

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,**  
**COMMUNITY CENTER, 1249 MARIN AVENUE**  
**MONDAY, NOVEMBER 17, 2008**

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**7:30 p.m.**

**CLOSED SESSION**

Closed session pursuant to Government Code Section 54956.9(b)(3)(A) to meet with Legal Counsel to discuss exposure to litigation

**OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS**

**ADJOURN TO CLOSED SESSION**

**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; Ann Chaney, Community Development Director; Jeff Bond, Planning Manager; Amber Curl, Associate Planner; Rich Cunningham, Public Works Manager

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

Mayor Lieber reported that Council met to discuss exposure to litigation pursuant to Government Code Section 54956.9(b)(3)(A) and received advice but no decision made.

**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, October 20 & November 3, 2008.**

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$208,357.44; taxes, benefits & withholdings in the amount of \$252,996.35. Total payroll in the amount of \$461,353.79. Payroll period: 10/24/08.
- b. Ratification of City of Albany net payroll in the amount of \$184,055.44; taxes, benefits & withholdings in the amount of \$147,460.58. Total payroll in the amount of \$331,516.02. Payroll period: 11/07/08.
- c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$55,275.85; taxes, benefits & withholdings in the amount of \$58,981.81. Total payroll in the amount of \$114,257.66. Payroll period: 10/24/08.
- d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$57,178.43; taxes, benefits & withholdings in the amount of \$42,258.39. Total payroll in the amount of \$99,436.82. Payroll period: 11/07/08.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$31,978.38. Period: 10/01/08.
- b. Ratification of bills, claims & demands against the City of Albany in the amount of \$1,051,266.59. Period: 10/17/08.
- c. Ratification of bills, claims & demands against the City of Albany in the amount of \$958,620.71. Period: 11/03/08.
- d. Ratification of bills, claims & demands against the City of Albany in the amount of \$31,978.38. Period: 11/03/08.

Staff recommendation: Ratify.

- 4-4. A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of September 30, 2008, as required by Section 53646 of the California Government Code.  
(File #300-10)

Staff recommendation: Receive for information.

- 4-5. City Treasurer regarding AB1234 reporting on Municipal Revenue and Tax Association Conference.  
(File #640-15)

Staff recommendation: Receive for information.

- 4-6. Resolution No. 08-71 – A Resolution of the Albany City Council Authorizing the City Administrator to Execute Agreements for Financial Advising and for Legal Services for the Purpose of Financing an Amount Not to Exceed \$5,000,000 for the Construction of Storm Drain and Sewer Improvements and the Purchase of Real Property to be Used as a Public Works Maintenance Center.  
(File #600-30)

Staff recommendation: 1) Adopt Resolution No. 08-71. 2) Authorize the City Administrator to execute agreements for financial advisory services with Wulff Hansen and legal services with Jones Hall.

- 4-7. Update on Taxes and Paramutual Wagering Revenues Received from Golden Gate Fields Property.  
(File #330-20)

Staff recommendation: Receive for information.

- 4-8. Pension payments for the month of October, 2008 in the amount of \$111,069.65.

Staff recommendation: Ratify.

Mayor Lieber asked if anyone would like to remove an item for discussion and the following items were removed: 4-3a, 4-6 & 4-7.

**4-3a. Warrants**

Council Member Wile stated that she would like to suggest that the City stop buying bottled water, which would save \$4,080 annually.

Jim Cleveland, Albany resident, agreed stating there are no controls over what is in the bottle water but EBMUD water is monitored.

**4-6. Resolution No. 08-71 – Agreement for Legal Services**

Council Member Okawachi asked questions regarding the previous action taken on this matter and the Finance Director replied there are no clear answers as to why the previous lease was not approved.

Allan Maris, Albany resident, asked if this would have any affect on the proposed project and the Finance Director responded that the City is committed to that project.

**4-7. Update on Taxes from Golden Gate Fields**

Council Member Atkinson noted that the City received a letter from Golden Gate Fields disagreeing with the figures the City provided. The Finance Director stated that staff chose not to speculate on how many additional racing days the City would see.

The City Administrator clarified that the letter from Golden Gate Fields was not received until today. Council Member Okawachi read the letter from Golden Gate Fields.

The following people spoke on this item: Brian Parker, Albany resident; Francesco Papalia, Albany resident; Ed Fields, Albany resident; Marsha Skinner, Albany resident; Brian Parsley, Albany resident; Jim Cleveland, Albany resident; Allan Maris, Albany resident.

A summary of the comments is as follows: Spoke about Magna stock and its finances and stated that staff should be cognizant of the financial news about Magna. Spoke about the revenue generated by Golden Gate Fields and does not believe they are going away. Noted that if a new owner appears the City needs to reassess the property at that time. Spoke about the property taxes. Noted that people also need to be aware that the State and EBRPD have no plans to take over the land and discussion needs to take place about the City's property as well as Golden Gate Fields. Asked how much additional money the City believes it will get. The Finance Director responded it depends on the additional racing days and cautioned everyone that the School District gets 1/3 of the revenue that was indicated in the letter as going to Albany.

**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**

Mayor Lieber opened the Good of the City/Public Forum/Announcements and noted this is a time to make announcements and speak to the Council on items that are not on the agenda.

Council Member Wile announced the following 1) Attended a Gilman Ball Fields JPA meeting. 2) Noted that the Holidays are coming up and urged everyone to spend money locally noting that for every \$100 spent, \$68 goes back into the local economy.

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

Council Member Atkinson announced that she attended the Reserve Police Officer Dinner at Golden Gate Fields.

The City Administrator noted that staff is doing a new staff report formant, which includes a sustainability impact section.

Council Member Okawachi announced that the Police Department is having its first Youth Police Academy graduation on November 22, 9:30-10:30.

The following people spoke: Caryl O'Keefe, Albany resident; Liz Bronson, Albany resident; Brian Parsley, Albany resident; Allan Maris, Albany resident; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Announced the Friends of the Albany Library Book sale, which collected \$6,400. Thanked the donors and the volunteers including Ronnie Davis and Marsha Skinner. Asked the Council to speak closer into their microphones, as it is hard to hear at the back of the room. Suggested that the City have a homeless service, which would include shelter and outreach volunteers. Reported that graffiti is appearing all over the City and maybe the City should have some neighborhood murals painted to discourage the graffiti. Reported that during the Holiday season the Church on the Corner is sponsoring a program to donate to charities, as an alternate gift. Suggested that the speaker who spoke about homeless programs should attend the Social & Economic Justice Commission meetings. Suggested that a sign be put on the Albany freeway exit announcing the Solano Avenue shopping district and also to have banners throughout the City advertising the shopping district.

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. Appeal – Design Review 904 Santa Fe (File #450-50)

The Planning Manager reported that the applicant submitted an application on November 2, 2007 requesting approval to demolish the existing structure and construct a new three-story mixed-use building that includes two residential unites, approximately 1,200 sq. ft. in area.

The Planning & Zoning Commission reviewed the project at three hearings and was approved with minor architectural revisions. The Commission noted that the project is larger than the residential properties in that area but that the Code allows for a building of the proposed size. It was also noted that the applicant had made changes to the project to respond to concerns that have been raised and that zoning, prior to the 2004 revision, would have allowed a much larger building. Due to concerns the applicant filed revised plans that reduced the height from 31'-11" to 30'-3".

The Planning Manager noted that in acting on the appeal, the City Council might: 1) Affirm the decision of the Planning & Zoning Commission (resulting in approval of the project exactly as approved by the Commission. 2) Affirm the decision with modifications (resulting in approval of the project, incorporating additional modifications

**6-1. Appeal – Design Review 904 Santa Fe**

approved by the Council. 3) Reverse the action of the Planning Commission (resulting in denial of the application. 4) Return the matter to the Planning & Zoning Commission. 5) Take no action (resulting in approval of the project exactly as approved by the Commission.

Council Member Wile recused herself and left the Chamber due to living within the area.

Mayor Lieber asked the applicant to make a presentation and then the appellant and after that he would open the public hearing.

Mina Moubedi, applicant, stated that he has spent over a year going through this process and has complied with all City regulations. Mr. Moubedi noted that he has revised the plans to reduce the height due to concerns by the neighbors and the Planning Commission.

Keith Weinstein, appellant, stated that this project would drastically impact the neighborhood and does not believe the Planning Commission gave the neighbors a chance to really discuss this project. Mr. Weinstein asked the Council to send this back to the Planning Commission for further discussions or deny the application and also noted that the massing should be shifted away from the front of the property.

Mr. Weinstein believes that the project is too big and adversely impacts the aesthetic enjoyment of the homes and is an invasion of the neighbor's privacy. Mr. Weinstein also believes that the project does not follow the "harmonious transition" guidelines of the General Plan. Mr. Weinstein noted that the area model was not available for prior meetings.

Mr. Weinstein reported that he has a petition with 50 signatures of nearby residents who also oppose the project.

Mayor Lieber opened the public hearing and the following people spoke: Joseph Reggie, Albany resident; Molly Brown, Albany resident; Barbara Weisman, Albany resident; Tom Newton, Albany resident; Jane Cavalli, Albany resident; Owen Jones, Albany resident; Ann Guess, Albany resident; Jenny, Albany resident; Guy Cavalli, Albany resident; Nancy Roberts, Albany resident; Alice, Albany resident; Michael Wallace, Albany resident; Doug Cuell, Albany resident.

A summary of the comments is as follows: Asked that the project be smaller. Although project meets zoning rules believe the rules allow too much. Spoke about the transition between the use of residence and commercial. Noted that the neighborhood would be impacted drastically by this project. Believes that the project uses maximum ratios and does not like the 3 stories. Noted that the parking would impact the neighborhood if there were not enough parking provided. Spoke about using existing homes as transition to commercial by use as office. Suggested the size be minimized to keep the quaint town. Asked why the City does not have a transition zone. Expressed concern about increased parking during the school year and how that would impact the neighborhood. Spoke about seismic safety with a massive building next to smaller ones. Expressed concern about design review issues in Albany. The building size would definitely change the neighborhood.

There being no one else wishing to speak Mayor Lieber closed the public hearing.

**6-1. Appeal – Design Review 904 Santa Fe**

Council Member Okawachi agreed that the project is massive and would like to have it sent back to the Planning Commission for further discussion and give and take from both sides.

Council Member Atkinson stated that she has a problem with the fact that the City does not have a transitional zone and is concerned about blending with the neighborhood and being harmonious.

Council Member Javandel stated there are two issues 1) How does the City address this project and 2) Lack of a transition zone, which needs to be followed up by the City. Council Member Javandel expressed concern with some structural issues regarding the layout and believes an analysis should be done to make sure that the garage works.

Mayor Lieber commented that he agreed that this project should be referred back to the Planning Commission but also wants to respect the rights of the property owner. Mayor Lieber stated that the neighbors should decide on what they can realistically live with and the property owner needs to make sure it transitions into the community.

Mayor Lieber stated that he would like the Planning Commission to start discussing a transition zone.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to send this project back to the Planning Commission for further discussions.

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

NOES: None

ABSENT: Council Member Wile

Motion carried and so ordered.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to ask the Planning Commission to take up the matter of a transition zone between commercial and residential.

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

NOES: None

ABSENT: Council Member Wile

Motion carried and so ordered.

Council Member Wile returned to the Chamber and took her seat at the Council Dias.

**7. UNFINISHED BUSINESS****7-1. Civic Center Progress Report**  
(File #200-20)

The Public Works Manager reported no significant change orders and is still within contingency.

Council Member Wile asked who negotiates any contract issues and the Public Works Manager responded if it can't be worked out then it goes to a professional arbitrator.

**7-1. Civic Center Progress Report**

Council Member Atkinson noted that she believes it a good idea to have someone look at maximizing the office space at City Hall.

Clay Larson, Albany resident, asked whether the space study included an area for the cable operators and if not that it should be looked at.

No action required.

**7-2. First Quarter FY 2008-09 Financial Statements and Projection**  
(File #330-20)

The Finance Director reported that the City is doing relatively well during this volatile economic climate; however, there are some short falls in revenue in property tax and sales tax. Staff is recommending some budget adjustments totaling \$120,000, which if adopted would convert the General Fund budget deficit of \$106,725 to a surplus of \$13,275 and maintain the City's policy of operating with a balanced budget.

Mayor Lieber asked the Council subcommittee if they concurred with staff's recommendations. The subcommittee agreed.

Council Member Wile questioned the proposed decrease in the overtime budget and the City Administrator responded that staff believes this could be done; however, if anything changes would come back to Council.

The following people spoke: Jim Cleveland, Albany resident; Allan Maris, Albany resident; Caryl O'Keefe, Albany resident; Bob Outis, Albany resident; Clay Larson, Albany resident; Margie Marks, Albany resident.

A summary of the comments is as follows: Questioned the fact that the worst financial month of October was not included in the statement. Spoke about the pension plans and Waterfront Visioning Process. Urged the Council to exercise more caution and noted this statement does not speak o the projected deficit in 2009/10. Suggested that the Council wait on any action until the City knows more about the revenue expected from Golden Gate Fields. Believe that the financial condition is more serious than what is being projected and the City should re-evaluate everything done in the past year and in particular the use of City money for the Fern Tiger contract. Suggested the Council hold off on this and let the Department Heads decide where the cuts should come from. Believe that the Fern Tiger project is an essential item and people should not be concerned about the City's financial health but also the moral health.

**MOTION:**

Moved by Council Member Atkinson, seconded by Council Member Wile to authorize the reduction in fiscal year 2008/09 budgeted expenditures by \$122,000.

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

NOES: None

ABSENT: None

Motion carried and so ordered.



**7-3. Ordinance No. 08-011 – Campaign Finance Reform Act of 1996**  
(File #630-40)

The City Attorney reported that in August the City Council adopted by a 4/5 majority Ordinance No. 08-010, which amended the Campaign Finance Reform Act of 1996. Since that time, questions have been raised as to whether this Ordinance was adopted in a manner required by the law of the State of California. To eliminate any uncertainty Ordinance No. 08-011 is submitted to Council for adoption, which would reenact the identical version presented in Ordinance No. 08-010.

The following people spoke: Bob Outis, Albany resident; Francesco Papalia, Albany resident; Allan Maris, Albany resident.

A summary of the comments is as follows: Expressed concern that this was passed illegally and that the Council ignored recommendations from the Social & Economic Justice Commission (SEJC). Noted that this is not a reenactment, as the first Ordinance adopted was void and that this issue should go back to the Commission. Spoke on the importance of informing the public and giving them all the pertinent facts. Stated that the SEJC recommended that a task force be formed to study this matter, as there are significant flaws in the current law.

Council Member Atkinson introduced Ordinance No. 08-011 for first reading – An Ordinance of the Albany City Council Amending in its Entirety Chapter VII City of Albany Campaign Finance Reform Act of 1996 of the Albany Municipal Code.

**MOTION:**

After reading the title, and waiving reading of entire Ordinance, it was moved by Council Member Atkinson and seconded by Council Member Wile to introduce Ordinance #08-011 for first reading.

**ON THE QUESTION:**

Council Member Okawachi asked if changes could be made during the second reading.

Council Member Javandel stated that this action is cleanup work but believes the Ordinance should go back to the Commission for further study.

**VOTE ON THE MOTION:**

AYES: Council Member Atkinson, Javandel, Wile & Mayor Lieber

NOES: Council Member Okawachi ABSENT: None

Motion carried and so ordered.

**8. NEW BUSINESS**

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

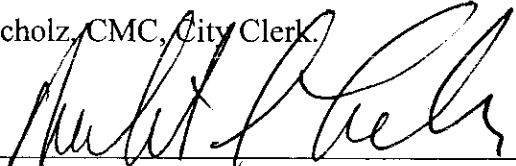
**9-1.** City offices will be closed **Thursday, November 27 & Friday, November 28, 2008**, in observance of Thanksgiving.

**9-2.** Special Council Meeting, **December 8, 2008, 7 p.m.** to Issue the Oath of Office to newly elected City and School District Officials.

**10. ADJOURNMENT**

11:10 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

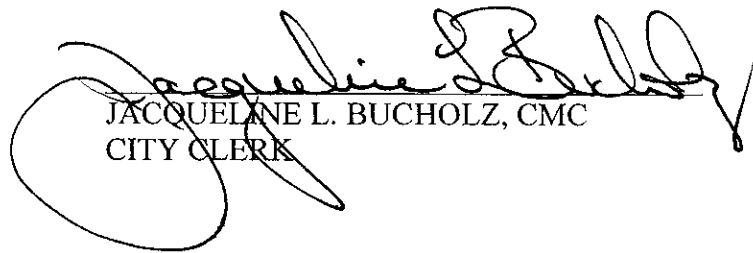
Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.



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ROBERT S. LIEBER  
MAYOR

ATTEST:



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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK