



**4. CONSENT CALENDAR**

- 4-1.** Council Minutes, November 15 & 19, 2007.

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$208,807.47; taxes, benefits & withholdings in the amount of \$154,062.64. Total payroll in the amount of \$362,870.11. Payroll period: 11/09/07.
- b. Ratification of City of Albany net payroll in the amount of \$194,583.26; taxes, benefits & withholdings in the amount of \$221,166.55. Total payroll in the amount of \$415,749.81. Payroll period: 11/21/07.
- c. Ratification of Albany Municipal Services JPA net payroll in the amount of \$56,863.74; taxes, benefits & withholdings in the amount of \$56,456.15. Total payroll in the amount of \$113,319.89. Payroll period: 11/09/07.
- d. Ratification of Albany Municipal Services JPA net payroll in the amount of \$54,158.84; taxes, benefits & withholdings in the amount of \$56,456.15. Total payroll in the amount of \$110,614.99. Payroll period: 11/21/07.

Staff recommendation: Ratify.

- 4-3.** a. Ratification of bills, claims & demands against the City of Albany in the amount of \$371,674.97. Period: 11/16/07.
- b. Ratification of bills, claims & demands against the City of Albany JPA in the amount of \$72.32. Period: 11/16/07.

Staff recommendation: Ratify.

- 4-4.** Ordinance #07-07 – An Ordinance of the Albany City Council Amending Chapter XII, Building and Housing, Chapter XI Fire Prevention and Chapter XXIII Grading Ordinance of the Albany Municipal Code to Include Regulations Adopting the California Building Code and Fire Code. Second Reading – Pass-to-Print.  
(File #440-10)

This Ordinance is related to: a) The adoption of the 2007 Versions of the California Building Code, California Fire Code, California Electrical Code, California Mechanical Code and California Plumbing Code. b)

**4. CONSENT CALENDAR**

Repair and Reconstruction of Damaged Structures. c) Safety Inspections and Posting Official Placards during an Emergency.

Staff recommendation: Adopt Ordinance #07-07 for Second Reading – Pass-to-Print.

- 4-5.** Schedule a public hearing for December 17, 2007 regarding AB1600. (File #390-95)

Staff recommendation: Approve.

- 4-7.** First Quarter Fiscal Year 2007-08 Financial Statements and Projection. (File #330-20)

Staff recommendation: Information only.

- 4-8.** First Quarter Fiscal Year 2007-08 Work Plan Status Report. (File #100-30)

Staff recommendation: Information only.

- 4-9.** A rendering of the quarterly Cash and Investments Treasury Report of the City of Albany as of September 30, 2007, as required by Section 53646 of the California Government Code. (File #300-10)

Staff recommendation: Note and File.

- 4-10.** Pension payments for the month of November 2007, in the amount of \$111,686.15.

Staff recommendation: Ratify.

- 4-11.** Confirmation of Continued Existence of a Local Emergency on the Albany Shoreline. (File #520-30)

Staff recommendation: Confirm the continued local emergency.

Mayor Lieber asked if anyone would like to remove an item from the Consent Calendar and the following item was removed for discussion: 4-1, 4-7 & 4-11.

**4-1. Council Minutes, 11/19/07.**

Mayor Lieber asked for the following language to be added to minutes of November 19, 2007, under announcement of Executive Session action: Mayor Lieber stated that he recused himself from discussions during the Executive Session and left the Conference Room. Vice-Mayor Atkinson and the City Attorney reported that direction was given to staff on the property negotiations and the potential litigation and that no decision was made.

**4-7. First Quarter FY 2007-08 Financial Statements and Projection.**

Allan Maris, Albany resident, asked a question about the impacts regarding the housing market and the sub prime rates and foreclosures? The Finance Director responded he did attempt to address this in the staff report and noted the City is in good shape to ride the storm and does not need to take any action.

Council Member Wile asked a question about overtime costs and asked whether there was a break down on department costs. The Finance Director responded the only two departments this affects is Police & Fire. The Fire Department sometimes gets deployed to other cities for mutual aid and when that happens the City is reimbursed for costs associated with the strike teams. The Police Department budget is under control regarding overtime costs.

Council Member Wile asked if the professional service budget is a problem for the City? The Finance Director responded that he does not see any areas of major concern.

**4-11. Local Emergency – Albany Shoreline**

Allan Maris, Albany resident, stated that he was very impressed with how Albany tried to step forward and take care of the birds during the emergency. Mr. Maris noted that he is working with a group called “Adopt a Trail” and is hoping that they will be allowed to volunteer to help with the cleanup.

**MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Atkinson to approve the Consent Calendar, as submitted with the change to the December 3, 2007, minutes.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**5. REORGANIZATION****a. City Policy regarding the election and term of the Mayor and Vice-Mayor.**

The City Administrator stated that the Charter states that the Council shall elect one of its members as its presiding officer, who shall have the title of Mayor and one of

## 5. REORGANIZATION

its members as Vice-Mayor. The officials so chosen shall hold their respective offices subject to the pleasure of the Council.

In 1984, the City Council adopted a policy, as follows: At the time of the yearly reorganization of the Council, the position of Mayor shall rotate to a different member of the Council by election among the Council Members. Likewise, the position of Vice-Mayor will similarly be rotated. Consecutive terms of the Mayor and Vice-Mayor shall not be allowed without an amendment of this statement.

Mayor Lieber stated that the current policy does not jive with the Charter language and would like to amend that policy by striking the words not allowing consecutive terms.

Council Member Javandel stated that this couldn't be discussed tonight, as the agenda does not state the policy would be amended, and therefore, no action could be taken on Item 5a. Council Member Okawachi agreed with Council Member Javandel.

The following people spoke on this issue: Caryl O'Keefe, Albany resident; Allan Maris, Albany resident; Francesco Papalia, Albany resident; Mara Duncan, Albany resident; Bill Dann, Albany resident; Clay Larson, Albany resident; Brian Parker, Albany resident.

A summary of the comments is as follows: Agree that this item should be held over so that it is clear what action is being taken and also to have the advice of the City Attorney. Believe there should be discussion on the pros/cons regarding the elected vs appointed Mayor. Noted that a suspension of the policy has been done in the past. Believes that the Charter takes precedence over a Council policy. Noted that the Municipal Code state polices to be done by Resolution. Compared this action to the action regarding the Waterfront Planning process where a past Resolution was in conflict with current Council action and the Attorney stated that the current action overrules the past action.

Council Member Javandel stated that any Ordinance, Resolution or policy could be changed if the language is put on the agenda for that action.

Council Member Okawachi agreed and noted her disappointment last year when the Vice-Mayor was overlooked for the position of Mayor.

### **MOTION:**

Moved by Council Member Atkinson, seconded by Council Member Wile to suspend the current policy and to bring back the policy in two weeks for discussion whether the amendment should be amended.

### **ON THE QUESTION:**

Council Member Atkinson stated that she supports Mayor Lieber for a second term, however, agrees that Council Member Javandel and any other member of the Council would do an excellent job in the future.

Council Member Javandel stated that if this motion were voted on he would not vote, as he believes this is an illegal motion. Mayor Lieber stated that each Council Member must either vote for, against or abstain on a motion. Council Member Javandel stated that he would not vote on this, and therefore would leave the Chamber so that he would be noted as absent. Council Member Okawachi agreed and they both left the Council Chamber.

## 5. REORGANIZATION

### VOTE ON THE MOTION:

AYES: Council Members Atkinson, Wile & Mayor Lieber

NOES: None ABSENT: CM Javandel & Okawachi

Motion carried and so ordered.

#### b. Nomination and Election of Mayor and Vice-Mayor.

Mayor Lieber called for nominations for Mayor and Vice-Mayor. Council Member Javandel & Council Member Okawachi returned to the Chamber and took their seats at the podium.

Council Member Wile nominated Mayor Lieber, seconded by Council Member Atkinson.

Council Member Okawachi nominated Council Member Javandel. No second  
Council Member Javandel nominated Vice-Mayor Atkinson. No second.

Mayor Lieber closed the nomination period for the position of Mayor

The following people spoke on this item: Joan Larson, Albany resident; Francesco Papalia, Albany resident; Clay Larson, Albany resident; Robert Cheasty, Albany resident; Maureen Crowley, Albany resident; Ed Fields, Albany resident; Brian Parker, Albany resident; John Dykeman, Albany resident; Caryl O'Keefe, Albany resident; Mara Duncan, Albany resident; Steve Devine, Albany resident.

A summary of the comments is as follows: Noted that this is a very sad day in Albany and that the majority of the Council could not reach a compromise. Believe that this item was decided by the majority of the Council before the meeting and agreed that the Agenda should have stated the policy was to be amended. Informed the Council that under parliamentary rules a nomination does not require a second. Agree that the Mayor should have a consecutive term for the good of the City especially with the clout with regional bodies. Agree that this item should be held over until the City Attorney is present. Council should work on civility between them. Supported the election of Mayor Lieber for a second term as Mayor. Disagreed with the policy of rotating the Mayor and would rather have a strong elected Mayor. Agreed that all the Council Members are good candidates for Mayor, however, supports a two-term Mayor. Asked why the City did not have a contract Attorney at the meeting. The City Administrator responded to the question of a contract Attorney and noted that the City Attorney did make arrangements for a backup; however, the backup Attorney had emergency surgery today and there was not time for a backup to the backup.

Council Member Javandel stated that he must vote no on the election of the Mayor, as he believes this entire discussion should not have taken place.

Council Member Atkinson stated that she would like to reconsider her motion and put this entire item over until the next agenda and that the appropriate language be on the agenda so that action could be taken.

Council Member Javandel stated that he would appreciate this action so that he could participate in the discussion.

**5. REORGANIZATION**

**RECONSIDERATION OF MOTION:**

Moved by Council Member Atkinson to withdraw the suspension of the Council policy regarding election of Mayor and Vice-Mayor. This item to be placed on the next Council agenda as an action item and the election of Mayor and Vice-Mayor to be on that agenda, seconded by Council Member Okawachi

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

NOES: None ABSENT: None

Motion carried and so ordered.

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

Mayor Lieber opened he Good of the City/Public Forum/Announcements and asked if anyone would like to speak.

Council Member Javandel announced that both he and Council Member Okawachi attended the APAL awards dinner, which honored Council Member Okawachi for her 10 years of service. Council Member Javandel thanked Council Member Okawachi for all the great work she has done for this organization.

The City Administrator announced that the Community Center was awarded the title of “green business”.

Council Member Wile thanked staff for working with Waste Management regarding recycling plastic bags and noted there is an island in the Pacific the size of Texas made out of plastic.

The following people spoke: Robert Cheasty, President Solano Avenue Association; Allan Maris, Albany resident.

A summary of the comments is as follows: Announced that Santa Claus would be on Solano Avenue both at the top and bottom of the Avenue. Asked for volunteers to help pick up trash on Solano Avenue. Announced that on December 15<sup>th</sup>, MacGregor Adult School Culinary Arts Program would be having a Waffle breakfast at 8 a.m. Volunteered to help with the trash pick up on Solano Avenue. Spoke about Berkeley Plastic Policy and asked whether Albany had a similar policy.

Council Member Okawachi thanked everyone who helped to decorate the Holiday Tree.

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

**7. PRESENTATION/PUBLIC HEARING**

**7-1. Friends of Albany Seniors Donation to the City of Albany Meals on Wheels Program.**

(File #150-90)

The Senior Services Supervisor reported that the Friends of the Albany Seniors, a group of residents working together to raise funds to support and enrich programs and services at the Albany Center voted to help financially support the City’s Meals on

**7-1. Friends of Albany Seniors Donation to the City of Albany Meals on Wheels Program.**

Wheels Program. In September, 2007, they donated \$4,000 to the Meals on Wheels Program and are planning to give the City another donation of \$4,000 in December.

The donation of \$4,000 allowed for two seniors to be removed from the waitlist and are now receiving a hot lunch five days per week and another senior will receive meals three days per week. With another \$4,000 donation, three to four seniors will be removed from the waitlist and start to receive hot lunches daily.

The Mayor and the City Council thanked the Friends of the Albany Seniors for their generous donation.

**7-2. Appeal of Planning & Zoning Commission Decision to Deny Planning Application 07-064. Design Review – Denying the Residents the Use of Vinyl Siding.**

(File #450-50)

The Planning Manager reported the property in question is a 3,500-sq.ft lot with a two story, single family home. The applicant is requesting approval to allow the home to be refinished from an exterior grade plywood vertical siding (often referred to as T 1-11) to horizontal vinyl siding. No additional square footage or other exterior changes will occur because of this project.

The applicant was advised that the change in materials would require design review and that staff would not support the use of vinyl siding. This decision was appealed to the Planning & Zoning Commission and they voted 4-1 to uphold staff's decision to deny the request for approval to refinish the home in vinyl siding.

The Commission noted that elimination of a common affordable building material from use in Albany is a significant policy issue; and therefore, recommended that the City Council waive the fee associated with this appeal.

The Fire Chief spoke noting that vinyl siding is very flammable and toxic and a lot greater than other material.

Mr. Andre Veira, representing the property owner, spoke to the Council noting that any material would burn and that all synthetic material would give off gases. Mr. Veira stated that this decision is not fair and the homeowner should have the right to fix up their home at the lowest cost possible.

Mr. Herb Nakahara, property owner, stated that the vinyl siding he is proposing to use is much better looking than many of the homes in the neighborhood. Mr. Nakahara noted that he is a senior citizen and the cost of maintaining a home is very expensive and the vinyl siding is the least amount of money to make his home look better.

Mayor Lieber opened the public hearing and the following people spoke: Francesca Papalia, Albany resident; Maureen Crowley, Albany resident; Mara Duncan, Albany resident; David Arkin, Chair Planning & Zoning Commission; Tom Cooper, Chair Sustainability Committee.

A summary of the comments is as follows: Believes it is the right of the property owner to put vinyl siding on their home and noted this is an aesthetic denial and the City should be up front about it. The City should encourage seniors to stay in their homes and

**7-2. Appeal of Planning & Zoning Commission Decision to Deny Planning Application 07-064. Design Review – Denying the Residents the Use of Vinyl Siding.**

should support anyway that would make it less expensive. Agreed that vinyl is bad for the environment and asked if there were any programs available to seniors to help them “green” their homes. Urged the Council to uphold the Planning & Zoning decision to deny the appeal. Noted that vinyl cannot be recycled and that it does burn at very low temperatures and urged the Council to deny the appeal.

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

Council Member Atkinson stated that health concerns are very important and should be considered; however, it is unfair to make this decision when there is no policy in place.

Council Member Okawachi stated that she would like to see the City make an exception on this case and then have a policy banning vinyl siding to come before Council in the near future.

Council Member Javandel agreed that the City should do whatever it could to help the applicant and stated that he would like to have staff or the Planning Commission come back with a clear policy on the prohibition of vinyl.

Mayor Lieber stated that PVC is a health problem and agrees with Council Member Okawachi that maybe this be the last exception and that a policy comes back to the Council for approval.

Council Member Wile volunteered to help the homeowner obtain a bid for some other type of material.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Okawachi to approve this application as the last vinyl siding in Albany pending applicant obtaining a cost estimate for fiber cement siding to be considered as an alternative to the vinyl siding. If this alternative is not acceptable, applicant to go ahead with vinyl but to talk with City staff and show the City that an alternative was looked into. Asked staff to facilitate help with obtaining a cost estimate for fiber cement siding.

AYES: Council Members Javandel, Okawachi & Mayor Lieber

NOES: Council Members Atkinson & Wile                      ABSENT: None

Motion carried and so ordered.

**8. UNFINISHED BUSINESS**

**8-1. Residential Street Sweeping Program Update**

(File #820-30)

The Community Development Director reported that in 2005 the City Council approved a monthly residential street sweeping program including installation of no-parking street sweeping signs throughout the City. However, due to concerns received from the public staff returned to Council and received approval to modify the previously approved Street Sweeping Program, allowing for an honors-system and use of alternative forms of notification in lieu of installing signs.

### **8-1. Residential Street Sweeping Program Update**

A public hearing was held in 2006 with members of the public expressing support for the signage and approval was granted by the Council to install signs on streets abutting Solano Avenue from Madison Street to Ventura Avenue and on the 500-600 blocks of Pierce Street. Sign installation was completed in August, 2006 and warning notices were placed on vehicles parked in violation of the posted no parking signs and the Police Department began enforcement by ticketing vehicles in December, 2006.

Staff conducted a ride-along with the City's contract street sweeper in October, 2007, to evaluate the effectiveness of the program on streets with no parking street sweeping signs. Staff found there were significantly fewer vehicles parked on streets with no-parking sign in comparison with streets without signage.

The Police Department reports that 2,668 tickets have been issued over a ten-month period of time.

City staff conducted a ride-along with the City's contract street sweeper on non-signed streets. It was noted that certain streets, particularly adjacent to high-traffic areas, seem to consistently have a significant number of parked cars on street sweeping days including streets intersecting/adjacent to San Pablo Avenue, streets adjacent to the high school, and Masonic Avenue.

Complaints have also been received regarding a variety of other streets including but not limited to Adams, Castro, Cornell, Evelyn, Jackson, Kains, Madison, Masonic, Pomona and Talbot. The majority of residents express interest in pursuing installation of no-parking signs and enforcement of the signs.

Council Member Atkinson expressed concern with cars that are not moved on street sweeping days and agrees with a phased way of installing the signs so that the City does not have to spend a lot of money all at once.

Council Member Okawachi stated that she would like to see more substantial signs around town.

Council Member Javandel stated that he likes the idea of a "public request program" and agreed with staff's recommendations.

Council Member Wile asked if a monthly review is done on the tickets and how much the City actually receives. The City Administrator responded that a parking ticket is \$29 and the City receives \$20.

The following people: Ed Fields, Albany resident; Maureen Crowley, Albany resident; Allan Maris, Albany resident; Caryl O'Keefe, Albany resident; Steve Devine, Albany resident; Mara Duncan, Albany resident.

A summary of the comments is as follows: Noted that sign pollution was not acceptable and disagreed with the staff's evaluation of Kains being a high volume street. Asked that signs be provided to the residents on Kains for time restriction, as well as street sweeping schedule. Asked that the City minimize the blight of signs throughout the City. Spoke about other school site areas and the High School and asked that the City ease up on residential. Expressed concern about spending money for temporary street sweeping signs and noted that permanent signs were far better. Support given to staff's recommendations and expressed concern about the litter around the High School. Asked that each neighborhood be given a choice and hoped that the City would come up with better signs.

**8-1. Residential Street Sweeping Program Update**

Mayor Lieber stated it is 11 p.m. and a motion is needed if the Council would like to extend the meeting.

**MOTION:**

Moved by Council Member Okawachi, seconded by Council Member Javandel to extend the meeting 20 minutes.

Motion carried and so ordered.

Council Member Atkinson stated that she would like more time to think about the specifics and also noted that she too is against sign pollution and that a compromise is needed.

Council Member Javandel suggested the City undertake a poll before permanent signs are installed and supported recommendation #3 of staff's recommendation and parts of recommendation #2 at least around the High School.

Mayor Lieber stated that he supports the entire recommendation of the staff with the addition of residents being able to collect signatures if signs are not wanted. Mayor Lieber commented there needs to be an opt out with a majority of signatures.

Bill Godfrey, contractor, suggested that the signs be attached to the Waste Management garbage cans.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Wile to authorize installation of additional no-parking signage on streets abutting/adjacent to San Pablo Avenue, streets abutting/adjacent to Albany High School (600 block of Key Route, 1300 block of Thousand Oaks and Portland) and Masonic Avenue adjacent to the Ohlone Greenway and include a 2/3 signature petition for opting out of this. Staff to determine eligibility for voting and how to include multi residential unites.

Authorize purchase of more durable "no parking" signs to distribute to residents on non-signed streets to post on street sweeping days to discourage vehicle parking that interferes with the street sweeper.

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

NOES: None

ABSENT: None

Motion carried and so ordered.

**8-2. Continued Volunteer Cleanup from the Cosco Busan Oil Spill for Albany Waterfront**

(File #520-30)

It was the consensus of the City Council to reschedule Item 8-2 to the meeting of December 17, 2007.

**9. NEW BUSINESS**

**9-1. June 30, 2007 Financial Statements and Reports of the Independent Auditors**

(File #310-30)

The Finance Director reported that the Certified Public Accounting firm of Odenberg Ullakko Muranishi & Co were hired as independent auditors of the City's financial reports. The audit included the City's Comprehensive Annual Financial Report, the annual financial reports of the Albany Reinvestment Agency, the Albany Police and Fire Relief Pension Fund, ACTIA Measure B funds and the City's Appropriation Limit.

The independent audit report is an unqualified report, meaning that the auditors report that the financial statements present fairly, in all material respects, the financial position of the City as of June 30, 2007. This is the highest level of auditor assurance the City can achieve in an audit.

The Finance Director stated that the financial condition of the City has not changed and is in good shape this year. The Reinvestment Agency had a \$300,000 profit and repaid its loan to the City in the amount of \$135,000. The Pension Fund continues to operate as expected and the actuarial report noted it is in good shape.

The Finance Director introduced the Accounting Supervisor and presented her with the annual award for the City's CAFR, as she did the majority of the work on the CAFR.

Scott Miller, representing the City's Auditors, thanked City staff for their help during the audit and reiterated that the City was given an unqualified opinion (clean audit) and there were no disagreements with Management.

The Finance Director noted that no Council action is needed, as this was presented as an informational item.

**10. 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.

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ROBERT S. LIEBER  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK