

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 5, 2005**

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**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; Charles Adams, Finance Director; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Rich Cunningham, Public Works Manager; Billy Gross, Associate Planner; Melinda Chinn, Recreation & Community Services Director.

**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 7, 2005.

Staff recommendation: Approve.

**3-2.** a. Ratification of City of Albany net payroll in the amount of \$183,332.10; taxes, benefits & withholdings in the amount of \$191,792.84. Total payroll in the amount of \$375,124.94. Payroll period. 11/23/05.

**3. CONSENT CALENDAR**

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$43,331.64; taxes, benefits & withholdings in the amount of \$45,573.28. Total payroll in the amount of \$88,904.92; Payroll period: 11/23/05.

Staff recommendation: Ratify.

**3-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$415,763.74. Period: 11/18/05.

b. Ratification of bills, claim & demands against the City of Albany in the amount of \$16,039.08. Period: 11/01/05.

c. Ratification of bills, claims & demands against the City of Albany in the amount of \$209,616.91. Period: 11/04/05.

Staff recommendation: Ratify.

**3-4.** Consideration of Claim #AL509; Cunningham v. City of Albany.  
(File #170-60)

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

**3-5.** Ratify Police & Fire Pension payments in the amount of \$101,325.52 for the month of November, 2005.

Staff recommendation: Ratify.

**3-6.** Resolution #05-56 – A Resolution of the Albany City Council Authorizing the Installation of Two Speed Humps on Sonoma Avenue at Ventura Avenue and Approve \$12,600 from Measure F Traffic Management Contingency Funds for the Implementation of the Speed Humps on Sonoma Avenue.  
(File #590-40)

Staff recommendation: Approve Resolution #05-56.

Mayor Good asked if anyone would like an item removed from the Consent Calendar for discussion. Mayor Good removed Item 3-6.

**3. CONSENT CALENDAR**

**3-6. Resolution #05-56**

Mayor Good stated that he would be voting against this Resolution, as he does not believe the speed bumps should be installed. Mayor Good stated that he would prefer that police officers give out tickets for people speeding.

Mayor Good stated that he would like to offer a motion.

**MOTION:**

Moved by Mayor Good to remove Resolution #05-36 from the agenda and that no action be taken.

Motion died for lack of a second.

**MOTION:**

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

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

NOES: None

ABSENT: None

Motion carried and so ordered

\* This vote reflects a no vote on passage of Resolution #05-36 by Mayor Good.

**4. REORGANIZATION OF CITY COUNCIL**

**4-1. Nomination & Election of Mayor and Vice-Mayor**

At this time the Mayor stepped down and handed the meeting over to the City Clerk, who asked for nominations for the position of Mayor.

Council Member Okawachi nominated Council Member Maris for Mayor, seconded by Council Member Javandel.

Council Member Lieber stated that with the potential development of the Waterfront it is important to have a Mayor and Vice-Mayor who support the will of the citizens of Albany.

Council Member Lieber commented that he believes Council Member Maris is pro-development and read a statement made by Council Member Maris from The Journal regarding the development plans by the Caruso group.

Council Member Lieber stated that he believes the best candidate for Mayor is one who is supported by the Sierra Club and Congresswoman Barbara Lee; and therefore, would offer the nomination of Council Member Javandel as Mayor.

Council Member Maris asked for a point of privilege and stated that he is not pro-development and supports open space but sees the need for some development at the Waterfront.

The following people spoke on the subject of who should be Mayor. Ms. Maureen Crowley, Albany resident; Ms. Mathison, Albany resident; Ms. Garner, Albany resident; Mr. Ray Anderson, Albany resident; Ms. Sandy Reid, Albany resident; Mr. Brian Parker, Albany resident; Mr. Roger Carlsen, Albany resident; Mr. Geoff Piller, Albany Resident; Ms. Mara Duncan, Albany resident.

**4-1. Nomination & Election of Mayor and Vice-Mayor**

Council Member Javandel spoke to his nomination stating that he is surprised, yet humbled by the support shown tonight; however, he would have to support the nomination of Council Member Maris, as he believes that he will do a good job and will give everyone a fair hearing.

At this time, Mayor Good stated that he would have voice vote from all Council Members on who they support for Mayor.

Council Member Javandel – voted for Council Member Maris; Council Member Lieber – voted for Council Member Javandel; Council Member Council Member Maris – voted for himself; Council Member Okawachi – voted for Council Member Maris. Mayor Good stated that Council Member Maris has the three votes to elect him Mayor and he believes that both Council Members are good candidates.

Council Member Okawachi nominated Council Member Javandel for Vice-Mayor, seconded by Mayor Maris.

Council Member Good nominated Council Member Lieber.

The Council was polled and a unanimous vote was given to elect Council Member Javandel as Vice-Mayor.

Mayor Maris thanked former Mayor Good for his leadership and presented him with a plaque for his service as Mayor.

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

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

**6. PRESENTATION/PUBLIC HEARING**

**7. UNFINISHED BUSINESS**

**7-1. Sustainable Landscaping and the use of Pesticide/herbicides at City Parks**

(File #920-60)

Council Member Lieber stated that he was under the impression that he made a motion at the November 7<sup>th</sup> meeting regarding the parks, as part of the upcoming park rehabilitation projects. However, was informed by staff that no motion was made; therefore, would like to make the following motion:

**7-1. Sustainable Landscaping and the use of Pesticide/herbicides at City Parks**

**MOTION:**

Moved by Council Member Lieber to 1) allocate 2% of the entire budget to the Arts Committee in a lump sum. 2) Revisit the removal of trees at Ocean View Park. 3) Hire a consultant to assist the landscape architect with sustainable issues and to limit the use of chemicals during the removal of the turf and during on-going maintenance. 4) Design an area for community gardens and have at least the hose bibs in place.

The City Administrator responded that she would like to comment on the motion, as follows: Three of the items in the motion are already happening and the only remaining issue is the question of pesticides/herbicides; and would recommend holding off on this issue until the Park & Recreation Commission forward their recommendations on this issue.

Council Member Lieber stated he would withdraw his motion.

The following people spoke on the issue: Mr. Roger Carlsen; Ms. Maureen Crowley; Mr. Geoff Piller; Ms. Nan Wishner.

A summary of their comments is as follows: There are no scientific facts on the use of chemicals regarding soil and a policy needs to be developed on alternatives that could be used. Many people are allergic to many things and the City should not use any chemicals that might harm people. A clarification was made on what would be coming back from the Park & Recreation Commission. It was noted that the arborist stated that if a different design had been submitted he would have recommended fewer trees to be removed.

The Recreation & Community Services Director went over the staff report noting that the issues discussed by Council Member Lieber will come back to Council with a recommendation from the Park & Recreation Commission.

Council Member Javandel stated that he would like to reiterate his concern that fencing be installed around the Tot Lots and hoped that staff would pursue this.

No Council action required.

**8. NEW BUSINESS**

**8-1. June 30, 2005, Financial Statements and Reports of the Independent Auditors**

(File #310-30)

The Finance & Administrative Services (F&AS) Director stated that each year an independent financial audit is performed of the financial statements of the City of Albany, the Albany Community Reinvestment Agency and the Albany Police and Fire Relief and Pension Fund. The Auditors also report their findings and recommendations regarding the City's internal control structure. For the fiscal year ending June 20, 2005, the CPA firm of Odenberg Ullakko Muranishi & Co performed this work.

The F&AS Director introduced Mr. Scott Miller with the auditing firm. Mr. Miller noted that his firm is independent of the City and that after the audit was

**8-1. June 30, 2005, Financial Statements and Reports of the Independent Auditors**

performed the City was given a clean unqualified report. Mr. Miller noted that no significant new policies were implemented during the fiscal year.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to accept the June 30, 2005 reports of the City's independent auditors: Comprehensive Annual Financial Report; Albany Community Reinvestment Agency; Albany Police and Fire Relief and Pension Fund; ACTIA Measure B Funds; Appropriations Limit; Auditor's Fiscal 2005 Report to the City Council.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-2. U.S. Mayors' Climate Protection Agreement**  
(File #405-35)

The Assistant City Administrator reported that on February 16, 2005, the Kyoto Protocol, the international agreement to address climate disruption, became law for the 141 countries that have ratified it to date. On that date, Seattle Mayor Nickels launched an initiative to advance the goals of the Kyoto Protocol through leadership and action by at least 141 American cities.

Mayor Nickels also led the development of a U.S. Mayors' Climate Protection Agreement and was passed unanimously by the U.S. Conference of Mayors. Under the Agreement, participating cities commit to take the following three actions: 1) Strive to meet or beat the Kyoto Protocol targets in their own communities, through actions ranging from anti-sprawl land-use policies to urban forest restoration projects to public information campaigns. 2) Urge their state governments and the federal government to enact policies and programs to meet or bet the greenhouse gas emission reduction target suggested for the U.S. in the Kyoto Protocol – 7% reduction from 1990 levels by 2012. 3) Urge the U.S. Congress to pass the bipartisan greenhouse gas reductions legislation, which would establish a national emission trading system.

The Assistant City Administrator recommended that this matter be referred to the Social and Economic Justice Commission for their recommendations and an assessment of any further actions that the City might wish to take.

Council Member Lieber expressed concern that if this is referred to the Social & Economic Justice Commission that it will not get back to the Council in a timely manner and suggested that maybe the Council should put this on a future agenda so they can act on it sooner.

Consensus of the Council was that it is a good idea to refer this to the Social & Economic Justice Commission and suggested that they be asked to expedite this issue.

Mayor Maris asked if this issue would take precedent over the sustainability inventory and the Assistant City Administrator responded that yes it would; however, the Commission will not meet again until January, 2006.

## **8-2. U.S. Mayors' Climate Protection Agreement**

Mayor Maris suggested that a report be sent back to the Council within an appropriate time, such as 90 days. The Assistant City Administrator responded that time frame was reasonable.

### **MOTION:**

Moved by Council Member Good, seconded by Council Member Lieber to refer this matter to the Social & Economic Justice Commission for a report back within 90 days.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

## **8-3. Proposed Sustainability-Related Ordinances**

(File #405-25)

The Associate Planner reported that the City Council updated their goals in 2005, and one of those goals was to “support a green building ordinance”. To assist in meeting these goals, and to help the City of Albany become a more environmentally responsible jurisdiction, staff will be bringing forward guidelines and/or regulations in the three following areas: Green Buildings, Construction and Demolition Debris Recycling and Recycled Water.

These documents are tentatively scheduled to be heard by the Planning & Zoning Commission in the first quarter of 2006. Green Building is a process to create buildings and supporting infrastructure that minimize the use of resources, reduce harmful effects in the environment and create healthier environments for people. The benefits of green design include both environmental and economic benefits.

To assist jurisdictions in meeting these goals the Alameda County Waste Management Authority has prepared a model “Green Building Ordinance”, which requires that City-sponsored projects meet a minimum certification level, as defined by the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. There are four levels of LEED certification depending on the number of criteria met.

The Associate Planner reported that currently 4 of the 14 cities in Alameda County have adopted Green Building Ordinances.

The Construction and Demolition Debris (C&D) Recycling Ordinance will include levels for which construction, demolition and/or renovation projects will be required to meet the recycling requirements. Currently 7 of the 14 cities in Alameda County have adopted a C&D Recycling Ordinance.

The Recycled Water Ordinance requires developers of projects in the recycled water area, or that include a minimum amount of total area of commercial space, to submit a letter from East Bay Municipal Utility District stating whether or not recycled water will be available for the project, prior to issuance of a building permit.

Council Member Javandel noted that it is disappointing that the City of Albany is lagging behind in this area, but is glad that the Albany Chamber of Commerce has taken a lead.



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

**9-1.** City offices will be closed on Monday, December 26, 2005 in observance of Christmas and Monday, January 2, 2006 in observance of New Year's Day.

Council Member Lieber reported that he attended the Waterfront Committee meeting last Thursday and was pleased to see the turnout and noted there were at least 100 people in attendance with about 90% opposing the proposed development.

Council Member Okawachi stated that she would like to state that Mayor Maris has worked very hard for the entire community and is happy that he was elected Mayor and know that he will do a great job.

Mr. Ray Anderson announced that the Lions Club would be having their annual breakfast with Santa on December 10<sup>th</sup> – children will eat free and adults will be asked for a \$3 donation. Mr. Anderson noted that many local merchants have donated to this event.

Mr. Anderson asked people to report any streetlights that are out and if possible to write down the number on the pole, or the location and report it to the Community Development Department.

**10. ADJOURNMENT**

9:30 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting with a moment of silence in memory of former Police Sergeant Rick Kempe who passed away recently.

Minutes submitted by Jacqueline Bucholz, City Clerk, CMC.

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ALLAN MARIS  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK