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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION,**  
**COMMUNITY CENTER, 1249 MARIN AVENUE**  
**MONDAY, SEPTEMBER 15, 2008**

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**8:00 p.m.**

Mayor Lieber, 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 Atkinson, Javandel, Okawachi, Wile & Mayor Lieber  
Absent: None

**STAFF PRESENT**

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Judy Lieberman, Assistant City Administrator; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Rich Cunningham, Public Works Manager; Ana Bernardes, Project Manager; Charles Adams, Finance Director; Penelope Leach, Recreation & Community Services Director; Isabelle Luduc, Senior Center Supervisor; John Weitzel, Captain Fire Department; James Berry & Jim Boito, Fire Department.

**3. REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**

**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 unless otherwise modified by the City Council. 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.** Council Minutes, September 2, 2008.

**4. CONSENT CALENDAR**

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$192,209.31; taxes, benefits & withholdings in the amount of \$150,773.14. Total payroll in the amount of \$342,982.45. Payroll period: 08/29/08.

b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$56,793.18; taxes, benefits & withholdings in the amount of \$42,633.53. Total payroll in the amount of \$99,426.71. Payroll period: 08/29/08

Staff recommendation: Ratify.

- 4-3.** Pension payments in the amount of \$111,069.65 for the month of August, 2008.

Staff recommendation: Ratify.

- 4-4.** Automated External Defibrillators in police patrol vehicles.  
(File #585-15)

Staff recommendation: Authorize the allocation of \$9,000 from fire equipment funds for acquisition and placement of Automated External Defibrillators (AED) in the police patrol vehicles.

- 4-5.** Albany Pre-School Seismic Improvements – contract agreement with ESI Earthquake and Structures, Inc. for design services.  
(File #600-30)

Staff recommendation: Authorize staff to enter into a consulting services agreement with ESI Earthquake and Structures, Inc., engineering consultants, for design of seismic improvements for the preschool building, located at 850 Masonic Avenue, in the amount of \$10,000.

- 4-6.** Resolution #08-57 - A Resolution of the Albany City Council adopting the yearly tax rate for fiscal year beginning July 1, 2008 and ending June 30, 2009 for the pension override tax to fund City pension obligations.  
(File #390-85)

Staff recommendation: Approve Resolution #08-57.

**4. CONSENT CALENDAR**

- 4-7.** Design of a traffic signal and pedestrian improvements at the intersection of Buchanan Street and Jackson Street, and along the route to Ocean View School.  
(File #600-30)

Staff recommendation: Authorize entering into a contract with DMJM Harris, in the amount of \$36,000 for the design of the traffic signal and pedestrian enhancements at the intersection of Buchanan and Jackson Streets.

**MOTION:**

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

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None ABSENT: None

Motion carried and so ordered.

**5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS**

Council Member Wile announced the following: 1) The City has received a \$35,000 grant from StopWaste.Org to be used in the Civic Center Seismic Project and \$15,000 for Bay Friendly Landscaping. 2) Alameda County is recruiting poll workers for the November, 2008 election.

Council Member Javandel requested that the City put on its website a link to Council and Board of Education candidate websites.

Mayor Lieber announced that he was a volunteer nurse at the Solano Avenue Stroll and is pleased to note that he only dispensed one band-aid. Mayor Lieber thanked Ray Anderson, Allen Cain and Robert Cheasty for their hard work during the Stroll.

The City Administrator thanked City staff and all the volunteers who worked at the Solano Avenue Stroll. The City Administrator announced that Jim Boito, Fire Department, secured a grant from Homeland Security to be used for communications.

Council Member Okawachi announced the following: 1) Friday, September 26, at Golden Gate Fields, Albany High School Alumni get together. 2) Sunday, September 28 at Memorial Park, 1:30, picnic and program for Albany’s centennial.

The following people spoke: Francesco Papalia, Albany resident; Ray Anderson, Albany resident; Joan Larson, Albany resident; Allan Maris, Albany resident; Nick Pilch, Albany resident; Bob Outis, Albany resident.

A summary of the comments is as follows: Asked that the City look into wind-powered energy, which is safer for the birds, quiet and efficient. Thanked staff for the help at the Solano Stroll and suggested that the items under Consent Calendar be read for the benefit of the television audience. Announced the opening of the centennial photos in the lobby of the Library for September 21, 2008 4-6. Invited everyone to a celebration of life for Mary Hartung, an active member of the community on Saturday, September 20, 1-3 p.m. at the Community Center. Council Member Okawachi stated that she served with Mary on the PTA during the 60’s & 70’s and noted that Mary was very hard worker.

## **5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS**

Announced 1) Peace Day, September 21, 1-3 p.m. at the Waterfront Cove. 2) Triathlon, September 28, 8-11 a.m. beginning at the Albany Pool and noted that 30 people have applied and there is room for 100. 3) Attended the dedication of the Tom Bates Sports Fields and gave an historical perspective noting the pivotal role the City had in this project. Council Member Okawachi stated that Allan Maris also worked extremely hard on this project. Spoke about the Pedestrian Path on Buchanan and that an easement through the USDA is needed; however, the USDA is blocking the study and asked the Council to adopt a Resolution urging the USDA to cooperate on this project. Noted that the Bicycle Master Plan advocates a bicycle advisory committee but would suggest that an ex-officio, non-voting member from the human scale advocacy be added to the Traffic & Safety Commission. Amazed that staff and the City Council have not put the Campaign Finance Ordinance No. 08-10 back on the agenda to be adopted lawfully and believes the Ordinance on the books is void.

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

## **6. PRESENTATION/PUBLIC HEARING**

### **6-1. Proclamation Honoring Elizabeth Ann Shearer**

Mayor Lieber read the proclamation in its entirety and presented it to Susan Russel. Ms. Russel thanked the City and the Police and Fire Departments for their compassionate help during the illness of Elizabeth Shearer.

### **6-2. Proclamation Thanking BANANAS**

Mayor Lieber read the proclamation in its entirety and presented it to a representative of the BANANAS Organization. Mayor Lieber and Rex Higgebotham both thanked BANANAS for the great work they do for the families they serve.

## **7. UNFINISHED BUSINESS**

### **7-1. Resolution No. 08-58 – Support for Little League (File #405-40)**

The Assistant City Administrator reported that at the last Council meeting Council received an update on the Codornices Creek project. At that time, representatives from the Albany Little League expressed concerns that the Little League fields located on U.C. property adjacent to the creek would be moved to make room for the Creek restoration and trail project.

Council directed staff to come back with a Resolution and submitted for Council adoption is Resolution No. 08-58, which establishes the direction for the City not to pursue grants or support projects that decreases the use of the ball fields unless sufficient provisions are made so that the fields' capacity is not reduced.

**7-1. Resolution No. 08-58 – Support for Little League**

The following people spoke: Sydney Madson, Albany resident; Jon Ely, Albany resident; Rex Higgenbotham, Albany resident; David Dempster, Berkeley resident; Gary Glass, Albany resident; Michelle Bockmeyer, Albany resident; Irene Hegarty U.C. Berkeley; David Armey, Albany resident; John, Albany resident; Bob Outis, Albany resident; Brian Parsley, Albany resident; Berkeley Soccer representative; Frank Knowles, Albany resident; Andrew Layton, Albany resident; Peggy Thomsen, Albany resident; Ed Fields, Albany resident; Ann Garvey, Albany resident; Jackie, Albany resident; Josh Leveritz, Albany resident; Allan Maris, Albany resident; Jeff Shipley, Albany resident.

A summary of the comments is as follows: Expressed concern that the ball fields would be considered above all the other sustainable uses. Disagreed with statements made about U.C. noting that U.C. has always kept their word. Stated that this should not be looked at as either or and that all the community can be served. Noted the investment that Albany Little League has in the fields and supports the Little League. Noted that the involvement with Little League is more than just a game of baseball and asked for the City's support. Spoke to the plans of U.C. and noted that U.C. is very eager to work with the City and the community on this project. Noted that having all three fields together is invaluable. Disagreed with the passage of this Resolution noting that it is inconsistent with CEQA and inappropriate to prejudice uses. Spoke in support of U.C. and the need to support Little League and urged the Council to adopt the Resolution. Noted that the community needs playing fields more than it does an area to grow crops and noted that people can grow food in their gardens. Supports urban agriculture at the Gil Tract but also supports Little League. Urged the Council to vote no on the Resolution. Noted that City and the community own Little League an enormous debt for the all the work they have done at the fields. Stated that the City does not have enough fields and agreed that U.C. has been cooperative.

Council Member Javandel spoke to the issue of growing food in community gardens and the City should continue to look for opportunities for more of them but the Resolution before Council does not diminish other uses and is for striking a balance.

Council Member Atkinson agreed that it is appropriate to strike a balance and that everyone should be heard and want to continue having a good relationship with U.C.

Council Member Wile stated that the core groups need to get together and announced there would be a meeting on Monday, September 22<sup>nd</sup>. Council Member Wile expressed concern about the possible loss of the ball fields and maybe a way can be found to change the bike path. Council Member Wile noted that organic fields are also very important to the community.

Mayor Lieber stated that Little League has meant a lot in his life and supports the fields where they are and the adoption of the Resolution; however, do not believe that the Resolution will make the fields any more secure but the community must work together.

Mayor Lieber noted that U.C. needs housing and that is their number one priority and the issue is about U.C. and its land and what they ultimately want to do with that land. Mayor Lieber noted that U.C. stated unequivocally its intent to put housing where the ball fields currently exist. Mayor Lieber stated that the City has no control over what U.C. wants to do with the land; however, the City does have control of the development project.

**7-1. Resolution No. 08-58 – Support for Little League**

Council Member Javandel presented Resolution No. 08-58 – A Resolution of the Albany City Council Supporting Albany Little League Ball Fields.

**MOTION:**

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Atkinson to adopt Resolution No. 08-58.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None ABSENT: None

Motion carried and so ordered.

**7-2. Civic Center Monthly Construction Progress Report**

(File #200-20)

The Public Works Manager reported that due to the summer recess, council has had consecutive reports but they will be on the second meeting of the month hereafter. It was noted that on Thursday, September 18 the Fire Department apparatus building would be completed.

The Public Works Manager spoke that the market for demolition and construction debris from this project was recycled.

Council asked some questions of staff and no action taken, as it is information only.

**8. NEW BUSINESS**

**8-1. Resolution No. 08-56 – Senior Center Community Shuttle Bus Project**

(File #600-40)

The Senior Services Supervisor reported that the City applied to the Alameda County Transportation Improvement Authority for a grant and received a grant in the amount of \$161,600 to purchase a new vehicle.

It was noted by the purchase of this vehicle the shopping program will accommodate more riders each day in a safe, comfortable and reliable vehicle. The bus would also be used for the monthly group day trips.

The Senior Services Supervisor stated that after look at the pros and cons of all the options available and taking into account the City’s Environmental Purchase Policy, it was determined that a clean burn diesel engine was the best alternative to meet the needs of the program, its budget and the environment.

Council Member Javandel presented Resolution No. 08-56 – A Resolution of the Albany City Council Authorizing City Staff to Implement the Proposed Plan for the Albany Senior Center Community Shuttle Bus Project for Fiscal Year 2008-2010.

**MOTION:**

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Javandel and seconded by Council Member Okawachi.

**8-1. Resolution No. 08-56 – Senior Center Community Shuttle Bus Project**

**VOTE ON THE MOTION:**

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-2. State Propositions on the November 4, 2008 Ballot**

(File #660-30)

a. Resolution No. 08-60 – A Resolution of the Albany City Council Opposing Proposition 4, an Initiative Constitutional Amendment Establishing a Waiting Period and Parental Notification Before Termination of Minor’s Pregnancy.

b. Resolution No. 08-61 – A Resolution of the Albany City Council Opposing Proposition 8, an Initiative Constitutional Amendment Eliminating the Right of Same-Sex Couples to Marry.

**8-2. State Propositions on the November 4, 2008 Ballot**

Mayor Lieber stated that he asked for these Resolutions to be on the Agenda and feels very strongly that this action should be taken.

Both Council Members Atkinson and Wile support the Resolution and thanked Mayor Lieber for putting them on the agenda.

Council Member Javandel and Okawachi both believe in the right of an individual to vote their conscience but did not believe the City get involved in these issues. Both Council Members indicated that they would abstain on the vote.

The following people spoke on this issue: Kathryn Javandel, Albany resident; Frank Knowles, Albany resident; Thelma Rubin, Albany resident.

A summary of the comments is as follows: Spoke against Resolution No. 08-60. Urged the Council to not pass the Resolutions tonight but to give people a chance to read the information. Expressed concern about the appropriateness of this action and noted that as a resident of Albany she did not need the Council to act on her behalf.

Council Member Wile presented Resolution No. 08-60 – A Resolution of the Albany City Council Opposing Proposition 4, an Initiative Constitutional Amendment Establishing a Waiting Period and Parental Notification Before Termination of Minor’s Pregnancy.

Council Member Wile presented Resolution No. 08-61 – A Resolution of the Albany City Council Opposing Proposition 8, an Initiative Constitutional Amendment Eliminating Right of Same-Sex Couples to Marry.

**MOTION:**

After the title of Resolution No. 08-60 and Resolution No. 08-61, it was moved by Council Member Wile and seconded by Council Member Atkinson to adopt both Resolutions.

**8-2. State Propositions on the November 4, 2008 Ballot**

**VOTE ON THE MOTION:**

AYES: Council Members Atkinson, Wile & Mayor Lieber

NOES: None ABSENT: None

ABSTENTION: Council Members Javandel & Okawachi

Motion carried and so ordered.

**8-3. East Bay Municipal Utility District Drought Update**

(File #1000-20)

East Bay Municipal Utility District (EBMUD) Director Andy Katz, spoke to the Council providing an update on the drought and the mandatory water rationing. Director Katz noted the various programs that EBMUD has available to the public to help with water saving methods including free gadgets for the shower and toilet.

Mayor Lieber noted that the City is currently working with BART to use recycled water on the Ohlone Greenway and hoped that EBMUD would work with the City to make this happen. Director Katz asked the City to send him an e-mail, as a follow-up on this issue.

Allan Maris, Albany resident, asked that guidance be given to the public on the minimum amount of water that could be used.

No action required information item.

**10. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS**

Mayor Lieber announced that he attended a League of Women Voters forum at Northbrae Church and spoke on Albany's green record.

Council Member Javandel reiterated his support for having Albany Candidate websites linked on the City's website.

Council Member Javandel asked for a future agenda item regarding the study of the Buchanan Bicycle Path through the USDA property.

**11. ADJOURNMENT**

10:45 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.



**11. ADJOURNMENT**

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

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ROBERT S. LIEBER  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ  
CITY CLERK