

NOTE: These minutes are subject to Council approval and are not verbatim; however, tapes are available for public review.

**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION, 1000 SAN PABLO AVENUE**  
**MONDAY, DECEMBER 18, 2006**

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**8:00 p.m.**

Mayor Lieber, 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 Atkinson, Javandel, Okawachi, Wile & Mayor Lieber  
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; Jeff Bond, Planning Manager; Rich Cunningham, Public Works Manager; Melinda Chinn, Recreation & Community Services Director; Randy Leptien, City Engineer.

**3. 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, November 20, 2006.

Staff recommendation: Approve.

**3-2.** Resolution #06-82 - A Resolution of the Albany City Council to Accept the Donation of Three Key Route Boulevard parcels from the Blank Family Trust.

(File #670-40)

Staff recommendation: 1) Approve Resolution #06-82. 2) Authorize the City Attorney to finalize all other transactional documents. 3) Authorize the City Administrator to execute documents necessary to finalize the transfer of the properties to the City.

**3-3.** Relocation Management and Space Planning Services.  
(File #600-30)

Staff recommendation: Authorize the City Administrator to enter into two contracts, as follows, to assist with Relocation Management and Space Planning required for the relocation of Police, Fire and City Hall during the upcoming Seismic retrofit and renovation project (1) Raney Unlimited, in an amount not to exceed \$30,670 for Relocation Management Services; (2) Leslie Brinskele, in an amount not to exceed \$13,500 for Space Planning Services.

- 3-4.**
- a. Mayor Lieber's appointments: Colette Moore, Arts Committee; Sally Martin, Charter Review Committee; Leah Flanagan, Library Board; Richard Trout, Parks & Recreation Commission; Mara Duncan, Social & Economic Justice Commission; Richard Treat, Traffic & Safety Commission; Bill Dann, Waterfront Committee.
  - b. Council Member Javandel's appointments: Susan Adame, Pete Goodman, Arts Committee; Jerri Holan, Charter Review Committee; David Vasnaik, Civil Service Board; Linda Yamamoto, Library Board; Christine Mullarkey, Parks & Recreation Commission; Peggy Thomsen, Social & Economic Justice Commission; Lubov Mazur, Traffic & Safety Commission; Preston Jordan, Waterfront Committee.
  - c. Council Member Wile's appointments: David Madson, Traffic & Safety Commission; Brian Johns, Social & Economic Justice Commission; Brian Parker, Waterfront Committee.
  - d. Council Member Okawachi's appointments: Anne Maris, Peggy McQuaid, Arts Committee; Thelma Rubin, Charter Review Committee; Jack Rosano, Civil Service Board; Peter Goodman, Library Board; Geoff Piller, Parks & Recreation Commission; Allan Maris, Social & Economic Justice Commission; Ray Anderson, Traffic & Safety Commission; Jerri Holan, Waterfront Committee.
  - e. Council Member Atkinson's appointments: Steve Granholm, Waterfront Committee; Marsha Atkinson, Traffic & Safety Commission; Margie Marks, Social & Economic Justice Commission.

Staff recommendation: Information only.

- 3-5.** a. Mayor Lieber's Planning & Zoning Commission nomination: Leo Panian.
- b. Council Member Javandel's Planning & Zoning Commission nomination: David Arkin.
- c. Council Member Wile's Planning & Zoning Commission nomination: Peter Maass.
- d. Council Member Okawachi's Planning & Zoning Commission nomination: Phillip Moss.

Staff recommendation: Ratification by the City Council.

- 3-6.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of September 30, 2006, as required by Section 53646 of the California Government Code.  
(File #300-10)

Staff recommendation: Note and File; Information only.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar for discussion.

**3-5. Appointments**

Mayor Lieber stated that he has appointed Nan Wishner to the Arts Committee.

**3-6. Planning & Zoning Commission Nominations**

Council Member Javandel asked which member remains on the Commission until a new replacement is appointed and Staff replied that Doug Donaldson would remain until replaced or reappointed.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to approve the Consent Calendar as submitted.

**3-6. Planning & Zoning Commission Nominations**

**VOTE ON MOTION:**

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None ABSENT: None

Motion carried and so ordered.

The City Administrator stated that before Council is an emergency item that came up after the Agenda was distributed and posted. The item is regarding a failed culvert on Peralta Avenue and a repair is needed immediately. This would require a 4/5 vote of the Council.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to add this as an emergency item under New Business.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

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.

The following people spoke: Mr. Michael Gardner, not an Albany resident; Ms. Ellen Hershey, Albany resident; Mr. Clay Larson, Albany resident; Ms. Maureen Crowley, Albany resident.

A summary of the comments is as follows: Spoke about Cougar Field and the impact it will have on the neighborhood regarding the Albany Unified School District project. Asked the City to be more proactive on the UC Village, Phase II project, and to put this on a future agenda and invite a representative to speak on the project. Spoke about the Brown Act and adding items to the agenda and believes the action taken tonight is not permissible under the Brown Act. Asked about the legality of the Cross on Albany Hill.

The City Attorney responded to the question about the Brown Act and stated that the action taken tonight is permissible under the Brown Act.

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

**5. PRESENTATION/PUBLIC HEARING**

**6. UNFINISHED BUSINESS**

**6-1. Bayside Commons – Conveyance of Parcel of Land**  
(File #670-40)

The Community Development Director reported that Bayside Commons Homeowners Association has offered the City of Albany a parcel of land located immediately to the north of the entrance driveway and parking lot for Bayside Commons, 535 Pierce Street.

A letter was received from David Larsen, who represents the Association. Mr. Larsen explained how the property was transferred to the Association and expresses concern over liability issues and frustration with the amount of time this process has taken.

Council Member Okawachi asked about the possibility of the creek flooding and asked if there was any data regarding this. Staff responded that there have been no problems to date and the creek is in an area that is not prone to flooding.

Council Member Atkinson asked about access for the emergency vehicles.

Council Member Javandel asked why Albany was contacted regarding this land and not the City of Richmond, as the creek is in Contra Costa County. Mr. Larsen replied that the Association is not requesting anything but offering the conveyance of land.

The following people spoke on this subject: Mr. Mark Evangelides, Albany resident; Mr. Ed Fields, Albany resident; Mr. Dean Jackson, General Manager Bayside Commons.

A summary of the comments is as follows: Spoke about security issues and the fact that this has been in the works with the City for five years. A question was raised if this is a win-win situation why doesn't the Association keep the property. Noted the trail access has no benefit to the Association and if it is a liability it can be shut down.

Council Member Javandel asked if the City took this property would it have to pay taxes to the City of Richmond. The Community Development Director responded that she believes this is non-taxable if it belongs to a governmental agency.

Council Member Javandel stated that he would like to see the obligation of the Shopping Mall regarding the trail and would like to know the property boundary. Council Member Javandel noted there are a lot of unknowns at this time and feels uncomfortable making any decisions until all the questions are answered.

Mayor Lieber stated that he is concerned about the same things and would like to know about the easements that the City has and where the City stands with the easement. Pursue the Berkeley sewer and likes the idea of a conservation easement and hope that a solution is found that works for everyone.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi that staff proceed with discussions to further pursue this and that the boundary and easement issue be cleaned up and that the City move towards a resolution that will please all parties.

**ON THE QUESTION:**

Council asked if there was a time frame on this item and staff responded approximately two months.

**VOTE ON THE MOTION:**

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

**7. NEW BUSINESS**

**7-1. Memorial Park Field Turf**

(File #920-60)

Mayor Lieber requested a review of the possibility of an alternative approach to the removal of Memorial Park field turf in the upcoming renovation project, through till, solarization and weed abatement.

Mayor Lieber stated that the City is going out to bid soon and believes this is the best approach for the environment and City funds.

The following people spoke on this issue: Ms. Nan Wishner, Albany resident; Mr. Geoff Piller, Parks & Recreation Commission; Mr. Stephen Ash, IPM Consultant; Ms. Maureen Crowley, Albany resident.

A summary of the comments is as follows: Believe this was an option for the 2<sup>nd</sup> phase. Noted a lot of public input and meetings were held regarding this issue and solarization was given adequate discussion; however, Albany does not have the heat necessary for solarization to work. Noted that the temperature should be around 72 degrees for 30 days during that time a plastic cover would be put down and no one could be on the field. A security fence would also be needed and the sod would have to be taken off and hauled away. Does not believe that solarization makes sense and the Council should not get into the habit of revisiting items that have already been through the public and Council process.

Council Member Wile expressed concern about the increase in green house gas emissions and asked about the comparison of methods for hauling away the sod.

Council Member Okawachi stated that she asked about solarization previously and was told it would not work in Albany and believes that the City should go back to its original plan.

Council Member Javandel stated that he really hoped that solarization would work and noted the great job the Parks & Recreation did on this subject.

**MOTION:**

Moved by Mayor Lieber to include till, solarization and weed abatement, as an option in the contract.

Motion Died for Lack of a Second.

**7-2. Energy Conservation Program**

(File #405-45)

Council Member Wile stated that the Clean and Green Task Force goals would be to attract more green businesses to Albany; 2) find creative ways to attract firms that specialize in clean energy research and development and possibly green light manufacturing to Albany's commercial redevelopment zone Cleveland Avenue. The Task Force would meet January through June, 2007, recording its own minutes and would present a plan of action no later than July, 2007 to City staff and City Council.

The Task Force would be made up of the following members: James Carter, David Arkin, Pamela Evans, Anne Foreman, Farid Javandel, Miya Kitahara, Dan Lieberman, Sherman Lim, Maria Saunders, Joanne Wile, Supervisor Keith Carson, or representative and maybe a representative from Barbara Lee's office.

Council Member Atkinson stated this is a great idea, which she supports and hoped that the City would get some funding from the State.

Council Member Javandel stated he is looking forward to participating on the process.

Council Member Okawachi noted that the City is working very hard on these issues and suggested that maybe the Environmental staff person from the City should be included in the membership.

Mayor Lieber agreed stating this is a very worthwhile project.

Council Member Wile stated that if the Council knows of any other person interested in being on this Task Force to let her know.

The following people spoke on this issue: Ms. Nan Wishner, Albany resident; Mr. Sol Strand, Albany resident; Ms. Caryl O'Keefe, Albany resident.

A summary of the comments is as follows: Noted that there are people who do energy audits at the Lawrence Berkeley Lab. A comment was made about businesses that do not contribute to the tax base. Noted that there was no information available regarding the budget of this Task Force.

It was the consensus of the Council to put this on the Consent Calendar at the next meeting.

### **7-3. Mayoral Appointments**

(File #110-30)

Mayor Lieber made appointments to Regional, County and City Boards, Commissions and Committees. This list is attached to the official minutes.

The following people spoke on this issue: Ms. Peggy McQuaid, Albany resident; Ms. Thelma Rubin, Albany resident; Mr. Bill Dan, Albany resident.

A summary of the comments is as follows: A question was raised whether Council Member Atkinson has a conflict of interest being on the City/School District 2x2 meeting, as she is an employee of the School District. Asked that when an

### **7-3. Mayoral Appointments**

appointment is made to a county group that consistency be taken into account. Asked how Albany residents get on the East Bay Regional Park District Advisory Committee.

The City Attorney responded to the conflict of interest question noting that he does not believe Council Member Atkinson would have a legal conflict in this instance.

### **7-4. Failed Culvert – Peralta Avenue**

The Public Works Manager stated that the City had a failed culvert between Berkeley and Albany on Peralta Avenue and staff is asking for authorization to fund the repair immediately.

The sinkhole was discovered on Saturday and due to the weather it needs to be repaired as soon as possible. The estimated cost is approximately \$20,000 - \$25,000.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to authorize staff to proceed with the repair to the culvert on Peralta Avenue at the estimated cost.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

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

**8-1.** The regular City Council meetings for the month of January will be **Monday, January 8 and Monday, January 22, 2007, at 8:00 p.m.**

The City Administrator reported that the City of Albany Recreation Department received the 2007 International Award for its Recreation Brochure.

**9. ADJOURNMENT**

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

**9. ADJOURNMENT**

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

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ROBERT S. LIEBER  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK