

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, April 19, 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, Barbara Samel, Patrick Jordan, and Cashawna Parker.

Council Member Rosenzweig led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Jose Lopez, Jr., 40B View Ave., Albany, NY 12209 (Resolution 56.42.10)
2. Beth Geragosian, Colonie, NY (Ordinance 59.42.10)
3. Bill Washburn, 177 S, Manning Blvd., Albany, NY 12208 (Albany Police Chief)
4. Yvette Alfonso, 409 Hamilton St., Albany, NY 12210 (Police Chief)
5. Andy Bechard, 27 Forest Ave., Albany, NY 12208 (Police Chief)
6. Slava Rar, 1400 Washington Ave., Albany, NY 12222 (Police Chief)
7. Joel Tirato, 1400 Washington Ave., Albany, NY 12222 (Police Chief)
8. Danielle Sellers, 1400 Washington Ave., Albany, NY 12222 (Police Chief)
9. Ariel Fitterman, 1400 Washington Ave., Albany, NY 12222 (Police Chief)

Council Member Conti made a motion to extend Public Comment Period until 9:00pm, which was approved by unanimous voice vote.

10. Sam Frumkin, 1400 Washington Ave., Albany, NY 12222 (Police Chief)
11. Roger Markovics, 38 Myrtle Ave., Albany, NY 12202 (Community Policing)
12. Judith Mazza, 3 Sand St., Albany, NY 12209 (Police Chief)
13. Kori Robinson, 203 Second St., Albany, NY 12206 (Community Policing)
14. Chrys Ballerano, 143 Berkshire Blvd., Albany, NY 12203 (Support Resolution 39.41.10R)
15. Shirley Bradley, 48 Jennings Dr., Albany, NY 12204 (Police Chief)
16. Mardi Crawford, 28 Elm St., Albany, NY 12202 (Community Policing)
17. Karen Johnson Williams, 33 Elberon Pl., Albany, NY 12203 (Community Policing)
18. Lonnie Ford, 545 Morris St., Albany, NY 12208 (Police Relations in the Community)
19. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Various Issues)
20. John Donnelly, 423 Hudson Ave., Albany, NY 12203 (Police Chief)
21. William Payne, 45 Central Ave., Albany, NY 12210 (Police Chief)

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 Konev introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

LOCAL LAW J - 2010

A LOCAL LAW ADDING A NEW CHAPTER 99 OF THE CODE OF THE CITY OF ALBANY TO BE ENTITLED: "ELECTRONIC FUND TRANSFERS"

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

Section 1. The City Code of the City of Albany is hereby amended by adding thereto a new Chapter 99 to read as follows:

**CHAPTER 99
ELECTRONIC FUNDS TRANSFER**

Section 99-1. Payment of claims.

- A. The city council requires the city payment of local government bills according to this local law and federal/state laws and rules that may apply.
- B. Electronic funds transfer is the process of value exchange via mechanical means without the use of checks, drafts or similar negotiable instruments. The city must pay all claims of any kind by electronic funds transfer.
- C. All employees are required to be paid by direct deposit. Employees may request a waiver of this requirement in writing to the city comptroller citing the reasons for the waiver.

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

Council Member Konev introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

LOCAL LAW K - 2010

A LOCAL LAW AMENDING PART 10 (BOARD OF CONTRACT AND SUPPLY) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO COMMON COUNCIL REVIEW OF BIDS FOR STREET REPAIR AND RESURFACING

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

Section 1. Section 42-163 of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

§42-163. Composition; powers and duties.

There shall be a Board of Contract and Supply, composed of the Mayor, Comptroller, Commissioner of General Services, Corporation Counsel and City Engineer. Except as otherwise provided by law, it shall be the duty of such Board, after public notice and in accordance with regulations to be prescribed by general ordinance of the Common Council, to let to the lowest bidder, who will give adequate security therefore, all contracts for the performance of any public work involving an expenditure of more than \$20,000, and all purchase contracts for supply of any material required by or for the use of any officer, board, body or

department of the City in all cases where the expense of such material shall exceed the sum of \$10,000, unless by ordinance of the Common Council adopted by a vote of not less than four-fifths (4/5) of all the members thereof and unanimously approved by the Board of Estimate and Apportionment it is determined that a public emergency exists, in which case said ordinance shall state the circumstances and conditions that created the public emergency, which shall be limited to those arising out of an accident or other unforeseen occurrence or condition affecting public buildings or public property, or the life, health, safety or property of the inhabitants of such City require immediate action which cannot await public bidding, and shall designate the officer, board or department to procure such work or purchase such materials. In case of public emergency involving accident or other injury by which the heating or plumbing of any of the public buildings or any of the fire or waterworks apparatus or any of the machinery used in sewage treatment plants, or for garbage disposal, or any equipment used by the waterworks or Department of General Services shall become disabled, the Commissioner having jurisdiction thereof shall cause repairs thereto to be made without the letting by contract, upon filing with the Board of Contract and Supply a certificate, approved by the Mayor, showing such emergency and the necessity for such repairs. The Board shall have the power to reject all bids or proposals if in its opinion the lowest bid or proposal is excessive. The notice shall describe the work and material for which contracts will be let and the day and hour and place of the meeting of the Board at which proposals therefore will be opened. Specifications for the performance of any work and for the supply of any material shall be prepared and set forth with sufficient details to inform all persons proposing to bid therefore of the nature of the work to be done and of the materials to be supplied, and written or printed copies thereof shall be delivered to all applicants therefore. Every contract for a public improvement shall be based upon an estimate of the whole cost thereof, including all expenses incidental thereto and connected therewith, to be furnished by the proper officer, board or department having charge of such improvements. No bid or proposal shall be received or contract awarded, other than for a local improvement or work to be performed by the City, which involved the construction within, under, over, along or upon any street or public place within the City, unless the person to whom such contract shall be awarded shall have a franchise permitting the same. The Board shall forward any bids and all accompanying paperwork received for street or sidewalk repair or resurfacing to the Common Council prior to award.

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

Council Member Konev introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

LOCAL LAW L – 2010

A LOCAL LAW AMENDING THE SECTION 802 OF THE CITY OF ALBANY CHARTER IN RELATION TO CHARTER REVISION

Section 1. Section 802 of the City of Albany Charter is amended to read as follows:

This Charter may be amended in the manner provided by the Municipal Home Rule Law. In addition, [At least] once every [twenty] ~~ten~~ years [following the effective date of January 1, 1999] ~~beginning in June of 2010~~, [this Charter shall be reviewed and revised as deemed necessary pursuant to the Municipal Home Rule Law] the Common Council shall vote on the creation of a charter revision commission. The local law shall provide for the creation of a charter revision commission consisting of nine members, five of whom shall be appointed by the Common Council and four of whom shall be appointed by the Mayor.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State and without referendum.*

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

REPORTS OF STANDING COMMITTEES

Council Operations and Ethics – Council Member Conti stated that the Committee met on April 8, 2010 to discuss Resolution 10.21.10R in relation to prayer at Common Council meetings and Resolution 13.21.10R amending the rules of procedure in relation to committees, which were both advanced to the Council with a negative recommendation.

Parks, Recreation and Family Services – Council Member Rosenzweig stated that the Committee would be meeting Wednesday, April 28, 2010 at 5:00pm prior to caucus to discuss Resolution 30.32.10R in relation to creating a “Get Fit Kids” award in the City of Albany.

Law, Buildings and Code Enforcement – Council Member Igoe stated the he was trying to put together a Committee meeting for April 27, 2010 to address Ordinance 56.42.10 in relation to “Animal Exhibitions.”

CONSIDERATION OF ORDINANCES

Council Member Sano introduced the following, asked and received unanimous consent to ask for passage and a roll call vote thereon:

Ordinance Number 51.42.10 (UC)

AN ORDINANCE AMENDING ORDINANCES 16.22.10 AND 23.22.10 AS TO THE TREASURE’S BOND AUTHORIZATION NUMBERS

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

**Section 1. Section 1 of Ordinance 16.22.10 is hereby amended to read as follows:
Treasurer's Project Numbers: [~~GH 81608001~~] GH 14908001**

**Section 2. Section 1 of Ordinance 23.22.10 is hereby amended to read as follows:
Treasurer's Project Numbers: [~~GH 81608008~~] GH 14908008**

Section 3. Except as herein amended, Ordinances 16.22.10 and 23.22.10 are hereby ratified, continued and approved.

Section 4. This ordinance shall take effect immediately.

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 Sano introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

Ordinance Number 52.42.10

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$200,000.00 AND AUTHORIZING THE ISSUANCE OF \$200,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (TENNIS AND BASKETBALL COURTS)

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

Section 1. The objects or purposes to be authorized and financed pursuant to this ordinance are set forth below, together with estimates of the maximum estimated costs thereof; determinations of the periods of probable usefulness thereof and the subparagraphs of Section 11.00(a) of the New York Local Finance Law pursuant to which it is determined; the maximum amount of the bonds to be issued with respect to such object or purpose and the maximum term of the obligations to be issued with respect to each project or purpose.

Object or Purpose: Parks, Playgrounds and Recreational Areas
Local Finance Law Section 11.00(a) Subparagraph 19(c)
Period of Probable Usefulness: 15 years
Maximum Term of Obligations: 15 years
Maximum Estimated Cost: \$200,000.00
Maximum Amount of Bonds: \$200,000.00
Treasurer's Bond Authorization Numbers: X-10
Treasurer's Project Numbers: GH 71108025

Section 2. The plan of financing such objects or purposes is the issuance of \$200,000.00 serial bonds hereby authorized to be issued.

Section 3. It is hereby ordered and directed that the projects specified above be undertaken and the amounts set forth as the maximum estimated costs are hereby appropriated therefor. The Board of Contract and Supply is hereby authorized to take such necessary and further steps to carry out the provisions of this section.

Section 4. Pending the sale of the bonds herein authorized, the temporary use of funds from the City's general fund, pursuant to the provisions of section 165.10 of the New York Local Finance Law, is hereby authorized. The City reasonably expects to reimburse such temporary expenditures with the proceeds of the bonds or bond anticipation notes authorized by section 1 of this ordinance. This ordinance shall constitute the City's "official intent" to reimburse such temporary expenditures in accordance with United States Treasury Regulation section 1.150-2.

Section 5. The faith and credit of the City of Albany, New York are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year and such debt service payments may be made in substantially level or declining amounts as may be authorized by law. There shall annually be levied on all taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Subject to the provisions of the New York Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated in the City Treasurer, as chief fiscal officer of the City of Albany. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of Local Finance Law.

Section 7. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and

any notes issued in anticipation thereof, as excludable from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) (a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- (b) The provisions of law which should be complied with at the date of publication of this ordinance pursuant to Section 8 hereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publications, or
- (c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. Upon this ordinance taking effect, the Clerk of the Common Council is hereby authorized and directed to publish the same together with a notice in substantially the form set forth in section 81.00 of the New York Local Finance Law.

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitute either unlisted of Type II actions under the New York State Environmental Quality Review Act and the regulations promulgated thereunder having no adverse effect upon the environment.

Section 12. This ordinance shall be dated April 19, 2010 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Council Member Sano introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

Ordinance Number 53.42.10

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$125,000.00 AND AUTHORIZING THE ISSUANCE OF \$125,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (WESTLAND HILLS PARK)

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

Section 1. The objects or purposes to be authorized and financed pursuant to this ordinance are set forth below, together with estimates of the maximum estimated costs thereof; determinations of the periods of probable usefulness thereof and the subparagraphs of Section 11.00(a) of the New York Local Finance Law pursuant to which it is determined; the maximum amount of the bonds to be issued with respect to such object or purpose and the maximum term of the obligations to be issued with respect to each project or purpose.

Object or Purpose: Artificial swimming pools.
Local Finance Law Section 11.00(a) Subparagraph 61
Period of Probable Usefulness: 15 years
Maximum Term of Obligations: 15 years

Maximum Estimated Cost: \$125,000.00
Maximum Amount of Bonds: \$125,000.00
Treasurer's Bond Authorization Numbers: Y-10
Treasurer's Project Numbers: GH 71108026

Section 2. The plan of financing such objects or purposes is the issuance of \$125,000.00 serial bonds hereby authorized to be issued.

Section 3. It is hereby ordered and directed that the projects specified above be undertaken and the amounts set forth as the maximum estimated costs are hereby appropriated therefor. The Board of Contract and Supply is hereby authorized to take such necessary and further steps to carry out the provisions of this section.

Section 4. Pending the sale of the bonds herein authorized, the temporary use of funds from the City's general fund, pursuant to the provisions of section 165.10 of the New York Local Finance Law, is hereby authorized. The City reasonably expects to reimburse such temporary expenditures with the proceeds of the bonds or bond anticipation notes authorized by section 1 of this ordinance. This ordinance shall constitute the City's "official intent" to reimburse such temporary expenditures in accordance with United States Treasury Regulation section 1.150-2.

Section 5. The faith and credit of the City of Albany, New York are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year and such debt service payments may be made in substantially level or declining amounts as may be authorized by law. There shall annually be levied on all taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Subject to the provisions of the New York Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated in the City Treasurer, as chief fiscal officer of the City of Albany. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of Local Finance Law.

Section 7. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) (a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- (b) The provisions of law which should be complied with at the date of publication of this ordinance pursuant to Section 8 hereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publications, or
- (c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. Upon this ordinance taking effect, the Clerk of the Common Council is hereby authorized and directed to publish the same together with a notice in substantially the form set forth in section 81.00 of the New York Local Finance Law.

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitute either unlisted of Type II actions under the New York State Environmental Quality Review Act and the regulations promulgated thereunder having no adverse effect upon the environment.

Section 12. This ordinance shall be dated April 19, 2010 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Council Members Conti and Konev introduced the following, which was referred to the Planning, Economic Development and Land Use Committee:

Ordinance Number 54.42.10

AN ORDINANCE AMENDING CHAPTER 303 (SIDEWALK AND OUTDOOR CAFES) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE HOURS OF OPERATION OF SIDEWALK CAFES WITHIN THE LARK STREET AREA BUSINESS IMPORVEMENT DISTRICT

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

Section 1. Section 303-16 of Chapter 303 of the Code of the City of Albany is amended to read as follows:

§ 303-16. Hours of operation.

- A. Residential/mixed-use districts. Cafes located in residential/mixed use districts shall be open for business not before 8:00 a.m. and shall close by 11:00 p.m.
- B. Nonresidential districts. Cafes located in nonresidential zoning districts shall be open for business not before 8:00 a.m. and shall close by 2:00 a.m.
- C. Notwithstanding subsection A of this section, for the period ending April 30, 2011, sidewalk cafes located within the boundaries of the Lark Street Area Business Improvement District, as established in accordance with Article II of Chapter 142 of this Code, shall close by 12:00 midnight on Friday and Saturday, provided that the additional hour authorized by this subsection shall be limited to those sidewalk cafes, or parts thereof, which are in compliance with the provisions of this chapter; for which an application submitted with a site plan has been approved by the City Clerk in accordance with this chapter; and whose location is consistent with such approved application.

Section 2. This ordinance shall take effect immediately and shall expire and be deemed repealed on April 30, 2011.

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

Ordinance Number 55.42.10

AN ORDINANCE AMENDING ARTICLE IV CHAPTER 375 (ZONING) IN RELATION TO PROCEDURES OF THE BOARD OF ZONING APPEALS AND ARTICLE XXIII CHAPTER 1 OF THE CODE OF THE CITY OF ALBANY (PLANNING) IN RELATION TO PROCEDURES OF THE PLANNING BOARD

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

Section 1. Section 375-13 of Article IV of Chapter 375 of the Code of the City of Albany is hereby amended as follows:

ARTICLE IV BOARD OF ZONING APPEALS

§ 375-13. Meetings; quorum; records.

A. Meetings of the Board shall be held twice a month on a regular schedule established by the Board members, with additional meetings to be held at the call of the Chair If determined to be necessary. All Board meetings shall be open to the public and shall be held at a time of day after normal business hours to assure the opportunity for public participation. All meetings shall be in strict compliance with the open meetings requirements of Public Officers Law Article 7. All proceedings including all deliberations shall be open to the public.

Section 2. Section 375-19 of Article IX of Chapter 375 of the Code of the City of Albany is hereby amended as follows:

ARTICLE IV BOARD OF ZONING APPEALS

§ 375-19. Hearing.

The Board shall hold a public hearing on each application.

D. Hearing Rules and Regulations of the Board.

(1) But for the initial presentation of the applicant, there will be a limit of five minutes to speak on proposed agenda items or to read a prepared statement. The name and address of each speaker will be given as an introduction. The Board will also accept and encourage written and signed statements and petitions as part of the public testimony. The primary purpose will be for the Board to listen to interested persons. Remarks should be kept relevant to the item(s) on the agenda being discussed. The Chair at his/her discretion may require that a speaker sum up his or her testimony in order to proceed with the orderly conduct of the meeting. Testimony will be recorded and maintained as part of the public record.

(2) The order of presentation. (a) The applicant and/or representative (b) Others appearing in support or opposition of the proposal (c) A rebuttal period in which a representative of each side of the issue may rebut and clarify arguments regarding the proposals for a period of five minutes each.

E. Adjournments

(1) If further evidence or information is required for the rendering of a decision on the application, the Board shall adjourn the hearing. The Board on its own motion or on the request of any person, may adjourn the hearing for the purpose of giving further notice, taking further evidence, gathering further information or for other reasons that the Board may find sufficient The hearing shall remain open and shall be adjourned to a fixed date, time and place. Notice shall be given as set forth in Section 375-19

(2) The Board may limit the testimony in the adjourned hearing to specific issues or questions identified by the Board in the original hearing.

F. Deliberations

The hearing will be closed only after all evidence to be considered by the Board and after all parties and the public has been given the opportunity to examine such evidence. The Board will then convene in a deliberative session during which arguments will be discussed. These discussions will be solely among members of the Board and their staff, but shall be open to the public upon notice in the same manner as set forth in Section 375-19 of this chapter. There will be no disruption of this process by the audience, nor conversation with members of the Board unless recognized by the Chair. After deliberating, a vote of the Board will be taken and recorded.

Section 3. Section 375-20 of Article IX of Chapter 375 of the Code of the City of Albany is hereby amended as follows:

ARTICLE IV BOARD OF ZONING APPEALS

§ 375-20. Decision.

A. The Board shall render a decision within (-30-) 62 days of the final hearing on an application. The decision shall include:

(1) Findings of fact

(2) References to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based

(3) The reason or reasons for such decision

B. Voting

(1) The concurring vote of at least four members of the Board shall be necessary to take any action.

(2) In order to vote all members voting must be present at the time the vote is taken.

(3) When a member has been absent from a portion of the hearing, the member shall first certify on the record that he/she has reviewed the record of any such portion of the hearing during which he/she was absent and is fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

(4) The failure to act upon an application within 62 days following the conclusion of the hearing shall be deemed a denial rendered on the day following the expiration of 62 days. In such cases an applicant may file in writing a request to the Board to vote on the application at the next available meeting. A denial of an application as a result of a failure to act by the Board shall not be subject to the provisions for successive applications. A new application may be submitted.

Section 4. Section 42-181 of Article XXIII Chapter 1 of the Code of the City of Albany is hereby amended as follows:

ARTICLE XXIII PLANNING BOARD (GENERAL PROVISIONS)

§ 42-181. Common Council; jurisdiction

A. Notice and agenda of every Planning Board meeting shall be provided to the Common Council at least one week prior to any meeting of the Planning Board. The Planning Board shall notice such meetings and conduct such meetings, deliberations and voting in the same manner as provided for in the Code of the City of Albany Chapter 375 Article IV.

Section 5. This ordinance shall take effect immediately.

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

Ordinance Number 56.42.10

AN ORDINANCE AMENDING CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY TO ADD A NEW ARTICLE IX ENTITLED “ANIMAL EXHIBITIONS”

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

Section 1. Chapter 115 of the Code of the City of Albany is hereby amended by adding thereto a new Article IX to read as follows:

**ARTICLE IX
ANIMAL EXHIBITIONS**

Section 115-34. Findings and Legislative Intent.

The City of Albany finds that the display and use of wild or exotic animals is dangerous to public health and safety. Certain exhibitions featuring animals bring non-native animal species, particularly those made attractions by their size or reputation for danger, in close contact with humans. In certain instances, these creatures are made a special feature for children. The animals may live in substandard conditions completely alien to their natural habitats, with poor diet, inadequate exercise and generally substandard living conditions. Instances of animals escaping from exhibitions, stampeding and attacking people, causing injury and death, have been documented.

Bringing the public into close proximity with these animals creates an unnecessary hazard to members of the public, as well as operators and performers of these displays. The Council intends, by adoption of this Article, to minimize hazards to the physical and mental health of the public and to promote the protection of animals by prohibiting the display of wild or exotic animals on City property.

Section 115-35. Prohibited Acts.

A. A person must not conduct or operate a display of wild or exotic animals on any property located within the City of Albany.

B. A person shall not conduct or operate a rodeo on any property located within the City of Albany.

Section 115-36. Penalties for offenses.

A. A violation of § 115-35 is punishable by a fine not exceeding \$1,000. Each day the violation is committed constitutes a separate offense.

B. A second and subsequent violation for the same offense is punishable by a fine of not more than \$2,500. Each day the violation is committed constitutes a separate offense.

Section 115-37. Exemptions.

The following displays of animals are exempt from this Article:

- A. A display of wild or exotic animals for educational or therapeutic purposes under the sponsorship of a not-for-profit.
- B. Other than fights and rodeos, a display consisting of one or more domesticated species, including cats, dogs, horses, cows, sheep or llamas.

Section 115-38. Definitions.

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

DISPLAY

Any exhibition, act, circus, public show, trade show, photographic opportunity, carnival, ride, parade, race, performance or similar undertaking in which animals perform tricks, fight or participate in performances for the amusement or entertainment of an audience.

PERSON

An individual, partnership, corporation, joint venture, association, trust, estate or any other legal entity and any officer, member, shareholder, director, employee, agent or representative of these.

RODEO

A public performance featuring bronco riding, calf roping, steer wrestling, or bull riding.

WILD OR EXOTIC ANIMAL

Any of the following animals, including the following hybridized with domestic species: Nonhuman primates and prosimians; Felids, other than ordinary domesticated cats; Canis, including wolves and wolf hybrids; Ursids; Elephants; Marine animals; Crocodylians; Marsupials; Ungulates; Hyenas; Mustelids; Procyonids; Endentates; Viverrids; Camels; Cetaceans.

Section 2. This ordinance shall take effect immediately.

Council Member Konev introduced the following, which was referred to the Council Operations and Ethics Committee:

Ordinance Number 57.42.10

AN ORDINANCE AMENDING CHAPTER 54 (FINANCIAL DISCLOSURE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EMPLOYEES SUBJECT TO FINANCIAL DISCLOSURE AND REQUIRED DISCLOSURE

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

Section 1. Section 54-4 of Chapter 54 of the Code of the City of Albany is hereby amended to read as follows:

§ 54-4. Definitions.

For the purpose of this chapter, the following definitions shall apply:

CLERK

The Albany City Clerk.

COMMITTEE

The Committee on Ethical Standards and Conduct of Officers and Employees of the City of Albany.

EMPLOYEE

~~The Mayor, Comptroller, Treasurer, Common Council President and members, Corporation Counsel, Budget Director and all department heads and deputies.~~

All elected officials in the City of Albany and all employees earning over \$20,000 annually.

INTEREST

Any legal or equitable interest, whether or not subject to an encumbrance or condition, which was owned or held in whole or in part, jointly or severally, directly or indirectly, at any time during the preceding 12 months for which a required statement is to be filed pursuant to this chapter. It shall include, but not be limited to, any information required in the verified statement of public disclosure.

STATEMENT

The statement and contents therein as set forth in § 54-5 of this chapter, which is required to be filed pursuant to this chapter.

Section 2. Section 54-5 of Chapter 54 of the Code of the City of Albany is hereby amended to read as follows:

§ 54-5. Financial disclosure statement.

The financial disclosure statement shall be as follows:

CITY OF ALBANY-ANNUAL STATEMENT OF
FINANCIAL DISCLOSURE

FOR CALENDAR YEAR

NAME

HOME ADDRESS

TITLE OF POSITION

DEPARTMENT/AGENCY

BUDGET CODE

MARITAL OR DOMESTIC PARTNER STATUS

SPOUSE'S OR DOMESTIC PARTNER'S FULL NAME

NAMES OF UNEMANCIPATED CHILDREN

The following chart will be used for the completion of the disclosure form:

MONETARY CATEGORIES

A. UNDER \$10,000

B. \$10,001 TO \$50,000

C. Over \$50,000

1. PRIMARY SOURCE OF INCOME

Name of employer

Address of employer

Salary range (letter only)

1A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

Name of employer

Address of employer

Salary range (letter only)

2. ADDITIONAL SOURCES OF EMPLOYMENT INCOME IN AMOUNTS OVER \$10,001.

Name of employer

Address of employer

Salary range (letter only)

2A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

Name of employer

Address of employer

Salary range (letter only)

3. ALL INTEREST AND DIVIDEND INCOME

List all sources of income

List annual amount after each source (letter only)

Interest income: names and addresses of bank/financial institutions where accounts are registered

3A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

List all sources of income

List annual amount after each source (letter only)

Interest income: names and addresses of banks/financial institutions where accounts are registered

4. REAL ESTATE HOLDINGS

Address of properties (street number, City, state-other specific information)

Estimated value of ALL real estate holdings (letter only)

4A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

Address of properties (street number, City, state-other specific information)

Estimated value of ALL real estate holdings (letter only)

5. DEBTS AND/OR LIABILITIES

List all debts and/or liabilities in excess of \$10,001. (DO NOT list moneys for the following: matrimonial action, credit card charges, educational loans, home mortgages/home improvement loans, home equity loans, auto loans, recreational vehicle loans, furniture or appliance loans.)

Name of creditor and type of liability

5A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

List all debts and/or liabilities in excess of \$10,001. (DO NOT list moneys for the following: matrimonial action, credit card charges, educational loans, home mortgages/home improvement loans, home equity loans, auto loans, recreational vehicle loans, furniture or appliance loans.)

Name of creditor and type of liability

6. OFFICES OR POSITIONS HELD

List any office, trusteeship, directorship or position of ANY nature, whether compensated or uncompensated, held by you with ANY firm, corporation, association, partnership or other organization who or which is known by you to do or have any matter pending with, or be licensed or regulated by, any City of Albany department, agency, authority or commission.

Position held

Name of firm, organization, corporation, etc.

6A. OPTIONAL SPOUSE OR DOMESTIC PARTNER INFORMATION

List any office, trusteeship, directorship or position of ANY nature, whether compensated or uncompensated, held by you with ANY firm, corporation, association, partnership or other organization who or which is known by you to do or have any matter pending with, or be licensed or regulated by, any City of Albany department, agency, authority or commission.

Position held

Name of firm, organization, corporation, etc.

7. CAMPAIGN CONTRIBUTIONS

List all campaign contributions made to any candidate for an elected office in the City of Albany over \$50.

Candidate

Amount of contribution

7A. MANDATORY SPOUSE OR DOMESTIC PARTNER INFORMATION

List all campaign contributions made to any candidate for an elected office in the City of Albany over \$50.

Candidate

Amount of contribution

~~7.~~ 8. CONFLICT OF INTEREST DISCLAIMER

To recognize that the citizens of the City of Albany are entitled to a high standard of conduct from their public servants and to provide to the citizens of the City of Albany a City government that is administered free from

any conflicts of interest by an employee which affect the integrity of City government and to discourage conflicts of interest and the appearance of impropriety and to instill in the public a sense of confidence, integrity and impartiality in its public servants, I affix my signature as evidence of this declaration.

Signature

Date

7A. OPTIONAL SPOUSE OR DOMESTIC PARTNER DECLARATION

Signature

Date

Section 3. This ordinance shall take effect immediately.

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

Ordinance Number 58.42.10

AN ORDINANCE AMENDING ARTICLE VI (GRAFFITI) OF CHAPTER 255 (PEACE AND GOOD ORDER) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PENALTIES FOR GRAFFITI AND TO ADD A NEW OFFENSE OF CARRYING A GRAFFITI INSTRUMENT

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

Section 1. Section 255-38 of Chapter 255 of the Code of the City of Albany is hereby amended by adding a new subsection C to read as follows:

§ 255-38. Restrictions.

C. It shall be a violation of this Article for any individual, except an authorized employee, to carry an aerosol paint can, broad-tipped indelible marker or etching acid on school grounds or in a public park.

Section 2. Section 255-39 of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

§ 255-39. Penalties for offenses.

A. Any person who shall violate any provision of § 255-38 shall be guilty of a Class A misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both. It is the recommendation of the Common Council that, where appropriate, the courts imposing punishment require those who commit such acts of defacement to also restore the property so damaged, which may include payment of financial restitution to victims, and/or otherwise be required to provide and perform appropriate acts of community service, including but not limited to removal of graffiti.

B. Owners of property who fail to comply with the written notice to remove graffiti as provided for in § 255-38.1 shall be punishable by a fine of not more than \$10 per day until the owners of property comply with the written notice to remove graffiti.

C. All fine money received by a court of law shall go into the general fund of the City. A minimum of ten percent (10%) of those fines collected and deposited into the general fund shall be spent on community efforts to remove or fight graffiti.

Section 3. This ordinance shall take effect immediately.

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

Ordinance Number 59.42.10

AN ORDINANCE REPEALING CHAPTER 193 (FIREARMS AND AMMUNITION) OF THE CODE OF THE CITY OF ALBANY, IN ITS ENTIRETY, AND ADDING A NEW CHAPTER 193 (FIREARMS, AMMUNITION AND WEAPONS)

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

Section 1. Chapter 193 is hereby repealed, and a new Chapter 193 is hereby added to read as follows:

CHAPTER 193: FIREARMS, AMMUNITION AND WEAPONS

ARTICLE I. DEADLY WEAPONS

193-1 License - Required.

It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any firearm or other dangerous weapon, as defined in Article 265 of the Penal Law of the State of New York, or other deadly weapon which can be carried or concealed on the person, without securing a weapons dealer license. The license required by this chapter shall be in addition to any other license required by law.

193-2 License - Application.

An application for a weapons dealer license shall be made in conformity with the general requirements of this Code relating to applications for licenses. The Chief of Police shall approve said application before a license shall be issued.

193-3 License - Fee.

The annual fee for a weapons dealer license shall be promulgated by the Chief of Police.

193-4 Daily report required - Sales or gifts.

Every person dealing in the aforementioned deadly weapons shall make out and deliver to the Chief of Police every day before the hour of twelve noon, a legible and correct report of every sale or gift made under authority of his license during the preceding 24 hours, which report shall contain the date of such sale or gift, the name of the purchaser or donee with his or her address and age, the number, kind, description and price of such weapon, the number of the purchaser's permit, and the purpose given by such person for the purchase of such weapon, which report shall be substantially in the following form:

- Number of permit
- Number of weapon
- Name of purchaser

Address of purchaser
Age of purchaser
Kind or description of weapon
For what purpose purchased
Price

193-5 Register required.

Every person dealing in the aforementioned deadly weapons or ammunition at retail, within the city, shall keep a register of all such weapons and ammunition sold, loaned, rented or given away by him. Such register shall contain the date of the sale, loaning, renting or gift, the number of the permit, the number of the weapon, the name and age of the person to whom the weapon or ammunition is sold, loaned, rented or given, the quantity of ammunition, the price of each item, and the purpose for which it is purchased or obtained. Such register shall be kept open for the inspection of the police at all reasonable times during business hours.

193-6 Restrictions on sales or gifts.

It shall be unlawful for any person to sell, barter or give away to any person within the city, any deadly weapon mentioned in Section 193-1, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the Chief of Police as hereinafter required.

193-7 Sale of certain handgun ammunition prohibited.

Except as allowed by subsection (e) of Section 193-45 of this Code, it shall be unlawful for any person to sell, offer for sale, expose for sale, barter or give away to any person within the city, any ammunition of the following calibers and types:

- .45 automatic
- .380 automatic
- .38 special
- .357 magnum
- .25 caliber
- .22 caliber, including .22 long
- 9 millimeter

Any other ammunition, regardless of the designation by the manufacturer, distributor or seller, that is capable of being used as a substitute for any of the foregoing.

193-8 Sale of handguns without childproofing or safety devices prohibited.

Except as allowed by subsection (e) of Section 193-44 of this Code, it shall be unlawful for any person to sell, barter or give away to any person any handgun which does not contain:

A safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to, trigger locks, combination handle locks, and solenoid use-limitation devices, and

A load indicator device that provides reasonable warning to potential users such that users even unfamiliar with the weapon would be forewarned and would understand the nature of the warning.

Safety mechanism means a design adaptation or non-detachable accessory that lessens the likelihood of unanticipated use of the handgun by other than the owner of the handgun and those specifically authorized by the owner to use the handgun.

A trigger lock means a device that when locked in place by means of a key, prevents a potential user from pulling the trigger of the handgun without first removing the trigger lock by use of the trigger lock's key.

A combination handle lock means a device that is part of the handgun, which precludes the use of the handgun unless the combination tumblers are properly aligned.

A solenoid use-limitation device means a device, which precludes, by use of a solenoid, the firing of the handgun unless a magnet of the appropriate strength is placed in proximity to the handle of the weapon.

A load indicator means a device, which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation.

193-9 Permit required when - Issuance conditions.

It shall be unlawful for any person to purchase any deadly weapon mentioned in Section 193-1, which can be concealed, on the person, without first securing from the Chief of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring such permit, and the applicant shall present such evidence of good character as the Chief of Police at his discretion may require.

The Chief of Police shall refuse such permit to any person under 18 years of age, any narcotic addict, any person who has been convicted of a felony under the laws of this state or any other jurisdiction within five years from release from penitentiary or within five years of conviction if penitentiary sentence has not been imposed, and any person who has been released from a mental institution within the last five years, or is mentally disabled. Otherwise, in case he shall be satisfied that the applicant is of good moral character, it shall be the duty of the Chief of Police to grant such permit.

193-10 Sales display restrictions.

It shall be unlawful for any person to exhibit for sale in showcases or show windows, on counters or in any other public manner, any deadly weapon mentioned in Section 193-1, or to display any signs, posters, cartoons, or display cards suggesting the sale of any such deadly weapons, or any ammunition whose sale is prohibited pursuant to Section 193-7 of this Code.

193-11 License - Revocation.

In case the Chief of Police or the issuing authority shall determine that such applicant has violated any provision of this chapter, he shall revoke the license to such person for the selling of such weapons, and the money paid for such license shall be forfeited to the city. No other such license shall be issued to such licensee for a period of three years thereafter.

193-12 Violation - Penalties.

Any person violating Section 193-1, Section 193-6 or Section 193-7 of this chapter shall be fined not less than \$500.00 nor more than \$1,000.00 for a first offense and \$1,000.00 for each subsequent offense. Any person violating any other provision of this chapter shall be fined not less than \$250.00 nor more than \$500.00 for a first offense and not less than \$500.00 nor more than \$1,000.00 for each subsequent offense. Each purchase, sale or gift of any weapon or article mentioned in this chapter shall be deemed a separate offense.

ARTICLE II. AIR RIFLES AND AIR GUNS

193-13 License required when.

It shall be unlawful for any person to engage in the business of selling or to sell or to give away any air rifle or air gun, without securing a weapons dealer license, and no person having secured such license shall sell or give away any such weapon to any person within the city who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

193-14 License - Application.

An application for said license shall be made in conformity with the general requirements of this Code. The Chief of Police shall approve said application before a license shall be issued.

193-15 License - Fee.

The annual license fee for said license shall be promulgated by the Chief of Police.

193-16 Daily report required.

Every person licensed under this chapter shall make out and deliver to the Chief of Police every day, before the hour of twelve noon, a legible and correct report of every sale or gift made under authority of said license to sell the kind of weapons or other articles named in Section 193-13 during the preceding 24 hours, which report shall contain the date of such sale or gift, the name of the purchaser or donee with his or her address and age, the number, kind, description and price of such weapon or other article, the number of the purchaser's permit, and the purpose for the purchase of such weapon or other article, which report shall be substantially in the following form:

Number of permit
Number of weapon or article
Name of purchaser
Address of purchaser
Age of purchaser
Kind or description of weapon or other article
For what purpose purchased
Price

193-17 Permit - Required.

It shall be unlawful for any person to purchase any air rifle or air gun, without first securing from the Chief of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application, the name, address, age, height, weight, complexion, nationality and other elements of identification of such person desiring such permit. Such application shall also contain a recommendation from two persons who shall appear to be taxpayers residing within the city that the permit shall issue.

193-18 Replica firearms and pellet guns.

(a) It shall be unlawful for any person to purchase, possess, use, sell, give away or otherwise transfer, or to engage in the business of selling or to exhibit for sale, a replica firearm, paint pellet or paint pellet gun in the City of Albany, except as provided in subsection (c) of this section.

(b) For the purposes of this chapter, the following terms shall have the following meanings:

- (1) "Paint pellet" means a pellet or projectile of paint that explodes upon impact.
- (2) "Paint pellet gun" means any firearm, toy firearm or toy in the nature of a firearm which is powered by compressed gas and which fires paint pellets.
- (3) "Replica firearm" means any device, object or facsimile made of plastic, wood, metal or any other material, that a person could reasonably perceive as an actual firearm but that is incapable of being fired or discharged, except that the term shall not include any replica of an antique firearm, as defined in Section 193-28(b) of this Code. Each such replica firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such replica firearm. Such plug shall be recessed no more than six millimeters from the muzzle end of the barrel of such firearm.
- (4) "Disguised gun" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be something other than a gun.

(c) The manufacture, marketing, distribution, sale and possession of replica firearms are permitted if the devices are manufactured, marketed, distributed, sold or held (1) solely for subsequent transportation in intrastate, interstate or foreign commerce, or (2) solely for use in theatrical productions, including motion picture, television and stage productions. Such devices shall not be displayed to the general public or sold for other use in the city. The use or possession of a paint pellet or paint pellet gun is permitted if the use or possession is solely within premises licensed as a public place of amusement; or if the use or possession is solely for the purpose of transporting the paint pellet or paint pellet gun to or from those premises by the licensee or agent or employee of the licensee, or by a common carrier, for purposes of initial delivery, repair or disposal of the paint pellet or paint pellet gun.

(d) Any person who violates the provisions of this section, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00 for each offense. Any such violation may also be punishable as a misdemeanor by incarceration in a penal institution other than a penitentiary for up to one year under the procedures set forth in the Penal Law of the State of New York and in the New York Code of Criminal Procedure. All actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the New York Code of Criminal Procedure. Each purchase, use, sale, gift or transfer of any such replica firearm, paint pellet or paint pellet gun shall be deemed a separate and distinct offense, and each day a person unlawfully engages in the business of selling or exhibits for sale any such replica firearm, paint pellet or paint pellet gun shall be deemed a separate and distinct offense.

193-19 Replica military style weapons.

It shall be unlawful for any person to purchase, possess, use, sell, give away or otherwise transfer, or to engage in the business of selling or to exhibit for sale, any replica rocket propelled grenade launcher, bazooka, artillery piece, grenade, mine, bomb or items similar to weapons designed and manufactured for military purposes or replicas thereof, in the City of Albany.

Any person who violates this section shall be fined not less than \$100.00 nor more than \$500.00 for each offense.

193-20 Granting of permit - Conditions.

It shall be the duty of the Chief of Police to refuse such permit to any person having been convicted of any crime, and any minor. Otherwise, if the applicant is of good moral character, the Chief of Police shall grant such permit upon the payment of a fee of \$1.00.

193-21 Sale or transfer to minors prohibited.

It is unlawful for any dealer to sell, lend, rent, give or otherwise transfer an air rifle to any person under the age of 18 years where the dealer knows the person to be under 18 years of age, or where such dealer has failed to make reasonable inquiry relative to the age of such person and such person is under 18 years of age.

It is unlawful for any person to sell, lend or otherwise transfer any air rifle to any person under 18 years of age.

193-22 Sales display restrictions.

It shall be unlawful for any person to exhibit for sale in show cases, or show windows, on counters, or in any public manner, any air rifle or air gun, or to display any signs, posters, cartoons or display cards suggesting the sale of any such weapon or firearm.

193-23 Alteration restricted.

No person shall alter any air rifle or air gun in such a way that it can fire any type of projectile other than that which it was designed by its manufacturer to fire.

193-24 License - Revocation.

In case the Chief of Police or the issuing authority shall determine that a licensee has violated any provision of this chapter, he shall revoke the weapons dealer license issued to such person, and the money paid for such license shall be forfeited to the City. No other such license shall be issued to such licensee for a period of three years thereafter.

193-25 License - Revocation conditions.

When the license of any said licensee shall be revoked, no other such license shall be issued to such licensee for a period of three years thereafter.

ARTICLE III. POSSESSION OF FIREARMS

193-26 Unlawful to carry - Exceptions.

It shall be unlawful for any person to carry or maintain in any vehicle or about his or her person except when on his or her property or in his or her residence or fixed place of business, any firearm; provided, that this section shall not apply to:

- (1) Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer;
- (2) Wardens, Chief of Polices and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty or commuting between their homes and places of employment;
- (3) Members of the Armed Services or Reserve Forces of the United States or the New York National Guard or the Reserve Officers Training Corps, while in the performance of their official duty;
- (4) Special agents employed by a railroad to perform police functions, or employees of a detective agency, watchman-guard or patrolman agency, licensed by the State of New York, while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment;

- (5) Manufacture, transportation when the weapons are not immediately accessible to any person, or sale of weapons to persons authorized under law to possess them;
- (6) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges;
- (7) Duly authorized military or civil organizations while parading, with the special permission of the Governor;
- (8) Licensed hunters or fishermen while engaged in hunting or fishing;
- (9) Transportation of weapons broken down in a nonfunctioning state.
- (10) A person acting in accordance with Section 193-29(b)(5) of this chapter.
- (11) A person licensed to possess a concealed weapon under the New York State Penal Law.

193-27 Violation - Penalty.

Any person violating the provisions of Section 193-26 shall be fined \$500.00.

ARTICLE IV. REGISTRATION OF FIREARMS

193-28 Definitions.

- (a) "Ammunition" means cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed, or intended for use in a firearm or destructive device.
- (b) "Antique firearms" means any firearm, including, but not limited to, any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, which is incapable of being fired or discharged; or any firearm manufactured before 1898 for which cartridge ammunition is not commercially available and is possessed as a curiosity or ornament or for its historical significance or value.
- (c) "Corrections officer" means wardens, Chief of Polices and keepers of prisons, penitentiaries, jails or other institutions for the detention of persons accused or convicted of an offense.
- (d) "Duty-related firearm" shall mean any weapon that is authorized by any law enforcement agency to be utilized by their personnel in the performance of their official duties.
- (e) **"Firearm" as defined in Article 265 of the New York Penal Law. Provided that such term shall not include:**
 - (1) antique firearm;
 - (2) any device used exclusively for line-throwing, signaling, or safety and required or recommended by the United States Coast Guard or Interstate Commerce Commission; or
 - (3) any device used exclusively for firing explosives, rivets, stud cartridges or any similar industrial ammunition incapable of use as a weapon.

(f) “Fragmenting bullet” means a bullet that is designed or modified to shatter on impact, or any other bullet that is designed or modified so that more than 50 percent of the mass of the bullet is likely to fragment inside a human or animal target.

(g) “Assault weapon” means any of the following weapons:

(1) Assault Rifles TABLE INSET:

AK74 type	87S type
AKS type	Gaul type
AKM type	Type 56 type
AKMS type	Type 565 type
84S1 type	Valmet M76 type
Arm type	Valmet M78 type
84S1 type	M76 counter sniper type
84S3 type	FAL type
HK91 type	L1A1A type
HK93 type	SAR 48 type
HK94 type	AUG type
G3SA type	FNC type
Ki type	Uzi carbine
K2 type	AlgimecAGMI type
AR100 type	ARI80 type
M24S type	MAS 223 type
SIG 550SP type	Beretta BM59 type
SIG 551SP type	Beretta AR70 type
Australian Automatic Arms	CIS SR88 type
SAR type	
SKS type with detachable magazine	
Colt AR-15	
Springfield Armory SAR-48	
Springfield Armory BM-59	
Bushmaster Auto Rifle	
Auto-Ordinance Thompson M1	
Ruger Mini 14/5F	
Federal XC-900 and XC-450	
Feather AT-9 Auto Carbine	
Goncz High Tech Carbine	
Auto-Ordinance Thompson 1927A1	
Iver Johnson PM30 P Paratrooper	

(2) Assault Pistols

- Uzi type
- Heckler & Koch Sp-89 type
- Australian Automatic Arms SAP type
- Spectre Auto type
- Sterling Mark 7 type; and

(3) Any weapon that the Chief of Police defines by regulation as an assault weapon because the design or operation of such weapon is inappropriate for lawful use.

- (h) “Assault ammunition” means any ammunition magazine having a capacity of more than twelve (12) rounds of ammunition.
- (i) “Disc projectile ammunition” means any ammunition which is composed of multiple disc shaped objects stacked together to form a single round of ammunition, including but not limited to the following types of ammunition: (i) Magdisc type; and (ii) Shatterdisc type.
- (j) “Handgun” means a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which such firearm can be assembled.
- (k) “Machine gun” means any firearm from which eight or more shots or bullets may be discharged by a single function of the firing device.
- (l) “Mayor” means the mayor of the City of Albany or his or her designee.
- (m) “Metal piercing bullet” means any bullet that is manufactured with other than a lead or lead alloy core, or ammunition of which the bullet itself is wholly composed of, or machined from, a metal or metal alloy other than lead, or any other bullet that is manufactured to defeat or penetrate bullet resistant properties of soft body armor or any other type of bullet resistant clothing which meets the minimum requirements of the current National Institute for Justice Standards for “Ballistic Resistance of Police Body Armor”.
- (n) “Organization” means partnership, company, corporation or other business entity, or any group or association of two or more persons united for a common purpose.
- (o) “Peace officer” means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.
- (p) “Person” shall mean any individual, corporation, company, association, firm, partnership, society, joint stock company or organization of any kind.
- (q) “Sawed-off shotgun” means a shotgun having a barrel of less than 18 inches in length or a firearm made from a shotgun if such firearm is modified and has an overall length of less than 26 inches or a barrel of less than 18 inches in length.
- (r) “Security personnel” means special agents employed by a railroad or public utility to perform police functions: guards of armored car companies, watchmen, security guards and persons regularly employed in a commercial or industrial operation for the protection of persons employed by or property related to such commercial or industrial operation.
- (s) “Serious offense” as defined under Section 264.00(17) of the New York State Penal Law.
- (t) “Short-barreled rifle” means a rifle having any barrel less than 16 inches in length, or a modified firearm if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 16 inches.
- (u) “Chief of Police” means the Chief of Police of the Albany Police Department or his designated representative.
- (v) “Safety mechanism” means a design adaptation or non-detachable accessory that lessens the likelihood of unanticipated use of the handgun by other than the owner of the handgun and those specifically authorized by the owner to use the handgun.

- (w) “Trigger lock” means a device that when locked in place by means of a key, prevents a potential user from pulling the trigger of the handgun without first removing the trigger lock by use of the trigger lock’s key.
- (x) “Combination handle lock” means a device that is part of the handgun, which precludes the use of the handgun unless the combination tumblers are properly aligned.
- (y) “Solenoid use-limitation device” means a device, which precludes, by use of solenoid, the firing of the handgun unless a magnet of the appropriate strength is placed in proximity to the handle of the weapon.
- (z) “Load indicator” means a device, which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation.
- (aa) “Laser sight accessory” means a laser-sighting device, which is either integrated into a firearm or capable of being attached to a firearm.

193-29 Registration of firearms.

- (a) All firearms in the City of Albany shall be registered in accordance with the provisions of this chapter. It shall be the duty of a person owning or possessing a firearm to cause such firearm to be registered. No person shall within the City of Albany, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver, or accept any firearm unless such person is the holder of a valid registration certificate for such firearm. No person shall, within the City of Albany, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver, or accept any firearm which is incapable of being registered under the provisions of this chapter.
- (b) This section shall not apply to:
 - (1) Firearms owned or under the direct control or custody of any federal, state or local governmental authority maintained in the course of its official duties;
 - (2) Duty-related firearms owned and possessed by peace officers that are not residents of the City of Albany;
 - (3) Duty-related firearms owned or possessed by corrections officers; provided, that such corrections officers are not residents of the City of Albany;
 - (4) Firearms owned, manufactured or processed by licensed manufacturers of firearms, bulk transporters or licensed sellers of firearms at wholesale or retail, provided that such persons have, in addition to any other license required by law, a valid deadly weapons dealer license;
 - (5) Any nonresident of the City of Albany participating in any lawful recreational firearm-related activity in the city, or on his way to or from such activity in another jurisdiction; provided, that such weapon shall be unloaded and securely wrapped and that his possession or control of such firearm is lawful in the jurisdiction in which he resides;
 - (6) Peace officers, while in the course of their official duties, who possess and control any firearm or ammunition issued by their department, bureau or agency in the normal course of business;
 - (7) Private security personnel who possess or control any firearm or ammunition within the City of Albany; provided, that such firearms shall be owned and maintained by the security firm employing such personnel and shall be registered by the security firm in accordance with this chapter;

- (8) Those persons summoned by a peace officer to assist in making an arrest or preserving the peace while actually engaged in assisting the peace officer.

193-30 Unregisterable firearms.

No registration certificate shall be issued for any of the following types of firearms:

- (a) Sawed-off shotgun, machine gun, or short-barreled rifle;
- (b) Firearms, other than handguns, owned or possessed by any person in the City of Albany prior to the effective date of this chapter, which are not validly registered prior to the effective date of this chapter;
- (c) Handguns, except:
 - (1) Those validly registered to a current owner in the City of Albany prior to the effective date of this chapter, and which contain each of the following:
 - (i) A safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to, trigger locks, combination handle locks, and solenoid use-limitation devices; and
 - (ii) A load indicator device that provides reasonable warning to potential users such that even users unfamiliar with the weapon would be forewarned and would understand the nature of the warning;
 - (2) Those owned by peace officers who are residents of the City of Albany,
 - (3) Those owned by security personnel,
- (d) Firearm muffler or silencer;
- (e) Assault weapons, as defined in Section 193-28, unless they are owned by a person who is entitled to own them under Section 193-60.

Any person who receives through inheritance any firearm validly registered pursuant to this chapter will be eligible to reregister such firearm within 60 days after obtaining possession or title, provided such person shall be qualified to do so in accordance with this chapter.

193-31 Prerequisites to registration--Application for registration.

- (a) No registration certificate shall be issued to any person unless such person:
 - (1) Shall possess a valid New York Firearm Permit in accordance with all applicable State and local laws;
 - (2) Has not been convicted of a felony or other serious offense, as defined by the New York Penal Law, or a violation of this chapter; and
 - (3) Has not been convicted within the five years prior to the application of any:
 - (i) Violation of any law relating to the use, possession or sale of any narcotic drug or controlled substance, or

(4) Is not otherwise ineligible to possess a firearm under any federal, state or local law, statute or ordinance.

(b) All applicants for a registration certificate under this chapter shall file with the Chief of Police on a form provided, a sworn application in writing. The application shall include the following:

(1) Name, social security number, residential and business address and telephone number of the applicant;

(2) The applicant's age, sex and citizenship;

(5) The name of manufacturer, the caliber or gauge, the model, type and the serial number identification of the firearm to be registered;

(6) The source from which the firearm was obtained;

(7) Evidence that the applicant meets the criteria of Section 193-33(a) of this chapter;

(8) Two photographs of the applicant taken within 30 days immediately prior to the date of filing the application equivalent to passport size showing the full face, head and shoulders of the applicant in a clear and distinguishing manner;

(9) Such other information as the Chief of Police shall find reasonably necessary to effectuate the purpose of this chapter and to arrive at a fair determination whether the terms of this ordinance have been complied with.

(c) The Chief of Police shall be the custodian of all applications for registration under this chapter.

193-32 Fingerprints.

When necessary to establish the identity of any applicant or registrant, such applicant or registrant shall be required to submit to fingerprinting in accordance with procedures and regulations prescribed by the Chief of Police.

193-33 Application fees.

(a) A nonrefundable fee in the amount indicated in subsection (d) of this section shall accompany each initial registration.

(b) A nonrefundable fee in the amount indicated in subsection (d) of this section shall accompany each re-registration application.

(c) The registration fee shall not be applicable to (1) any duty-related handgun of a peace officer domiciled in the City of Albany, or (2) to any duty-related handgun(s) owned by a resident of the City of Albany who retired from the Albany Police Department in good standing and without any disciplinary charges pending.

(d) Registration fees for firearms shall be as follows:

1 firearm. . . \$20.00

2 - 10 firearms. . . \$25.00

More than ten firearms. . . \$35.00

193-34 Filing time.

- (a) A registration certificate shall be obtained prior to any person taking possession of a firearm from any source.
- (b) Any firearm currently registered must be reregistered pursuant to this chapter and in accordance with rules, regulations and procedures prescribed by the Chief of Police. An application to reregister such firearm shall be filed within 180 days from the effective date of this chapter; provided, however, that this section shall not apply to law enforcement officers during their tenure of continuous active duty.

193-35 Investigations.

Upon receipt of an application for registration of a firearm, the Chief of Police shall investigate the information contained in said application to determine whether the application and firearm meet the requirements for registration under this chapter. Failure by the applicant or registrant to respond to investigation inquiries shall be sufficient grounds for denial or revocation.

193-36 Issuance of registration certificate.

- (a) Upon receipt of a properly executed application for a registration certificate and the report of the Chief of Police, the issuing authority, upon determining that the applicant has complied with the provisions of this chapter, shall authorize the issuance of the registration certificate. Each registration certificate shall be in triplicate and bear a unique registration certificate number and contain such other information as may be necessary to identify the applicant and the firearm registered. The original of the registration certificate shall be retained by the issuing authority; the Chief of Police, the Mayor and applicant shall each receive a copy.
- (b) The issuing authority shall approve or deny any application for a registration certificate within a 120-day period beginning on the date the Chief of Police receives the application unless good cause is shown. In the case of an application to reregister a firearm currently registered, the Chief of Police or the issuing authority shall have 365 days after receipt of such application to approve or deny such application unless good cause is shown.
- (c) Any application for registration or renewal shall be held in abeyance when there is a criminal proceeding for a serious offense, or an offense involving a weapon, or a proceeding to revoke firearm registration pending against the applicant until such proceeding has terminated. In the case of a renewal of registration the then-current registration shall be deemed continuing until the termination of such proceedings.
- (d) Upon receipt of a registration certificate, each applicant shall examine the same to insure that the information thereon is correct. If the registration certificate is incorrect in any respect, the registrant thereon shall return it to the Chief of Police with a signed statement showing the nature of the error. The Chief of Police shall correct the error, if it occurred through administrative error.

In the event that the error resulted from incorrect information contained in the application, the applicant shall be required to file an amended application setting forth the correct information and a statement explaining the error in the original application. Each amended application shall be accompanied by a fee of \$2.00.

- (e) Each registration certificate authorized to be issued shall be accompanied by a statement setting forth the registrant's duties under this chapter.

193-37 Revocation—Denial.

A registration certificate shall be revoked or an application for registration or re-registration shall be denied by the Chief of Police or the issuing authority when he finds that:

- (a) Any of the criteria in Section 193-33(a) of this chapter are not currently met; or
- (b) The registered firearm is or has become a firearm that is incapable of being registered under the terms of Section 193-32 of this chapter; or
- (c) The information furnished to the Chief of Police or the issuing authority on the application for registration certificate proves to be false; or
- (d) The applicant or registrant has violated any of the provisions of this chapter.

193-38 Procedures for denial or revocation.

- (a) If it is determined that an application for registration or re-registration should be denied or that a registration certificate should be revoked, the Chief of Police or the issuing authority shall notify the applicant or registrant in writing of the proposed denial or revocation, briefly stating the reason or reasons therefore.
- (b) The applicant or registrant, within ten days after receiving notice of the proposed denial or revocation, may file with the Chief of Police a written request for a hearing before the Chief of Police.
- (c) Within ten days of receipt of a request for hearing, the Chief of Police shall give notice of a hearing to be held not less than five days after service of the notice on the person requesting the hearing.

At the hearing, the applicant or registrant may submit further evidence in support of the application for initial registration or to continue to hold a registration certificate as the case may be.

The Chief of Police shall issue a written finding stating the reasons for denial or revocation thereof and shall serve a copy of said findings upon the applicant or registrant and all parties appearing or represented at the hearing.

- (d) If the applicant or registrant does not request a hearing or submit further evidence within ten days after receiving notification of the proposed denial or revocation, it shall be deemed that the applicant or registrant has conceded the validity of the reason or reasons stated in the notice and the denial or revocation shall become final.
- (e) Within three days after notification of a decision unfavorable to the applicant or registrant and all time for appeal in accordance with paragraph 193-40(a) through (d) having expired, the applicant or registrant shall:
 - (1) Peaceably surrender to the Albany Police Department the firearm for which the applicant was denied or the registration certificate was revoked; or
 - (2) Remove such firearm from the City of Albany; or
 - (3) Otherwise lawfully dispose of his interest in such firearm.
- (f) The applicant or registrant shall submit to the Chief of Police evidence of the disposition of nonregisterable firearms in accordance with paragraph 193-40(e)(2) and (3). Such evidence shall be submitted on forms and in the manner prescribed by the Chief of Police.

193-39 Additional duties of registrant.

Each person holding a registration certificate shall:

- (a) Immediately notify the Albany Police Department on a form prescribed by the Chief of Police of:
 - (1) The loss, theft or destruction of the registration certificate or of a registered firearm immediately upon discovery of such loss, theft, or destruction;
 - (2) A change in any of the information appearing on the registration certificate;
 - (3) The sale, transfer or other disposition of the firearm not less than 48 hours prior to delivery.
- (b) Immediately return to the Chief of Police his copy of the registration certificate for any firearm that is lost, stolen, destroyed or otherwise disposed of.
- (c) Except those persons licensed to possess a concealed weapon under New York State Penal Law, each registrant shall keep any firearm in his possession unloaded and disassembled or bound by a trigger lock or similar device, unless such firearm is in his possession at his place of residence or business or while being used for lawful recreational purposes within the City of Albany; provided, this paragraph shall not apply to law enforcement personnel as defined in paragraph 193-28(k) and provided further this paragraph shall not apply to security personnel as defined in paragraph 193-28(n), while in the course of their employment.

193-40 Exhibition of registration.

Any person carrying or having in his possession or under his custody or control any firearm, shall have on his person or within his immediate custody a valid registration certificate for such firearm issued hereunder, which shall be exhibited for inspection to any peace officer upon demand. Failure of any such person to so exhibit his registration certificate shall be presumptive evidence that he is not authorized to possess such firearm.

Failure of any person to exhibit a registration certificate for any firearm in his possession, custody or control shall also be cause for the confiscation of such firearms and revocation of any registration certificates issued therefore under this chapter.

193-41 Possession of ammunition.

No person shall possess ammunition in the City of Albany unless:

- (a) He is a person exempted pursuant to Section 193-31 of this chapter; or
- (b) He is the holder of a valid registration certificate for a firearm of the same gauge or caliber as the ammunition possessed, and has the registration certificate in his possession while in possession of the ammunition; or
- (c) He is a licensed weapons dealer pursuant to this Chapter.

193-42 Possession of laser sight accessories.

No person shall sell, offer, or display for sale, give, lend, transfer ownership of, acquire or possess any laser sight accessory in the City of Albany provided, that this section shall not apply to any members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess a laser sight accessory and is acting within the scope of his or her duties.

193-43 Permissible sales and transfers of firearms and ammunition.

- (a) No firearm may be sold or otherwise transferred within the City of Albany except through a licensed weapons dealer as defined in Chapter 193 of this Code.
- (b) No ammunition may be sold or otherwise transferred within the City of Albany except through a licensed weapons dealer as defined in Chapter 193 or as otherwise allowed by the Code of the City of Albany.
- (c) No firearm or ammunition shall be security for, or be taken or received by way of any mortgage, deposit, pledge or pawn.
- (d) No person may loan, borrow, give or rent to or from another person, any firearm or ammunition except in accordance with this chapter.
- (e) A peace officer may additionally sell or transfer any lawfully held firearm or ammunition to another peace officer in accordance with the other provisions of this chapter.
- (f) Except as allowed by subsection (e) of this section, no person may sell, offer for sale, barter or transfer within the city any ammunition listed in Section 193-7 of this Code.

193-44 Assault weapons or ammunition - Sale prohibited - Exceptions.

- (a) No person shall sell, offer or display for sale, give, lend, transfer ownership of, acquire or possess any assault weapon or assault ammunition, as those terms are defined in this Chapter. This section shall not apply to any officer, agent, or employee of this or any other municipality or state or of the United States, members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess an assault weapon or assault ammunition and is acting within the scope of his or her duties. In addition, this section shall not apply to the acquisition or possession of assault ammunition by persons employed to provide security for armored carriers or mobile check cashing services while in the course of such duties, while commuting directly to or from the person's place of employment, and while at the person's home.
- (b) Any assault weapon or assault ammunition possessed, sold or transferred in violation of subsection (a) is hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of Section 193-51.
- (c) Any person found in violation of this section shall be sentenced to not more than six months imprisonment or fined not less than \$500.00 and not more than \$1,000.00 or both.
- (d) Any person who, prior to the effective date of the ordinance codified in this section, was legally in possession of an assault weapon or assault ammunition prohibited by this section shall have 14 days from the effective date of the ordinance codified in this section to do any of the following without being subject to prosecution hereunder:
 - (1) To remove the assault weapon or ammunition from within the limits of the City of Albany; or
 - (2) To modify the assault weapon either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon; or
 - (3) To surrender the assault weapon or ammunition to the Chief of Police or his designee for disposal in accordance with Section 193-51.

193-45 Fragmenting bullets and metal piercing bullets - Sale prohibited - Exceptions.

- (a) No person shall manufacture, sell, offer or display for sale, give, lend, transfer ownership of, acquire or possess any fragmenting bullets, metal piercing bullets, or disc projectile ammunition. This section shall not apply to any officer, agent, or employee of this or any other municipality or state or of the United States, members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess fragmenting bullets, metal piercing bullets, or disc projectile ammunition and is acting within the scope of his or her duties.
- (b) Any fragmenting bullets, metal piercing bullets, or disc projectile ammunition manufactured, possessed, sold or transferred in violation of subsection (a) are hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of Section 193-51.
- (c) Any person found in violation of this section shall be sentenced to not more than six months imprisonment or fined \$500.00, or both.

193-46 False information – Forgery - Alteration.

- (a) It shall be unlawful for any person purchasing any firearm or ammunition, or applying for any registration certificate under this chapter, or, in giving any information pursuant to the requirements of this chapter, to knowingly give false information or offer false evidence of identity.
- (b) It shall be unlawful for anyone to forge or alter any application or registration certificate submitted, retained or issued under this chapter.

193-47 Voluntary surrender—Immunity.

- (a) Within 90 days from the effective date of this ordinance, a person within the City of Albany may voluntarily and peaceably deliver and abandon to the Chief of Police any firearm or ammunition prior to any arrest and prosecution of such person on a charge of violating any provisions of this chapter with respect to the firearm or ammunition voluntarily delivered.
- (b) Delivery under this section may be made at any police district, area or central headquarters or by summoning a police officer to the person’s residence or place of business. Any firearm or ammunition to be delivered and abandoned to the Chief of Police under this section shall be unloaded and securely wrapped in a package carried in open view.
- (c) The voluntary delivery or abandonment of any firearm or ammunition after an arrest or charge for violation of any provision of this chapter shall not moot or in any manner invalidate said arrest or charge.
- (d) This section does not confirm any relief from prosecutions from any other State laws, rules or regulations.

193-48 Voluntary surrender of laser sight accessory - Immunity.

- (a) Within 14 days of the effective date of this ordinance, a person within the City of Albany may voluntarily and peaceably deliver and abandon to the Chief of Police any laser sight accessory prior to any arrest and prosecution of such person on a charge of violating any provision of this chapter with respect to the laser sight accessory voluntarily delivered.

(b) Delivery under this section may be made at any police district, area or central headquarters or by summoning a police officer to the person's residence or place of business.

(c) The voluntary delivery or abandonment of any laser sight accessory after an arrest or charge for violation of any provision of this chapter shall not moot or in any manner invalidate said arrest or charge.

193-49 Renewal of registration.

(a) Every registrant must renew his registration certificate annually. Such registrants shall make applications for renewal 60 days prior to the expiration of the current registration certificate.

(b) The application for renewal shall include the payment of a renewal fee as follows:

- 1 firearm ... \$10.00
- 2-10 firearms ... \$15.00
- More than ten firearms ... \$20.00

(c) Failure to comply with the requirement for renewal of registration of a firearm shall cause that firearm to become unregistrable.

(d) All terms, conditions and requirements of this chapter for registration of firearms shall be applicable to renewal or registration of such firearms.

(e) The renewal fee shall not be applicable to duty-related handguns of peace officers domiciled in the City of Albany.

193-50 Notice.

For the purposes of this chapter, service of any notice, finding or decision upon an applicant or registrant shall be completed by any of the following methods:

- (1) Personal delivery of a copy of such notice, finding or decision to the applicant or registrant; or
- (2) By leaving a copy of such notice, finding or decision at the address identified on the application for registration or renewal; or
- (3) By mailing a copy of the notice, finding or decision by certified mail with return receipt to the address identified on the application for registration or renewal; in which case service shall be complete as of the date the return receipt was signed.

193-51 Destruction of weapons confiscated.

Whenever any firearm or ammunition is surrendered or confiscated pursuant to the terms of this chapter, the Chief of Police shall ascertain whether such firearm or ammunition is needed as evidence in any matter. If such firearm or ammunition is not required for evidence it shall be destroyed at the direction of the Chief of Police. A record of the date and method of destruction and an inventory of the firearm or ammunition so destroyed shall be maintained.

193-52 Acquisition or possession prohibited by law.

Nothing in this chapter shall make lawful the acquisition or possession of firearms or firearm ammunition which is otherwise prohibited by law.

193-53 Firearm used illegally - Penalty.

The owner of an unregistered firearm that is used in any criminal act shall be subject to a fine of \$500.00 for each such use, regardless of whether the owner participated in, aided or abetted the criminal act. A fine under this section shall be in addition to any other penalty imposed on the criminal act or use of the firearm.

193-54 Violation - Penalty.

Any person who violates any provision of Sections 193-29 or 193-39 through 193-44, where no other penalty is specifically provided, shall upon conviction for the first time, be fined not less than \$300.00, nor more than \$500.00; or be incarcerated for not less than ten days nor more than 90 days or both. Any subsequent conviction for a violation of this chapter shall be punishable by a fine of \$500.00 and by incarceration for a term of not less than 90 days, nor more than six months.

193-55 Authority of the Chief of Police.

The Chief of Police shall have the authority to promulgate rules and regulations for the implementation of this chapter and to prescribe all forms and the information required thereon.

ARTICLE V. DISCHARGE, USE OR SALE OF WEAPONS

193-56 Discharging firearms.

No person shall fire or discharge any rifle, shotgun, gun, pistol, or other firearm within the City, except upon premises used by a duly licensed shooting gallery, gun club, or rifle club.

No cannon or piece of artillery shall be discharged or fired off in any public way or other public place within the city, except upon the express permission of the city council.

Any person violating any of the provisions of this section shall be fined not less than \$250.00 nor more than \$500.00 for each offense.

The provisions of this section shall not apply to sheriffs, constables, members of the police force, or other peace officers engaged in the discharge of their official duties, or to any person summoned by any of such officers to assist in making arrests or preserving the peace while such person so summoned is engaged in assisting such officer.

193-57 Carrying dangerous weapons.

(a) No person shall sell, offer for sale, keep, possess, loan or give to any person any electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star. No person shall sell, offer for sale, loan or give to any person under 18 years of age any type or kind of knife, any blade of which is two inches in length or longer.

(b) No person shall carry or possess with intent to use same unlawfully against another any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon.

(c) No person shall sell, manufacture, purchase, possess or carry any weapon from which eight or more shots or bullets may be discharged by a single function of the firing device.

(d) No person shall carry concealed on or about his person any dangerous weapon defined by this chapter. This provision shall not apply, however, to the following officers while engaged in the discharge of their official duties: sheriffs, coroners, constables, policemen or other duly constituted police officers and wardens, Chief of Polices and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime; nor to the following employees or agents while engaged in the discharge of the duties of their employment: conductors, baggage men, messengers, drivers, watchmen, special agents and policemen employed by railroads or express companies; nor to persons lawfully summoned by an officer to assist in making arrests or preserving the peace, while so engaged in assisting such officer.

(e) Any person violating the provisions of this section shall be fined \$200.00 for each offense, or shall be punished by imprisonment for a period of six months, or by both such fine and imprisonment.

(f) In addition to all other penalties, weapons used in violation of this section shall be forfeited to, and confiscated by, the Chief of Police.

193-58 Sale, display and use of utility knives.

(a) As used in this section, a “utility knife” is a knife consisting of a grip and single-edged sharp blade of the type typically used to cut such resistant surfaces as rugs, cardboard boxes, linoleum flooring and the like.

(b) No person shall display or offer for sale any utility knife except by placing the knife either:
(1) in an area immediately accessible only to an employee of the establishment, and beyond the reach of any customer less than seven feet tall; or

(2) in a locked display cabinet, which can only be opened by an employee of the establishment.

(c) No person under the age of 18 shall carry a utility knife on his person, or in the passenger compartment of a motor vehicle. This prohibition shall not apply to a minor using a utility knife for a lawful purpose in:

(1) his residence, under the immediate supervision of his parent or legal guardian; or

(2) a classroom, at the direction and under the immediate supervision of his teacher; or

(3) his place of lawful employment, at the direction and under the immediate supervision of his adult employer or an adult supervisor. For purpose of clause (3) of this subsection, “place of employment” includes an employer’s motor vehicle used to transport the employer’s tools and equipment, as well as a site where the employer is performing any lawful work.

(d) No person shall sell, offer to sell, give, deliver or offer a utility knife to a person under the age of 18. The prohibition on giving, offering or delivery of a utility knife shall not apply to:

(1) a parent or legal guardian who gives a utility knife to his minor or ward in the family residence for a lawful use, to be performed within the residence at the direction and under the immediate supervision of parent or legal guardian; or

(2) a teacher who gives a utility knife to a minor student, or who allows or directs a minor student to take possession of a utility knife, in a classroom for a lawful use, to be performed in the classroom at the direction and under the immediate supervision of the teacher; or

(3) an adult employer, who gives a utility knife to a minor employee, or who allows or directs a minor employee to take possession of a utility knife, in the place of lawful employment, at the direction and under the immediate supervision of the adult employer or an adult supervisor. For purposes of clause (3) of this

subsection, “place of employment” includes an employer’s motor vehicle used to transport the employer’s tools and equipment, as well as a site where the employer is performing any lawful work.

(e) Any person who violates any provision of this section shall be subject to a fine of not less than \$500.00 and not more than \$1,000.00.

193-59 Disguised firearms prohibited.

(a) No person shall purchase, acquire, sell, offer or expose for sale, or possess any firearm that is designed, constructed, modified or disguised to resemble any other object.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor, and shall be subject to incarceration for not less than 30 days and not more than 180 days for each offense. Each day of a continuing violation, and each purchase, acquisition, sale, offering or exposing for sale, or possession of a different firearm described in subsection (a) shall constitute a separate and distinct offense.

(c) Nothing in this section suspends, repeals or alters any other provision of this Code which limits, restricts or prohibits the purchase, acquisition, sale, offering or exposure for sale, or possession of a firearm.

193-60 Sale prohibited - Confiscation.

No person shall sell, offer for sale, manufacture, purchase, possess or carry within the city any weapon or instrument associated with martial arts combat, including but not limited to throwing darts, bolts, Chinese stars, chuka sticks, and wristbands or belts with sharpened or abrasive studs. Any person found violating the provisions of this section shall be fined \$200.00 for each offense, or shall be punished by imprisonment for a period of six months, or shall receive both such fine and imprisonment.

In addition to all other penalties, weapons and instruments used in violation of this section shall be forfeited to and confiscated by the Chief of Police.

193-61 Violation - Penalty.

Any person violating any of the provisions of this chapter, where no other penalty is specifically provided, shall be fined not more than \$200.00 for each offense.

Section 2. This ordinance shall take effect sixty (60) days after passage.

Council Member Calsolaro asked for passage of ORDINANCE NUMBER 43.31.10 (AN ORDINANCE AUTHORIZING AND DIRECTING THE CLOSING OF A PORTION OF BINGHAM STREET IN THE CITY OF ALBANY), which had been previously introduced.

**Note: Council Member Calsolaro spoke on the ordinance prior to passage.*

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 Calsolaro asked for passage of ORDINANCE NUMBER 44.31.10 (AN ORDINANCE

AUTHORIZING AND DIRECTING THE CONVEYANCE OF ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO 33 GLENN STREET, 124, 156 AND 158 FIRST STREET AND THE ABANDONED PORTION OF BINGHAM STREET ADJACENT TO 131 MCCARTY AVENUE IN THE CITY OF ALBANY, NEW YORK AT PRIVATE SALE TO THE ADDICTIONS CARE CENTER OF ALBANY), which had been previously introduced.

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 Commisso moved to amend and as amended asked for passage and a roll call vote thereon:

Ordinance Number 42.31.10 (As Amended 4/5/10)

AN ORDINANCE AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW PART 37 ENTITLED “CITY OF ALBANY COMMISSION ON PUBLIC-PRIVATE BUDGETARY COOPERATION” AND PROVIDING FOR THE RESPONSIBILITIES OF THE COMMISSION WITH RESPECT TO REVIEWING THE FISCAL IMPACT OF TAX-EXEMPT ENTITIES ON THE CITY’S TAX BASE AND THE CITY’S ABILITY TO CONTINUE FUNDING OF ESSENTIAL CITY SERVICES AND REQUIRING THE COMMISSION TO MAKE FINDINGS AND RECOMMENDATIONS TO THE MAYOR AND THE COMMON COUNCIL REGARDING FINANCIAL CONTRIBUTIONS TO BE MADE BY TAX-EXEMPT ENTITIES IN SUPPORT OF ESSENTIAL CITY SERVICES

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

Section 1. Chapter 42 of the Code of the City of Albany is hereby amended by adding thereto a new Part 37 to read as follows:

**PART 37
CITY OF ALBANY COMMISSION ON PUBLIC-PRIVATE BUDGETARY COOPERATION
ARTICLE XLVIII. General Provisions.**

Section 42-368. Legislative Intent.

The City of Albany hosts numerous corporations and associations which own real property and which are organized or conducted exclusively for charitable, hospital or educational purposes and including state owned entities (hereinafter referred to as “exempt entities”) and which are exempted by law in whole or in part from paying real property taxes. The City values the contributions of these exempt entities which are an integral part of the social fabric of Albany, and help to establish Albany as a creative, dynamic and healthy community. The City of Albany has a commitment to ensuring its neighborhoods are safe, stable and thriving by making critical improvements and investments and providing reliable essential municipal services including, but not limited to, police protection, fire protection, EMS services, street and highway construction, maintenance and lighting, snow removal, sanitation (inclusive of trash collection, disposal and recycling), and water and sewer services. These exempt entities and taxpayers alike benefit in substantially equal manner from these essential services, yet these exempt entities do not contribute to the payment of costs for these services.

The staggering national economic downturn of a severity not seen since the Great Depression has resulted in substantial reductions in state aid to the city and an alarming and recurring reduction in historical levels of sales

tax revenues which threaten to necessitate severe cut backs in vital municipal services. Incident to this national and state economic downturn the city has experienced substantial cuts in the millions of dollars of state aid to municipalities support and will be faced with an additional reduction of seven million eight hundred and fifty thousand dollars in state aid in the year 2011 pursuant to section 19-a of the Public Lands law. The City's financial burden has been exacerbated by severely increasing pension contribution costs to the state's retirement systems for city employees including police and fire and by the ever increasing costs of health insurance payments for its employees which constitute fully ten per cent of the city budget. The city has just received from the state one final limited extension of the life cycle of its landfill which when it is required to close in the near future will dramatically add to the fiscal imbalance of future city budgets. Fully eighty-one per cent of the city's budget expenditures (after inclusion of debt service payments) is allocable to personal service and benefit costs for its employees, of which over 63 per cent of total personnel costs are chargeable for the support of the police and fire departments thereby making budgetary cuts to personnel extraordinarily painful and these realities severely restrict the flexibility of discretion in budget cutting options.

Due to the real property holdings of state government and the several other exempt entities fully fifty-three per cent of the assessed valuation of all real property in the city is tax-exempt thereby increasing the real property tax burden on home owners, renters and commercial property owners. When two of the three major revenue sources available to support city government, specifically, state aid and sales tax receipts are severely diminishing it would be imprudent and misguided to increase the real property tax burden on the major pillar of city revenue support, that is, residences and commercial property owners. It is with these severe budgetary constraints confronting the city that the Common Council has determined it to be sound public policy and advisable to establish the "City of Albany Commission on Public-Private Budgetary Cooperation" for the purpose of seeking assistance from the several exempt entities within the city to assist in addressing the budgetary concerns of the city.

Section 42-369. Establishment of Commission.

The Common Council hereby establishes the City of Albany Commission on Public-Private Budgetary Cooperation.

Section 42-370. Membership; Term; Vacancies.

A. The Commission shall consist of eleven members with six members to be appointed by the Common Council and five members to be appointed by the Mayor. Of the members appointed by the Common Council, at least two shall be representative of the interests of the types of exempt entities described in Section 42-368 and at least two shall be members of the Common Council. Of the members appointed by the Mayor, at least two shall be representative of the interests of the types of such exempt entities. Vacancies shall be filled in the same manner as the original appointment.

B. The appointing authorities shall strive to include appointees who are authorities in fiscal budgetary issues and who are knowledgeable of efforts by other municipalities to successfully engage exempt entities in their jurisdictions in making financial and other contributions in support of their jurisdiction's budget.

C. The Mayor and the Common Council shall jointly designate co-chairs of the Commission. In making such designation the appointing authorities shall coordinate their designations in order that at least one co-chair is representative of the interests of such exempt entities.

D. The Commission shall cease to exist six months following the submission of the final report to the Mayor and Common Council. Members shall serve without compensation.

Section 42-371. Powers and duties.

A. The Commission shall submit a preliminary report to the Common Council and the Mayor within one hundred twenty days after all appointments of members have been made by the appointing authorities. Such report shall detail the Commission's findings as outlined in this section. The Commission shall submit its final written report to the Common Council and the Mayor within one hundred twenty days of the date it submitted its preliminary report. Such final report shall be detailed in its scope and shall identify the work engaged in by the Commission in fulfillment of the charges imposed upon it pursuant to such section. The report shall further include its findings, determinations and recommendations, including but not limited to, any recommendations the Commission has determined necessary for the enactment or amendment of local or state law as may be necessary to accomplish any of its recommendations.

B. The report of the Commission shall provide findings with regard to the following topics:

1. The costs associated with providing certain essential City services to the exempt entities. The city essential services shall be for police protection, fire protection, EMS services, street and highway construction, maintenance and lighting, snow removal, sanitation (inclusive of trash collections, disposal and recycling), and water and sewer services. The Commission shall attempt to identify these costs by category of exempt entity based upon the total assessed value of real property owned by such entity which is wholly or partially tax exempt and the scope of use of such essential city services by such exempt entity;

2. Financial and programmatic contributions made by the exempt entities to municipalities in selected cities nationwide, including best practices in public-private partnerships in effect in such municipalities. The Commission shall identify whether these contributions are made to such municipalities pursuant to written voluntary contribution agreements, implementation of financing options authorized by federal tax provisions or pursuant to mandate imposed by state or local law;

3. Development of a standard methodology for valuing community partnership contributions made by the exempt entities;

4. Recommendation of a standard level of financial and programmatic contributions to be met by all large-scale exempt entities in Albany;

5. Identification of all necessary or advisable City and State legislation;

6. Consideration of how other state capital cities are reimbursed for exempt properties;

7. Review of any additional means to mitigate the impact of exempt entities on the City's tax base, and to establish a fair and equitable approach to generating revenue to support City services.

Section 42-372. Assistance to the Commission.

The Commission shall 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 Commission and furnish such information and assistance as the Commission determines is reasonably necessary to accomplish its purpose in a timely fashion. The Commission shall be authorized to seek the assistance of the Government Law Center of Albany Law School either on a pro bono basis or pursuant to a contract for reasonable compensation within the amount of any appropriation that may be made by the Common Council for such purposes.

Section 2. This ordinance shall take effect immediately.

**Note: Council Members Commisso, Sano, and Konev spoke on the ordinance prior to passage.*

Ordinance Number 42.31.10 (As Amended) was Co-Sponsored by Council Members Bailey, Calsolaro, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith.

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

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

CONSIDERATION OF RESOLUTIONS

Council Members Sano, Fahey, Rosenzweig and Igoe offered the following, asked for passage and a roll call vote thereon:

Resolution Number 42.42.10R

AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE "MARCHISELLI" PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID PROJECT, AND APPROPRIATING FUNDS THEREFOR (NEW SCOTLAND AVENUE ITS [P.I.N. 1758.04])

WHEREAS, a Project for the New Scotland Avenue ITS, City of Albany, P.I.N. 1758.04 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Albany desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of Preliminary Engineering.

NOW, THEREFORE, the Common Council, duly convened does hereby

RESOLVE, that the Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council hereby authorizes the City of Albany to pay in the first instance 100% of the federal and non-federal share of the cost of Preliminary Engineering work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$82,500.00 (Eighty two thousand five hundred dollars and no cents) is hereby appropriated from Ordinance No. 39.31.10 and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Albany shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Mayor of the City of Albany be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Albany with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding 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 therefor 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 Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

Resolution Number 42.42.10R was Co-Sponsored by Council Members Freeman, Jenkins-Cox and Konev.

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 Smith offered the following, asked for passage and a roll call vote thereon:

Resolution Number 43.42.10R

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE CAPITALIZE ALBANY CORPORATION IN ITS APPLICATION TO THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR) UNDER THE NEW YORK MAIN STREET GRANT PROGRAM FOR FUNDING FOR THE DOWNTOWN ALBANY RESIDENTIAL CONVERSION & COMMERCIAL REHABILITATION PROGRAM

WHEREAS, the Capitalize Albany Corporation (CDC) is applying to the New York State Division of Housing and Community Renewal (DHCR) for funding under the Main Street Grant Program for a grant in the amount of \$500,000, to aid in the implementation of the Downtown Albany Residential Conversion & Commercial Rehabilitation Program, in the City of Albany; and

WHEREAS, the grant application requires that the applicant obtain the approval and endorsement of the governing body of the municipality in which the project will be located.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany does hereby approve and endorse the application of the Albany Local Development Corporation for a grant from the New York State Division of Housing and Community Renewal Main Street Grant Program in the amount of \$500,000 to aid in the implementation of the Downtown Albany Residential Conversion & Commercial Rehabilitation Program.

**Note: Council Member Smith spoke on the resolution prior to passage.*

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

Present – Konev

Affirmative 14 Negative 0 Abstain 0 Present 1

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

Resolution 44.42.10R

RESOLUTION REQUESTING THAT THE ALBANY CONVENTION CENTER AUTHORITY ENTER INTO PAYMENT-IN-LIEU-OF-TAXES (PILOT) AGREEMENTS WITH THE CITY OF ALBANY, NEW YORK ON PRIVATELY HELD REAL PROPERTY THAT IS PURCHASED OR WILL BE PURCHASED BY THE AUTHORITY.

WHEREAS, the Albany Convention Center Authority is purchasing and has purchased real property on the site of the proposed convention center, as well as adjacent to the site of the proposed convention center; and

WHEREAS, a large portion of the land being purchased by the Albany Convention Center Authority is currently privately owned real property. This real property is presently on the tax rolls of the City of Albany, the City School District of the City of Albany, and the County of Albany and represents over \$400,000 in real property taxes combined total to these entities; and

WHEREAS, the owner(s) of the privately owned real property paid real property and school taxes to the City of Albany, County of Albany, and City School District of the City of Albany; and

WHEREAS, the Albany Convention Center Authority, being a duly incorporated State authority under the provisions of Article 28-BB of the New York State Public Authorities Law, is not required to pay local municipal real property taxes and school taxes; and

WHEREAS, the Albany Convention Center Authority is using public money obtained from the Empire State Development Corporation to purchase privately owned real property, thus creating a possible situation where public money from one governmental entity could cause financial hardships on other governmental entities; and

WHEREAS, the City of Albany, County of Albany, and City School District of the City of Albany are all facing budget deficits in the upcoming fiscal year(s) and therefore can not afford to have privately owned real property removed from the tax rolls without a concurrent PILOT agreement to replace the lost real property tax and school tax revenue.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany requests that the Albany Convention Center Authority enter into payment-in-lieu-of-taxes agreements with the City of Albany to pay to the City of Albany a sum amount equal to the amount of real property taxes the City of Albany would have received if the real property was still privately owned, prior to the ownership of the real property being transferred to the Albany Convention Center Authority.

BE IT FURTHER RESOLVED, that the PILOT agreement(s) should remain in full force and effect as long as the Albany Convention Center Authority retains ownership of the real property.

RESOLVED, that copies of this resolution be transmitted to the Albany Convention Center Authority.

**Note: Council Members Calsolaro and Igoe spoke on this resolution prior to passage.*

Resolution Number 44.42.10R was Co-Sponsored by Council Members Commisso, Conti, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith.

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 O'Brien offered the following, asked for passage and a roll call vote thereon:

Resolution Number 45.42.10R

RESOLUTION OF THE COMMON COUNCIL GIVING NOTICE OF INTENT TO ACT AS LEAD AGENCY FOR PURPOSES OF DETERMINING ENVIRONMENTAL SIGNIFICANCE PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW OF THE STATE OF NEW YORK (ECL) AND THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) PROMULGATED THEREUNDER (SEQRA) FOR THE PURPOSE OF REVIEWING THE DRAFT SOLID WASTE MANAGEMENT PLAN FOR THE CAPITAL REGION SOLID WASTE MANAGEMENT PARTNERSHIP PLANNING UNIT

WHEREAS, on June 25, 2009, the New York State Department of Environmental Conservation (DEC) issued to the City of Albany, permit # 4-0101-00171/00011 for the purpose of operating and expanding the landfill beyond its current capacity; and

WHEREAS, Special Condition 26(b) of the Permit calls for the Capital Region Solid Waste Management Partnership Planning Unit to have a new long term Solid Waste Management Plan (SWMP) in effect by January 1, 2011; and

WHEREAS, the Common Council has received a long form Environmental Assessment Form (EAF), as well as a Draft Solid Waste Management Plan for the Capital Region Solid Waste Management Partnership Planning Unit; and

WHEREAS, the Council has reviewed the EAF and Draft Solid Waste Management Plan and determined to conduct a coordinated review among all involved agencies; and

WHEREAS, the Common Council is the most involved agency and, as such, is the most appropriate Lead Agency to conduct a review of the plan in accord with SEQRA regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany shall coordinate review of the plan by issuing a Notice of Intent to act as lead agency to all involved agencies pursuant to and under SEQRA;

BE IT FURTHER RESOLVED, that the Common Council hereby authorizes the City Clerk to distribute copies of the Draft Solid Waste Management Plan to all members of the Solid Waste Management Partnership Planning Unit; and

RESOLVED, that this resolution shall take effect immediately.

**Note: Council Members O'Brien, Calsolaro and Konev spoke on this resolution prior to passage.*

Resolution Number 45.42.10R was Co-Sponsored by council Member Sano.

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 Conti withdrew Resolution Number 46.42.10R.

Council Member Smith offered the following, which was referred to the Public Safety Committee:

Resolution Number 47.42.10R

RESOLUTION OF THE COMMON COUNCIL APPROVING NEW INVESTIGATORS FOR THE CITIZENS' POLICE REVIEW BOARD

RESOLVED, that in accordance with Section 42-343 of the Code of the City of Albany the following candidates are approved as investigators for the Citizen's Police Review Board: Jennifer C. Merritt, Salvatore F. Munafo, Thomas R. Neilen, Frank White and William Van Valkenburg.

Council Members Fahey and Calsolaro offered the following, asked passage and a roll call thereon:

Resolution Number 48.42.10R

AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE "MARCHISELLI" PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID PROJECT, AND APPROPRIATING FUNDS THEREFOR (DELAWARE AVENUE ROAD RECONSTRUCTION PROJECT [P.I.N. 1756.61])

WHEREAS, a Project for the Delaware Avenue Road Reconstruction, P.I.N. 1756.61 (the Project") is 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 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Albany desires to advance the Project by making a commitment of 100% of the non-federal share of the cost of Construction.

NOW, THEREFORE, the Common Council, duly convened does hereby

RESOLVE, that the Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council hereby authorizes the City of Albany to pay in the first instance 100% of the federal and non-federal share of the cost of Construction work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$841,425.00 (Eight hundred forty one thousand four hundred twenty five dollars and no cents (\$819,725.00 for Preliminary Engineering and \$21,700.00 for Right of Way) has already

been appropriated from Ordinance No. 12.21.06 and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that the additional sum of \$86,437.00 (Eighty six thousand four hundred thirty seven dollars and no cents) for the Preliminary Engineering Phase is hereby appropriated from Ordinance No. 17.22.08 and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Albany shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Mayor of the City of Albany be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Albany with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding 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 therefor 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 Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

Resolution Number 48.42.10R was Co-Sponsored by Council Members Freeman and Konev.

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 Konev offered the following, which was referred to the Council Operations and Ethics Committee:

Resolution Number 49.42.10R

RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO MAJORITY LEADER

RESOLVED, that Section 2.3 of Article 2 (Meetings) of the Rules of Procedure of the Common Council is amended to read as follows:

SECTION 2.3.

Quorum; President Pro-Tempore; Majority Leader

(a) A majority of the Alderpersons elected shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members. The Council shall be called to order by the President, or, if he be absent, by the President Pro-Tempore, who shall preside until the President appears.

(b) The Majority Leader shall assist the President Pro-Tempore in carrying out his/her duties and in the securing of the attendance of Alderpersons for meeting. Whenever the President Pro-Tempore shall be excused or absent, the Majority Leader shall be substituted in his/her place and stead, but to act for that meeting only. The council member elected to serve as majority leader shall serve without compensation.

RESOLVED, that this resolution shall take effect January 1, 2011.

Council Member Konev offered the following, which was referred to the Council Operations and Ethics Committee:

Resolution Number 50.42.10R

RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO LEADERSHIP MEETINGS

RESOLVED, that Section 2.3 of Article 2 (Meetings) of the Rules of Procedure of the Common Council is amended to read as follows:

SECTION 2.3.

Quorum; [President Pro-Tempore; Majority Leader] Council Leadership

(a) A majority of the Alderpersons elected shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members. The Council shall be called to order by the President, or, if he be absent, by the President Pro-Tempore, who shall preside until the President appears.

(b) The Majority Leader shall assist the President Pro-Tempore in carrying out his/her duties and in the securing of the attendance of Alderpersons for meeting. Whenever the President Pro-Tempore shall be excused or absent, the Majority Leader shall be substituted in his/her place and stead, but to act for that meeting only.

(c) Whenever the President Pro-Tempore and Majority Leader meet with the Mayor, Deputy Mayor or Executive Assistant to the Mayor as representatives of the Common Council or to discuss Common Council business or meetings, they shall prepare a written report for distribution at the next scheduled meeting of the Common Council. The report shall include the names of those in attendance, the subjects discussed and a brief outline of the discussions.

Council Member Konev asked for passage of RESOLUTION NUMBER 10.21.10R (RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO PRAYER AT COMMON COUNCIL MEETINGS), which had been previously introduced.

**Note: Council Members Konev, Conti, O'Brien, Calsolaro, Rosenzweig, Freeman, Igoe, and Bailey spoke on this resolution prior to passage.*

NOT Passed by the following vote of all the Council Members elected voting thereof:

Affirmative – Freeman and Konev

Negative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Herring, Igoe, O'Brien, Rosenzweig, Sano, and Smith

Present – Jacqueline Jenkins-Cox

Affirmative 2 Negative 12 Abstain 0 Present 1

***Note: Due to the vote of the majority in the negative, the motion failed.**

Council Member Konev asked for passage of RESOLUTION NUMBER 13.21.10R (RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO COMMITTEES), which had been previously introduced.

**Note: Council Member Konev, Herring, Calsolaro, Freeman, and Igoe spoke on this resolution prior to passage.*

NOT Passed by the following vote of all the Council Members elected voting thereof:

Affirmative – Freeman and Konev

Negative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Herring, Igoe, Jenkins-Cox, O'Brien, Rosenzweig, Sano, and Smith

Affirmative 2 Negative 13 Abstain 0

***Note: Due to the vote of the majority in the negative, the motion failed.**

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

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Members O'Brien, Igoe, Fahey, Commisso, Calsolaro, Conti and Freeman spoke on various issues.

ADJOURNMENT

Council President Pro Tempore Conti moved for adjournment.

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

A true record of the Common Council Minutes of April 19th, 2010.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL