

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, August 2, 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, 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 Commisso led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Carol Tansey, 115 Krumkill Rd.#716, Albany, NY 12205 (Energy Fair Hosted by AHS)
2. Joe Cunniff, 10 Croswell St., Albany, NY 12206 (Resolution 12.21.10R - PEG Access)
3. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Resolution 12.21.10R)
4. Doris Coles, 232 First St., Albany, NY 12206 (Vacant Building Fines and Water Meters)

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 June 21, 2010, July 8, 2010 and July 19, 2010 meetings, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

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

REPORTS OF STANDING COMMITTEES

Planning, Economic Development and Land Use – Council Member Herring stated the Committee met on July 28, 2010 immediately following Caucus to discuss Resolution 80.71.10R(MC) confirming the appointment Sandra Fox as a member of the Planning Board, which was passed out of committee favorably.

REPORTS OF AD HOC COMMITTEES

Cable Access – Council Member Rosenzweig stated that the Committee met on Thursday, July 29, 2010 to look at the draft legislation giving the PEG Access Oversight Committee its duties and charge. The Committee will be taking comments and suggestions before finalizing the draft legislation.

Pesticide Ordinance – Council Member Golby stated that the Committee met on July 26, 2010 and had a discussion with Ms. Laura Haight with NYPIRG. She shared the history on the Albany Pesticide ordinance, which came to be based on complaints from concerned residents regarding pesticides being used in the Washington Park Lake. She also discussed having an active oversight body on pesticide use. The Committee requested the memo from the Mayor be amended to reflect wording from the pesticide ordinance. The Committee would be meeting on August 9, 23 and 30, 2010.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 80.81.10

AN ORDINANCE AMENDING ARTICLE I (DOGS RUNNING AT LARGE) OF CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO HOFFMAN PARK

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

Section 1. Section 115-2 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:

§ 115-2. Regulations.

Pursuant to the authority granted to the City of Albany by Article 7 of the New York Agriculture and Markets Law, it shall be unlawful for any owner of, or any person harboring, any dog in the City of Albany to permit or allow such dog to:

- A. Run at large. All dogs are to be restrained by an adequate collar and leash, except that within the parks in the City of Albany, not including Hoffman Park, all dogs shall be so restrained or under the control of its owner or responsible person over 12 years of age. For the purposes of this section, "control" shall mean within sight of the owner and subject to immediate restraint. Any female dog in heat shall be confined to the premises of the owner or person harboring such dog during this period.
- B. Engage in habitual loud howling or barking or to conduct itself in such a manner as to habitually annoy any person.
- C. Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- D. Chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- E. Habitually chase or bark at motor vehicles.
- F. Be within 25 feet of a playground or any area containing playground equipment.
- G. Be at any City of Albany special event or festival or special event held in a City par

Section 2. This ordinance shall take effect immediately.

Council Member Conti asked and received majority consent to add Ordinance 81.81.10 and Ordinance 82.81.10 to the pending agenda, which was approved by unanimous voice vote.

Council Member Fahey introduced the following, which was held:

Ordinance Number 81.81.10(MC)

AN ORDINANCE AUTHORIZING AND DIRECTING THE GRANT OF A PERMANENT EASEMENT TO ALBANY MEDICAL CENTER OVER, UPON AND UNDER PORTIONS OF THE CITY RIGHT-OF-WAY OF MYRTLE AVENUE IN THE CITY OF ALBANY

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

Section 1. It is hereby authorized that the City of Albany grant a permanent easement to Albany Medical Center over, upon and under portions of the City right-of-way of Myrtle Avenue, adjacent to 43 New Scotland Avenue, in the City of Albany.

Section 2. The form, content, terms and conditions of such easement shall be approved by the Corporation Counsel.

Section 3. The Grantees shall not hinder, interfere with, prevent, delay, obstruct or adversely affect the Grantor in the reasonable exercise of its governmental operations or function.

Section 4. This ordinance shall take effect immediately.

Council Members Bailey and Jenkins-Cox introduced the following, which was held:

Ordinance Number 82.81.10(MC)

AN ORDINANCE AUTHORIZING AND DIRECTING THE GRANT OF PERMANENT EASEMENTS TO THE ALBANY HOUSING AUTHORITY AND ITS SUBSIDIARIES OVER, UPON AND UNDER PORTIONS OF THE CITY RIGHT-OF-WAYS OF FIRST, SECOND AND THIRD STREETS IN THE CITY OF ALBANY

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

Section 1. It is hereby authorized that the City of Albany grant permanent easements to the Albany Housing Authority over, upon and under portions of the City right-of-ways of First and Second Streets, adjacent to 48, 50 and 54 First Street, 20, 26 and 28 Second Street, in the City of Albany.

Section 2. It is hereby authorized that the City of Albany grant permanent easements to the Stephen Myers Housing Development Fund Company, Inc. over, upon and under portions of the City right-of-ways of First and Third Streets, adjacent to 120 and 124 First Street and 173 Third Street, in the City of Albany.

Section 3. It is hereby authorized that the City of Albany grant a permanent easement to the Pearl Overlook Corporation, Inc. over, upon and under a portion of the City right-of-way of Third Street, adjacent to 122 Third Street, in the City of Albany.

Section 4. The form, content, terms and conditions of such easements shall be approved by the Corporation Counsel.

Section 5. The Grantees shall not hinder, interfere with, prevent, delay, obstruct or adversely affect the Grantor in the reasonable exercise of its governmental operations or function.

Section 6. This ordinance shall take effect immediately.

Council Member Konev moved to withdraw Ordinance 67.51.10 from the pending agenda.

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

CONSIDERATION OF RESOLUTIONS

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

Resolution Number 83.81.10R

RESOLUTION OF THE COMMON COUNCIL AMENDING SECTION 3.1 OF ARTICLE 3 (COMMITTEES) OF THE RULES OF PROCEDURE IN RELATION TO COMMITTEE MEETINGS

RESOLVED, Section 3.1 of Article 3 of the Rules of Procedure of the City of Albany Common Council is amended to read as follows:

SECTION 3.1

All committees shall be appointed biennially by the President Pro-Tempore, and will meet on [an as-needed] a timely basis with regard to legislation and such other matters which may be referred to them.[,with] Committees shall hold a minimum of two oversight meetings per calendar year on matters under their jurisdiction. The first person named in the appointment of a committee shall be the chair thereof. Vacancies shall be filled by appointment of the President Pro-Tempore. A majority of the committee's membership shall constitute a quorum for the transaction of business.

RESOLVED, that this resolution shall take effect immediately.

Council Member Conti asked and received majority consent to add Resolution 84.81.10R and Resolution 85.81.10R to the pending agenda, which was approved by unanimous voice vote.

Council Member Freeman offered the following, which was held:

Resolution Number 84.81.10R(MC)

RESOLUTION OPPOSING THE PROPOSED SITING OF A PRISON RE-ENTRY CENTER ON THE CORNER OF ELIZABETH AND CATHERINE STREETS IN THE CITY OF ALBANY

WHEREAS, the Federal Bureau of Prisons solicited proposals to provide Residential Reentry Center Services or “halfway house” services for male and female Federal offenders who are slated for release within the Albany, Schenectady and Rensselaer County area; and

WHEREAS, Community Resources for Justice (CRJ), submitted an offer in response to the bid solicitation to provide drug & alcohol treatment and prisoner reentry services at the corner of Elizabeth and Catherine Streets in the City of Albany; and

WHEREAS, the Bureau of Prisons requires that all offerers notify and seek input from local law enforcement and two levels of locally elected government officials; and

WHEREAS, the City Council of Albany and the Albany Police Department have not received notification from CRJ regarding the anticipated placement of this facility; and

WHEREAS, the proposed site for the project is home to a large number of social service agencies, including daycare centers, homeless shelters, substance abuse counseling centers, youth recreation facilities, community centers, schools, and parks located within a half-mile radius of this proposed prisoner reentry facility; and

WHEREAS, the proposed CRJ site raises significant public concerns and poses a security risk to the residents of the City of Albany; and

WHEREAS, there is already an over saturation of social service agencies and non profits in the area, adding to the depletion of the City of Albany tax base; and

WHEREAS, in tandem with the concern for public safety is a concern for the quality of life of residents of the neighborhood where this facility is proposed to be cited.

NOW, THEREFORE BE IT RESOLVED, the Common Council of the City of Albany hereby strongly object to the proposed siting of the prisoner reentry facility in the South End of Albany; and be it further

BE IT FURTHER RESOLVED, that the Common Council hereby directs that copies of this resolution be furnished to Senators Charles Schumer and Kirsten Gillibrand and Congressman Paul Tonko urging their assistance in preventing the location of this facility within the City of Albany.

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

Resolution Number 85.81.10R(MC)

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 A PROPOSED AMENDMENT TO THE PARK SOUTH PLANNED DEVELOPMENT OVERLAY DISTRICT

WHEREAS, the Common Council has received a long form Environmental Assessment Form (EAF), in conjunction with the proposed amendment to the Park South Planned Development Overlay District; and

WHEREAS, the Council has reviewed the EAF 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 application in accord with SEQRA regulations.

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

BE IT FURTHER RESOLVED, that this resolution 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, Herring, Golby, Jenkins-Cox, Konev, O’Brien, Rosenzweig, Sano, and Smith

Affirmative 14 Negative 0 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 80.71.10R(MC) (RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF SANDRA FOX AS A MEMBER OF THE PLANNING BOARD), which had been previously introduced.

**Note: Council Members Konev and Calsolaro spoke on this legislation prior to passage.*

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

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

Negative – Calsolaro and Konev

Affirmative 12 Negative 2 Abstain 0

Council Members Rosenzweig, Konev and O’Brien moved to amend Resolution 12.21.10R and as amended asked for passage and a roll call vote thereon:

Resolution Number 12.21.10R (as amended)

RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXECUTION OF A FRANCHISE AGREEMENT WITH TIME WARNER CABLE

WHEREAS, Time Warner Cable’s technical ability, financial condition and character were considered in full public proceedings affording due process and culminating in a public hearing on March 1, 2010; and

WHEREAS, following the public proceedings, Time Warner Cable’s plans for constructing, maintaining and operating its Cable Television System have been considered by the Common Council and found to be adequate and feasible; and

WHEREAS, this franchise is subject to and complies with all applicable federal, state and local laws and regulations, including without limitation, the rules of the New York State Public Service Commission concerning franchise standards; and

WHEREAS, Time Warner Cable desires to obtain a non-exclusive franchise with the City of Albany for a term of ten (10) years.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby grants to Time Warner Cable, its successors and assigns, a franchise to construct, own, operate and maintain a Cable Television System in the City of Albany.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to enter into a Franchise Agreement with Time Warner Cable pursuant to the terms and conditions substantively set forth herein.

**Note: Council Members Rosenzweig, O’Brien, Konev and 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, Herring, Golby, Jenkins-Cox, Konev, O’Brien, Rosenzweig, Sano, and Smith

Affirmative 14 Negative 0 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

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

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

Kuchta, Kahla R., 69 Lawn Avenue, Albany, NY 12204

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 August 2nd, 2010.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL