

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, JUNE 6, 2005**

---

**7:00 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 SEIU Local 790.

**7:45 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, Okawachi & Mayor Good  
Absent: Council Member Maris (Excused)

**STAFF PRESENT**

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Dave Dowswell, Planning Manager; Aisha Boykin, Senior Services Supervisor.

**3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION**

Mayor Good announced that no action was taken in Closed Session.

**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, May 2 & 16, 2005.

Staff recommendation: Approve.

**4-2.** a. Ratification of City of Albany net payroll in the amount of \$151,748.38; taxes, benefits & withholdings in the amount of \$107,796.39. Total payroll in the amount of \$259,544.77. Payroll period: 5/13/05.

b. Ratification of City of Albany net payroll in the amount of \$148,318.98; taxes, benefits & withholdings in the amount of \$150,851.09. Total payroll in the amount of \$299,170.07. Payroll period: 05/27/05.

a. Ratification of Albany Municipal Services JPA net payroll in the amount of \$40,962.49; taxes, benefits & withholdings in the amount of \$27,677.43. Total payroll in the amount of \$68,639.92; Payroll period: 05/13/05.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$41,267.82; taxes, benefits & withholdings in the amount of \$42,358.74. Total payroll in the amount of \$83,626.56; Payroll period: 05/27/05.

Staff recommendation: Ratify.

**4. CONSENT CALENDAR**

- 4-3.** Ratification of Board of Police & Fire Pension payments for the month of May, 2005, in the amount of \$103,461.17.

Staff recommendation: Ratify.

- 4-4.** Consideration of Claim #AL487; City of Berkeley v. City of Albany.  
(File #170-60)

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

- 4-5.** Consideration of Claim #AL489; Valley Slurry Seal v. City.  
(File #170-60)

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

- 4-6.** Consideration of Claim #AL501; Watkins v. City.  
(File #170-60)

Staff recommendation: Deny application for late claim and authorize the City Clerk to send out the appropriate letter to Ms. Watkins.

- 4-7.** Resolution #05-16 – A Resolution of the Albany City Council Authorizing the Proposed Plan for the City of Albany’s Para Transit Program for Fiscal Year 2005/06.  
(File #600-40)

Staff recommendation: Approve Resolution #05-16.

- 4-8.** Resolution #05-30 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute a Contract with Alameda County Transportation Improvement Authority in Order to Accept a Grant of \$75,000 and Execute the Required Matching Funds of \$35,000 (32%) for Construction of the Buchanan Street Pedestrian and Bicycle Path Under I-80/I-580 On-Ramps.  
(File #600-30)

Staff recommendation: Approve Resolution #05-30.

**4. CONSENT CALENDAR**

- 4-9.** Council Member Lieber appointing Mara Duncan to the Social & Economic Justice Commission.  
(File #110-30)

Staff recommendation: Information only.

- 4-10.** Marin Avenue Reconfiguration – Status Report.  
(File #590-95)

Staff recommendation: Information only.

**MOTION**

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

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

NOES: None

ABSENT: Council Member Maris

Motion carried and so ordered.

**5. PRESENTATION/PUBLIC HEARING**

- 5-1. Ordinance #05-04 – Extension of Moratorium – Medical Marijuana Dispensaries**  
(File #450-20)

The Planning Manager reported that the City Council adopted Ordinance #05-03 on May 2, 2005, which put a moratorium on medical marijuana dispensaries for a period of forty-five (45) days. This moratorium will expire on June 16, 2005, unless it is extended by 4/5-majority vote of the City Council after a public hearing is held.

Before Council tonight is Ordinance #05-04, which would extend the interim ordinance for an additional ten (10) months and fifteen (15) days. After that period, the interim ordinance would expire unless extended once more for up to one year

The Planning Manager explained that the extension of the interim ordinance is necessary to allow staff additional time to consider and develop a comprehensive policy for regulating future dispensaries, including necessary amendments to the Municipal Code. Areas of concern include zoning and location of dispensaries, hours and methods of operation, security and regulation of employees.

The City Attorney referenced the recent ruling by the Supreme Court, which states that people could be arrested for possession, buying and/or selling marijuana under Federal law.

The City Attorney stated that this ruling does not clear up what the State will do about the conflicting law between the State of California and the Federal Government.

Mayor Good reported that the vote of the Supreme Court Justices was 6-3 against the medical marijuana dispensaries. Mayor Good stated that he does not believe the City should go against Federal law but as individuals can take action.

**5-1. Ordinance #05-04 – Extension of Moratorium – Medical Marijuana Dispensaries**

Council Member Javandel stated that he believed it is prudent to extend the moratorium so that an informed decision can be made.

Council Member Okawachi commented that she also favors extending the moratorium.

Council Member Lieber stated that he too was in favor of extending the moratorium noting that he would like staff to help the Council make an informed decision.

Mayor Good opened the public hearing and asked if anyone would like to speak and there being no one wishing to speak, Mayor Good closed the public hearing.

Council Member Javandel introduced Ordinance #05-04 – Extension of an Interim Urgency Ordinance of the City of Albany Restricting and/or Prohibiting, Suspending and/or Denying any Permits for, or Otherwise Restricting the Approval of the Installation of Medical Marijuana Dispensaries and Suspending the Issuance of Permits, Approvals, or Other Entitlements Which Would Result in the Opening of Medical Marijuana Dispensaries Within the City of Albany. This extension would be for a period of ten (10) months and fifteen (15) days, which would set the expiration date at May 2, 2006.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Javandel and seconded by Council Member Okawachi to approve Ordinance #05-04.

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

NOES: None

ABSENT: Council Member Maris

Motion carried and so ordered.

**6. UNFINISHED BUSINESS**

**7. NEW BUSINESS**

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

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

Council Member Lieber announced that he attended the Environmental Mayors Conference and the Waste Management Authority.

**9. GOOD OF THE CITY/PUBLIC FORUM**

Council Member Okawachi announced that she attended the Waste Management Authority.

Council Member Okawachi announced that the Library held their annual book sale and received \$6,500.

Mr. Leon Rimov spoke on the following: 1) Reminded everyone that today, June 6<sup>th</sup>, is D-Day when the allies invaded Europe. Mr. Rimov stated it is important to give recognition to all the veterans. 2) Expressed concern about the buildings at 524-536 Madison and the potential for a landslide. Mr. Rimov noted that the Planning Commission has an architect as one of the members and stated that an architect should be on duty 24/7 and believes that the appointing Council Member could also be held responsible for the actions or inactions of their appointee. 3) Mr. Rimov played a recording of a City staff person calling him regarding a notice requirement not being done in his neighborhood. 4) Mr. Rimov stated that the City should purchase up-to-date recording equipment.

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

**10. ADJOURNMENT**

8:25 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Jacqueline Bucholz, CMC, City Clerk.

---

ROBERT GOOD  
MAYOR

ATTEST:

---

JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK