

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

Monday, September 15, 2008

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, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, and Smith.

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

Council Member McLaughlin led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Grace Farrell, 39 Forest Ave., Albany, NY 12208 (Backyard Fires)
2. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Community Violence)
3. Tom Scarf, (Resolution 72.92.08R)
4. Vincetn Riguso, 13 Beach Ave., Albany, NY (Various Issues)

APPROVAL OF MINUTES FROM PREVIOUS MEETING

DEFFERRED

CONSIDERATION OF LOCAL LAWS

Council Member Sano moved for passage and a roll call vote thereon of LOCAL LAW K – 2008 (A LOCAL LAW AMENDING ARTICLE XV (HOMESTEAD AND NONHOMESTEAD BASE PROPORTIONS) OF CHAPTER 333 (TAXATION) OF THE CODE OF THE CITY OF ALBANY), which had previously been introduced, which was approved:

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, and Smith

Affirmative 14 Negative 0 Abstain 0

Council Member Conti made a motion to hold the Local Laws on the pending agenda, which was approved by unanimous voice vote.

REPORTS OF STANDING COMMITTEES

General Services, Health and Environment – Council Member O'Brien stated that the committee met on September 10, 2008 to discuss the plastic carryout bag ordinance and recycling in the City of Albany. There was a presentation from DEC on recycling. There also was a discussion with the American Chemistry Council on plastic bags. The Committee decided to hold the legislation for further discussion.

Public Safety – Council Member Scalzo stated that the Committee would be meeting on Tuesday, September 23, 2008 to have a discussion on cameras in police vehicles, progress on the investigation on APD missing guns, and the APD reorganization.

REPORTS OF AD HOC COMMITTEES

Ad Hoc Committee on Cable Access – Council Member Rosenzweig stated that the Ad Hoc Committee met on September 11, 2008 at 6pm to discuss the structure and oversight of cable access programming. He stated the meeting was well attended and there was a preliminary discussion on the makeup of the oversight board for cable access.

Ad Hoc Committee on Taxis – Council Member Scalzo stated that the committee would meet on September 19, 2008 to discuss various taxicab issues.

CONSIDERATION OF ORDINANCES

Council Member Sano introduced the following, which was referred to the Public Safety Committee:

Ordinance Number 59.92.08

AN ORDINANCE AMENDING CHAPTER 151 (COMMERCIAL STANDARDS); CHAPTER 231 (HOUSING); CHAPTER 375 (ZONING) AND CHAPTER 197 (FIRE PREVENTION) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO OPEN FIRES

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

Section 1. Section 151-11(C) of Chapter 151 of the Code of the City of Albany is hereby amended to read as follows:

§ 151-11. Garbage and refuse.

C. No person shall kindle any fire or furnish any material for any fire nor authorize such fire in any street, lane, alley or any vacant lot. Burning shall be prohibited except as provided in Chapter 197 (Fire Prevention).

Section 2. Section 231-94(C) of Chapter 231 of the Code of the City of Albany is hereby amended to read as follows:

§ 231-94. Garbage and refuse.

C. No person shall kindle any fire or furnish any material for any fire nor authorize such fire in any street, lane, alley or any vacant lot. Burning shall be prohibited except [when such burning of combustible refuse shall be in a covered incinerator and not less than 10 feet from any dwelling or accessory structure.] as provided in Chapter 197 (Fire Prevention).

Section 3. Section 375-121 of Chapter 375 of the Code of the City of Albany is hereby amended to read as follows:

§ 375-121. Fire and explosion hazards; open burning.

All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and shall be required to have installed on-site fire-suppression equipment and devices standard in this industry. [Burning of waste materials in open fires is prohibited.] Burning shall be prohibited except as provided in Chapter 197 (Fire Prevention).

Section 4. Section 197-5 of Chapter 197 of the Code of the City of Albany is hereby amended to read as follows:

§ 197-5. Fires in yards and buildings.

[No person shall kindle, make or keep a fire in any yard or building in the City unless in a wire, steel, concrete, brick or other fireproof enclosure or receptacle. A fire so kindled, built or maintained, as aforesaid, on the outside of any building shall be continuously under the care and direction of a competent adult from the time it is kindled until it is extinguished. Any fire kindled or built outside of any building shall be at least twenty-five (25) feet from any wood structure, and in no event shall such fire be built within ten (10) feet of any type of structure. The Chief of the Department of Fire or his representative shall have the authority in all cases to prohibit the use of any fireplace or fire-burning receptacle within or outside of any building, as aforesaid, which in his opinion shall be deemed hazardous and dangerous. In no event shall this article be construed to permit the burning of garbage or any material which would produce noxious odors.]

It is the intent of this section to protect the general health, welfare and safety of the people of the City of Albany by prohibiting open fires, which are dangerous to life and property.

A. Definitions. As used in this section, the following terms shall have the meaning indicated.

GARBAGE-The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

OPEN FIRE-Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

REFUSE-All waste material, including, but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals and off fall.

RUBBISH-Solid or liquid waste material, including but not limited to paper and paper products; rags; trees or leaves, needles and branches there from; vines; lawn and garden debris; furniture; cans; crockery; plastic cartons; chemicals paint; grease; sludge; oils and other petroleum products; lumber; sawdust; demolition materials; tires; and automobiles and other vehicles and parts for junk, salvage or disposal.

B. Prohibited burning. The following fires are prohibited in the City of Albany.

(1) The burning of garbage, refuse and rubbish in any manner is prohibited.

(2) All open fires are prohibited in the City of Albany, with the exception of those in conformity with the provisions of this section.

(3) Open burning for outdoor cooking is prohibited in or on multiple dwelling structures.

C. Permitted burning. Burning in an open fire, provided that it is not contrary to any other federal, state, county or local law, ordinance, rule or regulation, will be permitted as follows:

(1) Bonfires. Bonfires shall be permitted only for a publicly sponsored celebration or event, or for an organization-sponsored event, or for a public or private school sponsored event, and shall be subject to the approval of the Fire Chief, prior to any bonfire being lit and taking place. No fire shall be ignited prior

to an on-site inspection of the location where the bonfire is to take place and shall be subject to any and all conditions or restrictions the Fire Department may impose for the safety of life and property.

(2) Outdoor cooking. Open burning will be permitted for outdoor cooking when the fire is limited to the minimal size necessary and contained in a device or cooking utensil commonly referred to as a grill or hibachi and designed for outdoor cooking purposes. Fuels for outdoor cooking will be limited to charcoal and charcoal briquettes, natural gas and LP gas. All applicable and/or reasonable safety precautions shall be taken when using said devices or utensils. Outdoor cooking will not be permitted on balconies and covered porches and patios.

(3) Recreational fires or campfires. Only natural gas or LP gas outdoor fireplaces or fire pits with ceramic logs will be permitted, provided that such appliance conforms to all other applicable City codes. All other forms of recreational fires or campfires are prohibited.

D. Control of fires within the City. If in the opinion of the Fire Chief, weather conditions are such that the starting or the continuation of burning is a risk to life, health or property within the City, they shall have the right to declare that any and all burning shall cease immediately until further notice.

E. Enforcement. The Fire Chief and such firefighting personnel as he or she designates along with officers of the Albany Police are hereby vested with authority to enforce the provisions of this section. The Fire Department is hereby authorized to extinguish any open burning fire being conducted in violation of any of the provisions of this section.

F. Penalties for offenses.

(1) Any violation by a person, firm or corporation of any provision of this section shall be deemed a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days or both.

(2) Any person who takes part in or assists in any violation of this section shall be subject to the penalties provided herein.

(3) Each day (twenty-four-hour-period) that a violation of this section is committed or permitted to exist shall be deemed to constitute a distinct and separate violation.

Section 5. This ordinance shall take effect immediately.

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

CONSIDERATION OF RESOLUTIONS

Council Member Calsolaro offered the following, which was held:

Resolution Number 72.92.08R

RESOLUTION URGING THE MAYOR TO MAKE ALIVE AT FIVE ALCOHOL-FREE AND TO PROMOTE DWI AWARENESS AT THE EVENT

WHEREAS, on Thursday, August 14, 2008, 32 motorists were charged with drunken driving in the four hours immediately following Alive at Five; and

WHEREAS, this represents an unusually high number of arrests for this short time period and indicates a link between the event and the arrests; and

WHEREAS, while alcohol can no longer be brought into Alive at Five, this is a difficult policy to enforce, and alcohol is still sold at Alive at Five.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany urges the Mayor to reconsider the alcohol policy and to end the sale of alcohol at Alive at Five and furthermore, to promote DWI awareness at Alive at Five and all similar events.

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

MISCELLANEOUS AND UNFINISHED BUSINESS

NONE

ADJOURNMENT

Council Member Conti asked that Council Member Scalzo 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 September 15th, 2008.

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

**Note: Correction – Council Member Ellis was present*