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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**MONDAY, NOVEMBER 20, 2006**

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**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; Kim Denton, City Treasurer; Jeff Bond, Planning Manager; Aaron Walker, Personnel Manager; Amber Curl, Assistant Planner.

**3. CONSENT CALENDAR**

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

Staff recommendation: Approve.

**3-2.** a. Ratification of City of Albany net payroll in the amount of \$169,517.53; taxes, benefits & withholdings in the amount of \$126,757.80. Total payroll in the amount of \$296,275.33. Payroll period: 11/09/06.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$45,332.66; taxes, benefits & withholdings in the amount of \$35,708.87. Total payroll in the amount of \$81,041.53. Payroll period: 11/09/66.

Staff recommendation: Ratify.

**3. CONSENT CALENDAR**

- 3-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$802,810.31. Period: 10/20/06. \$15,015.91. Period: 11/01/06. \$238,802.71. Period: 11/06/06.

Staff recommendation: Approve.

- 3-4.** Consideration of Claim #AL537; Knighten v. City.  
(File #170-60)

Staff recommendation: Reject the claim and authorize the City Clerk to send out the appropriate rejection letter to Anika Knighten.

- 3-5.** 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. Second Reading.  
(File #100-95)

Staff recommendation: Approve Ordinance #06-013 for Second Reading Pass-to-Print.

- 3-6.** Ordinance #06-015 – An Ordinance of the Albany City Council Establishing the Procedure for Providing Notices Through Publication. Second Reading.  
(File #100-95 & 610-20)

Staff recommendation: Approve Ordinance #06-015 for Second Reading Pass-to-Print.

- 3-7.** Resolution #06-68 – A Resolution of the Albany City Council Designating Appropriate Newspapers of General Circulation.  
(File #610-20)

Staff recommendation: Approve Resolution #06-68.

- 3-8.** Resolution #06-71 – A Resolution of the Albany City Re-Delegating Investment Authority to the City Treasurer and Adopting the Investment Policy for the City of Albany.  
(File #320-40)

Staff recommendation: Approve Resolution #06-71.

**3. CONSENT CALENDAR**

- 3-9.** Resolution #06-72 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute an Agreement to Share Taxpayer Information with the Franchise Tax Board.  
(File #600-30)

Staff recommendation: Approve Resolution #06-72.

- 3-10.** Resolution #06-74 – A Resolution of the Albany City Council Authorizing the City Administrator to Enter Into a Contract with FarWest Restoration Engineering (FRE) to Develop Channel Restoration Plans, and Hydraulic Modeling of those Plans, for Lower Codornices Creek between UPRR Tracks and I-80 for an Amount not to Exceed \$120,869. Funding will be used from the Target Corporation Creek Restoration Funds.  
(File #600-30)

Staff recommendation: Approve Resolution #06-74.

- 3-11.** Resolution #06-76 – A Resolution of the Albany City Council Modifying the Unrepresented, Part-Time Salary Schedule.  
(File #700-20)

Staff recommendation: Approve Resolution #06-76.

- 3-12.** Resolution #06-77 – A Resolution of the Albany City Council Electing to be Subject to Public Employees' Medical and Hospital Care Act Only With Respect to Members of a Specific Employee Organization and Fixing the Employer's Contribution for Employees and the Employer's Contribution for Retirees at Different Amounts.  
(File #720-60)

Staff recommendation: Approve Resolution #06-77.

- 3-13.** Support for Senator Feinstein's Senate Bill 113: Modifying effective date of Federal Trust Land for Lytton Band, making them subject to the normal provisions of the Indian Gaming Regulatory Act (IGRA).  
(File #660-50)

Staff recommendation: Approve transmitting letter to Senator Feinstein in support of Senate Bill 113.

**3. CONSENT CALENDAR**

- 3-14.** Award of contract for construction of the Buchanan Street Relief Sewer Project.  
(File #600-30)

Staff recommendation: Award the contract to K.J. Woods Construction in the amount of \$137,200 for the construction of the Buchanan Street Relief Sewer Project.

Mayor Maris asked if anyone would like to remove an item from the Consent Calendar for discussion. The following items were removed: Item 3-1, 3-7, 3-9 & 3-10.

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

Council Member Lieber asked for the following language to be included: Page 8, under Item 8-3: 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 sport season.

Mayor Maris asked for the following language to be included: Page 8, under Item 8-3: 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.

**3-7. Resolution #06-68 Designating Appropriate Newspaper of General Circulation**

Mayor Maris asked what an "adjudicated newspaper" was and also if the San Francisco had been contacted regarding their circulation numbers.

Council Member Good asked if proponents of an initiative could now use the West County Times for their legal notice.

The City Attorney explained about an "adjudicated newspaper" and the fact that Albany does not have one in the City. The City Attorney stated that this Resolution is a follow-up to Ordinance #06-015, which was passed for second reading tonight.

The City Attorney stated that no a proponent for an Initiative, Referendum or Recall could not use the West County Times, as they have to follow the Election Code. The City because of its Charter status can designate a newspaper to publish all the legal notices in.

The City Clerk stated that she did not contact the San Francisco Chronicle for circulation numbers but kept to the two newspapers that the City has used for many years.

### 3. CONSENT CALENDAR

#### 3-9. Resolution #06-72 – Agreement with the Franchise Tax Board

Mayor Maris asked whether the City could charge the State for its information and the City Treasurer stated that she doubted the State would pay but noted this agreement helps when going through the Business Licenses.

#### 3-10. Resolution #06-74 – Contract with FarWest Restoration Engineering

Mayor Maris asked the status on this issue noting that Caltrans is a key element in this project. The Community Development Director responded that Caltrans now has a better understanding for the creeks and how they relate to the freeways.

Mr. Ed Fields, Albany resident, questioned a previous project with this company noting that expenditures were being turned in after the work had been completed.

#### **MOTION:**

Moved by Council Member Javandel, seconded by Council Member Lieber to approve the Consent Calendar with the correction to the City Council minutes of November 6, 2006.

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. Maureen Crowley, Albany resident, asked the Council what humane plan do they have to take care of the homeless people in Albany. Mayor Maris asked Ms. Crowley to stay for the end of the meeting where he will address this problem.

### 5. PRESENTATION/PUBLIC HEARING

#### 5-1. Green Building Ordinances

(File #405-25)

The Planning Manager reported that Council reviewed the draft ordinances on November 6, 2006, and some questions were asked to provide clarification on the implementation and financial implications of the proposed ordinances.

Green Building Ordinance: Question – What are the time impacts on building permit issuance and sign off? Adoption will add time to the building permit process for staff to meet with applicants and review the green building points checklist.

### **5-1. Green Building Ordinances**

These additional reviews could potentially add two weeks to the building permit process, which currently takes at a minimum eight weeks (and often longer). For projects subject to field verification it will add approximately two weeks time to the inspection and final sign off order to verify that the green building measures are being implemented.

Question – What are the cost-benefits for the applicant? A cost estimation-consulting firm prepared an analysis of the costs of “building green” based on the LEED points rating system. Overall, the study found that the costs to meet green building requirements were significantly reduced if proper planning for such measures are considered and calculated into plans early in the planning process.

The firm found that the cost premiums range from 1% to 8% in the Bay Area, depending on the type of project and level of compliance. Studies indicate that an upfront investment in green building features has a 300% return over a 20-year period.

Construction and Demolition Debris Ordinance: Question – Why was the \$75,000 threshold chosen when the thresholds for other cities vary between \$50,000 - \$350,000 for the Construction and Demolition Debris Recycling requirement? Staff recommends the \$75,000, which roughly translates to a 400 to 500 square foot project, as reasonable balance. Since 90% of the projects in Albany are residential, a smaller threshold is required to capture most projects and make a difference in the amount of material recycled.

Question – Is the 50% diversion rate going to be practical for projects? According to Stopwaste.org, 53% of waste generated from a 2,000 sq.ft. home is wood and another 31% are other potentially recyclable materials such as metal, concrete, etc. Only 15% is trash that is not recycled. Therefore, accounting for the potential for some materials to contain hazardous materials and not appropriate for recycling, staff believes that the 50% goals should be obtainable.

Water Reuse Ordinance: Question – What does “technically feasible” mean in the context of the Water Reuse Ordinance? The Ordinance is intended to allow some flexibility in requiring the use of recycled water. There may be situations where the additional utility lines, for engineering purposes, cannot be accommodated. In other cases, there may be land uses or plan and animal habitats that are unusually sensitive to water purity.

Mayor Maris opened the public hearing and the following person spoke. Mr. David Arkin, Planning & Zoning Commissioner and Albany resident, a summary of his comments are as follows: This Ordinance is to inspire people, not to punish or discourage people and is designed to be flexible. Noted that the Civic Center project is not included because it was started before the Ordinances were discussed; however, the architects are trying to include as many LEED points as they can so that the City can be certified.

There being no one else wishing to speak Mayor Maris closed the public hearing. Mayor Maris stated that this is an excellent start and believe that Albany is way ahead of other cities in this area.

Council Member Okawachi introduced the following Ordinances for First Reading: 1) Ordinance #06-016 – An Ordinance of the Albany City Council Adopting

### **5-1. Green Building Ordinances**

“Green Building and Bay-Friendly Landscaping Regulations” Amending Chapter 20, Planning & Zoning of the Albany Municipal Code. 2) Ordinance #06-017 – An Ordinance of the Albany City Council Adopting “Construction and Demolition Debris Recycling” Amending Chapter 12, Building and Housing of the Albany Municipal Code. 3) Ordinance #06-018 – An Ordinance of the Albany City Council Adopting “Water Reuse” Amending Chapter 20, Planning & Zoning of the Albany Municipal Code.

#### **MOTION:**

After reading the title of all three (3) Ordinances it was moved by Council Member Okawachi, seconded by Council Member Lieber to approve for First Reading Ordinance #06-016, #06-017 & #06-018.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

## **6. UNFINISHED BUSINESS**

### **6-1. Design Review of Civic Center Measure F Safety Project**

(File #410-65)

The Planning Manager reported that the Civic Center Measure F Safety Project was presented to the Planning and Zoning (P&Z) Commission for design review on October 10, 2006. The project includes an addition to the north side of the Police wing, several additions and modifications to the Fire Station, the addition of an Emergency Operations Center to be located at the location of the current Fire Station carport and reconfiguration of the parking lot. Total net additional square footage is approximately 1,305 square feet.

The P&Z Commission had an extensive discussion of various elements of the design of the project, including roof materials on sloped roofs, entry monuments, parking, seismic framing system, the circular planter, landscaping, window trim and color of the CMU block addition. On a vote of 4-0 (Commissioner Donaldson absent), the Commission passed a motion approving design review of the proposed project subject to addition of a standing seam metal roof on all sloped roofs and subject to future review of landscaping and entry treatments such as a trellis.

The Planning Manager noted that staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301(e)(2) of the CEQA Guidelines, which exempts additions to existing structures that will not result in an increase of more than 10,000 square feet.

The current design incorporates a composition asphalt shingle roof at an estimated cost of \$194,000. However, the P&Z Commission is recommending a metal roof estimated to cost \$690,000 to construct, an increase of \$496,000. Staff recommends that the City Council modify the design review conditions of approval by allowing either a standard composition asphalt shingle roof or a standing seam metal roof. Staff also recommends that the Commission’s request for a standing seam metal roof be included as an “add-alternate” in the bid package.

Staff also recommends that the trellis feature discussed by the P&Z Commission be addressed by the City Council before going to bid in order to avoid later changes to

**6-1. Design Review of Civic Center Measure F Safety Project**

the main construction elements of the project. This item will come back to Council before or during its consideration of the construction bid package.

Landscaping and entry monument elements of the project do not need to be resolved prior to the start of construction and it is expected that there will be sufficient time for the P&Z Commission to review these elements.

Council Member Javandel asked whether the metal roof would add LEED points to the project. Ms. Janet Tam, Architect, responded that she believes that it would add LEED points.

Council Member Lieber stated that the project is very close to having the basic LEED certification and would encourage the City to pursue anything that can add the points.

Council Member Lieber noted that the building currently has very little character and a very simple thing that can be done, such as the metal roof, would give the building character. However, also recognize the cost difference might be an issue but would hope there is flexibility within the project.

Council Member Okawachi asked if there was any additional square footage in the Fire Department and the Planning Manager responded he believes there is, to be used for storage.

Ms. Janet Tam, Architect, explained what was being done at the Fire Department for the living quarters and noted that instead of dormitory style sleeping quarters it would be separate bedrooms and privacy in the restroom area.

Mayor Maris expressed concern that when the City goes out to bid for the Emergency Operations Center (EOC) there will be some choices that have to be made and indicated his major concern is cost and future “add on” items.

Mayor Maris also stated that he would like the City to achieve the basic LEED certification.

Mayor Maris asked if anyone from the public would like to speak. The following people spoke: Ms. Maureen Crowley, Albany resident; Mr. David Arkin, Albany resident and Planning Commissioner.

A summary of their comments is as follows: Asked if the current landscaping would be saved? Commended staff and the Architect for the project and noted how difficult the challenge is due to increase in costs. Also suggested that the air conditioning in the EOC Center be removed.

The Project Manager responded to the comment about the landscaping stating that some plants would get destroyed around the area of the new EOC building but on the whole the vegetation would not be touched.

Council Member Javandel stated that he supports staff’s recommendation and noted the issue of air conditioning at the EOC should be looked at and suggested a passive wind tower for cooling the building.

**6-1. Design Review of Civic Center Measure F Safety Project****MOTION:**

Moved by Council Member Javandel, seconded by Council Member Good to affirm, with modifications noted above, the action of the Planning & Zoning Commission and to direct preparation of a bid alternative for a metal roof and a trellis.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

The City Administrator stated that she would like to acknowledge the generosity of the Albany voters with the passage of Measure C.

Council Member Okawachi noted that it does take a campaign to pass measures and would like to acknowledge all the people that worked very hard for the passage of Measure C, with particular acknowledgement of Mayor Maris, Doug Donaldson and Peggy McQuaid.

Mayor Maris noted that this campaign was done successfully and the contributions and expenditures were kept under \$1,000.

**6-2. History of Measure D (1978)**

(File #450-20)

The Community Development Director stated that at the October 23, 2006 meeting, Mayor Maris requested an item to give the Planning & Zoning Commission direction to look at modifying the City's parking requirements, as established by Initiative Measure D in 1978.

The Initiative included three proposals: 1) To rezone much of central Albany, from Brighton Avenue south and extending from Masonic Avenue to Stannage Avenue, to R-1 Single Family Residential. Measure D also stipulated that any future changes from R-1 zoning would require approval of 50% of residents within 300 feet of the site of the proposed change. 2) To increase the required off-street parking ratio to 2 spaces per dwelling unit, from 1.5 spaces per unit. The measure treated all units the same, with no differentiation as to size or type of occupancy. The measure did provide that the Planning & Zoning Commission could make an exception to allow 1.5 spaces per unit, where it could be found that on-street parking was sufficient. 3) To limit the density of future development on the west side of Albany Hill to 18 dwelling units per acre, amending the 36-unit per acre designation of the Albany Hill Specific Plan (this dealt specifically with the 11-acre vacant site south of the high-rise Gateway condominiums).

The Community Development Director noted that attempts have been made in the past to amend Measure D. Also over the past three years, in its efforts to create incentives for the statewide development of affordable housing, the State Legislature has entered the field of setting parking standards, traditionally a function of local municipalities. It appears that these state laws supercede the standard of Measure D and thereby call into question the City's ability to enforce the requirement of the measure in a consistent way.

The Community Development Director noted that inquiries have been made regarding building senior housing but because of the parking restrictions no application is

**6-2. History of Measure D (1978)**

made. Also, there is no incentive for builders to build a studio or one bedroom apartment because of the parking restrictions.

Council Member Javandel stated that he did not believe it necessary to soften the requirement at this time.

The following people spoke on the subject: Mr. Clay Larson, Albany resident; Mr. Ed Fields, Albany resident; Ms. Maureen Crowley, Albany resident.

A summary of the comments is as follows: That Measure D has served the City well and should not be amended as there is still a shortage of parking in residential areas and suggested that 90-minute parking signs should be put in some residential areas.

Council Member Good stated that he worked on the campaign to approve Measure D and agrees that it has worked well so far and believes the City still needs Measure D.

Council Member Lieber agreed that Measure D has served the City well and is not inclined to amend it at this time.

Council Member Okawachi agreed stating that Measure D should be left alone at this time.

Mayor Maris spoke in favor of amending Measure D noting that it creates an issue for senior housing needs.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Good to leave Measure D as it is now.

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

NOES: None ABSENT: None

Motion carried and so ordered.

**7. NEW BUSINESS**

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

**8-1.** City Offices will be closed on **Thursday, November 23 & Friday, November 24, 2006**, in observance of Thanksgiving.

**8-2.** Special Council Meeting, Monday, December 11, 2006, 7 p.m. to canvass election results and issue the Oath of Office to newly elected officials.

**8-3.** There will be a regular scheduled Council Meeting on December 18, 2006.

Council Member Javandel stated that he would like a future agenda item regarding a policy for the orderly transition of Commission/Committee members in regards to Measure H, noting that he does not want to see vacancies on any Commission/Committee.

Mayor Maris announced the following meetings that he attended: 1) Prevention Council meeting where a discussion followed on the Teen Cafe and asked that the City fund staff positions for this event. 2) Alameda County Housing Authority in which

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

mental health issues were discussed and it was noted that the Mental Services Act will come up with matching funds for programs dealing with homeless and youth issues

3) Bay Area Air Quality workshop with speaker Al Gore. Noted that he spoke during the workshop on what Albany is doing regarding Green Building. 4) Pacific Steel demonstration noting that more needs to be done to help the neighborhoods with the smell from this company. 5) Disaster Preparedness meeting regarding training and certification of block captains and noted that another class is starting in January. 6) Local Leadership Forum in Berkeley. 7) YMCA panel regarding mock legislative sessions.

Mayor Maris asked for a future agenda item to refer to the Social & Economic Justice Commission regarding developing a policy for funding mechanism to address the homeless and mental health issues in Albany.

Council Member Okawachi announced the following meetings that she attended: 1) Prevention Council and stated that something needs to be done about the homeless problem. 2) Albany Post Office celebration regarding a first edition envelope that is on display.

**9. 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