

**ALBANY COMMON COUNCIL
MINUTES OF A REGULAR MEETING**

Monday, January 4, 2010

The Common Council was convened at 7:00 p.m. and was called to order by Council President McLaughlin.

The roll being called, the following answered to their names: Council Members Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano, and Smith.

Also present was the following staff: John Marsolais, Patrick Jordan, Barbara Samel and Cashawna Parker.

Council Member Calsolaro led the Pledge of Allegiance.

Council Member Conti made a motion to recess for the purposes of convening in the Rotunda of City Hall to hear Mayor Jennings State of the City address and to reconvene the Council meeting immediately following the address, which was approved by unanimous voice vote.

The Common Council was reconvened at 7:45 p.m. and was called to order by Council President McLaughlin

PUBLIC COMMENT PERIOD

1. Brian Levine, 43 Buell St., Albany, NY 12206 (General Greetings)
2. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Various Issues)
3. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Various Issues)
4. Tim Carney, 277 Delaware Ave., Albany, NY 12209 (Various Issues)

There being no further speakers, the President declared the Public Comment Period closed.

Council Member Conti made a motion to recess and go into to Council Caucus for the purposes of discussing Resolution 3.11.10R(MC), which was approved by unanimous voice vote.

The Common Council was reconvened at 8:05 p.m. and was called to order by Council President McLaughlin

APPROVAL OF MINUTES FROM PREVIOUS MEETING

DEFERRED

CONSIDERATION OF LOCAL LAWS

Council Member Calsolaro introduced the following, which was referred to the Law, Buildings and Code Enforcement Committee:

LOCAL LAW A - 2010

A LOCAL LAW AMENDING VARIOUS SECTIONS OF THE CODE OF THE CITY OF ALBANY TO ELIMINATE THE POSITION OF COMMISSIONER OF PUBLIC SAFETY AND REFERENCES TO THAT POSITION

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Part 3 (Department of Public Safety) of Chapter 42 of the Code of the City of Albany is hereby repealed in its entirety:

~~§ 42-69. Establishment.~~

~~There is hereby established a department known as the "Department of Public Safety."~~

~~§ 42-70. Commissioner of Public Safety.~~

~~There shall be appointed by the Mayor a Commissioner of Public Safety, who shall head the Department of Public Safety and carry out the functions and duties thereof. The Commissioner shall serve and hold such office at the pleasure of the Mayor. The Commissioner shall appoint such deputies, directors, and other subordinates as shall be authorized by the Board of Estimate and Apportionment and who shall serve at the Commissioner's pleasure.~~

~~§ 42-71. Scope, powers, and duties of Commissioner.~~

~~The Commissioner of Public Safety shall have cognizance, jurisdiction, supervision, and control of the government, administration, disposition, and discipline of the Police Department and the Department of Fire, Emergency, and Building Services, and of the officers and members of said departments. The Commissioner shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance, and direction of said departments, and the apparatus and property thereof and buildings furnished therefor. The Commissioner shall have the general direction and supervision of the expenditure of all moneys appropriated to said departments. In addition, the Commissioner shall possess such other powers and perform such other duties as may be prescribed by the law or by ordinance of the Common Council.~~

~~§ 42-72. (Reserved)~~

Section 2. Section 20-2 of Chapter 20 (Bureau of Buildings) of the Code of the City of Albany is hereby amended to read as follows:

~~§ 20-2. Superintendent of Buildings; head of Bureau of Buildings; qualifications.~~

~~The Commissioner of Public Safety of the City of Albany shall appoint a Superintendent of Buildings who shall be the head of the Bureau of Buildings and shall hold office during his pleasure. He shall be either a civil engineer of not less than five (5) years' experience in his profession or an architect, a general building contractor or a person engaged in the supervision of building construction of not less than ten (10) years' actual experience in his profession or occupation. The Commissioner of Public Safety may also appoint such inspectors and other subordinates as may from time to time be prescribed by the Board of Estimate and Apportionment. Before entering upon the performance of the duties of his office, the Superintendent shall execute and file with the City Clerk an official undertaking in such penal sum as may be prescribed by the Common Council.~~

Section 3. Section 42-87(H) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

~~H. Upon Common Council approval of a designation, a list of the landmarks or historic districts designated shall be filed with the City Clerk, the Director of Planning, the Commissioner of Public Safety, the City Engineer and the Albany County Hall of Records.~~

Section 4. Section 42-92(B) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

B. It shall be the duty of the ~~Commissioner of Public Safety~~ Director of the Division of Buildings and Codes to inspect any such work during the course of construction to ensure compliance. In the event that any such inspection reveals that the work is not being carried out in compliance with the certificate of appropriateness, the ~~Commissioner~~ Director shall order the work to cease and may order corrections to be made. In addition, the ~~Commissioner~~ Director may revoke the building permit.

Section 5. Section 42-93(A) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

A. Complaints and determinations of violation. Any person alleging violation of this chapter may file a complaint in writing with the ~~Commissioner~~ Director, who shall investigate the same and prepare a report thereon. If reasonable evidence of a violation exists, the ~~Commissioner~~ Director may then revoke or suspend the permit or issue a notice of violation and an order to cease and desist.

Section 6. Section 42-96 of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

~~§ 42-96. Limitation of powers.~~

~~This article shall in no way affect, supersede or abridge any emergency powers or any other powers of the Commissioner of Public Safety as to public safety, health and welfare.~~

Section 7. Section 42-360(A) of Part 35 (Office of the City Archaeologist) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

A. The City Archaeologist shall be a professional archaeologist who meets the professional qualification standards set forth in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. The City Archaeologist shall advise the Mayor, the Common Council, the Historic Resources Commission, the Planning Board, the Board of Zoning Appeals, ~~the Commissioner of Public Safety~~ the Division of Building and Codes, the Engineering Department, and the Planning Department on archaeological matters in the City of Albany.

Section 8. Section 42-360(B)(4) of Part 35 (Office of the City Archaeologist) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

(4) To render advisory opinions to the Mayor, the Common Council, the Historic Resources Commission, the Planning Board, the Board of Zoning Appeals, ~~the Commissioner of Public Safety~~ the Division of Buildings and Codes, the Engineering Department, and the Planning Department with regard to archaeological resources;

Section 9. Section 255-44 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

For the purposes of this article, the following terms shall have the meanings indicated, unless the context clearly requires otherwise:

COMMISSIONER CHIEF

The ~~Commissioner of Public Safety~~ Chief of Police or his or her designee.

Section 10. Section 255-45 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

In addition to the enforcement procedures established elsewhere in this article, the ~~Commissioner~~ Chief, after notice and opportunity for a hearing, shall be authorized:

- A. To order the discontinuance of such activity at the premises where such public nuisance exists; and/or
- B. To order the closing of the premises to the extent necessary to abate the public nuisance.

Section 11. Section 255-46 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. Prior to the issuance of an order by the ~~Commissioner~~ Chief, pursuant to this article, the ~~Commissioner~~ Chief shall give notice and opportunity for a hearing to the owner, and any other person directly or indirectly in control of the premises wherein the public nuisance is being conducted, maintained or permitted. Such notice and opportunity to be heard may be given to a mortgagee of the premises. Such notice shall be served upon an owner or any other person directly or indirectly in control of the premises pursuant to Article 3 of the New York State Civil Practice Law and Rules, and upon a mortgagee by means of certified mail, return receipt requested, sent to the mortgagee's last known address, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting without the necessity of filing proof of service with the clerk of the court.

B. The notice provided for in Subsection A of this section shall:

- (1) Specify the activity creating the public nuisance;
- (2) Provide 30 days for elimination of the public nuisance;
- (3) Inform the person to whom it is directed of their right to apply within 10 days of service of the notice for a hearing before the ~~Commissioner~~ Chief;
- (4) Inform the owner or any other person directly or indirectly in control of the premise that upon expiration of 30 days after service without a hearing before the ~~Commissioner~~ Chief, or upon noncompliance with any written agreement reached at the hearing, the ~~Commissioner~~ Chief shall act to obtain compliance as provided by this article; and
- (5) Inform the owner or any other person directly or indirectly in control of the premises of the obligation to post a copy of the notice within five days, in a conspicuous place, so that all premises occupants and others entering the premises shall have notice that the public nuisance is being conducted, maintained or permitted on the premises and that upon expiration of 30 days after service of the notice, the ~~Commissioner~~ Chief shall act to obtain compliance as provided in this article, including, but not limited to, closing the premises.

Section 12. Section 255-48 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief shall issue the order provided for in § 255-45 of this article by posting said order on the premises wherein the public nuisance is occurring and mailing a copy by first class mail of said order to the owner, mortgagee or any other persons directly or indirectly in control of the premises, within one business day of the posting of said order on the premises.

Section 13. Section 255-49 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. No sooner than five business days after the issuance of an order pursuant to §§ 255-45 and 255-48 of this article, and upon the directive of the ~~Commissioner~~ Chief, officers of the Albany Police Department are authorized to act upon and enforce such order.

B. Where the ~~Commissioner~~ Chief closes a premises pursuant to this section, such closing shall be for such period as the ~~Commissioner~~ Chief may direct, but in no event shall the closing be for a period of greater than one year from the issuance of the order.

C. Upon receiving a copy of the order issued by the ~~Commissioner~~ Chief, pursuant to §§ 255-45 and 255-48 of this article, the Corporation Counsel shall maintain a special proceeding to affix a civil penalty in the amount up to \$5,000, and to collect any costs and expenses incurred by the City of Albany, in commencing the proceeding, closing the premises and in relocating any occupants on the premises. The Corporation Counsel shall file a notice of pendency of the proceeding in the Albany County Clerk's office.

D. The judgment in such proceeding, in favor of the City of Albany, shall establish the penalty sued for with costs and disbursements as a lien upon the premises, subject only to taxes, assessments, water rates, mortgages and mechanics' liens as they exist thereon.

Section 14. Section 255-51 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A closing directed by the ~~Commissioner~~ Chief pursuant to this article shall not constitute an act of possession, ownership or control by the City of Albany of the closed premises.

Section 15. Section 255-52 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. It shall be a misdemeanor for any person to use or occupy, or to permit any other person to use or occupy, the premises, or any portion thereof, ordered closed by the ~~Commissioner~~ Chief.

B. Mutilation or removal of a posted order of the ~~Commissioner~~ Chief shall be punishable by a fine of not more than \$250, or by imprisonment not exceeding 15 days, or both, provided that such order contains therein a notice of such penalty.

C. Intentional disobedience of or resistance to any provision of the order issued by the ~~Commissioner~~ Chief, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$500, or imprisonment not exceeding six months, or both.

D. Each day's violation shall constitute a separate offense.

Section 16. Section 255-53 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief may promulgate such rules and regulations as may be necessary to carry out the provisions of this article.

Section 17. Section 353-14 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

As used in this article, the following words shall have the meanings set forth in this section:

COMMISSIONER CHIEF

The ~~Commissioner of Public Safety~~ Chief of Police or his or her designee.

Section 18. Section 353-16 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

With the advice and consent of the Common Council, the ~~Commissioner~~ Chief may set a limit on the number of medallions to be issued in the interest of public convenience and necessity.

Section 19. Section 353-17(H) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

H. For new applications filed on or after the effective date hereof and renewal applications filed on or before December 31, 2002, the following shall also be required:

(1) Three untouched photographs of such size as may be prescribed by the ~~Commissioner~~ Chief taken within 30 days of the date of filing of the application.

(2) The fingerprinting of the applicant by the Police Department of the City of Albany, and the set of fingerprints which accompanies the application shall be kept on file at the office of the ~~Commissioner~~ Chief as a permanent record. The ~~Commissioner~~ Chief shall cause an investigation to be made relative to the character and criminal record, if any, of every applicant and shall forward the applicant's finger prints and the processing fee set forth herein to the New York State Division of Criminal Justice Services for its review and report. The fee for the investigation and fingerprinting shall be \$25, payable to the Albany Police Department, and \$50 payable to the New York State Division of Criminal Justice Services.

(3) A consent signed by the applicant, on a form provided by the ~~Commissioner~~ Chief, permitting any person to divulge and report to the ~~Commissioner~~ Chief any matter which might, without such consent, be deemed confidential.

Section 20. Section 353-19 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. The ~~Commissioner~~ Chief shall investigate the applicant's qualifications and background and consider the following in determining whether the applicant is eligible to be issued a taxicab medallion:

(1) Whether the applicant has complied with all provisions of this article.

(2) Whether the applicant is a current or former holder of a taxicab medallion which has been suspended or revoked and, if so, for what cause.

(3) Whether the applicant has been convicted of a crime.

(4) Whether the applicant meets the criteria set forth in Article 23-A of the Correction Law of the State of New York.

B. Upon consideration of the factors listed above, the ~~Commissioner~~ Chief may refuse to certify an applicant as eligible to receive a taxicab medallion based on any of the factors listed above. Written notification of such denial shall be sent to the applicant at the address indicated on the application, stating the reason for the denial of the medallion. Upon the applicant's written request addressed to the ~~Commissioner~~ Chief, a hearing shall be granted within 10 days of the ~~Commissioner~~ Chief's receipt of request. The applicant is entitled to be represented by counsel.

C. The ~~Commissioner~~ Chief shall otherwise issue taxicab medallions to any qualified applicant.

Section 21. Section 353-20(D) and (F) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

D. Failure by the owner to maintain such logs shall serve as a basis for the ~~Commissioner~~ Chief to prohibit such taxicabs, even if medallioned, from operating within the City of Albany, in addition to any other penalty authorized by this article for a period to be specified by the ~~Commissioner~~ Chief.

F. The ~~Commissioner~~ Chief shall immediately notify the New York State Commissioner of Motor Vehicles upon the conviction of any taxicab owner or operator not medallioned by the

City of Albany for operating in the City in violation of Subsection A. The Commissioner shall revoke such owner's or operator's taxi and livery registrations as provided in § 401, Subdivision 7C, of the Vehicle and Traffic Law of the State of New York.

Section 22. Section 353-23 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. No taxicab medallion shall be transferred or assigned except upon approval by the Commissioner based on a written application to the ~~Commissioner~~ Chief.

B. A medallion holder shall give written notice to the ~~Commissioner~~ Chief within 10 days of any change of address or phone number.

Section 23. Section 353-25 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief is hereby empowered in the exercise of discretion to require owners and operators of medallioned taxicabs to display distinctive colors, emblems, signs or other devices on each taxicab in order to provide prospective passengers an opportunity to differentiate between taxicabs owned or operated by different owners.

Section 24. Section 353-26 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A taxicab medallion issued pursuant to this article shall be displayed in the manner prescribed by the ~~Commissioner~~ Chief. No one other than the ~~Commissioner~~ Chief is authorized to adhere or remove a medallion to or from a taxicab. Medallions may, in the discretion of the ~~Commissioner~~ Chief, be of a different or alternating color or otherwise distinguished for each year of issuance.

Section 25. Section 353-28 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. All taxicabs assigned a medallion by the City of Albany shall conform to the following requirements:

(1) Exterior requirements: headlights, taillights, brake lights, directional signal lights, windshield, windshield wipers, backup lights, defrosters (front and rear) and horn, all other vehicle glass, a minimum of four doors, door locks, trunk lid, trunk hood, splash shields, bumpers and fenders. Body and tires shall be maintained in a clean condition and in good working order. Unless the wheel rims are specifically designed to eliminate the need for hubcaps, vehicles must be equipped with four hubcaps. There shall be no tears, holes or large rust spots in the vehicle body and no loose pieces, such as fenders, bumpers or trim, hanging from the vehicle body. The body, including the color scheme, owner's trademark, name, monogram, phone number, cab number (minimum of four inches in height on both sides of the vehicle), insignia or other marking shall be well painted and in a clean and orderly appearance.

(2) Interior requirements. The interior of each vehicle shall be maintained in a clean condition, free of foreign matter and offensive odors. There shall be no litter in the vehicle

or trunk. Seats and floor mats shall be kept clean and without holes or large wear spots.

(3) Posted notices. There shall be posted conspicuously on the interior and exterior of each taxicab the phone number of the ~~Commissioner~~ Chief indicating where to direct any complaints relative to the fare charged, appearance or functioning of the vehicle or the conduct of the driver.

(4) On and after June 1, 2002, no taxicab shall be older than seven years old.

B. Before any taxicab can initially be placed in operation, such vehicle shall be inspected by the ~~Commissioner~~ Chief as to the requirements listed in Subsection A(1) and (2) above, and no taxicab medallion will be issued for such vehicle until it has been found that the exterior and interior of such vehicle is clean, fit and of good appearance. The ~~Commissioner~~ Chief shall inspect all taxicabs for these requirements twice a year.

C. Every owner or operator shall have each medallioned taxicab submitted to a New York State motor vehicle inspection every six months. Valid proof of such inspection shall be by certificate issued by a licensed New York State inspection station certifying that the vehicle meets all requirements of the Vehicle and Traffic Law of the State of New York. Certifications shall be made on a form to be supplied by the ~~Commissioner~~ Chief.

D. The ~~Commissioner~~ Chief shall also have the right to inspect all taxicabs from time to time or on the complaint of any citizen. If the ~~Commissioner~~ Chief finds that a vehicle does not meet the requirements of this section, he may, in his discretion, suspend or revoke the owner's taxicab medallion or the driver's hack license. It shall be the responsibility of the medallion owner to ensure that its taxicabs meet the above requirements in § 353-28A(1), (2) and (3) before going into service. Failure of the medallion owner to comply may result in the taking of the medallion and a hearing held in accordance with § 353-19. Fines may be assessed.

Section 26. Section 353-29(A) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. The ~~Commissioner~~ Chief is authorized to designate taxicab stands, along with the number of taxicabs that shall be allowed to park or stand at each location.

Section 27. Section 353-30(C) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

C. Maps. The map set forth in § 353-30A of this article bearing the seal of the City of Albany depicting both the zones within the City of Albany, fares and waiting time charges established herein and the consumer information set forth therein in a format approved by the ~~Commissioner~~ Chief shall be conspicuously displayed inside every medallioned taxicab so as to be clearly visible to all passengers in the vehicle. In addition, such map shall be clearly affixed to the exterior of every medallioned taxicab. The specific locations and manner of affixation of such maps shall be as prescribed by the rules and regulations promulgated pursuant to this article.

Section 28. Section 353-32 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

Upon request of the passenger, the taxicab driver shall provide a receipt upon a form approved by the ~~Commissioner~~ Chief containing the following information:

A. The name of the taxicab company and medallion number of such taxicab.

B. Trip origin and terminus.

(1) The date and place the trip originated.

(2) The date and place of trip termination.

C. The number of passengers for which the paying party paid a fare.

D. The total fare charged.

E. The printed and signed name of the driver.

F. The telephone number where a complaint may be directed:

(1) Phone: ~~Commissioner~~ Chief.

(2) Phone: Taxicab company.

Section 29. Section 353-34 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Each owner or operator of a taxicab assigned a medallion pursuant to this article shall keep or cause to be kept a legible record of every trip for which a fare is collected. The record shall include information as to the date, time of day, point of origin, point of destination and fare for each trip, together with any other information as the ~~Commissioner~~ Chief, in his discretion, may require and shall be in the form as follows:

B. Trip records shall be made immediately available to the ~~Commissioner~~ Chief, upon his request, for inspection and copying. The records shall be maintained for a period of one year from the date the record was made.

C. Every operator or owner licensed and/or medallioned hereunder shall maintain accurate records concerning the attendance at work of all persons holding a hack license employed by him and shall report to the ~~Commissioner~~ Chief the failure on the part of any holder of a hack license to use such license in his employment for a period longer than 90 days. Every medallioned operator or owner shall submit to the ~~Commissioner~~ Chief or his designee biannually a list of taxicab drivers they employ.

D. Failure to provide any of the foregoing shall be prima facie justification for a revocation by the ~~Commissioner~~ Chief of the applicable medallion and/or hack license.

Section 30. Section 353-32 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. A taxicab medallion may be suspended or revoked by the ~~Commissioner~~ Chief or his designee at the time a violation is filed, and a written specification of the charge served personally on the owner or his agent or by certified mail addressed to the owner at the address provided by the owner on the medallion application. The medallion owner shall be entitled to be represented by counsel, and civil forfeitures may be assessed. Violations shall be specified as follows:

(1) Failure to notify the ~~Commissioner~~ Chief that the owner of a hack license has not used such license in his employment for a period longer than 90 days.

(2) Permitting the operation of the taxicab by a person not licensed under the provisions of this article as hereinafter provided.

(3) Operation of a taxicab at a rate or fare exceeding that established under § 353-30 and stated on the rate card issued by the ~~Commissioner~~ Chief.

(4) Discontinuance of operations beyond the time period prescribed in the rules and regulations of the ~~Commissioner~~ Chief.

(5) Does not meet the standards as embodied in Article 23-A of the Corrections Law of the State of New York.

(6) Violation of any other provision of this article or any rule or regulation of the ~~Commissioner~~ Chief.

B. Immediately upon revocation of a taxicab medallion, the ~~Commissioner~~ Chief shall notify the Commissioner of the New York State Department of Motor Vehicles of such revocation. As provided in § 401, Subdivision 7C, of the New York State Vehicle and Traffic Law, the Commissioner shall revoke the licensee's tax and livery registrations.

Section 31. Section 353-36 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Taxicab medallions which have been suspended or revoked by the ~~Commissioner~~ Chief shall be surrendered forthwith to the ~~Commissioner~~ Chief, and the operation of any taxicab or taxicabs covered by such medallion shall cease.

B. Taxicab medallions for taxicabs needing repairs reasonably requiring 60 days or more to complete shall be surrendered to the ~~Commissioner~~ Chief. Such medallions shall be reinstated upon satisfactory inspection by the ~~Commissioner~~ Chief.

C. The time limitations set forth in Subsection B may be extended by the ~~Commissioner~~ Chief in his discretion upon written request of the medallion holder.

D. No taxicab medallion shall be transferred or affixed to any other vehicle except by or upon the express authorization of the ~~Commissioner~~ Chief.

Section 32. Section 353-38(B) and (C) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

B. The application for a hack license shall be submitted to the ~~Commissioner~~ Chief on such form or forms as shall be required by him, and the information provided by the application shall be sworn to or given under the penalties of perjury.

C. The application shall also include:

(1) Three untouched photographs of such size as may be prescribed by the ~~Commissioner~~ Chief taken within 30 days of the date of filing of the application.

(2) The fingerprinting of the applicant by the Police Department of the City of Albany, and the set of fingerprints which accompanies the application, shall be kept on file at the office of the ~~Commissioner~~ Chief as a permanent record. The ~~Commissioner~~ Chief shall cause an investigation to be made relative to the character and criminal record, if any, of every applicant and shall forward the applicant's fingerprints and the processing fee set forth herein to the New York State Division of Criminal Justice Services for its review and report. The fee for the investigation and fingerprinting shall be \$25, payable to the Albany Police Department, and \$50 payable to the New York State Division of Criminal Justice Services.

(3) A consent signed by the applicant, on a form provided by the ~~Commissioner~~ Chief, permitting any person to divulge and report to the ~~Commissioner~~ Chief, any matter which might, without such consent, be deemed confidential.

(4) A certified copy of the applicant's driving record obtained by the applicant from the Department of Motor Vehicles.

(5) A statement indicating that the applicant has read, and fully understands, all of the provisions of this article.

Section 33. Section 353-39 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. After receipt of an application, the ~~Commissioner~~ Chief shall do a background investigation of the applicant to determine if he meets the requirements of § 353-38.

B. The ~~Commissioner~~ Chief may require the applicant to submit a certificate from a duly licensed physician certifying that he has examined the applicant within 30 days prior to the filing date of the application and, in his opinion the applicant does not have any physical or mental condition which would affect the ability of the applicant to safely operate a motor vehicle.

C. If the applicant does not meet the requirements of § 353-38, the ~~Commissioner~~ Chief shall deny the applicant's hack license application.

Section 34. Section 353-40 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Upon the written approval by the ~~Commissioner~~ Chief of the application for a hack license in accordance with the foregoing procedures, a hack license shall be issued to the applicant. The license shall be in a form to be prescribed by the ~~Commissioner~~ Chief and shall contain a photograph of the licensee, his signature and his right thumb print. The license shall become invalid if defaced or if any entry is made thereon by anyone other than the ~~Commissioner~~ Chief. Except for licenses issued for the year 2002 (which shall expire on March 1, 2003), a hack license shall be valid for a period not to exceed one year and shall expire on March 1 following the year issued.

B. A hack badge shall be issued with a hack license. It shall be of a form as prescribed by the ~~Commissioner~~ Chief; it shall be imprinted with the hack license number; and it shall be displayed on the right upper portion of the licensee's outer clothing.

Section 35. Section 353-41.1 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

Within one year of licensure, and every five years thereafter, all licensees shall attend and successfully complete a training program organized and conducted by the ~~Commissioner~~ Chief. Such program shall train licensees in the licensing and conduct requirements of this article together with such other information deemed necessary by the ~~Commissioner~~ Chief. Licensees shall be provided with certificates by the ~~Commissioner~~ Chief attesting to their successful completion of the program and the date thereof.

Section 36. Section 353-42 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. A hack license shall be renewable upon compliance with the foregoing provisions of this article relating to hack licenses, provided that the application is filed not less than 30 days nor more than 60 days prior to expiration of the current license on a form supplied by the ~~Commissioner~~ Chief. Renewal applications shall be accompanied by a certified copy of the applicant's driving record obtained by the applicant from the Department of Motor Vehicles. The fee for renewal shall be \$100.

B. The ~~Commissioner~~ Chief shall, upon application for renewal, make such background check of the applicant which, in his discretion, is appropriate. At a minimum, it shall include criminal records and Department of Motor Vehicle checks.

Section 37. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Council Member Calsolaro along with Co-Sponsors Smith and Fahey introduced the following, which was referred to the Law, Buildings and Code Enforcement Committee:

LOCAL LAW B - 2010

A LOCAL LAW AMENDING ARTICLE XLIV (GENERAL PROVISIONS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE CIVILIAN POLICE REVIEW BOARD AND MULTIPLE COMPLAINTS AGAINST AN OFFICER

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Section 42-342 of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

§ 42-342. Filing of complaints.

Complaints concerning police conduct shall be filed with the Police Department or submitted to the CPRB for filing with the Police Department as provided in this section. The CPRB may designate one or more locations for the submission of complaints for filing with the Police Department.

A. Complaints shall be lodged in writing using the City of Albany Police Department Citizen Complaint Form as approved by the CPRB for that purpose and shall be signed by the complainant. Complaint forms shall be printed in English and Spanish and shall be available at any City of Albany Police Department facility, the City Department of Administrative Services, the City Clerk's office and any other location designated by the CPRB.

B. A copy of each complaint submitted to the CPRB for filing with the Police Department shall be forwarded to the Police Department within two working days of its receipt; additionally, a copy of each complaint submitted to the Police Department (other than those submitted by the CPRB) shall be provided to the CPRB within two working days of receipt by the Department. Upon receiving a complaint, the CPRB shall notify the complainant of the City's mediation program established in accordance with § 42-346 of this Part 33. The Chief of Police shall notify the CPRB in writing if the officer or officers complained against have had other written complaints filed against them and the general nature and outcome of each complaint. This written notification shall be made within two weeks of receiving the complaint or receiving notice of a complaint filed with the CPRB. The section shall not require the release of the identity of the officer involved for compliance.

C. Complaints shall be filed within six months of the date of the incident giving rise to the complaint. Complaints filed after six months of the alleged misconduct shall, however, be returned, or accepted and reviewed by the CPRB upon a majority vote of its members to do so. The complainant shall be notified by the Board of the decision as to whether the complaint be returned, or accepted and reviewed.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

REPORTS OF STANDING COMMITTEES

NONE

CONSIDERATION OF ORDINANCES

Council Member Rosenzweig along with Co-Sponsor Igoe introduced the following, which was referred to the Law, Buildings and Code Enforcement Committee:

Ordinance Number 1.11.10

AN ORDINANCE ESTABLISHING A NEW CHAPTER 261 (PLUMBING) OF THE CODE OF THE CITY OF ALBANY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 261 of the Code of the City of Albany entitled "Plumbing" is hereby repealed in its entirety and a new Chapter 261 entitled "Plumbing" is hereby added to read as follows:

CHAPTER 261. PLUMBING

§ 261-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATOR

The Director of the Building Department or his/her designee.

APPRENTICE

A person employed by a licensed plumber performing plumbing work for which a permit is required under the direct and immediate supervision of a journeyman plumber. An "apprentice" must be at least 18 years of age.

APPRENTICE TRAINING PERMIT

A permit issued by the Board. It allows a person to be employed by a licensed plumber to do plumbing work for which a permit is required, under the supervision of a journeyman plumber.

EXAMINING BOARD OF PLUMBERS

The Examining Board of Plumbers, or Board, hereinafter provided to be appointed by the Mayor of the City of Albany.

JOURNEYMAN PLUMBER

A person who meets any of the following qualifications:

A. Five years' experience doing plumbing work for which a permit is required under the supervision of a licensed plumber.

B. Four years' experience doing plumbing work for which a permit is required under the supervision of a licensed plumber plus the equivalent of one year of schooling at an accredited trade school or in an approved apprentice training school.

JOURNEYMAN PERMIT

A permit issued by the Board. It allows a person with the requisite journeyman plumber qualifications to supervise apprentice plumbers as provided in this article.

PLUMBER

A person who has passed the examination given by the Examining Board of Plumbers and who holds a valid license issued in accordance with the provisions of this article.

There shall be two (2) classes of licenses to be known respectively as Class A and Class B as follows: Any person may upon the recommendation of the Examining Board receive a Class B license covering a single job or installation, which license shall not be good for more than one (1) location or property nor for more than one (1) continuous job therein. All other persons engaged in the trade, business or calling of plumbing in the City of Albany shall be required to obtain a Class A license.

PERSON

A natural person, corporation, partnership, association, joint venture or any other entity however termed.

§ 261-2. Examining Board of Plumbers.

A. There is hereby created a Board to be known as the "Examining Board of Plumbers," which shall consist of five (5) members, who are residents of the City of Albany, to be appointed by the Mayor, of whom two (2) and only two (2) shall be an employing or master plumber of not less than ten (10) years' experience each, and one (1) and only one (1) of whom shall be a journeyman plumber. The remaining members shall be the Chief Inspector of Plumbing for the City of Albany and the engineer having charge of sewers in and for the City of Albany. The term of office for each member of such Board shall be three years from the first day of January

following his appointment. Of members initially appointed, one shall be for a term of one year, one shall be for a term of two years, and one shall be for a term of three years. Vacancies occurring by expiration of term shall be filled by the Mayor for a full term. Vacancies by death, removal, inability to act, resignation or removal from the City of any member shall be filled by him for the unexpired term. The Chief Inspector of Plumbing and Drainage and the engineer in charge of sewers shall be ex officio members of such Board, and when they shall cease to hold their offices by reason or on account of which they were so designated for appointment, their successors shall act on the Examining Board in their stead. Any member or members may be removed by the Mayor for malfeasance in office, incapacity or neglect in duty. Such Board shall elect its own Chairman and Secretary. A majority shall constitute a quorum to transact the business thereof. The Board shall meet at least once each month and shall have authority to hold special meetings if, in the opinion of the Chairman or a majority, such are desirable for the proper and efficient discharge of the business of such Board. It shall adopt such rules and regulations for the examination of all persons who desire to obtain a license as hereinafter required. The nature of the examinations to be conducted under this chapter shall be determined by the Examining Board, which shall examine the applicants as to their qualifications and fitness to receive a license to engage in the business of plumbing. Plumbers and journeymen plumbers serving as members of such Board shall receive such compensation as shall be determined by the Board of Estimate and Apportionment.

B. The Examining Board of Plumbers shall have power and it shall be its duty to:

(1) Have jurisdiction over and examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing or plumbers in the City of Albany, with the power to examine persons applying for licenses as such employing or master plumbers or as inspectors of plumbing to determine their fitness and qualifications for conducting the business of plumbers or to act as inspector of plumbing and issue licenses to all such persons who shall have passed said examination before such Board and shall be, by it, determined to be qualified for conducting business as employing or plumbers or competent to act as inspectors of plumbing.

(2) Formulate, in conjunction with the local Board of Health, a code of rules regulating the work of plumbing and drainage in the City of Albany, including the materials, workmanship and manner of execution of such work, and from time to time add to, amend or alter the same.

(3) Charge and collect from each person applying for examination the sum of \$100 for each examination made by such Board, and all moneys so collected shall be paid over by the Board monthly to the City Treasurer.

(4) Have jurisdiction over and issue apprentice training and journeyman identification cards. An apprentice training identification card allows a person to be employed by a licensed plumber to do plumbing work under the supervision of a licensed plumber. A journeyman identification card allows a person with the requisite journeyman plumbing qualifications to install plumbing under the supervision of a licensed plumber.

(5) Adopt rules and regulations to govern its actions in exercising its powers and duties. A majority vote of the whole Board is required for the adoption or amendment of any rule or regulation. Twenty days' written notice of any proposed amendments to the rules and regulations must be given to all Board members.

§ 261-3. Meetings of Board.

The Examining Board of Plumbers shall meet during the three months after the enactment of this chapter and as often as necessary to consider all applications received by it. Thereafter the Examining Board of Plumbers shall meet within 10 days of the receipt of any application from the Administrator. Final action upon any application shall be made by the Examining Board of Plumbers within three weeks after the receipt of the same, and during said three weeks the Administrator, upon the recommendation of the Examining Board of Plumbers, shall grant working permits pending examination.

§ 261-4. Examination for plumber's license required.

Every person desiring to engage in any business or perform any work for which a plumber's license is required and who has the experience required herein for doing so shall appear before the Examining Board of Plumbers and pass an examination as to his or her qualifications and competency for the class of license desired by him or her as required by the provisions of this chapter.

§ 261-5. Deposit for examination.

A deposit equal to the fee for the current calendar year must accompany each application for examination. In case the candidate passes the examination, such deposit shall be retained to cover examination and fee for the current calendar year.

§ 261-6. Application for license.

All applications for a license accompanied with the proper fees shall be presented to the Administrator, who shall, when the license is finally granted by the Examining Board of Plumbers, pay into the treasury of the City of Albany the amount of such fees so received by said Administrator.

§ 261-7. Grading of examinations; issuance of license.

A. The Examining Board of Plumbers shall grade all examinations with not less than two (2) members present, participating in and concurring with the gradings. The Board shall certify to the Administrator the name of each applicant passing an examination and the grade of license for which he was qualified. A minimum grade of seventy percent (70%) shall be required as a passing grade.

B. Upon such certification and the payment of the prescribed fee and evidence of insurance where insurance is required, the applicant shall be issued a license of the grade for which he or she has been certified, which license shall be signed by the Administrator.

§ 261-8. Frequency of examinations; reexaminations.

A. The Examining Board of Plumbers shall conduct examinations at least once each calendar year and in no case more than 12 months from the date of the last test. The Board may conduct tests more frequently as in its determination is appropriate.

B. Applicants failing their first test may be reexamined at the next scheduled test. Applicants failing more than one test may be reexamined at yearly intervals only.

§ 261-9. Period of time to obtain license.

An applicant who has passed an examination for any grade of license must obtain the license by paying the prescribed fee within 30 days of receiving notice of passing said test. Failure to do so will require the applicant to again qualify himself or herself by passing another examination.

§ 261-10. Notification of examination grade; review of examination.

The Examining Board of Plumbers shall notify by mail any applicant of his or her grade within 10 days of the examination. Applicants failing the examination may review their tests at the Building Department for a period of 30 days after receiving notice of failure. All tests will be destroyed after the thirty-day period.

§ 261-11. Qualifications for Class A plumber's license.

A. Applicants for the master plumber's license examination must meet the following qualifications;

1. They must pay the prescribed fee.
2. They must possess the following training or experience, said experience defined as 1,800 work hours constitutes one (1) year of experience:

- a. Either seven (7) years' practical experience under the supervision of a licensed plumber performing work for which a plumbing permit is required; or
- b. A degree from an accredited trade school and at least five (5) years of practical experience under the supervision of a licensed plumber performing plumbing work for which a permit is required in the City of Albany; or
- c. A certificate from a New York State approved apprenticeship program, with in-service training totaling 5,000 hours and at least two (2) years of practical experience under the supervision of a licensed plumber performing plumbing work for which a permit is required in the City of Albany; or
- d. A plumber's license issued by another licensing jurisdiction, with evidence that the applicant has continuous practical experience under that license for at least ten (10) years; or
- e. Such other schooling or training which the Board finds to be substantially equivalent to any of the above plus the requisite number of years of practical experience under the supervision of a licensed plumber, so that the time of training plus practical experience is seven (7) years. Under this subsection, however, for at least three (3) of the seven (7) years the applicant must have been performing plumbing work under the supervision of a licensed plumber for which a permit would have been required.

B. The Examining Board of Plumbers, by rule or regulation, shall set forth the types of proof required to prove an applicant's qualifications. Under this section, the experience required may have been under a plumber's licensed by another jurisdiction whose requirements are substantially similar to those required by this article. Although various forms of proof of training and experience may be found acceptable to the Board, the following are typically considered acceptable:

1. Notarized testimony from a licensed plumber, listing dates, duration and total hours worked by the applicant.
2. Official school transcripts.
3. Apprenticeship training certificate.
4. Payroll records or pay stubs with hours worked.
5. Copies of a plumber's license issued to the applicant by another licensing jurisdiction, along with an itemization of that jurisdiction's requirements for licensing.
6. Copies of approvals of work issued to the applicant from a recognized inspection agency, listing the work performed and the dates completed.

The Board specifically reserves the right to accept or reject any of the above items as substantiation of an applicant's qualification. Any proof of training or experience must clearly identify the applicant and the individual, agency or institution issuing the document. Documents must be accompanied by dates of service, contact information of the individual, agency or institution and the contact information of an individual familiar with the applicant's work or schooling.

§ 261-12. Issuance of Class A plumber's license.

Upon certification by the Examining Board of Plumbers that an applicant has met all the qualifications to be issued a Class A plumber's license or a Class B plumber's license, the Director of the Division of Buildings and Codes shall issue said applicant a Class A plumber's license or Class B plumber's license, as the case may be.

§ 261-13. Apprentice and journeyman permits.

The Examining Board of Plumbers may, at its discretion, require the issuance of individual permits for apprentice and journeyman plumbers working in the City of Albany. The Board shall promulgate the qualifications required, terms under which such permits may be issued and the fees associated with such permits.

§ 261-14. Qualifications for Class B plumber's license.

- A. In lieu of passing the examination given by the Examining Board of Plumbers, an individual may apply for a Class B plumber's license. The applicant must present to the Board satisfactory evidence that he or she possesses all the qualifications for a Class A plumber's license as set forth in Section 261-12. In addition the applicant must also:
1. Possess a master plumber's license issued by another licensing jurisdiction whose requirements for licensing are substantially equivalent to those set forth in Section 171-32; and
 2. demonstrate that he or she has performed work continuously under the license issued by the other jurisdiction for a period of not less than ten (10) consecutive years.
- B. The Board may accept or reject any evidence of qualification submitted by the applicant. The Board may accept or reject any applicant for a Class B plumber's license, regardless of the applicant's qualifications.

§ 261-15. Insurance requirements.

- A. All holders of plumber's licenses shall carry workmen's compensation insurance, unemployment compensation insurance and disability insurance when required by law.
- B. All holders of such licenses shall furnish proof of bodily injury, public liability and property damage insurance, exclusive of motor vehicles, of not less than one hundred thousand dollars (\$100,000.) for one (1) person injured in any one (1) accident and three hundred thousand dollars (\$300,000.) for more than one (1) person injured in any one (1) accident and property damage insurance of not less than one hundred thousand dollars (\$100,000.) per accident.
- C. Proof of required insurance shall be submitted to the Examining Board of Plumbers at the time of the issuance or renewal of the license.
- D. If a holder of a Class A plumber's licenses be regarded as having an inactive status by the Board, the license holder shall not be obligated to fulfill the above while said license holder is inactive in the City of Albany.

§ 261-16. Licenses issued to entities other than individuals.

- A. Class A licenses issued in the name of entities other than individuals shall also designate the name of the licensed plumber who actually holds the license.
- B. Such Class A licensed plumber shall be an officer, partner or employee of the firm to which the license is issued.
- C. The same person shall not hold more than one plumber's license.
- D. In the event that the Class A licensed plumber who holds an entity's license in his name becomes no longer employed by or associated with said entity, such change in circumstance shall be reported to the Administrator within 30 days of said change. The report must be made by both the entity and the actual license holder. At that time, the entity must certify to the Examining Board of Plumbers the name of another Class A licensed plumber who shall hold the entity's license in his name.
- E. For good cause shown, the Board may extend the time in which an entity must certify the name of the licensed plumber who will hold their license. No extensions shall total more than one year.

§ 261-17. License not transferable.

No license granted under this chapter shall be transferable.

§ 261-18. Employment of unlicensed plumbers.

It shall be unlawful for any person to employ an unlicensed plumber to do any plumbing work in the City of Albany.

§ 261-19. Unauthorized use of title.

It shall be unlawful for any person to hold himself out to the public as a plumber licensed by the City of Albany unless he or she possesses a valid plumber's license issued by the City of Albany.

§ 261-20. Penalties for offenses.

A. In addition to the penalties prescribed below, the Administrator, upon recommendation of the Examining Board of Plumbers, may suspend or revoke any plumber's license issued pursuant to this article for violations of any provisions of this article or any other City ordinance, local law, state law or rule or regulation of the Board with which said license holder must comply as a plumber.

B. Any person violating any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment, or for a civil penalty not exceeding \$1,000 to be recovered by the City of Albany in a civil action.

C. The City of Albany, in addition to any other penalties provided for, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, any provision of this article.

§ 261-21. Suspension or revocation of license; hearings.

A. Any person charged with the violation of any provision of this chapter or of any City ordinance with which a licensed plumber must comply has the right to notice of the charges in writing and an opportunity to be heard.

B. Hearings shall be held before three members of the Examining Board of Plumbers. If a majority of the Board members hearing the case finds that the person charged has committed the violations, it may recommend to the Administrator that said person's plumbing license be suspended or revoked. Where the person charged has no plumber's license, the recommendation may be to suspend the person's right to apply for a plumber's license.

C. Upon recommendation of the Board, the Administrator may suspend or revoke a person's plumbing license as follows:

- (1) For the first offense: up to a maximum of six months.
- (2) For the second offense within one year: up to a maximum of one year.
- (3) For the third offense within one year: up to a permanent revocation.

D. During a suspension or revocation, the license shall be null and void. After the termination of the period of a suspension, such license shall become valid upon tender of any renewal fees that have become due. Upon permanent revocation, said license holder shall not be allowed to reapply thereafter.

E. The suspension or revocation penalties are in addition to any penalties imposed by the Court.

§ 261-22. Notice of violation of rules.

Whenever any inspector or other person reports a violation of any such rules and regulations for plumbing and drainage or deviation from any approved plan or specification for plumbing or drainage filed with any board or department, the Administrator shall first serve a notice of the violation thereof upon the plumber doing the work. Such notice may be served personally or by mail, and, if by mail, it may be addressed to such plumber. Unless the violation is removed within three days after the day of serving or mailing such notice exclusive of the day of service or mailing such notice, the Administrator may proceed according to law.

§ 261-23. Inspectors of plumbing.

The Administrator shall appoint inspectors of plumbing in the City of Albany, one (1) of whom shall be designated as chief inspector. They shall be practical plumbers and shall not be engaged directly or indirectly in the business of plumbing during the period of their appointment. Before entering upon the discharge of their duties as such inspectors they shall be required to obtain a certificate of competency from said Examining Board of Plumbers. They shall be entitled to receive compensation to be fixed by the Board of Estimate and Apportionment. The inspectors of plumbing appointed under the provisions of this section, in addition to the duties prescribed by law or ordinance and those which may be enjoined or required by the Commissioner of the Department of Buildings of the City of Albany, shall inspect the construction and alteration of all plumbing work performed in the City of Albany and report in writing the results of such inspection to the Commissioner of the Department of Buildings. They shall also report in such manner any person engaged in or carrying on the business of employing plumber without having obtained a license as herein provided.

§ 261-24. Plumbing permits; inspections.

- A. For work to be done in the City of Albany, it shall be unlawful for any person to contract for, allow or perform the installation of plumbing apparatus or equipment unless:
 - 1. Prior to any such installation the proper plumbing permit is obtained from the Administrator; and
 - 2. The work is performed by or under the supervision of a licensed plumber, so long as said work is done by an employee of the licensed plumber.
- B. A plumbing permit shall be issued only to a licensed plumber.
- C. It shall be unlawful for a person to employ anyone who is not a licensed plumber to perform plumbing work for which a permit is required.
- D. Work shall not be deemed approved until such time as a plumbing inspector employed by the City of Albany's Bureau of Buildings shall inspect the installation, extension or alteration of plumbing apparatus or equipment for which a permit is required.
- E. A final inspection of finished work shall be preformed to close out all plumbing permits. If a license holder fails to schedule or arrange for a final inspection of the work, the license holder may be brought before the Examining Board of Plumbers to show cause. If it is determined that the license holder cannot provide adequate cause for failure to close out the permit, the license may be revoked or suspended. If through no fault of the license holder, the inspector cannot gain access to the premises to inspect the work, the property owner shall be required to allow entry to perform the inspection.
- G. The City of Albany will apply the standards set forth by the most current addition of the New York State Building Code when conducting inspections.
- H. Inspection requests shall be made by the permit holder only.

§ 261-25. Severability.

If any portion of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the portion thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. This ordinance shall take effect thirty (30) days after passage.

Council Member Conti, along with Co-Sponsors Calsolaro and Herring introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

Ordinance Number 4.11.10

AN ORDINANCE AMENDING CHAPTER 313 (SOLID WASTE) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE VII THERETO TO BE ENTITLED “SOLID WASTE MANAGEMENT ACCOUNTING STANDARDS”

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 313 of the Code of the City of Albany is amended by adding a new Article VII to read as follows:

**ARTICLE VII
SOLID WASTE MANAGEMENT ACCOUNTING STANDARDS**

§ 313-56. Findings.

The Common Council finds that current methods of financial accounting for the costs of municipal solid waste management are inadequate and do not represent a systematic approach for identifying, summing and reporting the actual costs of solid waste management in a way that takes into account past and future outlays, overhead and operating costs. The Common Council further finds that implementing full cost accounting standards for solid waste management activities will enhance management and budgetary decisions with regard to municipal solid waste management activities.

§ 313-57. Full cost accounting.

Financial accounting for solid waste management activities under this chapter shall be in accordance with full cost accounting standards as delineated by the United States Environmental Protection Agency.

§ 313-58. Annual report.

The Commissioner shall annually submit a report to the Common Council on the cost of solid waste management activities in accordance with §313-57 of this chapter and such other matters as may be related thereto.

§ 313-59. Promulgation of rules and regulations.

The Commissioner is authorized to promulgate rules and regulations as may be necessary to effectuate and supplement the provisions of this article.

Section 2. This ordinance shall take effect immediately, provided however that thirty (30) days after enactment the Commissioner of the Department of General Services shall report to the Common Council on the steps necessary for the implementation of the provisions of this ordinance including, but not limited to, conversion to the accounting standards required herein.

Council Member Calsolaro introduced the following, which was referred to the Public Safety Committee:

Ordinance Number 5.11.10

AN ORDINANCE AMENDING PART 3 (DEPARTMENT OF PUBLIC SAFETY) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO POLICE REPORTING

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 42, Part 3, Article XI of the Code of the City of Albany is amended by adding thereto a new Section 42-72 entitled “Police Department Reporting Requirements” to read as follows:

§ 42-72. Police Department Reporting Requirements.

A. The Chief of Police shall submit to the Common Council on a quarterly basis the following materials, data and reports:

- (1) The number of illegal weapons confiscated separated by the offense they were used in relation to or, if seized as property, whether they were seized alone, with less than 5 other illegal weapons, or with 5 or more other illegal weapons;
- (2) The number of arrests for possession of illegal weapons, the number of arrests for illegal gun trafficking, and a list of gun trafficking charges lodged for gun trafficking offenses, including the number of individuals charged with each of these gun trafficking offenses.

Section 2. This ordinance shall take effect immediately.

Council Member Calsolaro introduced the following, which was referred to the General Services, Health and Environment Committee:

Ordinance Number 6.11.10

AN ORDINANCE AMENDING ARTICLE II (SOURCE SEPARATION OF RECYCLABLES) OF CHAPTER 313 (SOLID WASTE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO COMPREHENSIVE MANDATORY RECYCLING

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Article II of Chapter 313 of the Code of the City of Albany is hereby amended to read as follows:

§ 313-11. Legislative findings; intent.

The Common Council of the City of Albany finds and declares:

1. The City of Albany has a duty to protect the natural environment, the economy, and the health of its citizens.
2. The City of Albany is currently participating in the formation of a Solid Waste Management Plan that will require the City of Albany to increase its current residential curbside recycling rate of 23%.
3. On April 22, 2009, Mayor Jennings issued Executive Order No. 422-09 entitled, “ESTABLISHMENT OF CITY OF ALBANY SUSTAINABILITY AGENDA”. This Executive Order, under Part e “Recycling and Waste Management,” requires the City of Albany to: “increase access and expand opportunities for recycling” and to “Pilot a composting program in city neighborhoods.”
4. In 2005, Mayor Jennings signed the U.S. Conference of Mayor’s Climate Protection Agreement. This agreement requires that governments enact policies and programs to reduce greenhouse gas emissions.

Organic or compostable waste that is buried in landfills creates methane gas which is at least 21 times as potent as carbon dioxide.

In keeping with the intentions of Executive Order No. 422-09 and the U.S. Conference of Mayor's Climate Protection Agreement, the Common Council finds that organic or compostable waste, including food scraps, must be separated from trash and sent to a composting facility.

§ 313-12. Definitions.

As used in this article, the following definitions shall have the meanings indicated:

ADEQUATE REFUSE COLLECTION SERVICE

Means that a dwelling or commercial property is serviced by a collector for recyclables, compostables, and trash, and that the level of service is sufficient to contain the refuse generated at that dwelling or commercial property.

CANS

Containers comprised of aluminum, tin, steel or a combination thereof which contain or formerly contained only food and/or beverage substances.

CARDBOARD

~~All corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but shall not mean wax-coated or soiled cardboard (i.e., pizza boxes).~~

COLLECTION

Taking physical possession of and removing discarded material from the place of generation for subsequent off-site management of that material.

COLLECTION CONTAINER

The receptacle that is provided, designated and serviced by the collector for the collection of recyclables, compostables or trash.

COLLECTOR

A person, firm or corporation that collects refuse of any kind.

COMMERCIAL PROPERTY

A parcel or any portion of real property where refuse is generated that is not a dwelling, including schools, institutions, and City properties.

COMMISSIONER

The Commissioner of the Department of General Services.

COMPOSTABLE

Means any material that can be broken down into, or otherwise become part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner such as food scraps, soiled paper and plant trimmings. Compostable material can also include disposable plastic food service ware and bags if labeled "compostable" and meeting the ASTM Standard Specification for compostable plastics.

CONSTRUCTION AND DEMOLITION DEBRIS

Building materials generated from construction and demolition activities including, but not limited to, fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting from land clearing and landscaping for construction, deconstruction, demolition or land developments.

CUSTOMER

Any person being served food from a food vendor or event.

DEPARTMENT OF GENERAL SERVICES

The City of Albany Department of General Services.

DESIGNATED

Means clearly labeled and color-coded for a material type, such as labeled blue receptacles for recyclables, green for compostables and black for trash.

DISPOSABLE FOOD SERVICE WARE

All containers, bowls, plates, trays, carton, cups, lids, straws, forks, spoons, knives, napkins and other items that are designed for one-time use for serving food.

DISPOSITION or DISPOSITION OF DESIGNATED RECYCLABLE MATERIALS

~~The transportation, placement or arrangement for transportation or placement of designated recyclable materials for all possible end uses to the City of Albany ANSWERS facility.~~

DWELLING

A residence, apartment, or other facility, used for housing one or more persons.

EVENT

Any function that serves food and is permitted through any agency, local, state or federal.

FOOD VENDOR

Any and all sales outlets, stores, shops, vehicles or other places of business located or operating in the city that operate primarily to sell or convey foods or beverages to consumers and stores that sell food or beverages in combination with a gasoline station.

GARBAGE

~~Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.~~

GLASS

All clear (flint), green and brown (amber) colored glass containers.

HAZARDOUS MATERIAL or HAZARDOUS WASTE

A solid waste or a combination of solid wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Such materials or wastes shall include, but are not limited to, explosives, hazardous radioactive materials, toxic substances and those substances which the Commissioner has identified as a hazardous waste pursuant to the above criteria and has included on a list of hazardous waste promulgated by the Department of General Services.

JANITOR

The person who is hired by owners and managers of commercial properties and their contractors to process refuse on-site before it leaves the premises.

MANAGER

The authorized agent for the owner of a building, structure or property, who is responsible for the day-to-day operation of said building, structure or property.

MULTIFAMILY PROPERTY

A property that includes multiple residential households and has a single account with collector(s) for recyclables, compostables and trash.

MULTIRESIDENTIAL COMPLEX

~~Five or more residential units located on a single property or continuous properties under common ownership, control or management. For this purpose, "residential unit" shall mean an enclosed space consisting of one or more rooms designed for use as a separate residence and shall include, but not be limited to, an apartment, condominium unit, townhouse cooperative unit, mobile home, living unit in a group home and room or set of rooms in a boardinghouse but shall not include rooms within a single-family residence, motel or hotel.~~

NEWSPAPERS

~~Newsprint and all newspapers and newspaper advertisements, supplements, comics and enclosures.~~

PAPER

~~All high-grade office paper, fine paper, bond paper, office paper, xerographic paper, mimeo paper, duplication paper, magazines, paperback book, school paper, catalogs, junk mail, computer paper, telephone books and similar cellulose material, but shall not mean wax paper, plastic or foil-coated paper, styrofoam, wax-coated food and beverage containers, carbon paper, blueprint paper, food-contaminated paper, soiled paper and cardboard.~~

PERSON

Any individual, firm, partnership, company, corporation, association, joint venture, cooperative enterprise, trust, municipality or other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this article prescribing a fine, penalty or imprisonment, the term "person" shall include the officers, directors, partners, managers or persons in charge of a company, corporation or other legal entity having officers, directors, partners, managers or other persons in charge.

PLASTIC CONTAINERS

Containers composed of high-density polyethylenes, polyethylene terephthalate or other specific plastics as the City may designate.

PUBLIC TRASH CONTAINER

Any receptacle installed by a public agency at a sidewalk, park or other public area and that is not under the control, unless otherwise required by this Article, of a multifamily or commercial property, food vendor or event manager.

~~RECYCLABLE MATERIAL~~

~~A material, which would otherwise become solid waste, which can be collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.~~

~~RECYCLABLES~~

~~Those recyclable materials designated by this article and/or by determination of the Commissioner to be source separated. The term includes, but is not limited to, newspaper, glass, paper, cardboard, cans, plastic containers and vegetative yard waste.~~

RECYCLABLE

Any material that can be sorted and reconstituted, for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

~~RECYCLING~~

~~Any process by which materials, which would otherwise become solid waste, are collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.~~

~~RECYCLING COLLECTION AREA~~

~~Any facility designed and operated solely for the receiving and storing of source separated designated recyclable materials.~~

REFUSE

Includes recyclables, compostables, and trash, but not construction and demolition debris or hazardous waste, all as defined in this Article.

~~RESIDENT~~

~~Any person residing within the City on a temporary or permanent basis, but excluding persons residing in hotels or motels. For purposes of this article, "resident" does not include commercial, industrial or institutional establishments.~~

~~RUBBISH~~

~~Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including but not limited to nonrecyclable paper, wrappings, cigarettes, wood, wires, glass, bedding, furniture and similar materials which are not designated recyclable materials.~~

~~SOLID WASTE~~

~~All putrescible and nonputrescible materials or substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, including garbage, refuse, litter, rubbish and industrial waste but not including designated recyclable materials, solid or dissolved matter in domestic sewage or substances, materials in noncontainerized gaseous form or hazardous materials or waste.~~

~~SOURCE SEPARATED~~

~~To separate recyclable materials from the solid waste stream at the point of waste generation.~~

SOURCE SEPARATE

To divide refuse at the place of discard generation, prior to collection, into separate containers that are designated for recyclables, compostables or trash.

TRANSFER STATION

A facility that is permitted to receive discarded materials and transport them to a landfill for disposal.

TRASH

Material that is designated for landfill disposal by the collector and does not include either recyclable or compostable materials. The term "trash" does not include hazardous waste or construction and demolition debris as defined in this Article.

VEGETATIVE YARD WASTE

Organic yard and garden waste, leaves, grass clippings and brush.

~~§ 313-13. [Requirements applicable to source separation and collection of designated recyclables for the curbside program.]~~

§ 313-13. Source Separation of Refuse Required.

All designated recyclables placed for collection or at another location by residents for collection pursuant to the curbside programs established pursuant to Article I of this chapter shall be prepared for collection in accordance with regulations promulgated by the Commissioner. All persons in the City of Albany must source separate their refuse into recyclables, compostables and trash, and place each type of refuse in a separate container designated for disposal of that type of refuse. No person may mix recyclables, compostables or trash, or deposit refuse of one type in a collection container designated for another type of refuse, except as otherwise provided in this Article.

~~§ 313-14. Establishment of private collection program for multiresidential complexes.~~

A. In any area designated by the Commissioner of this chapter, there is also established a program ("private collection program") for the source separation, collection and delivery of newspaper and any other designated recyclable material included in the curbside program from all non-physically disabled residents of multiresidential complexes.

B. The owner, manager or superintendent of every multiresidential complex subject to Subsection A above shall provide and maintain, in a neat and sanitary condition, recycling collection areas to receive newspaper and other designated recyclables included in the curbside program which are generated by residents of the complex. In cases where a condominium, cooperative, homeowner or similar association exists, the association shall be responsible for provision and maintenance of the recycling collection areas. Said recycling collection areas shall be constructed and capable of receiving newspaper and other designated recyclables within 180 days of such inclusion into the curbside program.

C. Once the recycling collection area for a particular multiresidential complex has been constructed and is capable of receiving newspaper and other designated recyclables as may be included in or added to the curbside program, all non-physically disabled residents of such complex shall source separate such materials by placing them in the appropriate containers or areas within the collection area.

D. The owner, manager or superintendent of each multiresidential complex subject to Subsection A above shall arrange for the collection for recycling of newspaper and other designated recyclables from the recycling collection areas.

E. The number and design of the recycling collection areas required by this section for each multiresidential complex shall be consistent with guidelines provided by the Commissioner.

~~§ 313-15. Requirements applicable to source separation and placement of designated recyclables in recycling collection areas.~~

Designated recyclables required to be placed in recycling collection areas pursuant to § 313-14 of this article shall be prepared for collection in accordance with regulations promulgated by the Commissioner.

~~§ 313-16. Mandatory commercial, industrial and institutional source separation program.~~

~~A. All commercial, industrial and institutional establishments within an area of the City subject to a curbside program established pursuant to regulation of the Commissioner shall source separate and arrange for the collection for recycling of newspaper and any and all other designated recyclables as may be included in or added to such curbside program within 180 days of such inclusion in the curbside program.~~

~~B. Designated recyclables for the mandatory commercial, industrial and institutional source separation program may consist of the following materials:-~~

~~(1) Newspaper.~~

~~(2) High grade paper, including but not limited to white letterhead paper, white bond paper, white typing paper, white copier paper, white notepad paper, white writing paper, white envelopes without glassine windows, other nonglossy white office paper without plastic, computer printout paper, computer tab cards and white onionskin paper.~~

~~(3) Corrugated cardboard.~~

~~(4) Glass containers, plastic containers and cans generated by food and beverage service establishments.~~

~~(5) Vegetative yard waste.~~

~~(6) Other recyclable materials as designated by resolution of the City at all times 30 days after said designation and publication of notice in an official newspaper of the City or a newspaper of general circulation within the City.~~

~~C. The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who owns, manages or operates the commercial, industrial or institutional establishment at which the recyclables are generated ("generator") or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste.~~

§ 313-14. Requirements for Owners or Managers of Multifamily and Commercial Properties.

A. Owners or managers of multifamily or commercial properties must supply adequate refuse collection service to the tenants, employees, contractors, and customers of the properties.

B. Owners or managers of multifamily or commercial properties must supply appropriate containers, placed in an appropriate location, to make source separation of refuse convenient for the tenants, employees, contractors, and customers of the properties. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be contained-blue for recyclables, green for compostables, and black for trash-and meet any additional design criteria established by the Department;

(3) Be placed as close together as possible, to provide equally convenient access to users.

C. Owners or managers of multifamily or commercial properties must provide information and/or training for new tenants, employees and contractors, including janitors, on how to source separate recyclables, compostables and trash, and must re-educate existing tenants, employees and contractors at least once a year.

D. Owners or managers of multifamily or commercial properties or their contractors will work with on-site janitors to create effective source separation programs as a means of achieving compliance and meeting citywide diversion goals.

§313-15. Requirements for Owners or Managers of Food Vendors and Events.

A. Owners or managers of food vendors and events must provide adequate refuse collection service to their employees, contractors and customers.

B. Owners or managers of food vendors and events must supply appropriate containers, placed in appropriate locations, to make source separation of recyclables, compostables, and trash convenient for the employees, contractors, and customers of the food vendors and events. The containers must:

(1) Be of appropriate number and size in light of the recyclable, compostable, and trash quantities reasonably anticipated to be generated at the location;

(2) Bear appropriate signage and be color coded to identify the type of refuse to be deposited-blue for recyclables, green for compostables, and black for trash-and meet any additional design criteria established by the Department;

(3) Be placed as close together as possible to provide convenient access to users.

C. Owners or managers of food vendors and events must provide information and/or training for new tenants, employees, and contractors, including janitors, on how to source separate recyclables, compostables, and trash, and must re-educate existing tenants, employees and contractors at least once a year.

D. Food vendors that provide disposable food ware must have at least one container each for recyclables, compostables and trash for use by customers and visitors, placed inside near a main exit, unless that food vendor does not use disposable food ware for on-site consumption and serves minimal to go order per day, but not including any to go orders delivered to residents by a delivery service. Multiple food vendors that provide disposable foodservice ware and share a common eating area may share an appropriate number, size, and placement of containers for recyclables, compostables and trash for convenient use by customers or visitors.

E) Food vendors and events must not put any fats, oils or grease in trash collection containers.

§ 313-176. Special provision regarding vegetative yard waste.

Nothing in this article shall be construed as preventing any person from utilizing vegetative yard waste for compost, mulch or other agricultural, horticultural, silvicultural, gardening or landscaping purposes.

§313-17. Requirements for Private Refuse Collectors.

A. All collectors must appropriately designate the collection containers they provide to customers for source separation of recyclables, compostables and trash. The containers must:

(1) Bear appropriate signage that allows users to clearly and easily identify which containers to use for recyclables, compostables or trash;

(2) Be color-coded-blue for recyclables, green for compostables and black for trash;

and,

(3) Bear the name of the collector to whom the container belongs.

B. (1) If a collector finds materials that are not the correct type as designated for that container, the collector then must leave a tag on the container identifying the incorrect materials.

(2) If the collector continues to find incorrect materials in a collection container after the collector has left a previous tag for that customer and that type of container, the collector must leave another tag on the container identifying the incorrect materials and send a written notice to the person who subscribes for the collection service.

(3) If the collector continues to find incorrect materials in a collection container after the collector has already left two or more tags for that customer and that type of container, the collector may refuse to empty the container. If the container is not emptied, the collector must leave a tag and send a written notice to the person who subscribes for the collection service, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a collector may not on this basis empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.

(4) The collector shall, upon request, provide to the Commissioner, a list of names and addresses of those persons who have received tags or notices or whose containers have not been emptied due to non-compliance with this Article, or copies of the tags and notices issued by the collector. The collector shall also provide to the Commissioner, upon request, a list of the names, addresses, and service levels of the collector's customers and any additional information required by the Commissioner.

C. Within 90 days of the end of each calendar year, each collector must submit to the Department, on a form specified by the Commissioner, an annual report of all tons collected by material type and to whom the material was sent.

§ 313-18. Enforcement; rules and regulations.

The Department of General Services is authorized to enforce the provisions of this article and to administer the recycling programs established herein. The Commissioner may adopt and promulgate, amend and repeal rules and regulations implementing this article in order to carry out and effectuate the intent and purposes thereof.

§ 313-19. Unlawful activities.

A. It shall be unlawful for:

(1) Any person, other than those persons so authorized, to collect any designated recyclable which has been placed at the roadside for collection or within a recycling collection area pursuant to this article.

(2) Any person to violate or to cause to assist in the violation of any provision of this article or any implementing rule or regulation promulgated by the Commissioner.

(3) Any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling collection area.

B. All unlawful conduct set forth in this section shall constitute a violation.

§ 313-20. Noncollection of solid waste contaminated by designated recyclables.

The Department of General Services may refuse to collect solid waste from any person who has clearly failed to source-separate recyclables designated under an applicable section of this article at any solid waste disposal facility owned or operated by the City.

§ 313-21. Noninterference with existing contracts.

- A. Nothing contained in this article shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the City on the effective date of this article.
- B. No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this article, unless renewal of such contract shall conform to the requirements of this article.

§ 313-22. Penalties for offenses.

Any person who engages in unlawful conduct as defined in this article may, upon conviction thereof, in a proceeding before a court of competent jurisdiction, be sentenced to imprisonment for a term not to exceed 15 days or to a term of community service related to the purposes of this article or to pay a fine of not more than \$325 and not less than \$25, or any combination of the above penalties, including all associated court costs.

§ 313-23. Injunction; concurrent remedies.

- A. In addition to any other remedy provided herein, the City of Albany may institute a suit in equity where unlawful conduct exists for an injunction to restrain a violation of this article.
- B. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the City from exercising any other remedy provided herein or otherwise provided at law or equity.
- C. The terms and provisions of this article are to be liberally construed, so as best to achieve and effectuate the goals and purposes hereof.

§ 313-24. Severability.

- A. The provisions of this article are severable. If any provision of this article or its application to any person or circumstances is held invalid, said invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application of the article.
- B. All provisions of any other local law or ordinance which are inconsistent with the provisions of this article are hereby repealed.

§ 313-25. (Reserved)

Editor's Note: Former § 313-25, Effective date, was repealed 12-20-2004 by Ord. No. 38.121.04.

Section 2. This ordinance shall take effect six months following its enactment.

CONSIDERATION OF RESOLUTIONS

Council Member Conti asked and received majority consent to add Resolution Number 1.11.10R and Resolution Number 2.11.10R to the pending agenda, which was approved by unanimous voice vote

Council Member Conti introduced the following, co-sponsored by Council Members Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano, and Smith, asked for passage and a roll call vote thereon:

Resolution Number 1.11.10R(MC)

RESOLUTION OF THE COMMON COUNCIL HONORING THE MEMORY OF JOHN MCNULTY, JR.

WHEREAS, John "Jack" McNulty Jr., a Democratic icon in the Albany County was taken from our midst on December 28, 2009; and

WHEREAS, Jack was a graduate of St. Joseph's School in Green Island, LaSalle Institute in Troy, class of 1939, attended Holy Cross College in Worcester, Mass. and was a graduate of Renouard Training School for Embalmers in NYC. He served in the U.S. Navy in the Pacific Theatre during World War II and, upon his return from service in 1945, he established McNulty Funeral Home in Green Island; and

WHEREAS, he was first elected as Green Island Town Supervisor in 1949 and served in that office until being elected mayor of the Village of Green Island in 1957. He served as mayor from 1957 until being elected sheriff of Albany County, where he served from 1974 until 1979. He came back to serve as mayor when his community needed him and served from 1983 to 1985 and again from 1992 until retiring from the office on December 31, 2002 when his daughter, Ellen, was appointed to succeed him; and

WHEREAS, Jack also served as a member of the NYS Commission of Corrections from 1985 until 1989; trustee and vice chairman of the Green Island Power Authority from 1988 until 2005 when he was appointed special consultant for governmental affairs; and chairman of the Green Island IDA from 1979 until 2003; and

WHEREAS, he was involved in Democratic politics from the time he was a young boy, learning from his father who was responsible for changing Green Island to a "Democratic town." Jack served as the chairman of the Green Island Democratic Committee for decades and was still a committeeman. He was a member of the Albany County Democratic Committee, where he served in several capacities over the years and was a mentor and trusted advisor to many; and

WHEREAS, Jack was a lifelong communicant of St. Joseph's Church in Green Island and was a member of its Holy Name Society and St. Vincent de Paul Society, the Perpetual Adoration Society of St. Augustine's Church, the Capital District First Friday Club and the Association of Jeanne Jugan. He was an honorary life member and past grand knight of the Green Island Knights of Columbus, an honorary life member of the Father VanRensselaer Assembly Fourth Degree K of C, a member of the NYS and Capital District Funeral Directors Associations, the Ancient Order of Hibernians in Troy, the Watervliet Elks Lodge, the McNulty-McCutchen Post 259 VFW, the Legnard-Curtin Post American Legion and its Last Man's Club, the Pat Aiezza Post Catholic War Veterans, the NYS Sheriff's Association, the LaSalle Institute Alumni Association, the Green Island Italian Fraternal Society, Green Island Senior Citizens, and the Green Island Vagabond Club. Jack was very active in the Society of the Friends of St. Patrick in Troy where he had served as president and chairman of the board and had attended their annual dinner for over 70 years. He had also served on the board of directors at Pioneer Savings Bank in Troy from 1971 until 1997; and

WHEREAS, Jack is the devoted father of John (Marge) McNulty III, former Congressman Michael (Nancy) McNulty, Mary McNulty, Ellen (Mark) McNulty-Ryan and the late William F. McNulty, who was killed in action in South Vietnam in 1970; and

WHEREAS, Jack McNulty will be remembered as a public servant who constantly tried to help the less fortunate, was dedicated to reviving the economy and tax base of Green Island, mentoring the young and treating all with respect and dignity.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany expresses its deepest regret upon the death of John McNulty, Jr. and offers its sincere sympathy to the members of his bereaved family.

BE IT FURTHER RESOLVED, that a copy of this resolution, appropriately inscribed, be delivered to the family of the late John McNulty, Jr.

**Note: There was discussion from Council Member Conti regarding his respect for Mr. McNulty.*

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O’Brien, Rosenzweig, Sano, and Smith

Affirmative 15 Negative 0 Abstain 0

Council Member Fahey introduced the following, which was held:

Resolution Number 2.11.10R(MC)

RESOLUTION OF THE COMMON COUNCIL URGING THE STATE LEGISLATURE TO ENACT CHARTER SCHOOL FUNDING RELIEF FOR THE CITY OF ALBANY SCHOOL DISTRICT

WHEREAS, the State of New York may lift the cap on charter schools in New York State on in order to compete effectively for federal Race To The Top funds; and

WHEREAS, the New York State Board of Regents and the SUNY Board of Trustees have failed to consider that the ratio of the number of charter schools to the number of public schools in Albany far exceeds the ratio of charter schools to public schools in any other school district in New York to a degree that is unfair and inequitable; and

WHEREAS, 82% of Albany citizens, a majority from every neighborhood in Albany, voted in a non-binding referendum in May, 2005 against paying for charter schools out of the public school budget; and

WHEREAS, the number of schools supported by Albany taxpayers has increased from 18 schools in 2001 to 30 schools in 2010; and

WHEREAS, over-saturation of charter schools in Albany has had a devastating impact on the City School district of Albany, its students and its taxpayers; and

WHEREAS, the cost of charter schools for the 2010-2011 school year is projected to be over \$30 million; and

WHEREAS, there are additional costs because the district is required to provide nursing services, social workers and transportation for 12 additional locations; and

WHEREAS, the district receives only \$4 million in “transition aid” to offset the financial impact of charters; and

WHEREAS, this \$4 million is not adequate compensation for the increased costs of funding so many charter schools; and

WHEREAS, the enrollment and sustainability of charter schools is unpredictable and, therefore costly; and

WHEREAS, the charter schools in Albany with a capacity of 3300 for the 2009-10 school year are under enrolled by approximately 39%; and

WHEREAS, the shortfall in charter school enrollment was not anticipated and resulted in a 13% increase in enrollment in the district's public schools; and

WHEREAS, this type of unpredictability is costly and difficult to plan for; and

WHEREAS, the cost of charter schools amounts to an un-funded mandate by New York State and an unfair burden on taxpayers; and

WHEREAS, charter schools in other states are funded directly by the state and not by local taxpayers; and

WHEREAS, the charter schools are failing to meet their statutory responsibility to "*increase learning opportunities for all students, with special emphasis on expanded learning opportunities for students who are at-risk of academic failure*"; and

WHEREAS, only 3% of the students enrolled in charter schools are students with disabilities as compared to 20% of the students in the public schools; and

WHEREAS, data indicates that charter schools fail to retain a significant percentage of their students; and

WHEREAS, KIPP middle charter school touts a 100% pass rate on the 8th grade standardized math exam in 2009 without disclosing it only graduated 39% of the students who entered in 5th grade; and

WHEREAS, charter schools should be required to provide more information to parents and the public about their actual results and retention rates.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council does hereby urge our New York State legislators to support increased transparency and accountability of charter schools.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Common Council urges legislators to impose a specific limit on the enrollment of students in Albany's charter schools to ensure that charter school approvals in Albany are at a predictable and sustainable level.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City of Albany Common Council does hereby urge our New York State legislators to support charter School funding relief for the City School District of Albany.

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Herring offered the following, which was approved by unanimous voice vote:

RESOLVED THAT THE FOLLOWING PERSONS BE AND HEREBY ARE APPOINTED COMMISSIONERS OF DEEDS FOR THE CITY OF ALBANY, NEW YORK FOR THE TERM ENDING DECEMBER 31, 2010, AND WAIVE THE READING OF THE NAMES:

Dixon, Clifton M, 29 2nd Street, Albany, NY 12210

Council Member Igoe discussed and responded to comments regarding Ordinance Number 1.11.10 (Plumbing) and Ordinance Number 2.11.10 (Heating).

Council Member O'Brien discussed upcoming dates to look at various composting sites. The first date is Wednesday, January 6, 2010 at 1pm to take a look at how the City currently handles composting. The next date is January 13, 2010 to look at Washington County agriculture recycling. He stated that Mr. Willard Bruce is currently looking at a composting site in Kingston, Ontario. He discussed an upcoming meeting at the Albany Public Library where the CEO of the YMCA would be present to answer questions regarding the closure of the Washington Avenue Branch YMCA in the City of Albany.

Council Member Conti expressed appreciation for every ones support. He stated that there will be challenges ahead for the Council. He stated that the Mayor's State of the City message mentioned two (2) of the Council's proposals from FY 2010 budget resolution. He stated that even though the members may not always agree, he hopes that there would be respectful discussion of the issues. He stated he hoped to have the Committee assignments ready by next week.

Council Member Igoe asked when the meeting adjourned, if it could be in memory of Mr. McNulty.

Council Member Calsolaro stated that Mayor actually mentioned three (3) of the Council's proposals. He stated that he had asked Mr. Calderone about presenting the Council with a multi-year budget.

Council President McLaughlin stated that it shows that the voice that the Council has is being listened to.

ADJOURNMENT

Council Member Conti moved for adjournment in memorary of Mr. McNulty.

Council President McLaughlin stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of January 4th, 2010.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL