

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

Monday, August 6, 2007

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

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

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

Council Member Fahey led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

- 1) Timothy L. Carney, 277 Delaware Ave., Albany, NY 12208 (Parking and Delaware Avenue issues)
- 2) Aimee Allaud, 85 Melrose Ave., Albany, NY 12208 (PACTV/Presented the Council w/League of Women Voters written feedback on the Ad Hoc Committee on Cable Access recommendations)
- 3) Stephen Winters, 227 Second Ave., Albany, NY 12202 (PACTV – PEG Access)
- 4) Donna Perry, 436 Livingston Ave., Albany, NY 12206 (Gun Violence Task Force)

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 Common Council Meeting of July 2, 2007 and July 16, 2007, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

Council Members Conti, Calsolaro, Herring and McLaughlin introduced the following, which was referred to the Finance, Taxation and Assessment Committee.

LOCAL LAW C-2007

A LOCAL LAW REPEALING CERTAIN PROVISIONS OF ARTICLE XXIV (GENERAL PROVISIONS), PART 14 (BOARD OF ESTIMATE AND APPORTIONMENT) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADJUSTMENTS IN COMPENSATION DURING THE FISCAL YEAR

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

Section 1. Subsection A of section 42-183 and sections 42-184 and 42-185 of Chapter 42, Part 14, Article XXIV of the Code of the City of Albany are hereby repealed in their entirety and subsection B of section 42-183 is continued as an undesignated paragraph of such section.

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

Council Member Conti moved to hold Local Law B-2007 and Local Law C-2006, which was approved by unanimous voice vote.

REPORTS OF STANDING COMMITTEES

Public Safety – Council Member Scalzo stated that the committee would be meeting August 15, 2007 at 6:30pm to have a discussion on Hazardous Materials.

Finance, Taxation and Assessment – Council Member Sano stated that the committee would be meeting on August 15, 2007 at 5pm to have Comptroller Tom Nitido present the committee with the 2nd Quarter Financial Report.

Law, Buildings and Code Enforcement - Council Member Igoe stated that the committee met on July 24, 2007 at 5:30pm to discuss Ordinance Number 1.21.07, which was withdrawn. Ordinance Number 3.21.07 would be held for further amendments. Ordinance Number 53.51.07 was moved out of committee favorably with amendment with one vote not in favor. Ordinance Number 55.51.07 was moved out of committee favorably with amendment.

Planning, Economic Development and Land Use - Council Member Herring stated that the committee would be meeting August 15, 2007 at 6pm following caucus to discuss Resolution Number 37.51.07R and Ordinance Number 63.61.07.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 66.81.07

AN ORDINANCE AMENDING CHAPTER 323 (STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE VII (SMOKING NEAR HEALTH CARE FACILITIES)

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

Section 1. Chapter 323 of the Code of the City of Albany is hereby amended by adding thereto a new Article VII to read as follows:

ARTICLE VII SMOKING NEAR HEALTH CARE FACILITIES

Section 323-96. Legislative Intent.

The City of Albany Common Council finds that scientific studies have proven that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys. The use of cigars is also known to cause lung, larynx, esophageal, and oral cancer. More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable illness. Furthermore, the United States Environmental Protection Agency has found secondhand smoke to be a risk to public health, and has classified secondhand smoke as a group A carcinogen. Exposure to secondhand smoke is the third leading cause of preventable death in this

country.

The City of Albany Common Council further finds that as health care facilities have prohibited smoking in their facilities and directly adjacent to their building doorways, there has been a large increase in people smoking on the public streets and sidewalks adjacent to these facilities. These streets and sidewalks at times are difficult to pass through because of the number of people congregating and the clouds of smoke that fill the air. It has also become unsightly as cigarette butts are thrown all over the ground causing a litter problem in the area.

Section 323-97. Definitions.

Health care facility – For purposes of this article, the term “health care facility” shall be deemed to include a hospital, clinic, rest home, nursing home, or any other place for the diagnosis, treatment and/or other care of human ailments, addictions, developmental disability or old age.

Public place – Shall mean any place open to the general public including, for example, streets, sidewalks, playgrounds, or bus stops.

Reasonable distance – Shall mean a distance of 100 feet, or such larger area as the Common Council determines to be necessary in any given circumstance to ensure that the quality of life of the neighborhood is not adversely affected.

Section 323-98. Petition to Prohibit Smoking.

A. The owner or governing body of any health care facility may petition the Common Council to prohibit smoking on the public places within a reasonable distance from the health care facility.

B. The Common Council may adopt a resolution providing for the requested smoking restriction after a public hearing.

Section 2. This ordinance shall take effect immediately.

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

Ordinance Number 55.51.07 (As Amended)

AN ORDINANCE AMENDING ARTICLE IV (LARGE GROUP EVENTS) OF CHAPTER 251 (PARKS AND RECREATION) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ISSUANCE OF PERMITS AND NOTIFICATION OF LARGE GROUP EVENTS

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

Section 1. The definition of “Major large Group Event” as set forth in section 251-18 (definitions) is amended to read as follows:

MAJOR LARGE GROUP EVENT — A neighborhood or community festival, field day, carnival, concert, street parade, walkathon, rally, assembly, demonstration, fireworks displays, amusement rides, dramatic presentation, similar events impacting neighborhoods or traffic flow and all events at which alcoholic beverages will be available for sale and/or consumption or any combination

thereof or other gathering at which more than fifty (50) persons are or can reasonably be expected to be in attendance.

Section 2. Subsection E of section 251-19 (permit required; restrictions) is amended to read as follows:

E. The Chief and/or Commissioner [~~reserve the further right to~~] shall require the permit holder to notify the public of any temporary street closures or parking restrictions to result from the event. Notification may include the following:

(1) The issuance of a leaflet to every residence on the affected street(s) at least [~~seven (7)~~] ten (10) days in advance of the event.

(2) The publication of a display advertisement in at least one (1) local newspaper of general circulation, as designated by the Common Council, identifying the street(s) to be affected.

(3) Such other and further measures as the Chief and/or Commissioner determine to be reasonable under the circumstances.

Section 3. Section 251-20 (exceptions) is amended to read as follows:

No permit is required if the event is conducted under the auspices of a federal, state or local government department, agency, board, institution, commission or authority, except that the entity shall comply with the notification requirements of Subsection E of section 251-19 of this chapter. No permit is required for regularly scheduled athletic or other events that have been otherwise approved by the Commissioner.

Section 4. Section 251-24 (standards for issuance of a permit) is amended by adding new subsections F and G to read as follows:

F. In parks bounded by residential neighborhoods, the proposed activity will not include outside electronic amplification before the hour of 10 AM or after the hour of 6 PM, or for activities at the Washington Park Lakehouse after the hour of 11 PM.

G. The proposed activity will not damage park grounds, lawns or landscaping.

Section 5. Section 251-26 (fees) is amended to read as follows:

A. A major large-group event fee shall be \$55. A minor large-group event fee shall be \$27.50. A major large-group event fee with 2,500 attendees or more shall be \$275. The Chief or Commissioner is authorized to waive the fee if, in his judgment, the fee would impose an undue financial burden on the applicant.

B. A surcharge equal to fifty (50) percent of the fee charged in subsection A of this section shall be added to fees charged for large group events in Washington Park.

Section 6. Section 251-29 (notification of appropriate agencies of issuance of permit) is amended to read as follows:

Upon the issuance of a permit, the Chief or Commissioner shall deliver to the other appropriate agencies, the Common Council member(s) representing the affected areas and the representative of the neighborhood association, as such boundary description is on file with the Department of Development and Planning, with the a copy of the permit.

Section 7. Article IV of Chapter 251 is amended by adding a new section 251-31-a (prohibitions to use of parks) to read as follows:

§ 251-31-a. Prohibitions to use of parks

Damage to park landscape is prohibited, including driving on grass and lawns, parking under trees. Use of paint, markers or tape on trees, grass or pavements is prohibited. In addition, walkathons shall be limited to the park pavement and shall avoid any unpaved paths, lawns or landscaped areas.

Section 8. Within 30 days of the effective date of this ordinance, the Chief of Police, Commissioner of General Services and City Clerk shall jointly report to the Common Council on the adequacy of fees set forth in section 251-25 of Chapter 251 of the Code of the City Albany for permits for large-group events. Such report shall assess the cost of processing applications, including staff review, the impact or need for additional city services as a result of such event and potential impacts on city infrastructure, including parks. The report required by this section shall include recommendations for adjustment or revision to the fee structure, and may recommend variations in the structure based on the event and locations.

Section 9. This ordinance shall take effect thirty (30) days after enactment.

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

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

Affirmative 13 Negative 0 Abstain 0

Council Member Igoe was recognized by Council Pro Tempore Conti to withdraw Ordinance Number 01.02.07.

Council Member Igoe moved to amend and having been amended, asked for passage and a roll call vote thereon:

Ordinance Number 53.51.07 (As Amended)

AN ORDINANCE AMENDING ARTILCE III (TOW-TRUCK OWNERS AND OPERATORS) OF CHAPTER 353 (VEHICLES FOR HIRE) OF THE CODE OF THE CITY OF ALBANY REGARDING CHARGES

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

Section 1. Article III of Chapter 353 of the Code of the City of Albany is hereby amended as follows:

§ 353-63. Maximum charges.

A. All towing companies licensed pursuant to this article shall prepare a schedule of the charges for the towing and storage of motor vehicles, and such schedule shall be filed with the Chief of Police. Notwithstanding the foregoing, the maximum charge for the towing of any vehicle not in excess of 10,000 pounds, which has not been authorized by the owner or operator, shall be \$100. An additional flat fee of \$25 for the dollying of a vehicle may be imposed. An additional charge of \$55 per hour for winching may be imposed. The maximum charge for the

storage of towed motor vehicles shall be [~~\$25~~] \$35 per day, or each part thereof, to commence after the vehicle has been on the premises for 24 hours. The aforesaid maximum rates shall also apply to the towing of motor vehicles which have become disabled upon a street or highway in the City of Albany regardless of whether said tow may have been authorized by the owner or operator of the vehicle.

B. Such schedule shall be conspicuously posted at the towing company's storage area and the business office where the payment is made. Such posting shall consist of signs with lettering at least two inches in height and shall specify the costs of towing and storage.

C. All licensed towing companies shall, upon revision of its schedule, submit the amended schedules to the Chief of Police within one business day of the effective date.

Section 2. This ordinance shall take effect immediately.

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

Affirmative -- Calsolaro, Casey, Conti, Fahey, Herring, Igoe, O'Brien, Rosenzweig, and Scalzo

Negative -- Ellis, McLaughlin, Sano, and Timmons

Affirmative 9 Negative 4 Abstain 0

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

CONSIDERATION OF RESOLUTIONS

Council Member Conti asked and received majority consent to add Resolution Number 58.81.07R(MC) to the pending agenda, which was approved by unanimous voice vote.

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

Resolution Number 58.81.07R(MC)

RESOLUTION OF THE COMMON COUNCIL ACCEPTING THE FINAL REPORT AND RECOMMENDATIONS OF THE COMMON COUNCIL AD HOC COMMITTEE ON CABLE ACCESS

BE IT RESOLVED, the Albany Common Council hereby endorses and accepts the final report and recommendations of the Ad Hoc Committee on Cable Access as adopted on July 3, 2007 and urges their implementation.

**City of Albany
Common Council**

**Ad Hoc Committee on Cable Access
Report and Recommendations
July 3, 2007**

On December 13, 2006 President Pro Tempore Richard Conti appointed a five member Ad Hoc Committee consisting of Common Council Members Rosenzweig (chair), Conti, Fox, McLaughlin, and

O'Brien for the purpose of identifying elements to be included in a cable franchise contract with Time Warner. We immediately agreed that the most important topic of discussion would be the enhancement of the public access features currently available to the citizens of Albany. The Ad Hoc Committee reached out to the public, including members of the League of Women Voters, and CANA, (two longtime advocates of PEG Access TV) to ensure that all concerned individuals/groups would have the opportunity to have their ideas on PEG (Public, Educational & Governmental) Access heard at the public comment period of the December 27 meeting.

The December 27 Ad Hoc Committee Meeting produced a significant discussion on PEG Access (minutes attached), and there was consensus among all council members and members of the public that PEG Access is a feature that is underutilized in the Capital City and something that needs to be developed and addressed in the next Cable Franchise Agreement with Time Warner. The idea that there is a lot of talent and content in the communities of Albany and the fact that PEG Access would give residents the ability to give their perspectives on what is happening in the world was introduced during the public comment period. The concept of housing a studio in an easily accessible location came up and the Albany Public Library's Main Branch was one of the sites discussed because of its proximity to the bus lines in the City. A representative of HITN (Hispanic Informational and Telecommunications Network) expressed their interest in bringing prepared programming on public access to government services, as well as ESL & GED courses. They also spoke of a willingness to set up a local office and produce regular programming for the Spanish Speaking population of Albany.

In addition to the unanimous support of Resolution 99.123.06R, the Ad Hoc Committee began to receive support for PEG Access in the form of Resolutions from the City's Neighborhood Associations. The Whitehall Neighborhood Association, Mansion Neighborhood Association, Pine Hills Neighborhood Association, Beverwyck Neighborhood Association, West End Neighborhood Association, Center Square Neighborhood Association, Hudson Park Neighborhood Association and the Washington Park Neighborhood Association all took the time to support this very important issue. There is an overwhelming support for PEG Access in our City by people from different socio-economic, ethnic, educational and geographical backgrounds.

A second Meeting of the Ad Hoc Committee was held on January 11, 2007 (minutes attached) and public comment was heard. An individual spoke in favor of a pass through charge to Time Warner subscribers as a show of the community's commitment to PEG Access and the option of dedicating a percentage of the franchise fee to its operation was discussed. At this time the Main Branch of the Albany Public Library and Albany High School were identified as desirable locations for the Public and Educational entities of PEG Access. The Council Chambers would be the home of the Governmental entity, broadcasting meetings of the Common Council, Historic Resources Commission, Board of Zoning Appeals and Planning Board. The goal for the Public part of PEG would be to have a center where residents could bring in their home made productions or rent space in the studio to produce programming to be aired on the designated PEG channel. It is the opinion of the Committee that equipment should not be loaned from the facility. This however should not exclude programming that is recorded in a format other than what is transmitted for airing. In this case the option of having the video converted to the correct format (for a small fee) should be available. The training of people in the use of the video, editing, production and lighting equipment will be provided by trained professionals.

Educational Component with Financial Needs

Ad Hoc Committee Chair John Rosenzweig had preliminary discussions with Superintendent Dr. Eva Joseph and Chief Information Officer Ken Cioffi from the Albany City School District in January about developing a relationship between the City of Albany and the ACSD regarding this vision for PEG Access. In June an agreement was reached that would have Albany High house the Educational

Component of PEG Access and develop curriculum in the summer of 2007 enabling them to offer a TV/Video Production Course in the fall of 2007. This would allow students an opportunity to experience real life TV/Video Production. They feel that a community partnership with CSR and SUNY-Albany on this venture would allow them to produce an hour and a half to two hours of material a week. The ACSD worked with the Chair of the College of Saint Rose's Communication Department, Dr. Alfred "Fred" Antico on the necessary equipment for their start up and it totaled \$24,680.

Public Component

On March 19, 2007 the Ad Hoc Committee met with John Cirrin the Public Information Officer for the Albany Public Library and received a verbal commitment that the Main Branch would be willing to house the Public studio for PEG Access pending approval of the Board of Trustees.

Oversight and Operation

A February 10th tour of Schenectady's Public Access Facility opened the ad Hoc Committee's eyes to another important aspect of meeting our charge. We would have to identify the necessary equipment for this project, and agree on what kind of organization the venture would be run under. It was decided that an entity other than City Government or its Elected Officials should oversee PEG Access. This entity will be determined by a future action of the Common Council. It was also agreed that these individuals should have a strong background and understanding of what needs to be done to schedule, produce, edit, copy and transmit such materials. It was the feeling of the Committee that this entity should manage all start up and other monies earmarked for PEG Access distribution. It is understood that as many as 4 full time employees will be needed to oversee this operation. These individuals will be responsible for the master programming schedule, running and maintaining the facility and equipment, ensuring that the public has access to the studio and the ability to drop off programming during scheduled hours of operation. The employees will also be responsible for offering/scheduling training classes (for a reasonable fee) to the public on the operation of the studio equipment.

Public and Governmental with Financial Needs

In an effort to determine what kind of equipment would be needed for this project, the Committee elicited the help of local expert Thomas Brownlie, Executive Director of The New School of Radio and Television. The committee feels that in addition to stationary equipment (in studio), remote equipment will be needed for the recording of events outside of the Public Access Studio. These remote cameras may be stored at the Library location, but can be used to tape the Governmental Meetings to be aired on the Governmental Channel. After listening to the vision we had for the Public and Governmental entities of PEG Access, Tom toured the Library site and the Council Chambers to gain an understanding of the space we might be operating out of. It was his recommendation that the cost of construction, renovation and furniture would cost \$75,000, Engineering \$65,000 and Field and Studio Equipment \$93,000.

Recommendation for Start Up Monies

In conclusion it is the recommendation of the Ad Hoc Committee that the City negotiates a 10 year franchise agreement with Time Warner and asks for \$500,000 in start up monies for PEG Access. This figure is consistent with the consultations received from Tom Brownlie and Fred Antico in the amount \$257,680 for renovations and equipment. The additional payment of \$242,320 would be distributed in equal parts after two (2) years and four (4) years for the anticipated growth of PEG Access.

Recommendation for Pass Through Monies, Programming, and Channels

The Ad Hoc Committee feels that a \$.35 monthly (\$4.20 annually) pass through fee to Time Warner subscribers (consistent with Schenectady's pass through) will enable the City to raise the needed overhead associated with the continuing cost of full time positions. This nominal fee will insure that reoccurring expenditures will not restrict the future of PEG Access. It is important that the full time PEG Access Employees execute the programming from Albany, and that there are direct feeds to cablevision from the PEG Access locations. With this plan's implementation, the need for three exclusive channels for the City of Albany's Public, Educational and Governmental use is a must as the feedback from the community suggests that programming will be abundant.

Resolution Number 58.81.07R(MC) was Co-Sponsored by Council Member Conti, Fahey, McLaughlin, O'Brien, Sano, and Scalzo

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

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

Negative -- Ellis

Affirmative 12 Negative 1 Abstain 0

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

MISCELLANEOUS OR UNFINISHED BUSINESS

Council Member Conti offered clarification regarding the impact of parking meters and delineated parking spaces on the availability of on-street parking capacity as a follow-up to a comment made during the public comment period.

Council Member Calsolaro informed the council that the report on violent crime in Albany prepared on behalf of the Albany Police Department for the Council was available.

ADJOURNMENT

Council Member Conti requested that Council Members Fox and Smith be excused.

A motion was made for adjournment.

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

A true record of the Common Council Minutes of August 6th, 2007.

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