

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

Monday, September 19, 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, Freeman, Fahey, Golby, Herring, Igoe, Jenkins-Cox, O'Brien, Rosenzweig, Sano and Smith.

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

Council Member Jenkins-Cox led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Funding City Sponsored Events)
2. Sandy Steubing, 680 Central Ave., Albany, NY 12206 (Ordinances 42.82.11 & 43.82.11)
3. Andrew Hirsch & Mike Basil, 39 Quail St., Albany, NY 12206 (Oppose Resolution 67.92.11R)
4. Marc Gronich, 300 Hackett Blvd., Albany, NY 12208 (Parking Fines & Snow Removal)
5. Siobhan Burke, 1635 Van Vranken Ave. 2nd. Fl., Schenectady, NY 12303 (Ordinances 42.82.11 & 43.82.11)
6. Jennifer L. Kotary, 46 Tudor Rd., Albany, NY 12203 (Ordinances 42.82.11 & 43.82.11)
7. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Policing Issues in His Neighborhood & Finding Cost Savings)

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

APPROVAL OF MINUTES FROM PREVIOUS MEETING

DEFERRED.

CONSIDERATION OF LOCAL LAWS

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

REPORTS OF STANDING COMMITTEES

NONE

CONSIDERATION OF ORDINANCES

Council Member Bailey introduced the following, which was held:

Ordinance Number 51.92.11

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-WAY OF CLINTON 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 permanent easements to the Albany Housing Authority, through its subsidiary AHA Landbank, LLC, over, upon and under portions of the City right-of-way of Clinton Avenue, adjacent to 304, 306 and 343 Clinton Avenue, in the City of Albany.

Section 2. The form, content, terms and conditions of such easements 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 Calsolaro and Konev introduced the following, which was referred to the Law, Buildings and Code enforcement Committee:

Ordinance Number 52.92.11

AN ORDINANCE AMENDING ARTICLE IV (UNSAFE BUILDINGS) AND ARTICLE IX (BUILDING CONSTRUCTION AND REGULATION) OF CHAPTER 133 (BUILDING CONSTRUCTION) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO UNSAFE BUILDINGS

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

Section 1. Section 133-28 of Chapter 133 of the Code of the City of Albany is hereby amended to read as follows:

§ 133-28. Power to make order to repair or demolish.

A. Whenever any building or part of a building in the City of Albany shall become unsafe by reason of its use, mode or construction, or which upon the demolition of an adjoining building shall be discovered to be unsafe, or shall be determined to be unfit for human habitation or is a hazard to the health or safety of the occupants or public, the Commissioner of Buildings shall have power to make such an order, relative to the discontinuance or modification of such use and the demolition, repair or strengthening of such building, declaring that the building or part of a building be discontinued or modified, repaired, strengthened or demolished. The Commissioner may prohibit the use of such building or part of a building until the order of said Commissioner is complied with. The Commissioner may determine that a building is unsafe by reason of the condition of the building or premises, including but not limited to structural instability in whole or in part, failure, inoperability or absence of adequate sanitary waste disposal, water supply, electrical, plumbing, heating and ventilating systems or facilities, vermin and insect infestation or unsanitary, dilapidated, decaying or overcrowded conditions.

1. The Commissioner shall after giving give the parties in interest a written or printed notice and a reasonable opportunity to be heard, as the nature of the occasion requires, and to prohibit the use of such

~~building or part of a building until the order of said Commissioner of Buildings is complied with; s~~Such order notice shall prescribe the time within which such use shall be discontinued or modified, or such demolition, repairs or strengthening shall be made, and said Commissioner of Buildings shall cause a certified copy of said order to be served upon the owner or occupants of any such building or part of a building or the agent of any such owner.

2. If the building is vacant or the owner absent, the notice provided for herein shall be served by attaching a copy thereof to the building and delivering a copy thereof to any person having charge of the building and mailing a copy to the owner as shown by the assessment rolls of the City, agents listed on the vacant building registry, county auction records, and Albany Water Department records. Proof of service of such notice by the Commissioner of Buildings in this manner shall be deemed sufficient service.

3. If after the service or posting of such notice the owner or occupant of any such building shall neglect or refuse to comply with the order of said Commissioner of Buildings, or his agent or servants, relative to the use of such building, or shall neglect to comply with the order of said Commissioner of Buildings or his servants relative to the demolition, repair or strengthening of such building within 30 days of notice or posting, the Commissioner of Buildings is hereby authorized and empowered to employ such labor and furnish such materials and take such steps as in his or her judgment may be necessary to make the building safe.

4. If the Commissioner orders a demolition under this section, a structural report, including color photographs, shall be prepared by a licensed engineer or architect documenting the condition of the structure, the impact on the neighboring properties, and appropriate remedies. If the building is within the boundaries of an historic district as defined in Section 42-86, the Commissioner must receive the approval of the Historic Resources Commission.

5. The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, as provided for above, shall, when properly certified by the Commissioner of Buildings, be audited and paid by the City in the same manner as other claims against the City are audited and paid, and the amount so paid shall be and remain a lien against the property upon which the work is done and shall be collected by the City from the owner of such property in the same manner as taxes are collected, and the City may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.

6. The Division of Buildings shall issue a report by January of each year, outlining all buildings which have been declared unsafe in the previous year, thereby updating and reissuing the report of the previous year under this Section and Section 133-29.

Section 2. Section 133-29 of Chapter 133 of the Code of the City of Albany is hereby amended to read as follows:

§ 133-29. Action to recover cost of work done Power to demolish in emergencies.

~~The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, as provided for in the last section, shall, when properly certified by the Commissioner of Buildings, be audited and paid by the City in the same manner as other claims against the City are audited and paid, and the amount so paid shall be and remain a lien against the property upon which the work is done and shall be collected by the City from the owner of such property in the same manner as taxes are collected, and the City may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.~~

A. Whenever the Commissioner of Buildings finds that a building or part of a building has become unsafe and immediate action is required to abate a direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public, the Commissioner may take any action authorized herein which is reasonably necessary to abate or remove the condition.

B. Such action may include but is not limited to demolition of the building or structure, vacating the occupants of the premises and of surrounding premises, closing of public or private streets or rights-of-way, termination of utility service, erection of barricades and other protections and the performance of physical work on the premises. No notice or hearing is required under this section, unless the Commissioner orders a demolition of the building or a portion thereof.

1. If the Commissioner determines that an emergency demolition is required, the Commissioner must document prior to the demolition that:

a. A situation exists which threatens human life or the structural integrity of adjoining buildings and this threat cannot be remedied by vacating the occupants of the premises and of surrounding premises, closing of public or private streets or rights-of-way, termination of utility service, erection of barricades, temporary or permanent stabilization, and other protections and the performance of physical work on the premises; and

b. Every reasonable attempt has been made to locate and contact the owner and if located, the owner is unwilling or unable to either remedy the situation or provide sufficient certified evidence to the Commissioner made by an engineer or architect licensed in the State of New York that the property does not threaten the public safety, within a sufficient time frame as determined by the Commissioner. In the event that no notification can be made prior to the demolition, a notice must be mailed to the owner by certified mail. The Council Member for the ward in which the demolition is to take place shall also be notified; and

c. If the owner has received the emergency notice, the owner shall be given 24 hours to allow a licensed engineer or architect to evaluate the structural integrity of the building and produce a determination and may be given an opportunity to stabilize the property if the aforementioned engineer or architect certifies and warrants that such work will eliminate any direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public. Such work must be commenced within 3 days of receiving the order for demolition. The City shall make a reasonable attempt to issue necessary permits.

d. A certified structural report has been prepared by the aforementioned engineer or architect detailing the reasons for the demolition and the threat to life and property which cannot be otherwise remedied.

e. If the building is located in an historic district as designated by Section 42-86, the Historic Resources Commission must prepare an emergency report detailing the historical value of the building to the surrounding neighborhood, any knowledge of previous applications to the Commission, and alternatives that may exist.

C. The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, shall be the sole burden of the property owner and collected and assessed as provided in Section 133-28.

Section 3. Section 133-54 of Chapter 133 of the Code of the City of Albany is hereby deleted in its entirety:

~~§ 133-54. Unsafe and unfit buildings.~~

~~The Commissioner may determine that a building is unsafe by reason of the condition of the building or premises, including but not limited to structural instability in whole or in part, failure, inoperability or absence of adequate sanitary waste disposal, water supply, electrical, plumbing, heating and ventilating systems or facilities, vermin and insect infestation or unsanitary, dilapidated, decaying or overcrowded conditions.~~

Section 4. Section 133-55 of Chapter 133 of the Code of the City of Albany is hereby deleted in its entirety:

~~§ 133-55. Power to act in emergencies.~~

~~A. Whenever the Commissioner finds that a violation of this Part 2 exists which, in his opinion, requires immediate action to abate a direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public, the Commissioner may, without prior notice or hearing, take any action authorized herein which is reasonably necessary to abate or remove the condition.~~

~~B. Such action may include but is not limited to demolition of the building or structure, vacating the occupants of the premises and of surrounding premises, closing of public or private streets or rights of way, termination of utility service, erection of barricades and other protections and the performance of physical work on the premises.~~

~~C. Recovery of any cost incurred with respect to the abatement of an emergency by the Commissioner shall take place pursuant to the provisions of this Part 2, and the Commissioner of Buildings is hereby authorized and empowered to employ such labor and furnish such materials and take such steps as in his judgment may be necessary to make the building safe.~~

~~D. The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, as provided for in the last section, shall, when properly certified by the Commissioner of Buildings, be audited and paid by the City in the same manner as other claims against the City are audited and paid, and the amount so paid shall be and remain a lien against the property upon which the work is done and shall be collected by the City from the owner of such property in the same manner as taxes are collected, and the City may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.~~

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 Members Commisso, Calsolaro, Freeman, Jenkins-Cox, Konev, and Smith introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

Resolution 67.92.11R

RESOLUTION ESTABLISHING EXPENDITURE OBJECTIVES FOR RETIREMENT HEALTH INSURANCE AND RECOMMENDING NEW ELIGIBILITY STANDARDS AND A COST SHARING PROGRAM FOR CITY OF ALBANY EMPLOYEES RETIRING AFTER DECEMBER 31, 2012

WHEREAS, the City of Albany has continued to provide free healthcare coverage to nearly all retired City of Albany employees despite substantial increases in health insurance costs. In 2011, the City of Albany budgeted \$11,000,000 for these expenditures; and

WHEREAS, for nearly all retired City of Albany employees, the City of Albany continues to fully finance and account for health care coverage in a fundamentally different manner than pension obligations. While pension costs are accrued for during active employment, post-retirement health insurance costs are paid for on a cash basis as they are incurred. This funding mechanism necessitates that already overburdened taxpayers make ever-increasing payments on behalf of retired employees no longer providing public services on behalf of taxpayers; and

WHEREAS, pursuant to actuarial standards established by *The Governmental Accounting Standards Board – Statement 45*, if continuing to provide this benefit to retired City of Albany employees was considered a condition of employment then this would represent a \$251,934,900 unfunded liability to the City of Albany. Without enactment of this legislation, or similar legislation designed to achieve retiree healthcare savings, it may be entirely likely that future valuations of unfunded liabilities may be in excess of such figure; and

WHEREAS, the largest funding source of health insurance for retirees, the tax levy, has been affected by a change to NYS Law which limits growth of the property tax levy to not more than 2% annually. Unlike pension contributions, payments for the cost of health insurance by municipalities are not exempted from the effects of the annual 2% cap on tax levy growth; and

WHEREAS, most non-public safety employees, including but not limited to, carpenters, clerks, communication specialists, custodians, electricians, engineers, equipment operators, foremen, laborers, maintenance workers, masons, mechanics and sanitation workers employed by the City of Albany contribute 10% of the cost of single coverage and 25% of the cost of family coverage for health insurance during active employment and, though not collectively bargained for, continue to contribute at the same rate in retirement; and

WHEREAS, subject to collective bargaining and in contradistinction to all non-public safety employees, City of Albany Firefighters and Police Officers do not contribute to the cost of health insurance after 8 years of service in active employment, and while the cost of health insurance during retirement has not been the subject of collective bargaining with Firefighters or Police Officers, union members do not contribute during retirement; and

WHEREAS, in 2011, the cost of the Empire B/C Extended Coverage plan is \$9,531 for single coverage and \$22,172, for family coverage; and

WHEREAS, subject to collective bargaining, terminating the Empire B/C Extended Coverage plan the City of Albany offers to active employees and replacing it with a benefit rich alternative, the Empire Plan, offered through the New York State Health Insurance Program, would save the City of Albany over \$1,600,000 in 2012; and

WHEREAS, in its 2011 budget intent resolution the Common Council approved an intention to develop a contributory plan for retiree health insurance to be implemented in 2012.

NOW THEREFORE, BE IT RESOLVED, that in an effort to preserve retiree healthcare, that the Common Council recommends that the Mayor engage the bargaining units representing active employees of the City of Albany to identify a funding stream to finance the growth of City of Albany retiree healthcare expenditures in excess of; 4 percent in 2013, 4 percent in 2014 and 2 percent, per annum, thereafter. Such

funding stream shall be financed either through attrition of the city workforce after passage of this legislation or healthcare savings produced by modification of cost sharing provisions for active employees or retirees, changes of plan administration, modification of benefit design or modification to the treatment of sick leave accruals upon retirement; and

BE IT FURTHER RESOLVED, that the Common Council recommends that employees eligible for healthcare after retirement be limited to those retiring with not less than 20 years of service, who at the time of their retirement are eligible for New York State retirement benefits; and

RESOLVED, the Common Council urges the Mayor to adopt a policy that effective January 1, 2013 employees retiring from the City of Albany workforce shall be required to contribute to the cost of their retiree health insurance plans at the following rates; for employees retiring after December 31, 2012, 10 percent for non-Medicare eligible single coverage, 25 percent for non-Medicare eligible family coverage and 10 percent for Medicare eligible single coverage; and

RESOLVED, that eligibility, plan options and contribution rates for retiree healthcare be considered annually by the Mayor and the Common Council as a part of the City of Albany budget process.

Council Members Calsolaro, Bailey, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith offered the following, asked for passage and a roll call vote thereon:

Resolution Number 68.92.11R

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE CITY OF ALBANY AND HISTORIC CHERRY HILL IN ITS APPLICATION TO THE HUDSON RIVER VALLEY GREENWAY FOR FUNDING UNDER THE GREENWAY COMMUNITIES GRANT PROGRAM

WHEREAS, the City of Albany is applying to the Hudson River Valley Greenway for a grant under the Greenway Communities Grant Program for a project entitled Partners for "Albany Stories: Assessment of Heritage/Cultural Resources in Planning Projects" to be located in the City of Albany; and

WHEREAS, the grant application requires the applicant municipality to obtain the approval/endorsement of the governing body of the municipality or municipalities in which the project will be located.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby does approve and endorse the application for a grant under the Greenway Communities Grant Program, for a project known as "Albany Stories: Assessment of Heritage/Cultural Resources in Planning Projects" and located within this community.

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

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

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 69.92.11R

RESOLUTION OF THE COMMON COUNCIL APPOINTING DYLAN BOYCE TO THE PEST MANAGEMENT BOARD

WHEREAS, pursuant to Section 259-3 of the Code of the City of Albany the Common Council of the City of Albany has the authority to appoint members of the Pest Management Board.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby appoints Dylan Boyce to the Pest Management Board.

Resolution Number 69.92.11R was Co-Sponsored by Council Members Calsolaro 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, O’Brien, Rosenzweig, Sano and Smith

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 70.92.11R

RESOLUTION OF THE COMMON COUNCIL APPOINTING SALLY A. D’AGOSTINO TO THE PEST MANAGEMENT BOARD

WHEREAS, pursuant to Section 259-3 of the Code of the City of Albany the Common Council of the City of Albany has the authority to appoint members of the Pest Management Board.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby appoints Sally A. D’Agostino to the Pest Management Board.

Resolution Number 70.92.11R was Co-Sponsored by Council Members Calsolaro, Freeman, and O’Brien.

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

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

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 71.92.11R

RESOLUTION OF THE COMMON COUNCIL APPOINTING HARRY J. ERMIDES TO THE PEST MANAGEMENT BOARD

WHEREAS, pursuant to Section 259-3 of the Code of the City of Albany the Common Council of the City of Albany has the authority to appoint members of the Pest Management Board.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby appoints Harry J. Ermides to the Pest Management Board.

Resolution Number 71.92.11R was Co-Sponsored by Council Members Calsolaro, Freeman and O'Brien.

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

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

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 72.92.11R

RESOLUTION OF THE COMMON COUNCIL APPOINTING MATTHEW SCHUELER TO THE PEST MANAGEMENT BOARD

WHEREAS, pursuant to Section 259-3 of the Code of the City of Albany the Common Council of the City of Albany has the authority to appoint members of the Pest Management Board.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby appoints Matthew Schueler to the Pest Management Board.

Resolution Number 72.92.11R was Co-Sponsored by Council Members Calsolaro, Freeman, and O'Brien.

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

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

Affirmative 14 Negative 0 Abstain 0

Council Member Commisso withdrew Resolution Number 124.123.10R.

Council Member O'Brien asked for passage of RESOLUTION NUMBER 65.91.11R (RESOLUTION OF THE COMMON COUNCIL APPROVING THE USE OF 506 BRADFORD STREET FOR PARKING SPACES PURSUANT TO SECTION 375-186 OF THE CODE OF THE CITY OF ALBANY), which had been previously introduced.

**Note: Council Members O'Brien and Calsolaro spoke on this resolution prior to passage.*

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

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

Negative – Calsolaro

Affirmative 13 Negative 1 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Golby responded to comments made during public comment period on snow removal. She discussed the change made to the snow removal ordinance to use a graduated fee structure. She discussed making herself available for volunteers and people who has contacted her on the issue of snow removal.

Council Member Igoe had a question for Counsel on parking tickets and receiving more than one parking ticket at a time.

Council Member Commisso discussed comments made during public comment period on health insurance benefits and clarified his intentions for introducing legislation on retiree health coverage. He discussed not knowing details of a possible task force that would look into finding cost savings in health insurance benefits. He also discussed cost sharing and government agencies that do have cost sharing.

ADJOURNMENT

Council Member Conti made a motion to adjourn.

Council President McLaughlin stated, hearing no objections, the meeting was adjourned.

A true record of the Common Council Minutes of September 19th, 2011.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL