

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**  
**TUESDAY, SEPTEMBER 7, 2004**

---

**6:50 p.m.**

Executive Session pursuant to Government Code Section 54957 Public Employee Performance Evaluation:

Title: City Administrator

**7:50 p.m.**

Joint meeting of the Public Facilities Financing Authority, Albany Municipal Services Joint Powers Authority and the Albany Community Reinvestment Agency.

**8:00 p.m.**

Mayor Ely 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 Good, Maris, Okawachi, Thomsen & Mayor Ely

Absent: None

**STAFF PRESENT**

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Ed Phillips, Zoning Consultant; Randy Leptien, Contract Engineer; Charles Adams, Finance Director.

**3. ANNOUNCEMENT OF EXECUTIVE SESSION ACTION**

**3-1.** Mayor Ely announced that no decision was made in Executive 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, July 26, 2004.

Staff recommendation: Approve.

**4-2.** a. Ratification of City of Albany net payroll in the amount of \$159,358.16; taxes, benefits & withholdings in the amount of \$113,120.33. Total payroll in the amount of \$272,478.49. Payroll period: 08/06/04.

b. Ratification of City of Albany net payroll in the amount of \$150,414.46; taxes, benefits & withholdings in the amount of \$166,078.03. Total payroll in the amount of \$316,492.49. Payroll period: 08/20/04.

c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$37,629.43; taxes, benefits & withholdings in the amount of \$24,594.07. Total payroll in the amount of \$62,223.50; Payroll period: 08/06/04.

d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$36,924.52; taxes, benefits & withholdings in the amount of \$37,589.12. Total payroll in the amount of \$74,513.64. Payroll period: 08/20/04.

Staff recommendation: Ratify.

**4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$269,505.94. Period: 07/16/04.

b. Ratification of bills, claims & demands against the City of Albany in the amount of \$13,455.71. Period: 07/16/04.

c. Ratification of bills, claims & demands against the City of Albany in the amount of \$518,926.20. Period: 07/30/04.

d. Ratification of bills, claims & demands against the City of Albany in the amount of \$29,955.24. Period: 08/01/04.

e. Ratification of bills, claims & demands against the City of Albany in the amount of \$1,015,274.96. Period: 08/13/04.

**4. CONSENT CALENDAR**

f. Ratification of bills, claims & demands against the City of Albany in the amount of \$1,252,514.88. Period: 08/27/04.

g. Ratification of bills, claims & demands against the City of Albany in the amount of \$33,528.07. Period: 09/01/04.  
(File #300-40)

Staff recommendation: Ratify.

**4-4.** a. Ratification of pension payments in the amount of \$108,919.43 for the month of July, 2004.

b. Ratification of pension payments in the amount of \$108,919.43 for the month of August, 2004.

Staff recommendation: Ratify.

**4-5.** Consideration of Claim #AL487.  
(File #170-60)

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

**4-6.** Regulations of Political Signs Albany Municipal Code Sec. 20-5.4(m).  
(File #630-20)

Staff recommendation: 1) Unless otherwise directed, staff will notify all candidates that the forty-day durational prohibition for the placement of political signs will not be enforced. 2) Staff will commence a review of the non-commercial sign provisions in the Albany Municipal Code and propose modifications to these provisions to the Planning and Zoning Commission for their review. After the Planning and Zoning Commission have reviewed the matter proposed revisions would be presented to the City Council for adoption.

**4-7.** Resolution #04-41 – A Resolution of the Albany City Council Approving a Cost-of-Living Increase for the Library Services Act of 1994, as Approved by the Voters and Allowing the Collection of the Library Services Tax on the Alameda County Property Tax Bill.  
(File #390-110)

Staff recommendation: Approve Resolution #04-41.

**4. CONSENT CALENDAR**

- 4-8.** Resolution #04-42 – A Resolution of the Albany City Council Authorizing the Issuance and Sale of Not to Exceed \$9,500,000 Sewer Revenue Bonds and Authorizing Official Actions.  
(File #340-80)

Staff recommendation: Approve Resolution #04-42.

- 4-9.** Allocation of funds for Key Route Beautification Project.  
(File #100-30)

Staff recommendation: Approve the allocation of \$4,000 in discretionary funds to the completion of Phase I of the Key Route Beautification Project.

- 4-10.** 2004 Work Plan Status Report.  
(File #100-30)

Staff recommendation: Accept the 2004 Work Plan Status Report.

Mayor Ely asked if anyone would like to remove an item from the Consent Calendar and the following item was removed: Item 4-6.

**4-6. Political Signs**

Mr. Alan Riffer stated that in addition to the time allowed to put up signs he would like the City to review the size of the political signs allowed. Mr. Riffer noted that the standard political sign is 7% larger than what is allowed under the City’s Code.

Mr. Brian Parker stated that it is appropriate for this item to be on the agenda and would also like to bring another issue to the Council’s attention. Mr. Parker stated that in the Candidate Packet is a memo regarding solicitation and business license. Mr. Parker commented that he believes it is illegal to require that a business license be obtained before any political solicitation is allowed. Mr. Parker noted that he would not abide by this rule.

The City Clerk clarified for the Council that the Candidate does not pay a business license fee but registers with the City and obtains an exempt business license.

**MOTION:**

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

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

## 5. PRESENTATION

### 5-1. East Bay Regional Park District Measure CC

(File #920-80)

Director Jean Siri informed the Council and the public that Measure CC is to fund environmental maintenance, public safety, resource protection/restoration and public access. The measure is being proposed for the portion of the Park District between San Pablo and Oakland, which includes 20 regional parks.

Director Siri stated that the amount will be \$1 per month per single family home (\$12.00 per year); \$.69 per month per multi-family unit (\$8.28 per year). The use of funds will be distributed, as follows: 57% for access, infrastructure and safety improvements, including wildlife prevention; 33% for resource and habitat projects; 10% for emergencies and opportunities. The funds would be used only for specified projects within the western portion of Alameda and Contra Costa Counties. Voters in Alameda, Albany, Berkeley, El Cerrito, Emeryville, Kensington, Oakland, Piedmont, and a small portion of Pinole, Richmond and San Pablo will be asked to vote on this parcel tax measure. There is a sunset clause, which after 15 years the measure would expire and renewal would require a two-thirds vote.

Director Siri introduced Larry Tong, Planner, and urged the Council to support this measure.

The following people spoke in favor of Measure CC: Robert Cheasty; Norman LaForce, Sierra Club.

Council Member Maris asked why only certain voters in specific areas would be paying the tax and Mr. Larry Tong replied that this is the core area of the historic park district.

Council Member Maris asked if any of the funds were designated for removal of debris at the Albany Bulb. Mr. Norman LaForce responded that the Sierra Club has tried to get funding for the restoration of the bulb and asked that language be inserted for this issue. Mr. LaForce said there might be a probability of obtaining the funds.

## 7. NEW BUSINESS

### 7-1. Change of parking time from 60-minutes to 90-minues on Solano and San Pablo Avenues business districts.

(File #570-20)

The Community Development Director reported that in 2003 the City Council approved a trial two-hour parking limit for Solano and San Pablo Avenues that occurred between November 28 to December 31. This trial was in response to a request by the Albany Chamber of Commerce and supported by the Solano Avenue Association. The purpose of the project was to evaluate the effects of longer parker limits on the shopper/user, the local merchant or property owner, and the City's parking revenue.

In May, 2004, the Chamber of Commerce submitted a written request that the parking limits be changed from 60 minute to 90 minute parking. This was referred to the Traffic & Safety Commission who voted to approve the change, including all side streets,

**7-1. Change of parking time from 60-minutes to 90-minutes on Solano and San Pablo Avenues business districts.**

except for the 4-hour spaces in front of the Senior Center. In addition, 20-minute parking spaces are recommended that were part of the pilot project of 2003. The Commission continues to have reservations about the loss of revenue and the vote was 3 in favor, 1 opposed and 1 member absent. It should also be noted that this action is not intended to change such things as loading zones, disabled parking and red zones.

The Community Development Director noted that the intent of the proposed change is to allow commercial customers more time in patronizing local businesses. There is concern in the business community that the time limits and the enforcement are a deterrent to people patronizing Albany businesses. On the other hand, by extending the time limits there is a risk that there will be less turnover in parking spaces, which would mean fewer spaces are available to customers seeking a space.

Council Member Maris questioned the figures regarding parking fines and the Community Development Director referred him to page 2 of the staff report.

Lt. McQuiston stated that currently the Parking Enforcement Officer does up to five runs per day with the new parking enforcement vehicle and is usually an 8-hour day. Lt. McQuiston noted that the Parking Enforcement Officer could arrange the schedule to accommodate the change.

The following people spoke in favor of the proposed change: Mr. Robert Cheasty, 1604 Solano Avenue; Mr. James Carter, Executive Director, Chamber of Commerce; Ms. Maureen Crowley, Kains Avenue; Mr. David Arkin, 1062 Stannage Avenue; Mr. Richard Cross, Kains Avenue; Ms. Gail Drulis, Albany YMCA; Mr. Steve Kahn, Steve's Auto Body; Ms. Elisabeth Bell.

The following people submitted letters in favor of the change: Ms. Rose Chuchwar, owners of 1109, 1111 & 1113 Solano Avenue; Yocklian Lee, business owner, 843 San Pablo Avenue; Ms. Barbara Gilbert, shopper; Ms. Lana Yu and Stephanie Frey, business owner,

The following people spoke against the proposed change: Mr. Ray Anderson, Traffic & Safety Commission; Mr. Evan Flavell, 846 Solano Avenue.

**MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Thomsen to approve 1) changing the parking in the Solano Avenue and San Pablo Avenue business districts from 60-minutes to 90-minutes, including all side streets, except for the 4-hour spaces in front of the Senior Center. 2) Reestablish the 20-minute parking spaces that were part of the pilot project in December, 2003.

**ON THE QUESTION:**

Council Member Maris asked for clarification that the 20-minute parking spaces are appropriate and the Community Development Director responded that no one complained during the trial period and the trial project was not changed.

**VOTE ON THE MOTION:**

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

**7-2. Gaming Revenue Act of 2004**  
(File #660-40)

The Assistant to the City Administrator reported that before the voters in November is Proposition 68, which is an initiative sponsored by various card rooms and horseracing track owners in California. There are two scenarios that may occur if the initiative is passed:

Scenario 1: Within 90 days of the effective date of the initiative, if passed, all Indian tribes must renegotiate new compacts with the Governor providing for 25% of their winnings from each gaming device to a Gaming Revenue Trust Fund and agree to comply with all relevant State laws. If all compacts are successfully renegotiated within this time period, these negotiated compacts allow the Indian tribes to have the exclusive right to operate gaming devices in the State.

Scenario 2: If agreement is not reached with all tribes within the 90 day period, five existing race tracks and eleven existing card rooms will have the right to operate not more than 30,000 gaming devices (slot machines).

Under either scenario, the initiative will establish a Gaming Revenue Trust Fund administered by five members appointed by the Governor. Payments into the Trust Fund, under either scenario, come from a percentage of the “net win” from the gaming devices. Local government would get 35% on a per capita basis for additional neighborhood sheriffs and police officers; 15% on a per capita basis for additional firefighters; 2% to the City in which each authorized facility is located; 1% to the County in which each authorized facility is located.

The Assistant to the City Administrator stated that in 1990 voters adopted Measure C, which requires a ballot measure in order to approve any of the following: 1) any amendment to the land use designation for the Waterfront Area. 2) The establishment of, or any amendment to, the Waterfront Master Plan. 3) Any amendment to the zoning ordinance for the Waterfront area. 4) Entry into a development agreement for the Waterfront Area.

Approval of Proposition 68 would preclude the City from prohibiting gaming devices at Golden Gate Fields. If Golden Gate Fields moved forward to install slot machines on their site, the City would not be able to require a use permit or deny use for this activity. However, the Act does not authorize the development of the site for other uses.

The Assistant to the City Administrator noted that the City would not be able to require a use permit and would not be able to deny the gaming use authorized pursuant the Gaming Revenue Act. This represents a loss of local control by the City in decisions related to permitted uses at the Golden Gate Fields property. The impacts of gaming on a community include increased need for police services, increased traffic and social impacts.

Proponents of this initiative argue that it will require Indian tribes to pay their “fair share” of the costs to California to operate a gambling monopoly in the State. The County Sheriffs of Los Angeles, San Mateo and Sacramento endorse this initiative. Opponents argue that the requirement to reach an agreement with all 61 tribes within the 90-day window is intentionally unachievable and the real purpose of the Gaming Revenue Act is to allow the 16 businesses to own and operate 30,000 new gaming

**7-2. Gaming Revenue Act of 2004**

devices in the State. Governor Schwarzenegger, the California Police Chiefs Association, the California Cities' Revenue and Taxation Committee and the Public Safety Committee oppose the initiative.

Council Member Maris asked how secure the income distribution was and the Assistant to the City Administrator responded it depends on the amount of money the slot machines would generate and there are a number of variables.

The City Administrator noted that this initiative would be a constitutional amendment rather than a legislative act.

Mayor Ely expressed concern that if this passes the State would turn around and take away the property tax from the cities and counties in lieu of the gaming revenue received.

The following people spoke against Proposition 68 and urged the City Council to go on record as opposing this initiative: Mr. Robert Lieber, Kains Avenue; Ms. Kay McClean; Mr. Robert Cheasty; Mr. Norman LaForce, Sierra Club; Mr. Brian Parker, 1127 Garfield; Mr. Fred Etherridge; Justin, No On Proposition 68 Campaign; Mr. Alan Riffer; Mr. David Arkin, 1062 Stannage; Mr. Richard Cross; Mr. Bart Grossman.

The following people spoke in favor of Proposition 68: Mr. Peter Tunney, Golden Gate Fields; Mr. Richard Castro, Pari-Mutuel Guild; Mr. Jim DeVell, representing employees of the racetrack.

Council Member Maris expressed concern about whether the City would actually receive any money and the negative implications of Proposition 68, especially the loss of local control over the Waterfront area.

Council Member Okawachi stated that she personally likes Peter Tunney and is very appreciative of the support he has given to the City over the years, but is also very concerned about the negative impacts to the City, such as increased traffic, police services and the social issues that go with gambling. Council Member Okawachi noted she did oppose the proposed card room at Golden Gate Fields and is opposed to Proposition 68.

Council Member Thomsen agreed with Council Member Okawachi about Peter Tunney but is also very concerned about the issues connected with Proposition 68 especially the social issues and the loss of City control.

Council Member Good expressed his opposition to Proposition 68 stating it would be very unhealthy for the City.

Council Member Good presented Resolution #04-43 – A Resolution of the Albany City Council Opposing the Adoption of the Gaming Revenue Act of 2004 (Proposition 68) on the November 2, 2004 ballot.

**MOTION:**

After reading the title, and waiving reading of entire Resolution, it was moved by Council Member Good and seconded by Council Member Maris to approve Resolution #04-43.

**ON THE QUESTION:**

Mayor Ely expressed his concern with Proposition 68 noting that it would be unregulated gambling and setting a precedent for spot zoning.

**7-2. Gaming Revenue Act of 2004****VOTE ON THE MOTION:**

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

**8. PUBLIC HEARING****8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan (Continued from 8/30/04)**

(File #450-20)

The Zoning Consultant reported that on August 30, 2004, the City Council requested that staff consider how the various zoning options for the San Pablo Avenue corridor, including the status quo, might be described in terms of alternative “visions” or conceptual statements of the direction the City might be taking in selecting a particular option. Staff has also provided the Council with a vision that was developed by residents of the San Pablo corridor.

The Zoning Consultant provided the following alternative visions for the San Pablo Avenue Corridor.

Status Quo – Existing Zoning: Concept: A variety of commercial activity along the length of San Pablo Avenue, with minimal zoning controls. The commercial corridor flanked on either side by a band of high density residential zoning, with the potential for more-or less random expansion of commercial activity into abutting residential property.

Current General Plan: Concept: Encourage more non-automotive retail along San Pablo Avenue by permitting commercial development to be somewhat more intense than what exists at present; promote visual improvements to both private and public facilities. Along the block-fronts of Kains Avenue and Adams Street that abut San Pablo, specify which blocks will be limited to residential and which will permit commercial use. Encourage affordable housing through retaining existing units and through new construction.

San Pablo Avenue Vision Plan: Concept: An increase in the scale of development-larger, multi-story buildings on larger sites, capable of providing space for a broader array of retail businesses, with supporting parking facilities, and upper level space for offices and residential units. Development oriented to transit, with the highest intensity of activity to be concentrated near the San Pablo-Solano intersection.

Residents’ New Vision: Concept: Recognize and enhance the residential character of the San Pablo Corridor, with conservation and development of a variety of dwelling types in the adjacent neighborhood, as well as mixed-use development along San Pablo Avenue. All development should be at a compatible scale. Commercial activities to reflect a neighborhood-serving orientation.

Planning & Zoning Commission Recommendation: Concept: A mixed use corridor along both sides of San Pablo Avenue, including the frontage of the University Village, with incentives of increased floor area ratio offered for certain amenities. High-

**8-1. Proposed Revisions to the Zoning Ordinance and Proposed Amendments to the Land Use Element of the General Plan (Continued from 8/30/04)**

density residential use in the commercial expansion area along Kains and Adams, with medium density residential along the opposite sides of those streets. Daylight planes, landscaping and other devices to avoid commercial intrusion on residential area. Provisions for implementing Housing Element policies on affordable housing.

Council Member Maris stated that he supports the R-3 district on the backside of Kains and Adams; however, is concerned about the parking issues and noted the City has a significant need for parking spaces. Council Member Maris noted that he agrees that the area behind the Albany Theatre is a good spot for a parking area and would support the R-3 district, as long as there are additional parking spaces.

Mayor Ely opened the public hearing and the following spoke: Ms. Maureen Crowley; Mr. Ed Fields; Ms. Frances Cotter, 916 Key Route Blvd; Mr. Clay Larson, Adams Street; Mr. Alan Riffer, 631 Jackson; Mr. Robert Lieber, Kains Avenue; Ms. Kristina Osbourn; Mr. Bart Grossman; Mr. David Arkin, Stannage Avenue; Mr. Dave Miller, Kains Avenue; Mr. James Cleveland, 724 Cerrito; Ms. Joan Larson, 628 Adams; Mr. Peter Shack, Madison Street, Mr. Evan Flavell and Ms. JoAnna Selby.

The comments are summarized as follows: The majority of residents support this configuration; do not allow parking structures in the R-3 district; take out reference in the Code to multi level parking structures; reminded the Council that the City does not own the land behind the Albany Theatre and talk at this time is premature; problems with selling or renting homes that have a business right behind the property. All the speakers were excited about the direction the City Council was heading.

Council Member Good stated that the City must plan for smart growth in the commercial and residential area along San Pablo Avenue. Council Member Good noted that the Council must consider the future of the entire City not just the areas of Kains and Adams. Council Member Good stated that the City should amend the existing General Plan and reaffirm the San Pablo Avenue Vision Plan.

Council Member Thomsen agreed that the City must review all their plans so that they fit with what the City's vision is now and for the future.

Council Member Maris stated that he shares some of the same concerns that Council Member Good has. Council Member Maris noted that the status of the Zoning Code seem to change with the economy and is not nearly as strong in retail commercial. Council Member Maris commented that this subject has gone through the public process and he is comfortable with the R-3 district and believes there are areas in the City for serious retail, such as the Albany Bowl and the Town Centre.

After much discussion by the City Council and the public the following motion was made.

**MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Thomsen that the zoning of properties fronting on the Eastside of Kains, from Brighton Avenue south to the City limit be zoned R-2 and properties on the Westside of Kains, from Brighton Avenue south to the City limit be zoned R-3, with the exception of the 125 foot



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

Council Member Maris announced the following: 1) Solano Stroll was being held on Sunday, September 12, 2004. 2) September 18, 2004, 8:30 a.m. there would be ferry service from the Berkeley Marina and the Beach Cleanup was scheduled. 3) Paul Rockwell, Albany Library, retired and would like a proclamation in his honor. 4) Urged everyone to go to the Community Center and look at the new art that is there at this time.

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

Ms. Joan Larson, 628 Adams, stated that her neighborhood is interested in getting permit parking and asked if there was an application or if just a letter is required. The Community Development Director stated that the Code just references a letter be submitted.

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

**11. ADJOURNMENT**

11:15 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.

---

JON ELY  
MAYOR

ATTEST:

---

JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK