

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, APRIL 18, 2005**

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**7:30 p.m.**

Reinvestment Agency (see separate Agenda).

**8:00 p.m.**

Mayor Good 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 Javandel, Lieber, Maris & Mayor Good  
Absent: Council Member Okawachi (Excused)

**STAFF PRESENT**

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Dave Dowsell, Planning Manager; Richard Cunningham, Public Works Manager.

**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, April 4, 2005.

Staff recommendation: Approve.

**3. CONSENTCALENDAR**

- 3-2.** a. Ratification of City of Albany net payroll in the amount of \$148,266.71; taxes, benefits & withholdings in the amount of \$103,453.72. Total payroll in the amount of \$251,720.43. Payroll period: 04/01/05.
- b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$40,784.64; taxes, benefits & withholdings in the amount of \$27,511.27. Total payroll in the amount of \$68,295.91; Payroll period: 04/01/05.
- c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$39,980.25; taxes, benefits & withholdings in the amount of \$41,878.91. Total payroll in the amount of \$81,859.16. Payroll period: 04/15/05.

Staff recommendation: Ratify.

- 3-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$358,961.02. Period: 04/04/05.
- b. Ratification of bills, claims & demands against the City of Albany in the amount of \$163,903.46. Period: 04/08/05.
- c. Ratification of bills, claims & demands against the Albany Municipal Services JPA in the amount of \$520.00. Period: 04/08/05.

Staff recommendation: Ratify.

- 3-4.** Resolution #05-18 – A Resolution of the Albany City Council Approving the Application for Grant Funds for the Urban Forestry Grant Program Provided Through Proposition 12 for the City of Albany Urban Forestry Program.  
(File #345-30)

Staff recommendation: Approve Resolution #05-18.

- 3-5.** Resolution #05-19 – A Resolution of the Albany City Council Authorizing Negotiations to Acquire the 4.5 Acre Property on Pierce Street from Caltrans for Purposes of a Park at the Appraised Value, as Determined by Smith & Associates, in the Appraisal Dated June 30, 2004, Not to Exceed \$580,000.  
(File #670-30)

Staff recommendation: Approve Resolution #05-19.

**3. CONSENTCALENDAR**

- 3-6.** Resolution #05-20 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. 04-14, Fielding Softball Field Renovation, Lower Codornices Creek.  
(File 3600-30)

Staff recommendation: Approve Resolution #05-20.

- 3-7.** Resolution #05-21 – A Resolution of the Albany City Council Amending Resolution No. 05-15, Which Established the Social & Economic Justice Commission. (The amendment changes the language regarding the Youth Member giving the Board of Education the option of a High School Junior or Senior).  
(File #100-30)

Staff recommendation: Approve Resolution #05-21.

- 3-8.** Consideration of Claim #AL494; Agazadeh v. City.  
(File #170-60)

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

- 3-9.** Consideration of Claim #AL495; Saaid v. City.  
(File #170-60)

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

Mayor Good asked if anyone would like to remove any item from the Consent Calendar for discussion. The following items were removed: Item 3-1, 3-8, 3-7 & 3-9.

**3-1. City Council Minutes, April 4, 2005.**

Council Member Lieber noted a correction on page 6 – Unfinished Business – Unfunded Capital and Operations Needs: Motion: It should be reflected that Council Member Lieber voted no on this Motion.

The City Clerk stated that she would like to correct the following: Page 4 – Consent Calendar – 3-6: Changed language as follows: Vice-Mayor Maris inquired about the appropriateness of the use of the space for the Police Department during the City Hall retrofit. Page 8: Good of the City/Public Forum - Changed Mayor Good to Vice-Mayor Maris.

**3. CONSENTCALENDAR**

**3-7. Resolution #05-21 – Amending Resolution #05-21**

Council Member Lieber stated that the School Board would also like changed the one appointee’s term to be for two (2) years versus four (4) years, as they believe this will work better as elected officials come on every two (2) years.

It was the consensus of the Council to make the change to the School Board’s appointee to a two (2) year term.

Council Member Maris stated that he would like on a future agenda the possibility of changing the current terms of City Commissions/Committees to be for two (2) years so that Council can review and remove without cause.

Mayor Good stated that he would like to go on record as not supporting the establishment of the Social & Economic Justice Commission.

Council Member Maris noted that the City of Berkeley has 15 such Commissions and hopes that Albany will not follow.

**3-8 & 3-9. Claims**

Council Member Javandel stated that after looking at the two (2) claims before Council tonight he is reminded how important it is that the City repairs the sidewalks and streets.

**MOTION:**

Moved by Council Member Maris, seconded by Council Member Javandel to approve the Consent Calendar with the noted changes.

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

NOES: None

ABSENT: Council Member Okawachi

Motion carried and so ordered.

**4. PRESENTATION/PUBLIC HEARING**

**5. UNFINISHED BUSINESS**

**5-1. Unfunded Capital, Operations and Maintenance Needs Community Survey**  
(File #330-40)

The Assistant City Administrator reported that on April 4, 2005, Council approved proceeding with a community survey, but requested additional information about the survey contents.

Based on the unfunded needs report and feedback from Council regarding priority, specific areas suggested for inclusion to be included in the survey questionnaire, include the following: Storm Drain Improvements: Eight high priority storm drain needs, including the Curtis-Neilson project (\$2 million). Street Paving: Funding to ensure continued street paving and rehabilitation (annual up to \$300,000). New Recreational Facilities, specifically the purchase and development of the Veteran’s Building and

### **5-1. Unfunded Capital, Operations and Maintenance Needs Community Survey**

Pierce Street Park (\$2.1 million). Other Recreational Improvements, specifically the Waterfront area, the Ohlone Greenway, the Key Route Median (\$1 million). Improved maintenance for existing landscaping and facilities (annual up to \$210,000). Maintenance for the new recreational items listed above, namely Pierce Street Park and the Veterans Memorial Building (annual up to \$55,000). Additional programs for Youth, particularly mental health and recreation, including the Veterans Building (unknown, but up to \$150,000). Additional funds for the Albany Library (the City's special tax subsidy for the library is currently \$420,000 annually). Other areas researched by the survey include: What combination of issues noted above provides the most broad based level of support? What is the threshold amount of funding that residents are willing to pay?

The Assistant City Administrator noted at this time it is unclear whether the State will have an election in November and if they do not the next consolidated date would be June, 2006. Staff is recommending that the City proceed with the survey at this time.

The source of funds for the survey is the discretionary fund line in the General Fund, non-departmental budget, which has an unallocated balance of \$22,500. The cost of the survey ranges from \$15,650 to \$16,700 for a 12-minute to 15-minute survey, with 300 respondents.

Mayor Good stated that \$16,000 is a lot of money and wondered how many potholes could be fixed with that amount instead of paying for a survey.

Council Member Maris questioned the \$1 million cost for the Ohlone Greenway, medians and the Waterfront. The Assistant City Administrator responded that the Ohlone Greenway is the project that is costing the big amount of funds.

Council Member Maris stated that the community should be made aware of the lack of funding and that the State is still taking away funds. Council Member Maris stated that he would like a better definition of costs and the Assistant City Administrator referred him to page 2 of 10 of the survey to review the table of proposed tax increase levels.

#### **MOTION:**

Moved by Council Member Maris, seconded by Council Member Javandel to approve the topics to be covered in a public opinion survey.

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

Council Member Lieber stated that he would be voting no on this motion, as he is opposed to spending money for the survey.

AYES: Council Members Javandel, Maris & Mayor Good

NOES: Council Member Lieber      ABSENT: Council Member Okawachi

Motion carried and so ordered.

**6. NEW BUSINESS****6-1. Proposed Interim Urgency Ordinance – Medical Marijuana Dispensaries**

(File #450-20)

The Planning Manager reported that the City has received an inquiry about opening a medical marijuana dispensary in the City. The Public Works Manager noted that currently the Zoning Ordinance does not specifically list medical marijuana dispensaries, as a permitted use in any zoning district.

Staff has researched how other cities have handled this, as follows: Oakland, San Francisco, Rocklin, Campbell, Sunnyvale and Mountain View have adopted ordinances to regulate this type of use. Other cities, Livermore and Belmont have taken the position that his use is not allowed because Federal law prohibits the possession and sale of marijuana.

The Planning Manager stated that based on discussions with the City Attorney it is recommended that the Council adopt an interim urgency ordinance. This moratorium is important for a number of reasons. For example, it would allow staff more time to research how other cities have addressed this matter and prepare draft language. It would also give the Planning & Zoning Commission, the City Council and the public an opportunity to determine the appropriateness of such facilities within the City of Albany, including but not limited to evaluating the legal authority to establish such facilities, the desirability of such facilities and the extent of regulatory controls (e.g. location and operational controls) should such facilities be thought appropriate.

The interim urgency ordinance before Council tonight establishes a forty-five (45) day moratorium on City approvals of medial marijuana dispensaries. The Ordinance may be extended, with public notice, a public hearing and a four-fifths vote of the Council for an additional 10 months and fifteen days.

It was noted that to pass the interim urgency Ordinance it would require a four-fifths vote of the Council.

Mayor Good stated that he would vote against this Ordinance noting that it is illegal to sale marijuana under Federal regulations. The City Attorney responded that is true, however, State law allows for this type of business.

Council Member Lieber spoke in favor of adopting the Ordinance.

Council Maris asked why this was an urgency Ordinance and asked why the Planning & Zoning Commission could not start the process to correct the Zoning Ordinance. The City Attorney responded that if this Ordinance is not enacted it is unclear to staff how to handle any applications that come before the City. The moratorium will help solve the ambiguities while the City looks at what the City can legally do. Otherwise, the decision could end up with the courts making the decision for the City.

Council Member Javandel stated that he would much rather the City determines the outcome of this than letting the courts decide.

**MOTION:**

Moved by Mayor Good to approve a Resolution that would prohibit marijuana dispensaries in the City of Albany.

Motion Died for Lack of a Second.



## **6-2. Veteran's Memorial Building**

Council Member Maris stated that he would like to hear from the Veterans about what they think of the City purchasing the building. Council Member Lieber responded that he has spoken to the Veterans and they do have some concerns about meetings and events.

The City Administrator stated that staff is concerned about the operating costs, e.g. PG&E, water and the on-going upkeep of the building. The City Administrator stated that it would cost approximately \$1.2 million to make the building available to use for Council meetings. The Public Works Manager stated that is a conservative cost and noted that the rest of the building has issues that will increase that amount.

Council Member Lieber stated that he is very interested in acquiring the Veteran's Building and moving the Council Chamber to that location.

Ms. Maureen Crowley, Kains Avenue, stated that she would want the EOC to stay with the Civic Center, as recommended by the Police & Fire Chiefs.

Mr. Ray Anderson agreed that he would like the City to purchase the building but not to have the Council Chamber at that location, as he believes having the public in there would destroy the building. Mr. Anderson commented that he would like to see the building used for weddings, dances, etc.

Mr. Jeff Piller, Talbot Avenue, expressed concern that if the Veteran's Building is purchased that the allocation of Measure F funds would be reallocated. Mr. Piller stated that it will be very expensive to fix the foundation and roof of the building and noted that funding is needed to maintain this building.

Ms. Peggy Thomsen, Pierce Street, agreed with Mr. Piller and cautioned the Council to go-slow on this matter and if the building is acquired that it should be used for cultural and recreational purposes. Ms. Thomsen stated that the City must go through a public process regarding the acquisition and use of the building.

Mr. Alan Riffer, Jackson Street, stated that the purchase and use of this building goes way beyond the permitted use of Measure F funds and did not support having the Council Chamber at that location.

Ms. Thelma Rubin, Hillside Avenue, stated that any use in the Veteran's Building should be recreational and believed it is not a good use for City business.

The Public Works Manager stated that the entire building needs to be looked at and would suggest that staff return to Council but there needs to be a combined architectural and engineering report, which will probably be approximately \$50,000 for a full analysis.

Council Member Maris asked how staff arrived at the \$1.2 million cost and the Public Works Manager responded that it would cost \$900,000 just to make the building habitable and another \$¼ million to make it usable.

Council Member Javandel stated that just to make the building usable requires a lot of money and expressed concern about the operating and maintenance costs and noted there are a lot of unknowns.

Council Member Maris stated that he doesn't see any significant savings by moving the Council Chamber and do not believe the City has the money available to do the maintenance or upkeep of the building.

**6-2. Veteran's Memorial Building**

The City Administrator noted that the Park & Recreation Commission would have on future agendas the matter of the acquisition of the Veteran's Memorial Building.

Council Member Lieber thanked Council and staff for discussing this issue and stated he believes this was his last chance to bring this up to Council. Council Member Lieber stated that he still believes that the City will eventually acquire the building and that maybe the timing was not right at this time. Council Member Lieber stated that he would still like staff to pursue additional knowledge on the building and that it be done before the City negotiates to acquire the building.

**6-3. Golden Gate Fields**

(File #410-20)

The City Administrator reported that the 2005-06 goals adopted by the City Council calls for a Council agenda item to discuss the future land use of the Golden Gate Fields property. Staff is recommending that a special Council meeting be scheduled for this purpose.

Staff's understanding of the purpose of the agenda item is to provide the Council with the opportunity to provide direction, questions and/or goals regarding the future of the property.

Council Member Lieber stated that at this time he does not believe the Council should have a special meeting and noted that the Waterfront Committee is currently looking at some of the issues.

Council Member Lieber commented that such a meeting would be premature; as there are no pending applications before the Council and the City does not own the land and believe there is nothing to be gained by having a special meeting.

Mayor Good agreed and noted that horse racing is still at the track; the City does not own the property and no applications are before the City.

Council Maris disagreed stating the Council should have a meeting to develop financial strategy so the City would be in a good position if the property becomes available.

Council Member Javandel agreed that financial planning is a good thing and would also give the City a chance to strategize about zoning at that location.

Mr. Bill Dann, Stannage Avenue, member of the Waterfront Committee and Citizens for Albany Shoreline, stated that East Bay Regional Parks District did purchase additional land at the Waterfront. Mr. Dann stated that he would be willing to put this issue on a future Waterfront Committee agenda.

Ms. Maureen Crowley, Kains Avenue, agreed that having a special meeting at this time would be a waste of time and noted that City staff always comes up with a pro-development view and there should be an environmental perspective.

The City Administrator stated that staff could deal with the East Bay Regional Park District and other agencies to explore options and come back to Council at a future date.

**6-3. Golden Gate Fields****MOTION:**

Moved by Council Member Maris, seconded by Council Member Javandel to postpone action until a later date and directed staff to get additional information from East Bay Regional Park District and any other agency and leave the date for reporting back open ended.

**ON THE QUESTION:**

Council Member Lieber noted that should the Track leave the City would be happy to work with a good developer, as there is a need to have some money coming into the City.

**VOTE ON THE MOTION:**

AYES: Council Members Javandel, Lieber & Maris

NOES: Mayor Good

ABSENT: Council Member Okawachi

Motion carried and so ordered.

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

Council Member Maris announced the following: 1) Attended a Congestion Management Authority meeting where it was announced that \$105 million would be coming to the Congestion Management Authority and that local jurisdictions would receive about \$3 million and that Albany may receive \$30,000 for local streets. 2) The San Pablo Avenue Coalition met and discussed the AC Transit Rapid Bus and it was noted that rider ship is up by 70% and getting people to their destination has improved by 17%. 3) The Housing Authority Board met and discussed Section 8 Housing and it was noted that Albany receives about 40 vouchers. 4) Went to Golden Gate Fields last Saturday where Waste Management had an e-waste pickup and noted that there were 10 trucks with at least a dozen boxes on each that left the area with the e-waste. The City Administrator noted that 300 residents participated in this event.

Mayor Good announced that he attended the Mayors' Conference and discussed the renovation of the Bay Bridge and was asked to endorse the self-anchored suspension bridge; however, the Mayors' Conference took no action.

Council Member Javandel announced that the Chamber of Commerce will be announcing its Green Business Plan on Friday, April 22, 2005, and that a press conference will be held.

**8. 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 Good asked if anyone would like to speak and there being no one wishing to speak the Good of the City/Public Forum was closed.

**9. ADJOURNMENT**

10:40 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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ROBERT GOOD  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK