

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Thursday, April 21, 2011

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, O'Brien, and Smith.

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

Council Member Conti led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Matthew Vertefeuille, Homeless Action Committee, 46 Fonda Rd., Waterford, NY 12188 (Albany Code Blue)
2. Liz Hitt, Homeless & Travelers Aid Society, 138 Central Ave., Albany, NY 12210 (Albany Code Blue)
3. Perry Jones, Capital City Rescue Mission, 259 S. Pearl St., Albany, NY 12202 (Albany Code Blue)
4. Eileen Garrish, 87 Berkshire Blvd., Albany, NY 12208 (Pesticides at Buckingham Pond)
5. Grace Nichols, 439 Elk St., Albany, NY 12206 (Pesticides)

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

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Conti made a motion to approve the minutes of the February 24, 2011, March 7, 2011, March 21, 2011, and the March 30, 2011 Special Meeting, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

Council Member Herring moved for the withdrawal of Local Law A-2011.

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

REPORTS OF STANDING COMMITTEES

Law, Buildings and Code Enforcement – Council Member Igoe stated that the committee met on April 14, 2011 to discuss Ordinance Number 98.121.10 relating to hens, which was reported out of Committee without recommendation and Ordinance Number 23.32.11 relating to displaying wares in front of properties, which was held for further discussion.

Council Operations and Ethics – Council Member Conti stated that the Committee met on April 13, 2011 at the Albany Housing Authority and the next meeting would be on April 27, 2011 at 200 Henry Johnson Boulevard to continue to receive community input regarding Common Council restructuring proposals.

REPORTS OF AD HOC COMMITTEES

Ad Hoc Committee on the Pesticide Ordinance – Council Member Golby stated that the ad hoc committee would be meeting on April 25th, 2011 to have continued discussions on the pesticide ordinance. The Committee is expecting a representative from the Audubon International to discuss their golf course program.

CONSIDERATION OF ORDINANCES

Council Members Golby and O'Brien introduced the following:

Ordinance Number 30.42.11

AN ORDINANCE AMENDING CHAPTER 259 (PESTICIDES) OF THE CODE OF THE CITY OF ALBANY REGARDING TEMPORARY EXCEPTIONS

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

Section 1. Section 259-6 of Chapter 259 of the Code of the City of Albany is amended to read as follows:

§ 259-6 Exceptions.

Notwithstanding any other provisions of this chapter to the contrary, this chapter shall not apply to the following:

- A. Pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs and related collection, distribution and treatment facilities.
- B. Antimicrobial pesticides.
- C. Pesticides in contained baits for the purposes of rodent and insect control.
- D. Pesticides classified by the United States Environmental Protection Agency as exempt materials under CFR 152.25.
- E. Pesticides used for the purposes of maintaining the Capital Hills Golf Course at Albany.
- F. Aquatic Pesticides used for the purposes of maintaining Washington Park Lake and Buckingham Pond.

Section 2. This ordinance shall take effect immediately and said amendments related to Section 259-6, specifically Sections 259-6(E) and (F), shall expire and be deemed repealed on December 31, 2011.

Council Member Conti asked unanimous consent for the consideration of Ordinance Number 30.42.11, which was approved by unanimous voice vote.

Council Member Golby asked for passage of ORDINANCE NUMBER 30.42.11 (UC):

Note: Council Members Golby, O'Brien and Calsolaro spoke on this ordinance prior to passage.

Ordinance Number 30.42.11 (UC) was Co-Sponsored by Council Member Igoe.

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

Affirmative – Bailey, Commisso, Conti, Fahey, Golby, Herring, Igoe, Jenkins-Cox, O'Brien, and Smith

Negative – Calsolaro and Freeman

Affirmative 10 Negative 2 Abstain 0

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

Ordinance Number 31.42.11

AN ORDINANCE AMENDING 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. Article XXIII Chapter 42 of the Code of the City of Albany is hereby amended as follows:

§ 42-183 Meetings; quorum; records.

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.

§ 42-184 Board procedures.

A. The presence of four members shall constitute a quorum of the Board. The concurring vote of four members shall be required to carry out any action of the Board, except as may be statutorily required.

B. The Board shall keep minutes of its proceedings and shall keep records of all votes taken and all official actions. All Board records shall be part of the public record and shall be kept on file in the office of the Director.

§ 42-185 Hearing.

The Board shall hold a public hearing on each application.

A. Notice.

(1) The Board shall give notice of public hearing, as follows:

(a) By publication in the official City publication or newspaper of general circulation not fewer than 10 days prior to the hearing date;

(b) By mail to the applicant or a representative that the applicant has designated in writing on the application; and

(c) To the Administrator or other official, as appropriate.

(2) The Board shall attempt to notify involved neighborhood associations, whose contact person and boundary description shall be provided to the City Clerk and the office of the Director by the associations.

(3) The Board shall attempt to notify nearby property owners of the public hearing by mail.

(4) Such notice shall include:

(a) The location of the subject property.

(b) The applicant's name.

(c) The nature of the relief sought.

(d) The date, time and place of the hearing.

B. Public posting. The applicant is required to post one or more signs (provided by the Board), as determined by the Department of Development and Planning, in/on visually conspicuous locations of the parcel(s) in question at least 10 days prior to the hearing to be conducted on the application. A corner parcel must be posted in at least two directions. It is assumed that the applicant will make a reasonable effort to replace postings that are either removed or substantially damaged. Whenever an applicant submits additional information or documentation in support of an application in accordance with Subsection D of this section, the applicant shall promptly post additional signs (provided by the Board) noticing the availability of such information in accordance with Subsection D of this section. The Board may postpone the hearing if adequate evidence exists that the requirements for the public posting have not been met. Said signs are to be removed by the applicant after a final decision on the application has been rendered.

C. Appearance at hearing. At a hearing, the applicant shall appear in person or be represented by an attorney or authorized agent. Any other party also may attend or be represented at a hearing by an attorney or other agent. Any person attending a hearing shall be given an opportunity to be heard, subject to the rules and regulations of the Board.

D. Whenever an applicant submits additional information or documentation in support of an application subsequent to a public hearing, such information or documentation shall be made available to the public. The Board shall notice the availability of such additional information or documentation in a manner consistent subsection A(1)(a) and (2) of this section. The public shall be afforded an opportunity to submit testimony or other evidence relating to the additional or supplemental information provided by the applicant. The Board may require the applicant to appear at a subsequent public hearing.

E. At any meeting of the Board, no motion shall be in order to rescind or amend a previous decision of the Board unless such motion has been publicly noticed and is subject to a public hearing in accordance with the provisions of this chapter and an opportunity for public comment. Any information or documentation that is the basis of such motion shall be available to the public at the time such hearing is noticed.

F. A hearing shall not be granted or scheduled in instances where the applicant, or the owner of property which is the subject of the application, is an owner, part-owner or has an ownership interest in a building or buildings subject to the standards of Article XI (Maintenance of Vacant Buildings) or

Article XIA (Vacant Building Registry) of Chapter 133 of this Code and such buildings are not in compliance thereto. In such instances, an application which is otherwise complete in accordance with this section shall be held pending the resolution of issues related to compliance with such articles and payment of any penalties if applicable.

§ 42-186 Application.

The applicant must submit a complete application to the Director to be granted a hearing by the Board. A hearing shall not be scheduled and noticed until a complete application has been received and is available to the public. A complete application shall include the following:

(1) Appropriate standard forms, fully and accurately completed and signed, as required by other provisions of this chapter or by the rules and regulations adopted by the Board for the conduct of its business.

(2) Other information or documentation, as required by this chapter or by the rules and regulations of the Board.

(3) Payment of the applicable fee.

(4) The name, residence and nature and extent of the interest of any state officer or any officer or employee of the City or County of Albany in the applicant or in the subject property, to the extent such interest is known to the applicant.

Section 2. This ordinance shall take effect immediately.

Council Members Conti and Konev asked for passage of ORDINANCE NUMBER 27.41.11 (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 AND ORDINANCE 54.42.10 AS ADOPTED BY THE COMMON COUNCIL ON JULY 8, 2010 IN RELATION THERETO), 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, O’Brien, and Smith

Affirmative 12 Negative 0 Abstain 0

Council Member Igoe asked for passage of ORDINANCE NUMBER 29.41.11 (AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE OF ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO A PORTION OF 767 NEW SCOTLAND AVENUE IN THE CITY OF ALBANY, NEW YORK AT PRIVATE SALE TO LUCY KLEINMANN), 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, O’Brien, and Smith

Affirmative 12 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 Golby, Calsolaro, and Konev introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 20.42.11R

RESOLUTION OF THE COMMON COUNCIL PROCLAIMING MAY 2011 AS BIKE MONTH IN THE CITY OF ALBANY

WHEREAS, in 2009, the City of Albany, in partnership with the Capital District Transportation Committee (CDTC) completed a Bicycle Master Plan identifying a network of bicycle routes to improve cycling as a viable mode of transportation throughout the City; and

WHEREAS, the network will support a safe and healthy transportation alternative that is paramount to achieving sustainability and enhancing the quality of life in the City; and

WHEREAS, in 2005 nearly 25% of major injuries and fatalities on New York roadways were pedestrians and bicyclists, almost twice the national average; and

WHEREAS, numerous surveys have found that the number one reason people do not cycle as a mode of transportation is because of their fear of sharing the roadway with automobiles. Addressing concerns about personal safety and comfort is the key to creating a city where cycling is recognized as both a mode of transportation and a recreational activity; and

WHEREAS, in April 2010 the CAPITAL COEXIST website (www.capitalcoexist.org) was launched. This localized education campaign is geared towards cyclists and motorists safely coexisting when using the region's roadways. Capital Coexist was developed by the CDTC in response to the Albany Bicycle Master Plan and public requests for bicycle education and safety information; and

WHEREAS, the Capital Region Bike Rack program administered by CDTC and the Capital District Transportation Authority oversaw the successful installation of 176 bike racks in 2010, and has processed applications to approve an additional 91 bike racks in 2011 in the City of Albany; and

WHEREAS, the Mayor's Office of Energy & Sustainability was established by Mayor Jennings in 2010 to coordinate energy conservation and efficiency initiatives among the municipal departments and to drive community wide efforts to become a more livable and sustainable city. The office's website is www.albanysustainability.org; and

WHEREAS, in 2007, the world's foremost authority on climate change, the Intergovernmental Panel on Climate Change (IPCC), declared that the "Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures,

widespread melting of snow and ice and rising global average sea level" and that "human influence is very likely the leading cause of global warming;" and

WHEREAS, the City of Albany's Greenhouse Gas (GHG) Emissions inventory, available on the Office of Energy and Sustainability, website found that 21% of total community GHG emissions are generated from transportation. This percentage can be reduced by community members making the choice to walk, bike or ride the bus more frequently; and

WHEREAS, the League of American Bicyclists, the New York Bicycling Coalition, Capital Coexist, the Albany Police Department, the Albany Bicycling Coalition, and others are promoting greater public awareness of bicycle operation and safety education in an effort to reduce accidents, injuries and fatalities for all; and

WHEREAS, in communities across the country, a movement is growing to complete the streets. States, cities and towns are asking their planners and engineers to build road networks that are safer, more livable, and welcoming to everyone; and

WHEREAS, instituting a "complete streets" policy ensures that transportation planners and engineers consistently design and operate the entire roadway with all users in mind - including bicyclists, public transportation vehicles and riders, and pedestrians of all ages and abilities; and

WHEREAS, Section 152 of the New York State Traffic Law defines "traffic" as "Pedestrians...vehicles, bicycles and other conveyances either singly or together while using any highway for the purpose of travel;" and

WHEREAS, in summary, three key components of the New York State Traffic Law that relate to bicycling are:

- Bicyclists must ride with traffic and thus travel in the same direction as motor vehicles.
- A bicycle is a vehicle and as such must observe all traffic laws and obey all signals, signs, and pavement markings.
- Bicyclists must signal to turn on a roadway, a bike lane or bike path; and

WHEREAS, at the National Bike Summit in March 2010, the U.S. Secretary of Transportation, Ray LaHood stated, "Today, I want to announce a sea change. People across America who value bicycling should have a voice when it comes to transportation planning. This is the end of favoring motorized transportation at the expense of non-motorized;" and

WHEREAS, there is a month of events to promote bicycling, including: The National Ride of Silence on May 18th, the Commuter Contest on May 19th, National Bike-to-Work Day on May 20th and the Albany Police Department and PAL 2011 Bike Rodeo on May 22nd.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council hereby proclaims May 2011 as Bike Month in the City of Albany, urges all motorists and bicyclists to follow New York State's Vehicle and Traffic Law, share the road respectfully and responsibly, and urges our New York State legislators to strengthen the New York State Vehicle and Traffic Law to improve safety of bicyclists on our roads; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to New York State Senator Neil Breslin and New York State Assembly Members Ron Canestrari and John J. McEneny.

Note: Council Member Golby spoke on this resolution prior to passage.

Resolution Number 20.42.11R was Co-Sponsored by Council Members Bailey, Commisso, Conti, Fahey, Freeman, Herring, Igoe, Jenkins-Cox, 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, O'Brien and Smith

Affirmative 12 Negative 0 Abstain 0

Council Member Smith introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 21.42.11R

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE DOWNTOWN ALBANY BUSINESS IMPROVEMENT DISTRICT IN ITS APPLICATION TO THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL UNDER THE NEW YORK MAIN STREET ANCHOR GRANT PROGRAM FOR FUNDING FOR THE ALBANY DOWNTOWN RESIDENTIAL BUILDING RENOVATION PROGRAM

WHEREAS, the Downtown Business Improvement District is applying to the New York State Division of Housing and Community Renewal for funding under the Main Street Anchor Grant Program for a grant in the amount of \$250,000, to aid in the implementation of the Albany Downtown Residential Building Renovation 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 Downtown Business Improvement District for a grant from the New York State Division of Housing and Community Renewal Main Street Anchor Grant Program in the amount of \$250,000 to aid in the implementation of the Albany Downtown Residential Building Renovation Program.

Resolution Number 21.42.11R was co-sponsored by Council Members Freeman, Igoe and Jenkins-Cox

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, O'Brien and Smith

Affirmative 12 Negative 0 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

Council President McLaughlin stated that the Albany County Reapportionment Commission would be meeting on Saturday, April 23, 2011 at 1PM for public comment. She stated that she felt this was an inconvenient time, considering it is the day before Easter Sunday.

Council Member Conti concurred in Council President McLaughlin's concerns and noted that this was the Commission's second meeting in the City of Albany and would be held at 112 State Street.

ADJOURNMENT

Council Member 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 21st, 2011.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL