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MINUTES OF THE ALBANY CITY COUNCIL
IN REGULAR SESSION, 1000 SAN PABLO AVENUE
TUESDAY, JULY 5, 2005

7:30 p.m.

City Council convened in the Council Chambers and then adjourned to Closed Session to discuss the following:

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

Agency Negotiator:	City Administrator
Employee Organization:	Albany Municipal Services JPA

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; Judy Lieberman, Assistant City Administrator; Charles Adams, Finance & Administrative Services Director; Ann Chaney, Community Development Director; Melinda Chinn, Recreation & Community Services Director; Dave Dowswell, Planning & Building Manager; Richard Cunningham, Public Works Manager; Captain Wiggins, Fire Department; Robert Zweben, City Attorney; Amanda Bennett, Planning Clerk

3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION

Mayor Good indicated the announcement would be forthcoming.

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, June 20, 2005.

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$155,599.38; taxes, benefits & withholdings in the amount of \$173,226.12. Total payroll in the amount of \$328,825.50. Payroll period: 06/24/05. Special payroll for Council Members: \$312.20. Payroll period: 06/30/05.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$42,413.81; taxes, benefits & withholdings in the amount of \$43,940.50. Total payroll in the amount of \$86,354.31. Payroll period: 06/24/05.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$180,020.24. Period: 06/17/05.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$155,511.67. Period: 06/17/05.

Staff recommendation: Ratify.

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

Staff recommendation: Ratify.

- 4-5.** Contract with Snader & Associates for the installation of a cable broadcast system for cable casting of City Council meetings.

Staff recommendation: Authorize the City Administrator to execute a contract with Snader & Associates for an amount not to exceed \$35,500 for the purchase, installation and support of equipment for cable casting City Council meetings.

- 4-6.** Contract with The Active Network for the installation, training and support for recreation class registration and facility rental software.

Staff recommendation: Authorize the City Administrator to execute a contract with The Active Network for an amount not to exceed \$18,200 for the installation, training and support for recreation class registration and facility rental software.

- 4-7.** Purchase of a new Fire Department Ambulance Chassis & Remounting the existing Patient Care Compartment.

Staff recommendation: 1) Authorize the City Administrator to execute an agreement with Leader Industries to purchase one (1) 2006 Ford E-350 ambulance cab and chassis for a price not to exceed \$27,500, which includes sales tax. The purpose of this vehicle is to replace the 1994 Ford E-350 ambulance. 2) Authorize the City Administrator to execute an agreement with Leader Industries to refurbish one 1994 Horton patient care compartment to be placed on a 2006 Ford E-350 cab and chassis for a price not to exceed \$29,000, which includes sales tax. The purpose of refurbishing the 1994 Horton Patient Care Compartment is to repair those items that are either broken or worn and to reduce costs associated with buying a new patient care compartment.

- 4-8.** Request for authorization to enter into a contract with Korve Engineering regarding Eastshore Highway and Buchanan Street traffic signal.

Staff recommendation: Authorize staff to enter into a contract with Korve Engineering to complete the necessary traffic analysis for the Eastshore Highway and Buchanan Street traffic signal and direct Gray Bowen and Company, Inc., to continue to pursue obtaining an encroachment permit from the California Department of Transportation (Caltrans) for the signal.

- 4-9.** Resolution #05-41 - A Resolution of the Albany City Council Approving the Memorandum of Understanding between City of Albany and Service Employees International Union, Local 790 (SEIU).

Staff recommendation: Approve Resolution #05-41.

Mayor Good asked if anyone would like to remove an item for discussion and Council Member Javandel removed Item 4-8. Council Member Maris removed items 4-6, 4-7, and 4-9.

4-6. Recreation Class Registration and Facility Rental Software Contract

Council Member Maris had some questions because of the expense of the new software. Recreation & Community Services Director Chinn noted that the old agreement

did not include upgrades. The new contract includes superior software, and upgrades to follow.

4-7. Purchase of Fire Department Ambulance Chassis

Council Member Maris asked why the newest Fire Department vehicle was in reserve. Captain Wiggins explained the intent was to continue to use the older vehicles until they were worn out.

4-8. Eastshore Highway and Buchanan Street Signal Study Contract

Council Member Javandel noted he had been an employee of Korve Engineering in the past, and he would prefer to abstain from voting on this item.

Council Member Maris asked whether there were sufficient funds for this study and for the installation of the light. Planning & Building Manager Dowswell indicated that there are sufficient funds for the study, but it is unknown at this time whether there are sufficient funds for the installation.

4-9. Resolution #05-41—City MOU with SEIU Local 790

Council Member Maris indicated he no longer needed to discuss this item.

MOTION:

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

AYES: Council Members Javandel (abstaining on item 4-8), Lieber, Maris, Okawachi & Mayor Good

NOES: None

ABSENT: None

Motion carried and so ordered.

5. PRESENTATION/PUBLIC HEARING

5-1. Presentation to Robert Cheasty, Sylvia McLaughlin and Steve Granholm for their work for the Albany Bulb.

Mayor Good stated that the City Council would like to honor Mr. Cheasty, Ms. McLaughlin, and Mr. Granholm, with bestowal of a certificate, for their work to turn a city dump into a jewel of a park Council Member Lieber commended them for demonstrating that the work of one person really does make a difference. Council Member Maris thanked them, and asked Mr. Cheasty to speak about how they got the closure done.

Mr. Cheasty gave a brief history of the process, and reported that they were able to demonstrate that no pollution was going into the bay from the site, so mitigation measures were found no longer to be necessary. He thanked Ms. McLaughlin and Mr. Granholm.

Council Member Maris also wanted to thank others who had worked on the project over the years, including: Victoria Wake, Ann Kimmerer, Ruth Ganong, Phil

Wheeler, Thelma Rubin, and Ann Berry. He also indicated he would like a process for recognizing people getting special awards in the future, and that he had received telephone calls from citizens who would like to speak on that issue.

Mayor Good opened the public hearing. Peggy Thomsen commended the awardees for their efforts. She stated that Ms. McLaughlin and Ruth Ganong were two of the original group who filed suit to get the landfill closed. Mayor Good closed the public hearing.

6. UNFINISHED BUSINESS

6-1. Revised Master Fee Schedule Revised Master Fee Schedule

Finance & Administrative Services Director Adams reported that the proposed changes to the Master Fee Schedule were based on the increase in the annual cost of living in the area.

Council Member Maris asked whether the building permit extension fee should be increased to encourage people to finish their construction projects in a timely fashion. Community Development Director Chaney suggested that a fee increase is built-in, because a permit may only be extended one time. After that, an applicant must pay for a new permit. Planning & Building Manager Dowswell added that it can be financial hardship that stalls a project, and therefore an additional fee would be more of a deterrent than an incentive.

Council Member Maris stated he receives many calls on the perceived unfairness of being responsible to repair the sidewalk damaged by a City street tree. He asked if there had been changes to the process. Recreation & Community Services Director Chinn advised that if a property owner has paid once to repair the sidewalk, they might apply for the tree to be removed when the sidewalk requires further repair.

Council Member Okawachi asked if there was a record of how often AUSD uses City facilities. Recreation & Community Services Director Chinn stated the schools use Memorial Park daily, the tennis team and girls' softball teams use City facilities in season, and AUSD uses the Community Center a couple of times per year. Council Member Okawachi asked how often the City uses AUSD facilities. Recreation & Community Services Director Chinn reported that AUSD provides a gymnasium for Sunday night basketball at no fee, because the City provides its own custodial staff.

Mayor Good opened the public hearing. Clay Larson, Adams Street, asked whether staff had considered business license rates based on revenue rather than number of employees. Finance & Administrative Services Director Adams replied that it had been considered, but that it would not be a simple change to implement and the benefits are uncertain. Mayor Good closed the public hearing.

MOTION:

It was moved by Council Member Okawachi and seconded by Council Member Javandel to approve Resolution #05-33—A Resolution of the Albany City Council

6-2. Revised Master Fee Schedule

MOTION:

Establishing and Amending the City of Albany Master Fee Schedule for Various City Permits, Fines and Services.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-2. Funding for Various Capital and Operational Needs

Assistant City Administrator Lieberman reported the results of the “likely voters” survey to identify general issues of importance, and the willingness to support a \$145 assessment for a list of specific programs and projects.

Mayor Good asked whether staff agreed with the recommended ballot language. City Administrator Pollard noted that the item regarding expansion of police and fire was new, and cost estimates would not be available before September.

Mayor Good asked whether City Council should wait to see if Albany Unified School District (AUSD) wanted to put a tax measure on the November ballot before placing this measure on the November ballot. City Administrator Pollard noted that AUSD had placed a measure on the previous ballot, making this the time for a City measure. Mayor Good supported proceeding toward the November election.

Council Member Lieber would prefer to wait, to provide time to clarify how Measure F funds would be spent, how this measure should be worded on the ballot, the fee breakdown, and provide time for community process not to be rushed. Mayor Good agreed the process should not be rushed.

Council Member Okawachi wanted to move forward, building on the momentum generated by the survey. Council Member Maris recommended language making it clear to the voters that the Veterans’ Building is used for youth services. He asked how many of the items that received less than seventy-five percent support in the survey could be included.

Assistant City Administrator Lieberman confirmed she would ask the consultant about that question. Council Member Maris agreed it would be good to build on the momentum already generated. He recommended asking the consultant about being on the ballot simultaneously with AUSD. Assistant City Administrator Lieberman reported they had asked that question, and the consultant had recommended against it.

Council Member Javandel wanted to move forward with the measure, because the sooner the results are known, the sooner planning can begin. He thought the public input session would be the appropriate forum for drafting the ballot language.

Mayor Good opened the public hearing. Miriam Walden, Albany School Board Member, stated that AUSD is planning a November ballot measure. She noted that their previous ballot measure was an emergency measure. The November measure timing is particularly pertinent, because of state budget issues involving education. She submitted a budget report and funding source distribution report. Ms. Walden suggested the City make more use of AUSD facilities (such as for youth services).

Suzanne Portnoy, 1196 Curtis, expressed outrage that the City would be asking for this funding when the schools are in such dire need.

Peggy Thomsen encouraged the Council to proceed with the July 18 workshop.

Linda Yamamoto, on behalf of the Albany Library Board, urged the Council to proceed with the energy generated by the survey.

Council Members Okawachi, Maris, and Javandel expressed their support for the schools, but noted that the City needs these funds. Council Member Lieber wanted to wait. Mayor Good thought it would be a bad idea to go on the November ballot if AUSD will also have a measure on that ballot.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Maris to agendaize a public workshop for the Council meeting of July 18, 2005, on a tax measure to fund capital projects, and operations, including maintenance, of various City and Library Services, followed by consideration of ballot wording on that agenda.

AYES: Council Members Javandel, Maris, & Okawachi

NOES: Council Member Lieber & Mayor Good ABSENT: None

Motion carried and so ordered.

6-3. Proposed Amendment of City Council Pay.

Mayor Good asked the Council to put an honorarium for the Council Members of \$50 per meeting on the November ballot. Council Members Javandel, Maris, and Okawachi stated they were happy to consider themselves volunteers. Council Member Lieber raised the idea that a citizen might not be able to afford to serve as a Council Member because of the cost to hire a sitter, and the honorarium might best reflect what a sitter would cost.

Robert Outis, Charter Review Committee member, recommended forwarding this item to Charter Review.

MOTION:

It was moved by Council Member Javandel, and seconded by Council Member Lieber to refer this item to Charter Review. Council Member Maris added a friendly amendment that Charter Review also consider compensation for Commissioners.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

6-3. Proposed Advisory Measure Regarding Marijuana Dispensaries.

Mayor Good asked the Council to put this advisory measure on the November ballot: "Should Albany permit marijuana dispensaries on San Pablo Avenue?" He noted there is a moratorium on these until the end of May 2006. Council Member Lieber did not oppose going to the voters, noting that 80% of Albany voters voted "Yes" on Proposition 216. He wanted to be sure these would not become "pot clubs," and looked forward to input from the Planning & Zoning Commission.

City Attorney Zweben reported that Planning & Zoning might have the proposed language for the Council to review in advance of the June 2006 election. Council

Member Javandel indicated he looked forward to the language from the Planning & Zoning Commission.

Clay Larson, Adams Street, thought that designating San Pablo Avenue (and only San Pablo Avenue) for this use was offensive. Robert Outis recommended agendizing this issue for discussion. Carol O’Keefe, 631 Jackson agreed that a decision should be made sooner, rather than later. An unidentified woman said she did not want these to turn into drug dens, and that there must be a way to abate them. Evan Flavell, Planning & Zoning Commission Chair, asked the Council to tell the Commission what they want, rather than leaving it up to the Commission.

Council Member Lieber suggested the dispensaries be for Albany residents only, with on-site use prohibited. He indicated he would provide sample ordinance language to the Commission shortly.

It was decided by unanimous consent not to act on this item until the Planning & Zoning Commission language was available.

RECESSED 10:06 p.m.
 ROCONVENED 10:11 p.m.

7. PUBLIC HEARING

7-1. Public Hearing on the Landscaping & Lighting Assessment District Diagram and Assessment and Levying Assessment for Assessment District No. 1988-1 and Assessment District No. 1996-1 for Fiscal Year 2005-06.

Community Development Director Chaney asked the Council to open the public hearing, then continue this item to the July 18 meeting because there would need to be changes made to the staff report because of something going on with Ocean View Park. Mayor Good opened the public hearing. No one wished to speak. Mayor Good closed the public hearing.

MOTION:

It was moved by Council Member Maris, and seconded by Council Member Javandel continue this item to the July 18 meeting.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

7-2. Appeal of Planning & Zoning Commission decision regarding St. Mary’s College High School located at 1600 Posen Avenue.

Council Member Maris recused himself from this item due to proximity to his residence. Council Member Javandel stated he had asked the City Attorney to determine whether there was a conflict of interest because he had worked for Korve Engineering, the firm that had prepared a traffic study for the school. The City Attorney opined there was no need for Council Member Javandel to recuse himself.

Planning and Building Manager Dowswell delivered the staff report. The applicant, St. Mary's College High School (SMCHS) has requested that Conditional Use Permit (CUP) 93-27, Condition G-2b, and Design Review (DR) 99-24, Condition 7, be amended. These conditions require that the school remove 3,032 square feet of building space within one year after the Certificate of Occupancy is issued for Frates Memorial Hall. The Certificate of Occupancy was issued January 3, 2002. The square footage to be removed includes 2,380 square feet of band pavilion and snack shop, and 632 square feet of additional building area to be converted to non-classroom space. This reduces the school facilities square footage back to 90,675 from 93,707.

The Planning & Zoning Commission approved the application for the amendment on April 26, 2005, after a series of hearings beginning on March 25, 2003. The basis for the approval stemmed from St. Mary's demonstrated efforts to meet all previously imposed mitigation measures and conditions and address the concerns of the neighbors, and the pending Master Plan for the school, which may or may not drastically redesign the campus facilities and square footage. The Planning & Zoning Commission decision included a condition that the use of the 3,032 square feet would not be allowed to change, nor could the space be rebuilt if demolished (without further approval being granted).

The Peralta Park Neighborhood Association appealed the decision of the Planning & Zoning Commission. The appeal argues that the Commission's amendment of CUP 93-27 and DR 99-24 was no based on adequate reasoning and findings; ignores the reasons these conditions were imposed by the City; violates the law; and was approved without evidence to support removal of the conditions. The appeal further argues that the Commission's amendment of CUP 93-27 and DR 99-24 failed to include any CEQA analysis of the cumulative impacts of the amendment; that it was precedent-setting; and by their decision to remove the conditions, will degrade the private open space on the site, will not improve traffic, and does not address handicap access.

Mayor Good opened the public hearing. Brother Edmond, from St. Mary's, Peter Smith, representing St. Mary's, and Evan Flavell, Planning & Zoning Commission Chair, spoke in favor of upholding the Planning & Zoning Commission decision.

The following spoke in support of the appeal: Lucas Guttentag, 1044 Ventura, on behalf of the Peralta Park Neighbors. He asked for a show of hands of the members he was speaking for (there were approximately 33 who raised their hands). Mr. Guttentag reiterated the written statement of the group. Mark Cantor asked that a condition from the 1994 resolution, identified as Parking Mitigation Measure TCP-5, be implemented. Mr. Smith stated the school is willing to proceed with implementation of the measure, but his understanding was that the neighbors actually oppose permit parking.

MOTION:

Moved by Council Member Javandel and seconded by Council Member Okawachi to extend the meeting past 11 p.m.

Motion carried and so ordered

Evan Flavell, Planning & Zoning Commission Chair, noted it did not seem to make sense to ask the school to remove the square footage when the Master Plan might call for it again. He stated it is not unusual to see or to grant a request to amend a conditional use permit. He noted the Planning & Zoning Commission's approval of the amendment contained a safeguard—that in the event of demolition of square footage,

replacement square footage shall not bring the total above the previously approved level of 90,000 square feet.

Doris Triesmann (sp), Berkeley resident, was concerned about noise, traffic, and parking impacts, especially if enrollment is to increase; and Andrew Watry(sp), Monterey, stated that not requiring the space to be demolished is to allow a de facto expansion. An unidentified woman complained that Frates Hall could not have been constructed without the agreement to remove the square footage, and that it should be removed.

Planning Manager Dowswell noted that the square footage cap was based on height and massing. It was not a mitigation measure based on square footage, but solely a condition of approval.

Council Member Javandel seeing the sense in not tearing down the structures before the Master Plan is developed, but noting the trust issue the neighbors raised, suggested the facilities in question, rather than be demolished, be immediately taken out of use by the school, until resolved by the forthcoming Master Plan. Council Member Lieber wanted the facilities to be demolished. Council Member Okawachi and Mayor Good were willing to agree to Council Member Javandel's compromise suggestion.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Okawachi to uphold the appeal, to the extent that the facilities have to be taken out of use immediately until the question is resolved by the Master Plan. Directed staff to draft language and bring it back in Resolution form at the next meeting on consent calendar.

AYES: Council Members Javandel, Okawachi & Mayor Good

NOES: None

ABSENT: Council Member Maris recused himself

ABSTENTIONS: Lieber

Motion carried and so ordered.

8. NEW BUSINESS

City Administrator Pollard advised the Council that there was an urgent new business item that needed adding to the agenda. The majority of the Marin Avenue Traffic Calming Project cannot be completed before the opening of school unless the Council authorizes the City Administrator to award the bid as soon as possible after July 12.

MOTION:

Moved by Council Member Javandel and seconded by Council Member Lieber to place this item on the agenda.

Motion carried and so ordered.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Maris to authorize the City Administrator to award the Marin Avenue Traffic Calming Project bid as soon as possible after July 12.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

9. OTHER BUSINESS/ANNOUNCEMENT OF EVENTS

Council Member Maris reported on the 2 x 2 meeting, regarding the Gilman Street ball fields meetings, and mental health services for youth. Council Member Okawachi indicated there was also a need for senior housing discussed. Council Member Maris reported that the Solano Avenue kiosk had been dedicated. He recommended a review of the agenda process (such as requiring items to be submitted at the meeting before). He also thought there should be some guidance on public service awards. Lastly, he indicated a potential agenda item for fall: having Parks & Recreation and Waterfront Committees develop a Golden Gate Fields Park Plan.

Council Member Lieber agreed that announcing items to be agendaed ahead of time was a good idea; he was not in favor of the Council actually voting on whether each item should be agendaed, however. Council Member Lieber noted that having received a mailer from Caruso Affiliated, the developer working with the owner of Golden Gate Fields, he would like to see attendance lists from the neighborhood meetings that have been held, so that he could know who had had input.

Council Member Okawachi thanked city staff, especially the Recreation Department, for the best 4th of July celebration event ever.

10. 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.

Robert Outis, Charter Review, felt that the survey presented by Brian Parker at the previous meeting was based on misrepresentations and falsehoods. He asked the Mayor to use more backbone setting the agenda of the meeting. He was also offended at Council Member Lieber's request for attendance lists from neighborhood meetings.

Ray Anderson wanted to know who paid for the survey. He expressed his confidence in the City Council.

Evan Flavell reported that the Saturday "drifting" event at Golden Gate Fields was noisy and smoky. He is opposed to motor racing being allowed under the master use permit, and opined that the "drifting" is even worse.

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

11. ADJOURNMENT

12:10 a.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

11. ADJOURNMENT

Minutes submitted by Amanda Bennett, Planning Clerk.

ROBERT GOOD
MAYOR

ATTEST:

JACQUELINE L. BUCHOLZ, CMC
CITY CLERK