006 Selection Group meeting is to finalize questions to be asked of the potential consultants during the interview process, confirm the consultants to be interviewed, and discuss final arrangements for the interviews.

**9-3.** Special Council Meeting, Monday, December 11, 2006, to canvass election results and issue the Oath of Office to newly elected officials.

**9-4.** There will be a regular scheduled Council Meeting on December 18, 2006.

Council Member Javandel asked for a future agenda item to consider the legislation sponsored by Senator Feinstein regarding the Gaming Compliance Act.

Council Member Lieber stated that it has been a very spirited election and would encourage everyone to vote tomorrow.

The City Attorney remembered Dario Meniketti who epitomized the democratic process.

Mayor Maris reported on the following: 1) Attended the Albany High School Leadership class noting they are interested in community service. Asked staff to look at how they could volunteer in the City for landscaping projects, graffiti removal and Waterfront maintenance. 2) Attended a Youth run Court, which is run by offenders who go through a trial with a judge, attorney, jurors and offender that Albany participates in. 3) Attended a Mental Health Youth and Families subcommittee, which may be looking for matching funds from schools and cities. 4) Urged everyone to get out and vote

tomorrow. 5) Reminded everyone about the Waterfront Planning meeting on November 16, 2006.

Council Member Okawachi reported that the Library would be having their next \$.50 book sale on November 18, 2006.

**10. ADJOURNMENT**

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

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

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ALLAN MARIS  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK