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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
MONDAY, MAY 2, 2000

EXECUTIVE SESSION

7:15 p.m.

Call to order

OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS

City Council convenes in the Council Chamber and then adjourns to Closed Session to discuss the following:

Conference with Labor Negotiator pursuant to Government Code Section 54957.8 to discuss:

Agency Negotiator:	City Administrator and Glen Berkheimer, IEDA
Employee Organization:	Albany Peace Officers' Association and Local 790

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, Okawachi & Mayor Good
Absent: None

STAFF PRESENT

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Richard Cunningham, Public Works Manager; Charles Adams, Finance & Administrative Services Director; Kim Denton, City Treasurer; Marc McGinn, Fire Chief; Jeff Keary, Lieutenant Fire Department.

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

Mayor Good announced that Council met in Executive Session pursuant to Government Code Section 54957.8 and no action was taken.

4. 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.)

4-1. City Council minutes, April 18, 2005.

Staff recommendation: Approve.

4-2. a. Ratification of City of Albany net payroll in the amount of \$144,208.97; taxes, benefits & withholdings in the amount of \$153,221.12. Total payroll in the amount of \$297,430.09. Payroll period. 04/15/05.

Staff recommendation: Ratify.

4-3. a. Ratification of bills, claims & demands against the City of Albany in the amount of \$478,057.68. Period: 04/26/05.
(File #300-40)

Staff recommendation: Ratify.

4-4. Ratification of pension payments in the amount of \$103,461.17 for the month of April, 2005.

4-5. Third Quarter Fiscal Year 2004-05 Financial Statements and Projection.
(File #330-20)

Staff recommendation: Information only.

4-6. A rendering of the Quarterly Cash and Investments Treasury Report of the City of Albany, as of March 31, 2005, as required by Section 53646 of the California Government Code.
(File #300-10)

Staff recommendation: Note and File; Information only.

4. CONSENT CALENDAR

- 4-7.** Resolution #05-8 – A Resolution of the Albany City Council, California, Authorizing the City Administrator to Negotiate and Enter into a Contract with Advanced Technical Consulting (ATC) to Design and Install Opticom and Radio Controlled Systems for the Purpose of Traffic Control in Front of the Fire Station at a Cost Not to Exceed \$50,000.
(File #600-30)

Staff recommendation: Approve Resolution #05-8.

- 4-8.** Resolution #05-17 – A Resolution of the Albany City Council Approving Grant of Sewer Easement and Agreement by and Between the City of Albany and the University of California Over a Portion of Ocean View Park.
(File #670-40)

Staff recommendation: Approve Resolution #05-17.

- 4-9.** Resolution #05-22 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute a Contract with Kimley-Horn Associates to Prepare a Traffic Circulation Study for Environmental Review Purposes, to Analyze the Potential Effects of Closing Four Albany Streets Adjacent to the El Cerrito Plaza for an Amount Not to Exceed \$26,000.
(File #600-30)

Staff recommendation: Approve Resolution #05-22.

- 4-10.** Resolution #05-24 – A Resolution of the Albany City Council Approving the Application for the Land and Water Conservation Fund Approving the Albany Waterfront Trail Park Enhancement Project.
(File #490-90)

Staff recommendation: Approve Resolution #05-24.

- 4-11.** Update on Waterfront Encampments.
(File #490-20)

Staff recommendation: Information only.

Mayor Good asked if anyone would like to remove an item from the Consent Calendar and the following items were removed for discussion: Item 4-1, 4-7, 4-10 & 4-11.

4. CONSENT CALENDAR**4-1. City Council Minutes, April 18, 2005**

The City Clerk stated that there is a correction to page 10, Announcements – 1) Changed the amount to \$105 million and changed Transportation Region to Congestion Management Authority.

4-7. Resolution #05-8 – Contract to Install Opticom & Radio Controlled Systems.

Council Member Lieber asked if this had been reviewed by the Traffic & Safety Commission and whether any other alternatives had been discussed. Lieutenant Keary responded that the Traffic & Safety Commission did review the staff report and had no problems or questions regarding the purchase.

Lieutenant Keary explained the situation and noted that due to the speed and amount of traffic the Fire Truck has to go around the block wasting valuable time.

4-9. Resolution #05-22 – Contract to Prepare Traffic Circulation Study.

Council Member Maris expressed concern about going ahead with this at this stage noting that the housing element may be larger and the parking structure is eliminated. The Community Development Director responded that the neighborhood residents expressed concern about the traffic regardless whether the mixed-use project was a parking structure or something else. According to the neighborhood residents the traffic has been really awful since Trader Joes and Copelands located in the Plaza.

Council Member Maris asked if the Study was looking at the traffic on Key Route or just San Pablo Avenue? The Community Development Director noted that data is being collected and one of the intersections is Key Route & Brighton.

Council Member Lieber stated that he supports this project 100% and it does not just make the traffic calmer it looks towards the future for daylighting the creek.

Council Member Maris asked why Task 2 only concentrates on traffic patterns during the week and suggested that one day be a Saturday. The Community Development Director responded that this is a typical approach by traffic engineers.

Council Member Javandel agreed with staff that this is normal practice to pick weekdays to do the study and noted that there is a study on file and staff can check to see which has the higher traffic volumes.

4-10. Resolution #05-24 – Albany Waterfront Trail Park Enhancement Project

Council Member Lieber stated that the staff report indicates that this grant would include an outdoor education facility and asked specifically what that referred to? The Community Development Director responded it is actually signage and not an actual facility.

4. CONSENT CALENDAR

4-11. Update on Waterfront Encampments

Council Member Lieber urged staff to approach this situation compassionately and the City Administrator stated that the City is working with Operation Dignity to help with the issue.

Mayor Good asked what the City was going to do to keep the encampments from the Waterfront noting that the City dealt with the same problem a few years ago. The City Administrator responded that the Public Works Department would be making clearings to make the area less attractive for encampments. Mayor Good stated that staff should go out to this area on a weekly basis and the City Administrator replied that the City does have volunteers to help with this situation.

Council Member Maris stated that he would like on a future agenda the problem of dogs being off their leash at the Waterfront.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Okawachi to approve the Consent Calendar, as submitted and with the correction to the City Council minutes of April 18, 2005.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

5. PRESENTATION/PUBLIC HEARING

5-1. Presentation by Target on its Community Contribution Programs

(File #150-95)

The City Administrator reported that the City Council at its April 4, 2005, meeting had inquired about learning more on Target's history in making donations to the Albany community and the policy with respect to joining the local Chamber of Commerce.

The City Administrator introduced Mr. Brian Jess, Store Manager, and Danielle Slabaugh, Guest Services Community Relations.

Ms. Slabaugh stated that Target likes to have a partnership in the community with a strong partnership with the schools and that Target gives back 5% to the community. Ms. Slabaugh noted that the three areas that Target contributes money to are: Reading Grants, Art Grants and Family Violence and they also give out gift cards during the year with a total amount of \$1,500 for that purpose.

Council Member Maris thanked Target for their generous contribution for the Music in the Park series and noted that funding is needed for after school programs, as well as additional ball fields. Mr. Brian Jess responded that those decisions are not made at the local level but did inform the Council that he will be joining the Albany Chamber of Commerce.

Council Member Lieber encouraged Target to become a "green business" and to provide a livable wage for its employees. Mr. Jess responded that Target performs wage

5-1. Presentation by Target on its Community Contribution Programs

surveys and the starting wage is very competitive and that Target likes to be in the median wage area.

Council Member Okawachi asked if Target would work with the Albany Library regarding their reading program and Ms. Slabaugh responded that she could work with the Library.

Council Member Maris asked if the Albany store was meeting its expectations and was told by Mr. Jess that it was.

6. UNFINISHED BUSINESS

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

(File #450-20)

The Community Development Director reported that this item was on April 18, 2005, Council Agenda but did not pass as it needed a 4/5 and one Council Member was absent. Therefore, it was put on tonight's agenda for discussion and approval.

Staff is recommending that the Council adopt an interim urgency moratorium ordinance, which will allow staff more time to research how other cities have addressed this issue 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.

Council Member Lieber introduced Ordinance #05-03 – An Ordinance of the Albany City Council to Establish a Forty-Five Day Moratorium Restricting Applications for Medical Marijuana Dispensaries. Requires a 4/5 vote of the City Council.

MOTION:

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Lieber and seconded by Council Member Javandel to approve Ordinance #05-03.

ON THE QUESTION:

Mayor Good reiterated his position that he does not approve of the Ordinance, as according to the Federal Government marijuana is an illegal substance. Mayor Good stated that the City should have an advisory vote from the residents and does not believe this is an urgency item. Mayor Good spoke about the lawsuit regarding this subject against the City of Fresno.

The City Attorney commented that the moratorium is a tool that gives staff some time to look at the City's Zoning Ordinance and evaluate the Zoning regulations and staff will then come back to Council with a recommendation.

Council Member Lieber stated that the voters did vote on Proposition 215, which legalizes the Medical Marijuana and was passed by 80% of Albany residents. Council Member Lieber reiterated that at this time the Council is not affirming or denying the

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

application but is protecting the City so that staff can look at all their options. Council Member Lieber stated that as a nurse he has witnessed the comfort that marijuana gives to dying people and will be supporting it.

Council Member Maris stated that the City needs this protection to develop a rational way to deal with this and look at possible locations in the City.

Council Member Javandel noted that he is speaking neither for nor against the issue, as that is not what is before the Council right now. The only issue before the Council is the matter of the moratorium.

Mayor Good stated he will vote against the Medical Marijuana Dispensaries and does not believe this Ordinance is an urgency item but after listening to the City Attorney and other speakers he has changed his mind about voting for the Ordinance. Mayor Good noted that the Ordinance is a legal procedure that the City must go through and, therefore, will vote for it.

VOTE ON THE MOTION:

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7. NEW BUSINESS

7-1. Request from the Albany Library for Funding in Fiscal Year 2005-06
(File #330-20)

The City Administrator reported that the City received a request from the Albany Library Board requesting City General Fund subsidy for the Albany Library in the amount of \$15,487.

The Alameda County Library system operates the Albany Library in a building provided by the City of Albany. In 1994, the voters of Albany approved the Library Services Act of 1994 to provide funding for 21.5 hours of the 37 hours per week that the Albany Library is open.

The expenses to provide the library services have reached the point where they exceed the revenues received from the library tax. A significant reason for this funding gap is that the Library tax increases each year by the amount of the change in the Consumer Price Index (CPI), which has been less than the increase in operating costs – primarily in labor costs. In 2005-06 the funding gap is projected to be \$15,487.

The City Administrator stated that the City does not currently provide a General Fund subsidy to the Albany Library. Financial support for the Library is provided by a portion of property tax revenues designated for County Library services and other County Library funds, in addition to the Albany Library Services Tax.

Due to the other pressing needs for which the City of Albany has direct fiduciary responsibility, and the City's limited resources staff cannot recommend the City subsidize the Library with General Funds on either a one-time or ongoing basis. However, the City Council is considering placing a tax measure before the voters to support City capital

7-1. Request from the Albany Library for Funding in Fiscal Year 2005-06

projects, operations and maintenance. Staff recommends that financial support for Library services be considered for inclusion in such a tax measure.

The City Administrator noted that if Council approved a General Fund subsidy of \$15,487, a reduction in spending for a commensurate amount would be required in the 2005-06 budget.

Ronnie Davis, the Albany Branch Manager, spoke to the Council noting that the Library Board made this request on behalf of the Albany Library and noted that the CPI increased by 1.22% and the labor costs increased approximately 3%. Ms. Davis stated that the library staff has already taken a year without an increase and this year the \$15,000 gap will result in staff cuts.

Ms. Davis stated that she agreed a long-term solution to this problem is needed and would support a tax measure.

Ms. Linda Yamamoto, Chair Albany Library Board, thanked the Council for considering this request and would like the City's help for a long-term solution.

Ms. Joan Larson, Albany Library Board, announced that May 14-15 is the Book Sale and stated that all proceeds go to the Albany Library and urged everyone to support the library and volunteer to help at the book sale.

Mr. Alan Riffer, Treasurer, Friends of the Albany Library, supported the idea of a tax measure to help the Library and agreed that the City needs more tax revenue.

The City Administrator stated that on the tax survey going out to the people of Albany is a question about supporting the Library and the results of that survey will come back to the Council in June.

Council Member Okawachi stated that she received an e-mail from Peter Goodman, Library Board, stating his support for a long-term tax measure.

Council Member Maris mentioned that under the Council budget there is \$43,000 listed and would be willing to share some of this money with the Library.

MOTION:

Moved by Council Member Javandel, seconded by Council Member Maris to decline the request for a City General Fund subsidy for the Albany Library branch of the Alameda County Library and direct staff to work with the Albany Library to include financial support for library services in a City tax measure in 2005-06; and to also look at other ways to fund the Library.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-2. Appointing Procedures for Commission/Committee Members (File #110-60)

Council Member Maris stated that currently the City Council appoints someone to a Commission/Committee for term of four (4) years and can only remove that person with cause.

7-2. Appointing Procedures for Commission/Committee Members

Council Member Maris would the Council and the Charter Review Committee to consider changing the term to two years and at the conclusion of two years the member could be removed without cause or reappointed.

Council Member Maris believes that the Council should have the option to remove an individual after two years without cause, as Commissions and Committees change and there might be a more appropriate appointee.

Council Member Maris also stated that he would like the Charter Review Committee to look at establishing a policy to prohibit an individual to be appointed to more than on Commission/Committee at a time; such policy could be established by Council resolution or ordinance.

Mayor Good stated that currently the City works under the Charter and Measure Q, which was approved by the voters to keep Council Members from tampering with Commissions/Committees and that a member can only be removed with cause.

Mayor Good commented that he worked to support Measure Q and that any change would have to go back to the voters to amend Measure Q.

Council Member Lieber commented that he voted for Measure Q approved by the voters; however, does support the Commission/Committee members serving at the pleasure of the appointing Council Member, but also thinks this could work. Council Member Lieber stated that it is important to have members on various Commissions and Committees that reflect the appointing Council Member's views.

Mayor Good stated that he wants people on the City's Commissions and Committees who think independently and not a clone of him.

Council Member Javandel stated that he also likes the idea of a two-year term and noted that the term should coincide with the election cycle rather than the appointing Council Member's term.

Council Member Okawachi stated that she agrees that the Council should have the flexibility to change their appointees if necessary.

The City Attorney stated that the first question of a Commission/Committee term should be referred to the Charter Review Committee for a recommendation; however, the second question regarding a policy can be done by Council resolution or ordinance and does not have to go to the Charter Review Committee.

MOTION:

Moved by Council Member Maris, seconded by Council Member Lieber to refer to the Charter Review Commission the two questions without going into detail and that individual Council Members can communicate with the Charter Review Committee members on more specific ideas.

AYES: Council Members Javandel, Lieber, Maris & Okawachi

NOES: Mayor Good

ABSENT: None

Motion carried and so ordered.

Ms. Thelma Rubin, Charter Review Committee member, asked if there was time line on this matter and was told that something should go on the next Municipal election in 2006.

8. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

Council Member Lieber stated that on Thursday, May 5, 2005, at 10:30 a.m. the Mayor and Vice-Mayor are meeting with the Mayor and Vice-Mayor of Berkeley to discuss mutual issues of interest. Council Member Lieber stated that he would like to be a part of that meeting, however, he can't under the rules of the Brown Act. Therefore, he would like the Mayor to bring up the following issues: Berkeley Measure N, which deals with the possibility of a hotel on the Berkeley side of Golden Gate Fields and other issues regarding what is happening with the University of California, Berkeley.

At this time, Council Members gave individual reports on the various regional agencies that they sit on.

Council Member Maris: 1) Attended the League of California Cities workshop on tax measures. 2) Attended a Chamber of Commerce meeting and would like to see the Zoning Ordinance include an incentive for green buildings. 3) Attended a Congestion Management Authority meeting noting there is \$75,000 for a bike trail and modifications to I-580. 4) Attended Water Transit Board meeting and noted that South San Francisco is going ahead with a Ferry Building including an EIR and hiring an architect. 5) Cable TV Subcommittee approved cable systems for televising Council meetings and have stayed under budget. 5) Announced that the Albany Community Foundation is sponsoring a Spring Arts & Music Festival on May 22, 2005.

Mayor Good: 1) Attended a League of California Cities Legislative Advocacy and it was noted that if you want something done at the Capital it is better to go to a staff person than a Legislator. 2) Attended an ABAG meeting in which Indian Casinos were the topic and it was suggested that if there is no local support they might go away. 3) Noted that the fence at Memorial Park is coming down.

Council Member Lieber: Attended the Chamber of Commerce press conference regarding "Green Business" and noted that he supports this and has started to visit local businesses to encourage them to have "Green Business" and urged all Council Members to do the same.

Council Member Javandel: Noted that the Chamber of Commerce has a 100% goal for all businesses to become "Green" and he would like to see incentives for solar power on residential remodels.

Council Member Okawachi: Attended the Waste Management Authority noting they sponsored a creative art show using recyclable objects and is proud to announce that an Albany student, Anna Reutinger, won the competition.

9. GOOD 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 opened the Good of the City/Public Forum and asked if anyone would like to speak.

9. GOOD THE CITY/PUBLIC FORUM

Mr. Leon Rimov asked that the record state that the City Attorney and the Community Development Director were not present. Mr. Rimov commented on the following issues: 1) Grass growing on the down spouts, which is an invitation for termites and noted that he contacted the Community Development Director 2 months ago about this and spoke to the City Administrator last week. 2) Noted that the Community Development Department has plans on file with an out of date architect's stamp. 3) An area on Madison has old clay pipes and right now heavy equipment is up there, which will probably cause the sewer pipes to collapse. Mr. Rimov left a bottle with a \$1 donation indicating this is a collection for money for glasses for City staff and noted the City is going down hill and that the City has no maintenance plan to maintain current buildings.

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

10. ADJOURNMENT

10: 00 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.

ROBERT GOOD
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK