

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, April 6, 2009

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

The roll being called, the following answered to their names: Council Members Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith, and Timmons.

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

Council Member Fox led the Pledge of Allegiance.

Council President Morris informed the public that Resolution Number 86.121.08R (Rezoning of 124-128R Washington Ave. Ext.) and Resolution Number 36.41.09R (Newspaper Guild) would not taken up due to the need for further discussion and/or additional information.

PUBLIC COMMENT PERIOD

1. Neil Gifford, 195 New Karner Rd., Alb. Pine Bush Commission (124-128R Washington Ave. Ext.)
2. Timothy L. Carney, 277 Delaware Avenue, Albany, NY 12209 (Smaller Common Council)
3. Corey Taliaferro, 125 Benson St. Albany, NY 12206 (Quality of Life Issues)
4. Ray Pitlyk, 845 Park Ave., Albany, NY 12208 (Newspaper Guild)
5. Ken Crowe, 395 State St. Apt. 47, Albany, NY 12210 (Newspaper Guild)
6. Dan Hershberg, Developer (124-128R Washington Ave. Ext.)

Council Member Conti made a motion to extend Public Comment for an additional 45 minutes, which was approved by unanimous voice vote.

7. Nora Yates, 332 Hudson Ave., Albany, NY 12210 (Resolution 37.41.09R)
8. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (Ghost Tickets & SWMP Steering Committee)
9. Lynne Jackson, 223 S. Swan St., Albany, NY 12202 (124-128R Washington Ave. Ext.)
10. John Wolcott, 344 Sheridan Ave., Albany, NY 12210 (124-128R Washington Ave. Ext.)
11. Doug Bullock, 77 Benson St., Albany, NY 12206 (Various Issues)
12. Daniel C. Curtis, 580 Myrtle Ave., Albany, NY 12208 (124-128R Washington Ave. Ext.)
13. Laura wells, 431 Delaware Ave., Albany, NY 12209 (124-128R Washington Ave. Ext.)
14. Julie Elson, 510 W. Lawrence St, Albany, NY 12208 (124-128R Washington Ave. Ext.)
15. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Ghost Tickets)
16. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (124-128R Washington Ave. Ext.)

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

APPROVAL OF MINUTES FROM PREVIOUS MEETING

DEFERRED

CONSIDERATION OF LOCAL LAWS

Council Member Conti made a motion to hold the Local Laws on the pending agenda, which was approved by unanimous voice vote.

REPORTS OF STANDING COMMITTEES

Finance, Taxation and Assessment – Council Member Sano stated the committee met last week to discuss bonding Ordinances 20.22.09 thru 23.22.09 and Ordinance 32.32.09. The Committee also discussed Resolution 27.31.09R, appointing Mr. Carl Eppelmann to the Board of Assessment Review. All were favorably recommended out of committee.

Parks, Recreation and Family Services – Council Member Calsolaro stated that the committee met to discuss the Albany Summer Youth Employment Program with Commissioner Faye Andrews and John Gustin from Department of General Services. He stated that several people came out and spoke in support of funding for adult supervisors from age 19-24 yrs. He stated some camps have had supervisors in the past and that the committee would have another meeting to further discuss this issue.

Human Resources and Human Rights – Council Member Casey stated that the committee would be meeting on April 29, 2009 to interview candidates for the Human Rights Commission.

Planning, Economic Development and Land Use – Council Member Herring stated that the committee met on March 26, 2009 to discuss the SEIS and the rezoning ordinance relating to the Tharaldson Development Project at 124-128R Washington Ave. Ext.. He stated that Mr. Downs (Save the Pine Bush), Mr. Hershberg (Developer) and Mr. Gifford (Pine Bush Commission) spoke and gave presentations. He stated a representative from NYSDEC was invited but did not attend. The legislation was passed of committee for consideration, but was placed back in committee for further discussion at caucus.

REPORTS OF AD HOC COMMITTEES

Ad Hoc Committee on Cable Access - Council Member Rosenzweig stated that the Committee met on March 26, 2009 to get an update from Corporation Counsel on the status of negotiations with Time Warner Cable. He stated that Corporation Counsel had received a proposal from Time Warner and that they were reviewing the offer for discrepancies. The Corporation Counsel's office will be developing a counterproposal to submit to Time Warner.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 33.41.09

AN ORDINANCE AMENDING CHAPTER 363 (VENDORS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PURCHASES

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

Section 1. Chapter 363 (Vendors) of the Code of the City of Albany is amended to read as follows:

CHAPTER 363. VENDORS

§ 363-1. Findings.

It is found and declared that:

A. The business of vending and purchasing merchandise and refreshments in the public streets, sidewalks, places and from door to door in the City of Albany should be regulated to protect the public health, safety and welfare of the inhabitants of the City of Albany.

B. Reasonable regulation of vending and purchasing is necessary for the prevention of congestion of traffic and travel.

C. Persons engaged in the business of vending should be required to be licensed and to furnish such information as necessary to effectively carry out the purposes of this chapter.

D. Unless specifically authorized by this chapter, vending and purchasing in the City of Albany within any public right-of-way, sidewalk or place is prohibited.

§ 363-2. Definitions.

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

PURCHASE

To obtain merchandise in exchange for money or its equivalent. The act or an instance of buying merchandise on the public streets, sidewalks or places or from door to door in the City of Albany.

PURCHASER

Any person engaged in the buying of merchandise, by means of money or its equivalent, on the public streets, sidewalks or places in the City of Albany.

Section 2. Except as herein amended Chapter 363 of the Code of the City of Albany is hereby ratified, continued and approved.

Section 5. This ordinance shall take effect immediately after passage.

Council Member Casey introduced the following, which was referred to the Planning, Economic Development and Land Use Committee:

Ordinance Number 34.41.09

AN ORDINANCE AMENDING CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE XX ENTITLED “INCENTIVE ZONING”

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

Section 1. Chapter 375 of the Code of the City of Albany is hereby amended by adding thereto a new Article XX to read as follows:

**ARTICLE XX
INCENTIVE ZONING**

§ 375-193. Incentive zoning.

A. Purpose and intent. The Common Council may grant zoning incentives to property developers to encourage the provision of certain community benefits or amenities, such as parks, open space, public active and passive recreational opportunities, and other physical, social or cultural benefits or amenities.

- B. Incentive zoning restricted to added benefits. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board. Such benefits shall be in addition to any items that are or would be required under other provisions of this chapter or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.
- C. Allowable benefits for which incentives may be granted. The following may be offered either on or off the site of the subject application:
 - (1) Permanent conservation of natural areas or agricultural lands;
 - (2) Provision of passive or active open space and related improvements;
 - (3) Permanent protection of scenic views;
 - (4) Public Parks and recreational facilities;
 - (5) Public access to waterfronts;
 - (6) Public trails and trail linkages; or
 - (7) Cultural or historic facilities deeded to municipality or qualified not-for-profit agencies.
- D. Incentives permitted.

(1) The Planning Board may grant the following incentives to the applicant on a specific site:

(a) Increases in residential unit density:

- [1] The maximum number of residential dwelling units and/or lots permitted in an “incentive development” shall be the sum of the total number of conventional lots/dwelling units allowed in the zoning district, plus an “incentive density,” which is the additional number of residential dwelling units/lots granted by the Planning Board on the basis of the specific community benefits or amenities to be provided by the applicant.
- [2] Where the plat falls within two or more contiguous districts, the Planning Board may approve an incentive development representing the cumulative density as derived from the summing of all residential dwelling units and/or lots allowed in all such districts together with the incentive density, and may authorize actual construction to take place in all or any portion of one or more such districts.

(b) Increases in non-residential density:

- [1] Decreases in required minimum lot area, setbacks or other bulk standards;
 - [2] Increases in impervious lot coverage, floor area ratios, building heights or other standards.
- (b) Any other waivers of provisions of this chapter as deemed necessary and appropriate by the Common Council for the achievement of the community benefit or amenity.

E. Procedure and criteria for approval.

- (1) Authorization of zoning incentives is subject to approval by the Planning Board prior to the grant of preliminary plat or preliminary site plan approval. Applicants may seek non-binding input from the Planning Board as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process prior to the formal approval.
- (2) For residential developments, applications for zoning incentives in exchange for community benefits shall be processed in accordance with the same procedures applicable to cluster development (whether or not the incentive proposal is in conjunction with a cluster development), and shall include sketch and preliminary plat subdivision layouts for the proposed incentive development of the site.
- (3) For non-residential developments, applications for zoning incentives in exchange for community benefits shall be processed in accordance with the site plan review procedures, and shall include sketch plan and preliminary site plan layouts for the proposed incentive development of the site.
- (4) To evaluate the adequacy of the proposed benefit(s) to be accepted in exchange for the requested incentive(s), the following information shall be provided by the applicant with its application for subdivision or site plan approval:
 - (a) A description of the proposed amenity or amenities outlining the benefits that will accrue to the community;
 - (b) The economic value of the proposed amenity or amenities to the City as compared with the economic value of the proposed incentive or incentives to the applicant;
 - (c) A preliminary demonstration that there is adequate sewer, water, transportation, waste disposal and fire protection facilities serving or proximate to the proposed development to handle the additional demands the incentive and amenity may place on such facilities beyond the demand that would otherwise occur with conventional subdivision development; and
 - (d) An explanation as to the way in which the amenity will implement physical, social or cultural policies of the Comprehensive Plan and this Chapter.

(5) All applicable requirements of the State Environmental Quality Review Act (“SEQRA”) shall be complied with as part of the review and hearing process before the Planning Board.

- (6) The Planning Board shall hold a public hearing on the proposal. For Planning Board public hearings on incentive zoning requests, notice of the hearing shall be published in the official newspaper of the City at least five (5) days prior to the date of the hearing.
- (7) For approval of an amenity/incentive proposal, the Planning Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive.
- (8) Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including all conditions and documentation required by the Planning Board for the incentive, the applicant may submit a final plat or plan for review and approval of the incentive proposal in accordance with this Chapter.

Section 2. This ordinance shall take effect immediately.

Council Member Conti made a motion to discharge Ordinance 1.11.09 out of the Public Safety committee for consideration, which was approved by unanimous voice vote.

Council Members Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons, made a motion to amend Ordinance 1.11.09 and as amended, asked for passage and a roll call vote thereon:

ORDINANCE NUMBER 1.11.09 (As Amended 4/6/09)

AN ORDINANCE AMENDING PART 3 (DEPARTMENT OF PUBLIC SAFETY) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY TO REPEAL ARTICLE XI-A ENTITLED "GUN VIOLENCE TASK FORCE" AND TO ADD A NEW ARTICLE XI-A ENTITLED "GUN VIOLENCE PREVENTION IMPLEMENTATION TEAM."

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

Section 1. Article XI-A of Chapter 42 of the Code of the City of Albany is hereby repealed in its entirety.

Section 2. Chapter 42, Part 3 of the Code of the City of Albany is amended by adding thereto a new Article XI-A entitled "Gun Violence Prevention Implementation Team" to read as follows:

ARTICLE XI-A

GUN VIOLENCE PREVENTION IMPLEMENTATION TEAM

§ 42-73. Legislative intent; purpose.

A. The City of Albany has been experiencing a rash of violent criminal acts where firearms have been involved. Many of these violent gun incidents have both a youth perpetrator and a youth victim.

B. These violent criminal acts have either taken the lives of many victims or left many victims with great physical as well as emotional injuries. Beyond the immediate harm to the victims and their families, these violent gun acts have a detrimental effect on the social character of the City, leading to a perception that Albany is an unsafe city which hurts the efforts of the city administration to promote Albany as a place to live, visit, or invest in.

§ 42-74. Establishment.

There shall be, and is hereby, established a Gun Violence Prevention Implementation Team in the City of Albany to assist the City in preventing gun violence in the City of Albany.

§ 42-75. Membership; term; compensation; vacancies.

A. The Gun Violence Prevention Implementation Team shall be composed of nine voting members appointed as follows: three members shall be appointed by the Common Council; three shall be appointed by the Mayor; and one member each shall be appointed by the following involved agencies as a representative of such agency: the Albany County District Attorney's Office, the City of Albany Police Department, the City of Albany School District. Members appointed by the Common Council and Mayor shall be residents of the City of Albany. All members shall be individuals who possess a knowledge or interest in gun violence related issues. Members shall serve without compensation.

B. Each member shall serve a two year term. The Implementation Team shall designate one of its members as Chairperson and one as Vice Chairperson each of whom shall serve for a term of one year. Vacancies on the Task Force shall be filled in the same manner as the predecessor to fill the unexpired term.

§ 42-76. Powers and duties.

The Implementation Team shall:

- A. Assist the City, its departments, and other agencies in implementing the recommendations contained in the 2008 Final Report of the City of Albany Gun Violence Task Force;
- B. Monitor efforts of the city, county, state and federal government to prevent and reduce gun violence;
- C. Have the authority to research and report on programs used successfully by other municipalities to reduce gun related violence and the approximate cost of such programs;
- D. Have the power to request documents, conduct public hearings, hear testimony of witnesses, and take any other action it deems necessary to carry out its functions. Every department, office, division, agency or public authority of this city shall cooperate to the full extent possible with the Implementation Team and furnish such information and assistance as the Implementation Team determines is reasonably necessary to accomplish its purpose in a timely fashion;
- E. Provide a written report to the Common Council in June and December of each year.

§ 42-77. Expenses.

Neither the Implementation Team nor its members shall incur any cost or expense for or on behalf of or payable by the City of Albany without written authorization of the Common Council.

Section 3. This ordinance shall take effect immediately.

**Note: There was discussion from Council Member Calsolaro stating that this was the first recommendation from the Gun Violence Task Force (GVTF) and that he was pleased to finally start to put in place the task force’s recommendations. There was discussion from Council Member Smith in support of this ordinance and stated that she found it disturbing that it has taken this long with regards to implementing the GVTF final recommendations.*

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O’Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Sano asked for passage of ORDINANCE NUMBER 20.22.09 [AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$629,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$629,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (REPLACEAND UPGRADE SCHOOL ZONE TRAFFIC SIGNALES)], which had been previously introduced.

**Note: There was discussion from Council Member Sano stating that \$500,000 of this funding is reimbursed from the sate.*

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Sano asked for passage of ORDINANCE NUMBER 21.22.09 [AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$250,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$250,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (TRAFFIC SIGNALS)], which had been previously introduced.

**Note: There was discussion from Council Member Sano stating that this was a continuation of the modernization of traffic signals at city intersections.*

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Sano asked for passage of ORDINANCE NUMBER 22.22.09 [AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$530,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$530,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (REPLACEMENT OF PATROL VEHICLES AND EQUIPMENT)], which had been previously introduced.

**Note there was discussion from Council Member Calsolaro stating that this ordinance should be part of operating expense. There was discussion from Council Member Sano stating that this is a legitimate bonding expense.*

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

Affirmative -- Casey, Conti, Ellis, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, and Timmons

Negative -- Calsolaro, Fahey, and Smith

Affirmative 12 Negative 3 Abstain 0

Council Member Sano asked for passage of ORDINANCE NUMBER 23.22.09 (AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$108,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$108,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (REPLACEMENT OF APD SPECIAL USE VEHICLES AND RELATED EQUIPMENT)), which had been previously introduced.

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

Affirmative -- Casey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, and Timmons

Negative -- Calsolaro, Conti, Ellis, Fahey, and Smith

Affirmative 10 Negative 5 Abstain 0

Council Member Sano asked for passage of Ordinance Number 32.32.09 (AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$80,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$80,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (ONE-TON FLIPPER TRUCKS))

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

Affirmative -- Casey, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, and Timmons

Negative -- Calsolaro, Conti, Ellis, and Smith

Affirmative 11 Negative 4 Abstain 0

The remaining ordinances on the pending agenda were held at the request of Council Member Conti.

CONSIDERATION OF RESOLUTIONS

Common Council Members Fahey, Calsolaro, Conti and Scalzo offered the following, which was approved:

Resolution Number 35.41.09R

AUTHORIZING THE IMPLEMENTATION AND FUNDING OF THE DELAWARE AVENUE ROAD RECONSTRUCTION ECONOMIC RECOVERY PROJECT(S), CALLING FOR 100% FEDERAL-AID UNDER TITLE 23 U.S. CODE AND APPROPRIATING FUNDS THEREFOR

WHEREAS, the Delaware Avenue Road Reconstruction Economic Recovery Project(s) (hereinafter the "the Projects") in the City of Albany, in Albany County, is (are) eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 100% Federal funds and 0% non-federal funds.

NOW, THEREFORE, the City of Albany Common Council duly convened does hereby:

RESOLVE, that the Common Council hereby approves the above Project(s); and it is hereby further

RESOLVED, that the City of Albany agrees to advance the Projects through the City's resources and agrees that the Common Council hereby authorizes the City of Albany to pay in the first instance the full federal costs and full non-federal costs of any and all phase(s) or portions thereof and hereby appropriates from Ordinance No. 28.31.09 the funds necessary to complete the Project(s) including all phase(s) or portions thereof; and it is further

RESOLVED, that the City of Albany makes a 100% commitment of the non-federal share (if any) of the costs of Construction/Construction Inspection phase(s) of work for the Project(s) or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation (hereinafter "NYSDOT") pursuant to the State/Local Agreement; and it is hereby further

RESOLVED, that the sum of \$12,760,000.00 (Twelve million seven hundred sixty thousand dollars and no cents) has already been appropriated from Ordinance Nos. 12.21.06, 17.22.08, 2.12.09 and 28.31.09 and made available to cover the cost of participation in the above phase(s) of the Project(s); and it is further

RESOLVED, that the additional sum of \$2,137,611.50 (Two million one hundred thirty seven thousand six hundred eleven dollars and fifty cents) is hereby appropriated from and made available to cover the additional cost of participation in the Construction phase(s) of the Project(s); and hereby appropriates from Ordinance No. 28.31.09 the funds necessary to complete the Project(s) including all phase(s) or portions thereof; and it is further

RESOLVED, that upon completion of construction of the Projects, or a fully usable portion thereof, the City of Albany agrees to maintain the Project(s), or fully usable portion thereof, at their sole cost and expense; and it is hereby further

RESOLVED, that in the event the full federal and non-federal share of the Projects exceeds the amount appropriated above, the Common Council shall convene as soon as possible to appropriate said excess amount immediately; and it is hereby further

RESOLVED, that the Mayor of the City of Albany is hereby authorized to execute all necessary Agreements or certifications on behalf of the City of Albany, (subject to the Corporation Counsel’s approval as to form and content), with NYSDOT in connection with the advancement or approval of the Projects identified in the State/Local Agreement; and providing for the administration of the Projects and the City’s first instance funding of the non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of the Department of Transportation by attaching it to any necessary Agreement in connection with the Project(s); and it is further

RESOLVED, this Resolution shall take effect immediately.

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O’Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Negative -- Fox

Affirmative 14 Negative 1 Abstain 0

Council Members Conti, Fahey, Calsolaro, Ellis, Herring, McLaughlin, Rosenzweig, Sano, Scalzo and Smith introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 37.41.09R

RESOLUTION OF THE COMMON COUNCIL CALLING UPON THE FEDERAL GOVERNMENT TO RECOGNIZE LEGALLY MARRIED SAME-SEX COUPLES IN THE 2010 CENSUS, AND TO BEGIN COUNTING LESBIAN, GAY, BISEXUAL AND TRANSGENDER INDIVIDUALS IN OTHER FEDERAL SURVEYS

WHEREAS, the Constitution of the United States requires that a nationwide census be taken every ten years in order to efficiently fund government programs, apportion seats in the U.S. House of Representatives, redistrict state legislatures, and correctly plan for community-based services; and

WHEREAS, both the 2000 census and the upcoming 2010 census contain no questions on sexual orientation and fail to recognize legal same-sex marriages performed in and/or recognized by the states of Massachusetts, Connecticut, California, New York and Rhode Island; and

WHEREAS, same-sex couples who are legally married in their home state will be listed as unmarried partners for the purpose of 2010 census; and

WHEREAS, denied the classification of “family” that is granted to married opposite-sex couples, married same-sex couples with children related to only one member of the household are incorrectly counted as single-parent households; and

WHEREAS, counting married same-sex couples with children as single-parent households will invalidate the census results, particularly with respect to policies concerning child-care as well as community-specific programs; and

WHEREAS, an accurate count of married same-sex couples is necessary to estimate the tax revenues that could be generated once same-sex unions are recognized by the federal government; and

WHEREAS, allowing old biases to produce inaccurate tax revenue projections and misinformed public policy decisions is both unfair and detrimental to all citizens of the United States, regardless of sexual orientation; and

WHEREAS, since the 2010 census provides the data upon which federally-funded nutrition and education programs are based, the use of incorrect population data does a significant disservice to the citizens who rely on these programs and the taxpayers who fund them; and

WHEREAS, claiming, as some have, that the Defense of Marriage Act (DOMA) precludes the Census Bureau and other federal agencies from maintaining statistics on same-sex married couples is an inaccurate and unnecessarily narrow interpretation of the law; and

WHEREAS, it would be beneficial to begin recording information on same-sex married couples in the likely event that DOMA is overturned by the next census in 2020; and

WHEREAS, while recording the existence of same-sex married couples is vital, it is equally important that the federal government begins collecting data on the lesbian, gay, bisexual and transgender (“LGBT”) population, a population on which there is no regularly administered data collection effort; and

WHEREAS, in addition to the census, the Current Population Survey and the Survey of Income and Program Participation must be adapted to recognize LGBT individuals in order to help the government make informed policy decisions; and

WHEREAS, failure to maintain statistical census data on those who identify as LGBT will result in the inability of the government to provide essential programs and services to a population that continues to face unique challenges; and

WHEREAS, excluding recognition of the LGBT population from federal surveys is discriminatory at best, and harmful to their physical and socioeconomic well-being at worst.

NOW, THEREFORE, BE IT RESOLVED, that the Albany Common Council calls upon the federal government to recognize legally married same-sex couples in the 2010 census, and to begin counting lesbian, gay, bisexual and transgender individuals in other federal surveys.

BE IT FURTHER RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to the Director of the federal Census Bureau, United States Senators Kirsten Gillibrand and Charles Schumer and United States Representative Paul Tonko.

**Note: There was discussion from Council Member Conti regarding how important the census is and the refusal of the census bureau to acknowledge same sex couples. He stated that other communities are adopting similar resolutions. There was discussion from Council Member Calsolaro in support of this legislation.*

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

Affirmative -- Calsolaro, Conti, Casey, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Conti asked and received majority consent to add Resolution Numbers 38.41.09R, 39.41.09R and 40.41.09R, which was approved by unanimous voice vote.

Council Member Casey offered the following, asked for passage and a roll call vote thereon:

Resolution Number 38.41.09R(MC)

RESOLUTION REQUESTING THAT THE MAYOR DEVELOP A WEBSITE, OR ADD TO THE EXISTING OFFICIAL WEBSITE, TO TRACK THE CITY'S PROGRESS IN OBTAINING FEDERAL STIMULUS FUNDS

WHEREAS, President Barack Obama has signed into law the Economic Recovery Act of 2009 in order to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, and to stabilize state and local government budgets, and

WHEREAS, at least \$100 billion in the bill is aimed at construction projects that towns and cities say they can't afford to pay for on their own, environmental and energy programs and school modernization plans, and

WHEREAS, to be eligible for the funds, projects must be what President Obama calls "shovel-ready." That means they must have plans in place and contracts ready to be signed. Most of the money would have to be spent within 18 months to get architects, engineers, plumbers, electricians and construction crews and others on the job fast, and

WHEREAS, there are several ways to access funds including through State Agencies, through Federal Agency formula programs, through Federal Agency discretionary grant programs, and

WHEREAS, this Act requires unprecedented responsibility and accountability from local governments. Governors, mayors, or others making funding decisions must certify investments have been fully vetted and are

appropriate uses of tax payer dollars; grantees must submit quarterly reports detailing the use of funds to the Granting Agency; a newly created Recovery Accountability and Transparency Board will conduct and coordinate oversight of covered funds to prevent waste, fraud, and abuse; grantees must register with the Central Contractor Registration database or complete other requirements as determined by the Office of Management and Budget; concerns raised by the public about investments made using recovery act funds are subject to inspector general review; and federal agencies may adjust grant limits on administrative expenditures to help defray compliance cost.

NOW, THEREFORE, BE IT RESOLVED, in order to further the goals of responsibility and accountability, the Common Council of the City of Albany hereby requests that the Mayor establish a website, or add to the existing official city website, to track the progress of the City’s efforts to obtain funding provided in the Economic Recovery Act of 2009.

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

Affirmative -- Calsolaro, Conti, Casey, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O’Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Conti offered the following, which was held:

Resolution Number 39.41.09R(MC)

RESOLUTION OF THE COMMON COUNCIL ADJUSTING THE BUDGET FOR FISCAL YEAR 2009 PURSUANT TO THE CHARTER OF THE CITY OF ALBANY

WHEREAS, the Mayor presented the budget for the 2009 fiscal year on October 1, 2008; and

WHEREAS, the budget for the 2009 fiscal year was adopted by the Common Council on November 24, 2008 by Ordinance 67.102.08 (as amended); and

WHEREAS, the Common Council approves and directs fund transfers that affect salaries or salary totals pursuant to Subsection (D) of Section 603 of the Charter of the City of Albany.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council authorizes the transfer of \$2,000 from line 1010.7170 (Temporary Help) to line 1010.7440 (Contracted Services) in order to pay for stenographic services.

Council Members McLaughlin, Ellis, Calsolaro, Casey, Conti, Fahey, Fox, Herring, Igoe, O’Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons offered the following, asked for passage and a roll call vote thereon:

RESOLUTION NUMBER 40.41.09R(MC)

RESOLUTION IN HONOR AND CELEBRATION OF REVEREND WILLIS BRUTON ON HIS TENTH ANNIVERSARY AS PASTOR OF THE SWEET PILGRM BAPTIST CHURCH AND RETIREMENT FROM THE MINISTRY

WHEREAS, just a “southern boy” from the great State of Alabama, Willis F. Bruton began preparation for life in the ministry at the Crenshaw AME Church in Wetumpka, Alabama and later, at the New Zion Baptist Church in Elba, Alabama where he taught Sunday School and became a junior deacon, and

WHEREAS, in the mid 1960's, Reverend Bruton moved to Albany, New York. He joined the Sweet Pilgrim Missionary Baptist Church, which was then located at 40 Franklin Street, and under the pastorate of Reverend William Roland, continued teaching Sunday School, and

WHEREAS, prior to accepting his call to preach the Gospel, Reverend Bruton earned a living as a cab driver, eventually becoming an entrepreneur owning his own fleet of taxis. Despite the long hours the job demanded, Reverend Bruton remained faithful in his service to the church, holding numerous positions including janitor and Chairman of the Trustee Board, and

WHEREAS, Reverend Bruton attended Phillip Schuyler Sr. High School and Hudson Valley Community College. He also took various classes at Albany Law School, Siena College, and Hartford Seminary, where he was elected president of his class, and

WHEREAS, Reverend Bruton was ordained on February 28, 1999, and on April 18th of that year was installed as Pastor of the Sweet Pilgrim Missionary Baptist Church. Under his leadership the church was blessed to grow numerically, financially and most importantly, spiritually. Thanks to his vision, the church operated a free lunch program that fed over 130 people and distributed free clothing every Friday from 11:00am to 1:00pm. Also, he led the church to embark upon a \$1.5 million project to restore the church to its original grandeur, and

WHEREAS, under Pastor Bruton's direction the church Leadership Council, which consists of the following ministries, serves to carry out the church's mission: Diaconate; Christian Education; Sunday School; Trustee Ministry; Usher; Music (Choir and Liturgical Dance); Youth (which holds a monthly youth worship service); Missionary (Home Mission and Foreign Mission); Brothers of the Faith (Men's Ministry); Sister to Sister (Women's Ministry); Hospitality; and, Scholarship, and

WHEREAS, Reverend Bruton was the founder of The Capital Region *Baptist Carrier*, Inc., a Christian Community Newspaper. Also, in collaboration with African Reflections, Inc., he was instrumental in spearheading the building of freshwater wells in Tanzania. Reverend Bruton has served as Moderator of the Hudson River Frontier Missionary Baptist Association and Correspondence Secretary of the Albany African-American Clergy United for Empowerment. He also was active in the AIDS Council, Empire State Missionary Baptist Convention of New York State and Capital District Area Council of Churches. He often opened the doors of Sweet Pilgrim's Fellowship Hall to various community groups and participated in discussions regarding issues of social importance, earning him many community service awards, and

WHEREAS, under the pastorate of Reverend Willis F. Bruton, the Sweet Pilgrim Missionary Baptist Church continues to shine in the community as a beacon of hope and light, worshipping under the theme: "A Good Place to Worship and Grow in Grace."

NOW, THEREFORE, BE IT RESOLVED, that the Albany Common Council pause in its deliberations to celebrate and honor the stellar achievements of the Reverend Willis F. Bruton on his tenth anniversary as Pastor of the Sweet Pilgrim Missionary Baptist Church and retirement and commends him on all his good works.

**Note: There was discussion from Council Member McLaughlin stating that she was pleased to sponsor this Resolution along with Council Member Ellis. She stated that Rev. Bruton had kidney surgery a few years ago and still continued to serve the church. She stated that he will be honored the upcoming Saturday at the church. There was discussion from Council Member Ellis stating that he met Rev. Bruton 5 years ago and he would always give him words of wisdom. He discussed how Rev. Bruton opened up the church halls to the community and residents.*

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

Council Member Sano asked for passage of RESOLUTION NUMBER 27.31.09R (RESOLUTION OF THE COMMON COUNCIL RE-APPOINTING CARL EPELMANN AS A MEMBER OF THE BOARD OF ASSESSMENT REVIEW), which had been previously introduced.

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 15 Negative 0 Abstain 0

The remaining resolutions on the pending agenda were held at the request of Council Member Conti.

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member McLaughlin 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:

****LIST OF NAMES FROM ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES****

ALEXANIAN TO WILLIAMS (9 NAMES)—ATTACHED

Council Member Ellis made a motion to subpoena Mr. Christian Mesley for the purposes of testifying at a hearing regarding bulls eye stickers, which was approved by unanimous voice vote

Council Member Calsolaro discussed the Pine Bush and species of special concern. He stated the Council should hire an outside consultant to review the findings from the Tharaldson Development site.

Council Member Rosenzweig discussed the March 30, 2009 Parks, Recreation and Family Services Committee meeting regarding summer youth employment and programs. He stated that employers sign contracts with the City Youth and Workforce Services agreeing to supervision of the youth employees. He stated that Commissioner Faye Andrews informed the committee that the supervisors do not get paid more money than the youth employees and that this topic needs more discussion.

Council President Morris stated that the real issue is youth not being adequately supervised at the City parks.

Council Member Smith discussed a resolution the Council passed in September 2008 calling on the NYS Legislature to pass a Fair Pay Act, which has come out of the Senate Labor Committee. She thanked Council Members for their support.

Council Member Conti discussed information from the Treasurer's office.

ADJOURNMENT

A motion was made for adjournment.

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

A true record of the Common Council Minutes of April 6th, 2009.

**CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL**