

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

Monday, May 2, 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, Konev, O'Brien, Rosenzweig, Sano and Smith.

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

Council Member Fahey led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Council Restructuring/Chickens/Youth)
2. William Stanley, 75 S. Pine Ave., Albany, NY 12208 (Support Ordinance 98.121.10)
3. Scott Kellogge, 8 Wilbur St., Albany, NY 12202 (Support Ordinance 98.121.10/Summer Youth Employment Program)
4. Michael Guidice, 105 Grand St., Albany, NY 12202 (Support ordinance 98.121.10)
5. Betsy Mercogliano, 3 Wilbur St., Albany, NY 12202 (Support Ordinance 98.121.10)
6. Jen Pursley, 105 Grand St., Albany, NY 12202 (Support Ordinance 98.121.10)
7. Jose Lopez, Jr., 1B View Ave., Albany, NY 12209 (Support Ordinance 98.121.10)
8. Gerard Houser, 184 Pineridge Dr., (Support Ordinance 98.121.10)
9. Martin Daly, 504 Myrtle Ave., Albany, NY 12208 (Support Ordinance 98.121.10)
10. Jennifer A. Ceponis, 564 Myrtle Ave., Albany, NY 12208 (Support Ordinance 98.121.10)
11. Dr. Jennifer Fredette, 297 State St #2B, Albany, NY 12210 (Support Ordinance 98.121.10)
12. Grace Nichols, 439 elk St., Albany, NY 12206 (Abandoned Buildings/Youth/Natural Environments)
13. Doris Coles, 232 First St., Albany, NY 12210 (Water Department/Land Trusts)
14. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Oppose Ordinance 98.121.10)

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 moved to amend Local Law F-2010 as follows, and requested it remained held.

LOCAL LAW F – 2010 (As Amended)

A LOCAL LAW AMENDING ARTICLE 2 (ELECTIVE OFFICERS) AND ARTICLE 4 (LEGISLATIVE BRANCH) OF THE CHARTER OF THE CITY OF ALBANY IN RELATION TO RESTRUCTURING THE COMMON COUNCIL

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

Section 1. Findings and Intent. The Common Council finds that the size of Albany's legislative body is larger than that of neighboring municipalities and cities of comparable size. The Common Council further finds that a smaller body would be more cohesive and serve as a stronger check and balance to the executive branch of government. The intention of this local law is to restructure the Common Council in a way that it will still be representative of the diversity within the City of Albany, yet by making it a smaller body strengthen its ability to serve as a check and balance on the executive branch and to reinvest a portion of savings through restructuring into providing additional resources for the Common Council.

Section 2. Article 4 Section 402 of the Charter of the City of Albany shall be amended as follows:

SECTION 402. Members.

The Common Council shall be an elective body comprised of a President of the Common Council and not more than one "Council Member" duly elected from each ward within the City. Each "Council Member" shall be a resident of the ward from which he or she is elected. There shall not be more than [45] twelve wards within the City.

Section 3. Except as herein amended, the Charter of the City of Albany as adopted on November 3, 1998 is hereby ratified, continued, and approved.

Section 4. This local law shall take effect upon final passage, public hearing and approval of the electors at a general election of state or local government officers held not less than sixty days after the adoption of this local law. It shall apply to the election of the City of Albany Common Council held in November 2013.

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

REPORTS OF STANDING COMMITTEES

Finance, Taxation and Assessment – Council Member Sano stated that the committee met on April 27, 2011 to discuss Ordinance Number 25.41.11 relating to traffic signals. This ordinance was increased by \$120k to include the intersection of Delaware Avenue and Golder Avenue. Ordinance Number 26.41.11 relating to traffic signal study was amended to reduce the life of the bond from 20 years to 5 years. Both ordinances were reported out of Committee favorably.

Council Operations and Ethics – Council Member Conti stated that the Committee held the last of the four public forums on the topic of Council Restructuring on April 27, 2011 at 200 Henry Johnson

Boulevard. He stated the Committee had good discussions and have received some good ideas. The Committee would be scheduling a meeting in the near future to discuss the public input and feedback.

REPORTS OF AD HOC COMMITTEES

Ad Hoc Committee on the Pesticide Ordinance – Council Member Golby stated that the ad hoc committee met on April 25th, 2011 to have continued discussions on the pesticide ordinance. A representative from the Audubon International was present to discuss their golf course program, which Scott Gallup with the Albany Golf Course is in support of participating in.

Ad Hoc Committee on Cable Access – Council Member Rosenzweig stated that the ad hoc committee would be meeting on May 4, 11 and 12, 2011 to interview candidates that applied for appointment to the PEG Access Oversight Board. He stated the City has been given access to Phase I funding to begin running the PEG Access programming.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 32.51.11

AN ORDINANCE AMENDING SECTION 231-91 (OPEN AREAS) OF CHAPTER 231 (HOUSING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO OUTDOOR FURNITURE

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

Section 1. Section 231-91 of Chapter 231 of the Code of the City of Albany is hereby amended by adding thereto a new subdivision K to read as follows:

K. The use of any upholstered furniture manufactured primarily for indoor use, including mattresses, shall be prohibited on any front or side yard visible from any public place, sidewalk or highway or on any unenclosed front porch.

Section 2. This ordinance shall take effect immediately.

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

Ordinance Number 33.51.11

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$325,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$325,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (PUMPER TRUCK APPARATUS)

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: Fire-fighting and apparatus
Local Finance Law Section 11.00(a) Subparagraph 27
Period of Probable Usefulness: 15 years
Maximum Term of Obligations: 15 years
Maximum Estimated Cost: \$325,000.00
Maximum Amount of Bonds: \$325,000.00
Treasurer's Bond Authorization Numbers: Q-11
Treasurer's Project Numbers: GH 34108118

Section 2. The plan of financing such objects or purposes is the lease financing of or the issuance of \$325,000.00 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 leases or 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 leases or 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 leases or 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 leases or 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 issuer of the leases or the 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 leases or bonds and bond anticipation notes may be contested only if:

(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 or 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 22, 2011 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Council Member Conti asked and received majority consent to add Ordinance Number 34.51.11 to the pending agenda, which was approved by majority voice vote.

**Note: Council Members O'Brien, Konev Golby and Rosenzweig discussed the motion prior to the voice vote. Council Members Konev and O'Brien were opposed to the motion for majority consent. All other Council Members present were in favor of the motion.*

Council Member Golby introduced the following, which was referred to the Ad Hoc Committee on the Pesticide Ordinance:

ORDINANCE NUMBER 34.51.11 (MC)

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

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

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

§ 259-1. Legislative intent.

The Common Council declares it to be the policy of the City to phase out pesticide use for many pest-control purposes and to adopt a control policy that substantially ~~relies on nonchemical pest~~ reduces chemical controls. The Common Council further finds that because of continual developments in alternatives to pesticides, that City departments must carry out an ongoing review of pesticide use and continually seek to reduce ~~and~~ or eliminate pesticide use.

§ 259-2. Definitions.

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

ANTI-MICROBIAL PESTICIDES

A pesticide as defined by 7 U.S.C, § 136(mm).

PEST

Any insect, rodent, weed or any other form of terrestrial or aquatic or animal life or virus, bacteria or other microorganism (except viruses, bacteria or other microorganisms on or in living man or other living animals) which the Commissioner of the New York State Department of Environmental Conservation declares to be a pest.

PESTICIDE

Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliator or desiccant. It shall include all pesticide products registered as such by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation and all products for which experimental use permits and provisional registrations have been granted by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation.

~~TASK FORCE ON WATER RESOURCES~~

~~The special task force created and appointed by the Mayor on January 12, 1998.~~

§ 259-3. Pest Management Board.

A. There is hereby created a Pest Management Board under this Chapter composed of seven members as follows: the Commissioner of the Department of General Services or his or her designee; the Commissioner of the Department of Recreation or his or her designee; the Director of the Office of Sustainability or his or her designee; and four citizens appointed by the Common Council one of whom shall be a health care practitioner, one of whom shall be actively involved in a local environmental organization; one of whom shall have a background in organic pest management, and one of whom shall have a background in landscaping or property management. The members shall serve at the pleasure of the Common Council. The committee shall annually choose a chair.

B. The Pest Management Board shall publicly notice and hold meetings at least four times per year or more often if necessary. The Board shall allow for a public comment period at each meeting, the length and placement to be determined by the committee. The Mayor shall have the authority to call a special meeting of the Pest Management Board in the event of an emergency regarding property, health and safety.

C. The Pest Management Board shall review and make recommendations to the City departments regarding pest management, monitor efforts of the City to reduce pesticide use, have the authority to research and report on programs used successfully by other municipalities or private industry, and shall be responsible for granting waivers as provided in Section 259-6.

~~§ 259-3. Phase 1 reduction.~~

~~Effective January 1, 1999, no department, commission or board, or any pesticide applicator employed by the department, commission or board as a contractor or subcontractor for pest control purposes, shall apply on City, board or commission property any pesticide classified as Toxicity Category I by the United States Environmental Protection Agency, or any pesticide classified as a known, likely or probable human carcinogen by the United States Environmental Protection Agency, except as provided for in § 259-8 of this chapter.~~

~~§ 259-4-259-5. Phase 2 reduction.~~

~~Effective January 1, 2000, no department, commission or board, or any pesticide applicator employed by the department, commission or board as a contractor or subcontractor for pest control purposes, shall apply on City property any pesticide classified as Toxicity Category II by the United States Environmental Agency, or any pesticide classified as restricted use by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation, except in accordance with a plan developed pursuant to § 259-7 of this chapter or as provided in § 259-8 of this chapter.~~

~~§ 259-5. Phase 3 reduction.~~

~~Effective January 1, 2001, no department, commission or board, or any pesticide applicator employed by the department, commission or board as a contractor or subcontractor for pest control purposes, shall apply on City property any pesticide classified as Toxicity Category III by the United States Environmental Protection Agency, except in accordance with a plan developed pursuant to § 259-7 of this chapter or as provided in § 259-8 of this chapter.~~

§ 259-4. Pesticide Use on City Property; Notice.

A. Each City department in carrying out its duties shall assume that pesticides are potentially hazardous to humans and the environment and shall give preference to reasonably available nonpesticide alternatives when addressing pest problems on City property. No pesticides classified as Toxicity Category I by the United States Environmental Protection Agency, or any pesticide classified as a known, likely or probable human carcinogen by the United States Environmental Protection Agency, pesticides classified as Toxicity Category II by the United States Environmental Agency, or any pesticide classified as restricted use by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation, or pesticides classified as Toxicity Category III by the United States Environmental Protection Agency, shall be applied on any property owned by the City of Albany. This prohibition on applying pesticides shall apply to all city departments and entities, contractors and subcontractors and entities leasing city property.

B. Each City department that has used pesticides during the past year shall at least annually develop a plan for reducing pesticide use, substituting for less toxic, nontoxic and nonchemical alternatives to pesticides. In developing its plan, each department shall consult with persons and organizations with expertise in pesticide use, reduction and substitution, giving preference to nontoxic and nonchemical alternatives.

C. On or before January 1 of every year, each City department that has used any pesticide during the previous year shall submit a plan that details how it will reduce pesticide use and substitute less toxic, nontoxic and nonchemical alternatives to pesticides in the coming year. The report shall specify any pesticide use thought to be necessary in the coming year, and alternatives to its use, and

the potential for eliminating or reducing its use for substituting less toxic, nontoxic and nonchemical means pest control. The Pest Management Board, in consultation with organizations with expertise in pesticides and alternatives to pesticides, shall assist the departments in reducing and, where feasible, eliminating pesticide use. The task force shall submit these reports to the General Service, Health and Environment Committee of the Common Council, the Chair of which shall be responsible for making the reports available to members of the Common Council.

D. Notice to the public shall be provided after each application of pesticides on city property by the posting of signs for a 48 hour period after the application.

§ ~~259-6~~ 259-5. 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.

§ ~~259-7~~. ~~City pesticide reduction, substitution and elimination plan.~~

~~A. Each City department in carrying out its duties shall assume that pesticides are potentially hazardous to humans and the environment and shall give preference to reasonably available nonpesticide alternatives when addressing pest problems on City property.~~

~~B. Each City department that has used pesticides during the past year shall at least annually develop a plan for reducing pesticide use, substituting for less toxic, nontoxic and nonchemical alternatives to pesticides. In developing its plan, each department shall consult with persons and organizations with expertise in pesticide use, reduction and substitution, giving preference to nontoxic and nonchemical alternatives.~~

~~C. On or before January 1 of every year, each City department that has used any pesticide during the previous year shall submit a plan that details how it will reduce pesticide use and substitute less toxic, nontoxic and nonchemical alternatives to pesticides in the coming year. The report shall specify any pesticide use thought to be necessary in the coming year, and alternatives to its use, and the potential for eliminating or reducing its use for substituting less toxic, nontoxic and nonchemical means pest control. The Task Force on Water Resources, in consultation with organizations with expertise in pesticides and alternatives to pesticides, shall assist the departments in reducing and, where feasible, eliminating pesticide use. The task force shall submit these reports to the Health and Environment Committee of the Common Council, the Chair of which shall be responsible for making the reports available to members of the Common Council.~~

~~D. On or before January 1, 2001, the Task Force on Water Resources, in consultation with applicable department heads and persons and organizations with expertise in pesticides and alternative to pesticide use, shall prepare and issue a report that assesses the feasibility of~~

~~eliminating the use of pesticides classified as Toxicity Category III by the United States Environmental Protection Agency.~~

§ ~~259-8-259-6~~. Waivers.

In the event that the Mayor determines that a threat to human health or other threatening conditions warrants the use of pesticides that would otherwise not be allowed under this chapter, the Mayor, in consultation with the ~~Task Force on Water Resources~~ Pest Management Board ~~and organizations with expertise in pesticides and alternatives to pesticide use,~~ shall determine if such a waiver is warranted and may issue a waiver from the provisions of this chapter based on the following criteria:

A. The pest situation poses an immediate or imminent threat to human health or that other threatening conditions exist; and

B. Viable alternatives consistent with this chapter do not exist. In making such determination, the Mayor shall outline the means for addressing the underlying causes of the pest outbreak in order to prevent future outbreaks.

Section 2. This ordinance shall take effect immediately.

Council Member Calsolaro moved to amend Ordinance Number 98.121.10 and as amended asked for passage and a roll call vote thereon:

ORDINANCE NUMBER 98.121.10 (As Amended)

AN ORDINANCE AMENDING ARTICLE VIII (FARM ANIMALS) OF CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY TO AUTHORIZE AND PERMIT THE KEEPING OF HENS

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

Section 1. Section 115-30 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:

§ 115-30. Purpose.

The purpose of this article is to protect the residents of the City of Albany from nuisance by animals usually known as farm animals or fowl. The keeping or harboring of certain farm animals within the City of Albany is incompatible with urban life.

Section 2. Section 115-31 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:

§ 115-31. Keeping of certain farm animals or fowl prohibited.

No person shall keep, harbor, or shelter any farm animal or fowl within the City of Albany, with the exception of hens. For purposes of this article, farm animal or fowl shall include cows, cattle, horses, ponies, donkeys, mules, pigs, goats, sheep, [chickens,] roosters, ducks, geese, or other animals or fowl

usually known as "farm animals or fowl," but not solely limited to the aforementioned and not including common household pets.

Section 3. Section 115-32 of Chapter 115 of the Code of the City of Albany is hereby re-numbered as Section 115-34 and the new Section 115-32 shall read as follows:

Sec. 115-32. Hens. Permit required for keeping of hens.

A. No person shall keep hens unless a permit has first been obtained from the City Clerk.

B. A valid permit will entitle the holder to keep five hens on a lot. Only one permit will be issued per lot.

C. Applications for permits shall be made upon forms furnished by the City Clerk, and shall be accompanied by payment of the required fee. Permits shall be renewed annually on the anniversary date and are valid until such time as the Director of Buildings and Codes determines by inspection that the property is not being maintained in compliance with the issuance criteria. Applications for a permit shall be accompanied by adequate evidence that the applicant has notified all of the property owners and residents within 50 feet of the property lines of the property on which the hens are to be kept and that such owners consent to hens being kept adjacent to their property. In the case of multifamily dwellings, the express written consent of the owner of the building and all tenants residing in the building other than the applicant is required for obtaining a permit.

D. The City Clerk shall issue a permit to the applicant, only after the City Clerk has reviewed a completed and signed application which grants the Director of Buildings and Codes permission to enter and inspect the property at any reasonable time. If the Director of Buildings and Codes has reasonable grounds to believe that an inspection is necessary, the Director shall inspect the facility in order to determine whether the issuance criteria have been met. The criteria for issuing a permit are as follows:

1. The area used for the keeping of hens is in good repair, capable of being maintained in a clean and in a sanitary condition, free of vermin, obnoxious smells and substances;

2. The keeping of hens on a particular property will not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to public health;

3. The facility for keeping hens shall be a pen. For purposes of this section, the term "pen" shall mean an enclosure within which an animal may be kept that is sufficiently secure to prevent such animal from escaping and roaming at large;

4. Adequate safeguards are made to prevent unauthorized access to the facility for housing the hens by general members of the public;

5. The health or well being of the hens will not be in any way endangered by the manner of keeping or confinement;

6. The facility for keeping the hens will be adequately ventilated;

7. The facility for keeping the hens is located on the applicant's property so as to be at least 15 feet from any building used or capable of being used for human habitation, not including the applicant's own dwelling.

E. Each permit issued by the City Clerk shall be conditioned on the applicant maintaining the facility for keeping hens in compliance with each of the issuance criteria. If the Director of Buildings and Codes determines by inspection that the facility for keeping hens is not being maintained in compliance with the issuance criteria, the permit shall no longer be valid and shall be revoked. Before operation of the facility for keeping hens resumes, submission of a new application for keeping hens permit accompanied by payment of the permit fees shall be required.

F. The application for a permit for keeping hens shall be accompanied by a nonrefundable fee equal to the highest dog license fee.

G. The number of permits issued city-wide can not exceed fifty (50).

H. Hens are to be restricted to the rear or backyard.

I. Hens shall be kept as pets and for personal use only. No person shall sell eggs or meat or engage in chicken breeding or fertilizer production for commercial purposes.

Section 4. Section 115-33 of Chapter 115 of the Code of the City of Albany is hereby re-numbered as Section 115-35 and the new Section 115-33 shall read as follows:

Sec. 115-34. Unsanitary Facilities and revocation of permit.

A. All facilities for keeping hens shall be open at all times for inspection by the Director of Buildings and Codes. If an inspection reveals that any provision in this Chapter is violated, the Director of Buildings and Codes shall give written notice to the keeper of the hens, specifying the violation and requiring that the violation be corrected within 48 hours. If the violation is not corrected within the period specified, the City Clerk may revoke the specified animal facility permit.

B. The City Clerk may revoke any permit upon determining that the facility for keeping hens no longer meets the conditions required for the issuance of a permit or that the permit was issued upon fraudulent or untrue representations or that the person holding the permit has violated any of the provisions.

Section 5. This ordinance shall take effect immediately.

**Note: Council Members Calsolaro, Konev, O'Brien, Fahey, Rosenzweig, Conti, Jenkins-Cox, Commisso, Golby, Sano, Freeman and Bailey spoke on this ordinance prior to passage.*

Ordinance Number 98.121.10 (As Amended) was Co-Sponsored by Council Member Konev.

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

Affirmative – Calsolaro, Commisso, Conti, Fahey, Golby, Konev, O'Brien and Smith

Negative – Bailey, Freeman, Herring, Igoe, Jenkins-Cox, Rosenzweig and Sano

Affirmative 8 Negative 7 Abstain 0

Council Member Sano moved to amend Ordinance Number 25.41.11 and as Amended asked for passage and a roll call vote thereon:

Ordinance Number 25.41.11 (As Amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF ~~\$500,000.00~~ \$620,000.00 AND AUTHORIZING THE ISSUANCE OF ~~\$500,000.00~~ \$620,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (TRAFFIC SIGNALS)

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: Traffic signals, traffic signal systems, traffic signs and traffic sign support

Local Finance Law Section 11.00(a) Subparagraph 72

Period of Probable Usefulness: 20 years

Maximum Term of Obligations: 20 years

Maximum Estimated Cost: ~~\$500,000.00~~ \$620,000.00

Maximum Amount of Bonds: ~~\$500,000.00~~ \$620,000.00

Treasurer's Bond Authorization Numbers: 0-11

Treasurer's Project Numbers: GH 33108116

Section 2. The plan of financing such objects or purposes is the issuance of \$500,000.00 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:

(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 4, 2011 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

**Note: Council Member Calsolaro and Sano spoke on this ordinance prior to passage.*

Ordinance Number 25.41.11 (As Amended) was Co-Sponsored by Council Members Calsolaro, Fahey and Freeman.

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 moved to amend Ordinance Number 26.41.11 and as Amended asked for passage and a roll call vote thereon:

Ordinance Number 26.41.11 (As Amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$100,000.00 AND AUTHORIZING THE ISSUANCE OF \$100,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (TRAFFIC STUDY AND DESIGN)

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: Traffic signals, traffic signal systems, traffic signs and traffic sign support
Local Finance Law Section 11.00(a) Subparagraph 72

Period of Probable Usefulness: ~~20 years~~ 5 years

Maximum Term of Obligations: ~~20 years~~ 5 years

Maximum Estimated Cost: \$100,000.00

Maximum Amount of Bonds: \$100,000.00

Treasurer's Bond Authorization Numbers: P-11

Treasurer's Project Numbers: GH 33108117

Section 2. The plan of financing such objects or purposes is the issuance of \$100,000.00 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:

(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 4, 2011 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

**Note: Council Member Sano spoke on this ordinance prior to passage.*

Ordinance Number 26.41.11 (As Amended) was Co-Sponsored by Council Members Calsolaro, Fahey, Freeman, Golby, Igoe, Konev, O'Brien, Rosenzweig 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 Member Freeman and Co-Sponsors Council Members Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith offered the following at the request of Common Council President McLaughlin, which was approved:

Resolution Number 22.51.11R

RESOLUTION HONORING THE LIFE OF RICHARD LAWSON, JR.

WHEREAS, Richard Lawson, Jr. was born in 1939 in North Carolina, the oldest of 16 children, and

WHEREAS, he attended Phillip Schuyler High School graduating in 1957, where he was an avid member of the French Club, and

WHEREAS, he attended the New Church of Christ Bible College and Christ Theological Seminary. He graduated from the Reverend Lee Stoneking Religious College and ETTA Wheaton Bible College graduating in Public Ministry and Evangelism, receiving Preliminary and Advanced Diploma's in Religious Education. He was ordained Arch Deacon in 1974 under the leadership of the Late Bishop Joseph Brown, Sr., at the New Church of Christ Holiness unto the Lord, and

WHEREAS, Mr. Lawson was a member of the Senior Usher Board, Men's Choir, Workers Plus One and Pastor Aide Department. He served as the Sunday School Superintendent, Sunday School Teacher, President of the Deacon Board, Church Treasurer, church choir member, member of the Local & General Executive Board, and was a past member of the Capital City Council #78. He was also a former member of the NLCC Soft Ball League and Bowling Leagues and an honorary member of the Giffen Memorial Elementary School board, and

WHEREAS, he served as a committee person for Election District 2, Ward 8, and an election inspector. He was known as a grandfather to all the young children on the block, homework tutor, and assisted in Pop Warner and Little League.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council honors and commemorates the life of Richard Lawson, Jr. and recognizes his contributions to the community at large.

**Note: Council President McLaughlin spoke on this 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

Affirmative 15 Negative 0 Abstain 0

Council Member Conti moved to amend Resolution 4.21.11R, and having been amended asked for passage and a roll call vote thereon:

RESOLUTION NUMBER 4.21.11R (as amended)

RESOLUTION OF THE COMMON COUNCIL ESTABLISHING THE CITY OF ALBANY REAPPORTIONMENT COMMISSION IN ACCORDANCE WITH SECTION 406 OF THE CHARTER OF THE CITY OF ALBANY

WHEREAS Section 406 of the Charter of the City of Albany requires the Common Council to appoint a Reapportionment Commission within six months after the publication of each federal decennial census to evaluate existing ward boundaries for equity and representation in relation to the population; and

WHEREAS 2010 Federal Decennial Census data for New York State was published on or about March 23, 2011; and

WHEREAS the Reapportionment Commission is to include City residents in such proportion as to reasonably reflect the demographic composition of the City, together with such other expert and official representatives as shall be deemed necessary and appropriate; and

WHEREAS the Reapportionment Commission shall review the population data from the 2010 Federal Decennial Census and within six months after appointment make recommendations, if necessary, in the form of a proposed local law as to changes in ward boundaries for the City of Albany; and

WHEREAS in its deliberations the Commission shall consider the application of the “one person, one vote” concept and the equal protection clauses of the Fourteenth Amendment of the United States Constitution and Article I, Sections I and II of the New York State Constitution; and

WHEREAS the Commission shall work to obtain maximum public participation in its deliberations through use of written material, public notices and public hearings and consider redistricting proposals submitted by other groups.

NOW, THEREFORE BE IT RESOLVED that in accordance with Section 406 of the Charter of the City of Albany, the Common Council does hereby establish a City of Albany Reapportionment Commission to be comprised of nine (9) members appointed by the Common Council, two (2) of whom shall be appointed upon recommendation of the Mayor, in accordance with procedures utilized by the Common Council for making appointments to boards, commissions and authorities.

**Note: Council Members Conti, O’Brien and Commisso spoke on this resolution.*

Council Member Commisso made a motion to amend Resolution 4.21.11R by inserting language that would prohibit elected officials from serving on the Reapportionment Commission and asked for a roll call vote thereon. The motion was seconded.

**Note: Council Members Konev, Calsolaro, Rosenzweig, Freeman, Herring, Smith, O’Brien, Igoe, Bailey, Conti and Commisso spoke on this motion prior to the roll call vote.*

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

Affirmative – Calsolaro, Commisso, Fahey, Golby, Herring, and Smith

Negative – Bailey, Conti, Freeman, Igoe, Jenkins-Cox, Konev, O’Brien, Rosenzweig, and Sano

Affirmative 6 Negative 9 Abstain 0

The motion failed.

Council Member Conti asked for passage of Ordinance Number 4.21.11 (As Amended) (RESOLUTION OF THE COMMON COUNCIL ESTABLISHING THE CITY OF ALBANY REAPPORTIONMENT COMMISSION IN ACCORDANCE WITH SECTION 406 OF THE CHARTER OF THE CITY OF ALBANY), which had been previously introduced.

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

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

Negative – Calsolaro and Commisso

Affirmative 13 Negative 2 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Konev discussed and requested that committees begin holding departmental budget oversight meetings.

Council President McLaughlin discussed the Council leadership’s request that the Ad Hoc Committee on Finances established by the Mayor, and including the Council’s leadership, City Treasurer and Auditor begin.

Council Member Calsolaro discussed the recent stabbing of a 17 year old young man at Hoffman Park and hearing youth speaking out to stop the violence but was disappointed to hear some parents encouraging young people to get their education and to move out of the City of Albany. He discussed that if the Council wanted to find funding for the youth programs, they should look at cutting funding for the golf course.

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 May 2nd, 2011.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL