

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, November 16, 2009

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, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, and Smith.

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

Council Member Calsolaro led the Pledge of Allegiance. Council President Morris asked that Mr. Dave Lawton be remembered during the Moment of Silence.

Council President Morris extended a welcome to the Jack and Jill of America (Albany Chapter) members visiting tonight's are meeting.

PUBLIC COMMENT PERIOD

1. Bill Weir, 127 Fleetwood St., Albany, NY 12209 (Resolution 86.112.09R)
2. Anthony Potenza, 216 Lenox Ave., Albany, NY 12208 (Resolution 86.112.09R)
3. Niki Weiner, 45 Aspen Circle, Albany, NY 12208 (Resolution 86.112.09R)
4. Robert Sweeney, Whiteman, Osterman & Hana (attorney for Ft. orange Club), 1 Commerce Pl. Albany, NY 12260 (Ordinance 68.102.09)
5. Herb Shultz, Ft. Orange Club, 110 Washington Ave., Albany, NY 12210 (Ordinance 68.102.09)
6. James Flaherty, 13 Riverside Ave., Rensselaer, NY 12144 (Ft. Orange Club)
7. Martin R. Daley, 564 Myrtle Ave., Albany, NY 12208 (Ordinance 68.102.09)

Council Member Conti made a motion to extend the Public Comment Period for an additional 20 minutes, which was approved by unanimous voice vote.

8. Susan Holland, Historic Albany Foundation, 89 Lexington Ave., Albany, NY 12206 (Ordinance 68.102.09)
9. Anton Konev, 268 Washington Ave., Apt. L4, Albany, NY 12203 (Budget)
10. Daniel C. Curtis, 135 Spring St., Albany, NY 12203 (Ordinance 68.102.09)
11. Roger Markovics, 38 Myrtle Ave., Albany, NY 12202 (Resolution 86.112.09R & Ordinance 68.102.09)
12. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (LL B-2008)

Council Member Conti made a motion to extend the Public Comment Period for an additional 10 minutes, which was approved by unanimous voice vote.

13. Scott Bassinson, Boies, Schiller & Flexner, 10 N. Pearl St., Albany, NY 12207 (attorney for Historic Albany Foundation), (Ordinance 68.102.09)
14. Bill Bouchard, 80 S. Allen St., Albany, NY 12208 (HAF President), (Ordinance 68.102.09)

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

MOTION TO CONVENE EXECUTIVE SESSION

Council Member Conti moved to recess to convene in executive session for the purposes of discussing questions pertaining to pending litigation and that executive session be limited to Council Members, Corporation Counsel and Research Counsel, which was approved by unanimous voice vote.

Council President Morris recessed the meeting, which was reconvened following the conclusion of executive session at which time the Council proceeded with its regular order of business.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

DEFERRED

CONSIDERATION OF LOCAL LAWS

Council Member Ellis, along with co-sponsors Calsolaro, Conti, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo and Smith moved for passage of LOCAL LAW B-2008 (As Amended) (A LOCAL LAW AMENDING ARTICLE I (PATRONIZING HOME INDUSTRY) OF CHAPTER 62 (LABOR) OF THE CODE OF THE CITY OF ALBANY TO REQUIRE RESIDENCY FOR CERTAIN CITY EMPLOYEES), which had been previously introduced and amended and requested a roll call vote thereon.

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

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

Affirmative 13 Negative 0 Abstain 0

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

REPORTS OF STANDING COMMITTEES

NONE

CONSIDERATION OF ORDINANCES

Council Member Conti asked and received majority consent to add Ordinance Number 69.112.09 to the pending agenda, which was approved by unanimous voice vote.

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

ORDINANCE NUMBER 69.112.09 (MC)

AN ORDINANCE AMENDING CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO MULTIFAMILY DWELLINGS AND REGISTERED SEX OFFENDERS

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

Section 1. Chapter 375 of the Code of the City of Albany is hereby amended by adding thereto a new Section 375-142-a to read as follows:

Section 375-a. Residential Housing of Registered Sex Offenders.

No multifamily dwelling within the City of Albany shall house more than two registered sex offenders.

Section 2. This ordinance shall take effect immediately.

Council Member Conti moved to amend Ordinance 68.102.09 as follows, the amendments being adopted Council Member Conti moved for the passage of Ordinance 68.102.09 as amended and requested a roll call voter thereon.

Ordinance Number 68.102.09 (as amended)

AN ORDINANCE AMENDING CHAPTERS 133 (BUILDING CONSTRUCTION) AND 375 (ZONING) IN RELATION TO DEMOLITION PROCEDURES

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

Section 1. Section 133-20 (Demolition or boarding up of buildings) and Section 133-21 (Demolition for erection of new structure) of Article II (Preliminary Requirements) of Chapter 133 (Building Construction) of the Code of the City of Albany are amended to read as follows:

§ 133-20. Demolition or boarding up of buildings.

A. A permit shall be obtained for the demolition or boarding up of a building or part thereof. No permit shall be issued unless the applicant executes and delivers to the [~~Commissioner~~] Director of Buildings a bond executed by a solvent surety company authorized to transact business in the State of New York, in an amount to be fixed by the [~~Commissioner~~] Director of Buildings, providing for the holding harmless of the City of Albany and all its officers and departments from all damages which they may sustain or be liable for by reason of the demolition or boarding up of the structures for which the permit is applied, and the applicant shall also furnish the [~~Commissioner~~] Director of Buildings with satisfactory evidence that the applicant carries insurance in a proper amount covering property damage to adjoining property and public liability insurance for the protection of the public.

B. Before any such permit is issued, the applicant is required by law to secure [~~workmen's~~] workers' compensation insurance and shall file with the [~~Commissioner~~] Director of Buildings proper evidence that such insurance has been secured.

C. The permit when issued shall provide that the applicant will comply with all the laws of the State of New York and with the laws and ordinances of the City of Albany, and for failure so to do, the [~~Commissioner~~] Director of Buildings may revoke such permit. Said permit may also be revoked without notice if in the opinion of the [~~Commissioner~~] Director of Buildings or the Commissioner of [~~Public Works~~] the Department of General Services the demolition or boarding up of the building is being conducted in a dangerous or unsafe manner.

D. Notwithstanding the foregoing provisions of this section, no application for demolition under this section shall be approved without prior review and approval of the Planning Board established in accordance with Chapters 42 and 375 of the Code of the City of Albany.

E. (1) In order to facilitate review in accordance with subsection D of this section, every application for demolition shall include standard submittal requirements as determined by the Director of Buildings in consultation with the Commissioner of Planning. Applications must include information necessary to allow the

Planning Board to review the building or use replacing the demolished structure, if applicable, and will include, at a minimum:

(a) building façade elevations;

(b) site plans;

(c) landscaping plans; and

(d) existing and proposed first floor elevations but may also include, and not be limited to sections, floor plans and grading plans.

(2) Any and all zoning approvals required for the proposed building shall be specified. All drawings and plans shall show both existing and proposed façade elevations and clearly identify all new construction and label all materials as new or existing. Complete photos of the exiting structure's exterior shall be provided. Additional information may be required by the Planning Board as deemed necessary to determine conformity with planning standards. Planning standards and criteria can include, but not be limited to:

(a) consistency with the City of Albany comprehensive plan;

(b) neighborhood and district plans; and/or

(c) City or regional planning objectives; and

(d) review by the City's Preservation Planner.

F. In determining whether a demolition permit should be granted, the Planning Board shall consider the following:

(1) the age and condition of the building;

(2) its architectural, archeological or historic importance;

(3) its importance to the streetscape and the surrounding neighborhood;

(4) the cost to maintain or rehabilitate the building; and

(5) the public health and safety.

G. A copy of any application for demolition submitted under this section shall also be submitted by the Commissioner of Buildings upon receipt to the Common Council Member within whose ward the demolition is proposed.

§ 133-21. Demolition for erection of new structure or new use.

When a building is to be demolished to permit the erection of a new structure or for purposes of a new use, such fact shall be stated in the application for such permit. Where a new structure or new use requires approval from the Board of Zoning Appeals in accordance with Chapter 375 of the Code of the City of Albany, a permit shall not be issued until such board has granted necessary approvals for the proposed new structure or new use.

Section 2. Section 375-40 of Article VI (Site Plan Review) of Chapter 375 (Zoning) of the Code of the City of Albany is amended to read as follows:

§ 375-40. [Reserved] Demolition Review

As per §133-20 of the Code of the City of Albany and in order to provide for better oversight of demolitions of buildings or structures and to provide for site plan review for lots where buildings or structures have been demolished, the Planning Board has been designated as the agency responsible for implementing the following demolition review procedure, with the powers and duties described herein.

A. Purpose.

(1) The quality and feel of the City of Albany are heavily shaped by the attributes, integrity, historical and neighborhood character and design and scale of existing residential and non-residential neighborhoods and areas. The preservation, enhancement and continued use of structures with historic, architectural, economic, cultural and/or aesthetic importance are essential in retaining this community and neighborhood character.

(2) The process of demolition alters the characteristics of the site and, whether or not redevelopment is proposed, can significantly impact the natural, social, and economic character of the neighborhood.

(3) The City of Albany Planning Board should decide whether a structure may be removed from the City's urban fabric.

B. Definitions.

BOARD – The Planning Board for the City of Albany, NY

ADMINISTRATOR – The Director of Buildings of the City of Albany, New York, or another City official who is designated by law to fulfill the duties of that position.

CHIEF – The CHIEF of the Department of Fire, Emergency & Building Services or his or her designee.

DEMOLITION – Any act of pulling down, destroying, removing or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT – A permit issued by the Administrator for the demolition of a building or structure.

EMERGENCY DEMOLITION – A demolition authorized when after inspection, it is determined by the Chief that a building or structure poses an imminent threat to the public health or safety of the community.

C. Permit Requirements.

No person shall demolish any building, structure or any portion thereof without a valid demolition permit as issued by the Division of Building & Codes and as prescribed in §133-20.

D. Application Review.

Upon receipt of any application for a demolition permit involving a building or structure, which is located outside of any historic district or designated urban renewal area, the Division of Building & Codes shall refer the applicant to the Planning Board for submittal of a demolition review application.

E. Application.

The applicant must submit a complete application to the Division of Building & Codes in order to be granted a hearing by the Board. A complete application shall include the following:

(1) Appropriate standard forms, fully and accurately completed and signed, as required by other provisions of this chapter or by the rules and regulations adopted by the Board for the conduct of its business.

(2) Other information or documentation, as required by this chapter or by the rules and regulations of the Board.

(3) Payment of the applicable fee.

F. Redevelopment & Restoration Plans.

(1) In addition to the requisite application forms, the applicant shall submit:

- a) **A redevelopment plan for the site that provides for a replacement or rebuilt structure for the structure being demolished or relocated, indicating in sufficient detail the nature, appearance and location of all replacement or rebuilt structures; or**
- b) **For lots to remain vacant, a restoration plan for the property following demolition and/or redevelopment, including a description of materials, grading, landscaping, and maintenance procedures to be utilized to ensure that the restoration conforms to the approved plan and that landscaping survives in a healthy condition.**
- c) **A treatment plan for any walls of adjacent buildings exposed as a result of demolition**

(2) Applications involving more than a single building or structure shall be comprehensively submitted based upon the nature and specifics of the proposed redevelopment or restoration plan, and where determined appropriate by the Board, may be incorporated into the traditional site plan review process. The Board may choose to evaluate individual buildings or structures referenced in the application on a case-by case basis.

G. Zoning Compliance.

Prior to any public hearing on an application the Administrator shall certify that the proposed redevelopment and/or restoration plan meets all requirements, standards and specifications as set forth in Chapter 375 and that any necessary approvals for variances, special use permits or parking lot permits have been granted prior to the demolition review.

H. Review Criterion.

(1) The following criteria shall be evaluated by the Board in their review process, any or all of which may be used by the Board in making its determination to approve or deny an application for a demolition permit:

- a) Whether the demolition and/or proposed redevelopment plan is consistent with the City of Albany Comprehensive Plan, neighborhood or district plans, and/or City or regional planning objectives.
- b) Whether the proposed redevelopment project is consistent with the applicable zoning requirements and in the case that it is not, whether any approvals for a variance, special use permit or parking lot permit have been granted.

- c) Whether the structure has significant historical, architectural, aesthetic or cultural value in its present or restored condition and whether the loss of the building would be detrimental to the historical or architectural heritage of the City.
- d) The relationship of the building to the character of the neighborhood as an established and definable area, the streetscape and its environs, or any adjacent or attached buildings.
- e) The architectural merits of the proposed new construction, as compared to the building or structure proposed to be demolished and as related to the character of surrounding neighborhood or district.
- f) The details of the site plan and proposed use, and the time frame within which the applicant intends to commence the proposed redevelopment of the site.

(2) In making its determination, the Board may also consider:

- a) Whether realistic alternatives, including adaptive uses, are likely based upon the nature or cost of work necessary to preserve the structure.
- b) The condition of the structure(s) and the economic viability of rehabilitation and whether the building or structure can be rehabilitated or reused.
- c) Whether the hardship is self-created, or whether the building or structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain it.
- d) Whether some portion of the building, such as a façade or distinctive architectural details, can or should be retained or reused in the new construction.
- e) Evidence or testimony presented by any established City Board, Committee or Department, community organization, neighborhood association, elected official or member of the general public.

I. Decision and Findings.

Upon consideration of the application submitted and evidence presented, the Planning Board in a reasonable time shall approve, conditionally approve, or deny any application presented for demolition review.

J. Conditions.

The Board shall, in the granting any approval, have the authority to impose such reasonable conditions and restrictions necessary.

K. Complaints of violations; penalties for offenses.

(1) Violation. Any owner of a building and/or structure subject to this ordinance who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first obtaining a building permit for demolition in accordance with the provisions of this ordinance, or who likewise by me causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this ordinance.

(2) Complaints and determinations of violation. Any person alleging violation of this chapter may file a complaint in writing with the Administrator who shall investigate the same and prepare a report

thereon. If reasonable evidence of a violation exists, the Administrator may then revoke or suspend the permit or issue a notice of violation and an order to cease and desist.

(3) Penalties. Any convictions of violating or assisting in the violation of this chapter or the terms and conditions of any certificate of appropriateness shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 15 days, or both, for each offense. Each day that a violation is continued uncorrected or resumed, after the violator is notified, shall constitute a separate offense.

(4) Permits Withheld. No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this ordinance for a period of two (2) years from the date of the completion of such demolition.

(5) Violators may also be subject to the penalties prescribed in § 133A-3 of Chapter 133A of the City Code, if applicable.

L. Limitation of Powers; Internal Review Procedure.

This article shall in no way affect, supersede or abridge any emergency powers or any other powers of the Chief as to public safety, health and welfare.

M. Demolition Diversion Requirements.

A minimum of twenty-five percent (25%) of construction and demolition debris generated from applicable construction, remodeling, or demolition projects shall be diverted from disposal to landfills through recycling, reuse and diversion programs. Separate calculations, plans and reports are required for the construction portion and demolition portion of projects.

N. Severability.

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. Pending the effective date of this ordinance, the Common Council of the City of Albany hereby declares a moratorium on all demolitions under section 133-20 of the Code of the City of Albany, unless the applicant can show that the structure to be demolished is an immediate threat to the public health and safety.

Section 4. Pursuant to Section 42-181(B) of the Code of the City of Albany, the Common Council by rule hereby provides that any application for a demolition permit pending from the date of enactment of this provision until its effective date shall be referred to the Planning Board for final action before any demolition permit shall be granted by the Commissioner of Buildings. In reviewing any such application, the Planning Board shall not authorize any demolition of a building found to have significant architectural, archeological or historic importance unless the Board determines that there is any immediate threat to the public health and safety or that there would be any economic hardship that is not self-created that would result from any delay in demolition pending the effective date of this ordinance.

Section 5. If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 6. This ordinance shall take effect immediately, except section 1 shall take effect 30 days after enactment into law.

Section 2. It is hereby ordered and directed that the sums set forth therein as expenditures are hereby appropriated in the amounts and for the several departments, offices and purposes specified therein.

Section 3. It is further hereby ordered and directed that the sums set forth therein as revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the City shall be and are hereby applicable in the amounts specified for the purpose of meeting said appropriations.

Section 4. This ordinance shall be effective immediately.

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

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

Negative -- Calsolaro, Ellis and Smith

Affirmative 10 Negative 3 Abstain 0

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

CONSIDERATION OF RESOLUTIONS

Council Member Herring introduced the following, which was referred to the Planning, Economic Development and Land Use Committee:

Resolution Number 86.112.09R

RESOLUTION OF THE COMMON COUNCIL APPROVING THE PROPOSED CERTIFICATE OF INCORPORATION AND CONSENTING TO THE FORMATION OF THE CITY OF ALBANY CAPITAL RESOURCE CORPORATION

WHEREAS, on January 31, 2008, Section 854 of the General Municipal Law, commonly referred to as the Civic Facilities Legislation (the "Law") expired and, since the expiration of the Law, industrial development agencies have generally not been able to provide financial assistance to projects owned or operated by not-for-profit corporations (hereinafter referred to as "Civic Facility Projects"); and

WHEREAS, the ability to finance Civic Facility Projects with tax-exempt bonds has been a very important tool for the City of Albany Industrial Development Agency (the "Agency"), as the Civic Facility Projects undertaken by the Agency have increased employment opportunities for residents of the City of Albany and allowed local not-for-profit corporations to upgrade their facilities at the lowest possible cost; and

WHEREAS, local development corporations formed under the New York State Not-For-Profit Corporation Law (the "NFPCL") are created to assist, among others, not-for-profit corporations that are undertaking projects that further any of the following purposes for which local development corporations are created: (1) relieving and reducing unemployment, (2) promoting and providing for additional and maximum employment, (3) bettering and maintaining job opportunities, (4) instructing or training individuals to improve or develop their capabilities for such jobs, (5) carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area and (6) lessening the burdens of government and acting in the public interest; and

WHEREAS, in furtherance of the public purposes set forth above, a local development corporation formed under the NFPCL is empowered to take the following actions: (1) to construct, acquire, rehabilitate and improve for use by others, industrial or manufacturing plants in the territory in which its operations are principally to be conducted, (2) to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, (3) to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, (4) to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, (5) to borrow money and to issue negotiable bonds, notes and other obligations therefor and (6) to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine to be suitable; and

WHEREAS, under the laws of the State of New York, capital resource corporations are permitted to issue tax-exempt bonds for the benefit of qualifying Civic Facility Projects; and

WHEREAS, in accordance with Section 1411(a) of the NFPCL, prior to forming a capital resource corporation, the Agency must obtain the Common Council's approval of the certificate of incorporation that will be used to form the local development corporation; and

WHEREAS, by resolution adopted on October 22, 2009, the Agency has approved the formation of the local development corporation and has requested the Common Council to approve the formation of the local development corporation; and

WHEREAS, the Agency has prepared a proposed certificate of incorporation for review by the Common Council and a copy of such proposed certificate of incorporation is attached hereto as Schedule A; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council authorizes the City of Albany Industrial Development Agency to form the City of Albany Capital Resource Corporation in accordance with Section 1411 of the NFPCL; provided, however, that any obligations issued by the local development corporation, and the premium (if any) and interest thereon, shall be special obligations of the capital resource corporation and shall never be a debt of the State of New York, the City of Albany, New York or any political subdivision thereof (other than the capital resource corporation), and neither the State of New York, the City of Albany, New York nor any political subdivision thereof (other than the capital resource corporation) shall be liable thereon.

BE IT FURTHER RESOLVED, that the Common Council approves the form and substance of the certificate of incorporation presented to the Common Council, attached hereto as Schedule A, in its entirety or in substantially the form thereof presented, with such changes, variations, omissions and insertions as the Common Council shall approve.

RESOLVED, that this resolution shall take effect immediately.

Council Members Fahey, Sano, Calsolaro, Conti, Ellis, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Scalzo, and Smith introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 87.112.09R

RESOLUTION CONGRATULATING PARSONS CHILD AND FAMILY CENTER ON THEIR 180TH ANNIVERSARY

WHEREAS, on December 2, 1829, concerned for the welfare of all children, Parsons opens its doors to two children at the orphanage cottage on Washington Street; and

WHEREAS, in December of 1832, children move from a rented tavern to the Albany Orphan Asylum's first property, a 5-acre site on Western and Robin now occupied by the University at Albany. In 1832, the Asylum's first building was outside of the city, bordered by forest on its western side; and

WHEREAS, in June of 1908, the Asylum relocates to its former farm, a 90-acre site on New Scotland Road; and

WHEREAS, in 1935, the Asylum is renamed The Albany Home for Children; and

WHEREAS, in 1959, the Albany Home sells its New Scotland Avenue campus to Russell Sage College. It uses proceeds from the sale to build two new treatment cottages on the 19-acre Academy Road campus; and

WHEREAS, in 1976, the Albany Home for Children is renamed Parsons Child and Family Center, emphasizing the organization's devotion to family life and child development; and

WHEREAS, today Parsons is the largest multi-services agency in New York's Capital Region dedicated to helping families and their children, serving over 9,000 people. The agency provides counseling services, parenting education, child abuse/neglect prevention and treatment, family strengthening programs, early childhood family support, special education, youth development programs, and mental health services.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany congratulates Parsons Child and Family Center on 180 years of serving children and families and thanks them and their dedicated staff for the services they provide to children and families in need.

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

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

Affirmative 13 Negative 0 Abstain 0

Common Council Member O'Brien offered the following, asked for passage and a roll call vote thereon:

Resolution Number 88.112.09R

AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE "MARCHISELLI" PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID PROJECT, AND APPROPRIATING FUNDS THEREFOR (CENTRAL AVENUE ROAD REHABILITATION PROJECT [P.I.N. 1754.45, .321 PIN EXTENSION])

WHEREAS, a Project for the Highway Reconstruction of Central Avenue (Route 5) from the City Limit to Everett Road, City of Albany, P.I.N. 1754.45 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Albany desires to advance the Project by making a commitment of 100% of the non-federal share of the cost of Preliminary Engineering, Right of Way Incidentals and Construction.

NOW, THEREFORE, the Common Council, duly convened does hereby

RESOLVE, that the Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council hereby authorizes the City of Albany to pay in the first instance 100% of the federal and non-federal share of the cost of Preliminary Engineering, Right of Way Incidentals and Construction work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$16,504,384.00 (Sixteen million five hundred four thousand three hundred eighty four dollars and no cents) has already been appropriated from Ordinance No. 15.42.01 and made available to cover the cost of participation in the Preliminary Engineering Phase (\$1,302,000.00); Right of Way Incidentals Phase (\$33,000.00) and the Construction and Construction Inspection Phases (\$15,169,384.00) of the Project; and it is further

RESOLVED, that the additional sum of \$318,385.00 (Three hundred eighteen thousand three hundred eighty five dollars and no cents) is hereby appropriated pursuant to Ordinance Nos. 15.42.01 and 34.31.06 and made available to cover the cost of participation in the Construction phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Albany shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Mayor of the City of Albany be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Albany with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

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

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

Affirmative 13 Negative 0 Abstain 0

Council Member Conti asked and received majority consent to add Resolution Numbers 89.112.09R and 90.112.09R to the pending agenda, which was approved by unanimous voice vote:

Council Members Herring, O'Brien, Conti, Rosenzweig, Calsolaro, Ellis, Fahey, Fox, Igoe, McLaughlin, O'Brien, Sano, and Smith introduced the following, which was referred to the Planning, Economic Development and Land Use Committee:

Resolution Number 89.112.09R(MC)

A RESOLUTION REQUESTING THE STATE UNIVERSITY OF NEW YORK AT ALBANY, THE UNIVERSITY OF THE STATE OF NEW YORK, THE NEW YORK STATE DORMITORY AUTHORITY, AND OTHER INVOLVED AGENCIES OF GOVERNMENT TO REFRAIN FROM BUILDING STUDENT HOUSING ON AN APPROXIMATELY ELEVEN ACRE SITE ADJACENT TO TUDOR ROAD IN THE CITY OF ALBANY

WHEREAS, the University at Albany has a large student population and many of the students come to the University from outside of the Capital Region therefore requiring local student housing; and

WHEREAS, the University has a capital plan which calls for the building of a campus dorm to house five hundred students; and

WHEREAS, one of the primary locations proposed for this large student dorm is an approximately eleven acre plot of land located adjacent to Tudor Road in the City of Albany; and

WHEREAS, the City of Albany is impacted in many ways by the University, providing to it fire and safety services, EMS services, streets and traffic services, water and sewer services, and other necessary services. Despite the impact and services provided, the University is largely autonomous. It does not pay real property taxes and is not required to comply with local zoning and planning laws; and

WHEREAS, the resident neighbors of the University have expressed serious concerns regarding the impact of such large proposed student dorm on their neighborhood; and

WHEREAS, there are many genuine concerns over locating such a large facility at this site including: the section of Western Avenue in proximity to the proposed site for this student dorm, has been the location of numerous accidents in recent years, including three fatalities; the development of this currently wooded approximately eleven acre area would cause additional storm water runoff into an area of Western Avenue which is already prone to flooding; the closest sanitary sewer line to the proposed site is only a twelve inch diameter pipe; the combined downstream storm water capacity is already inadequate to handle the current overflow, causing sewer back ups even in down stream areas remote from the University Campus; the existing conditions already necessitate a SPEDES permit for the overflow discharge of sanitary sewerage into the Krumkill Creek at the City of Albany's Woodville Pumping Station; and the additional sewer use from this project would potentially violate the consent order between the City of Albany and the Department of Environmental conservation regarding combined sewer overflow levels; and

WHEREAS, the University has already been designated as its own lead agency in determining whether or not to conduct full SEQRA environmental review regarding the proposed construction project; and

WHEREAS, the ideal of a University is to foster cooperation and understanding between academia and its host community; and

WHEREAS, the Common Council appreciates the recent efforts of the University to consider alternatives to this location and to take a closer look at the impacts of the proposal.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany calls upon the State University of New York at Albany, the University of the State of New York, the New York State Dormitory Authority, and all other involved governmental agencies, to refrain from building the proposed

student dorm on the approximately eleven acre site adjacent to Tudor Road in the City of Albany, and to consider other sites which will have less negative impact on the City of Albany and its neighborhoods.

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

Resolution Number 90.112.09R (MC)

RESOLUTION OF THE COMMON COUNCIL OUTLINING ITS ACTIONS AND EXPRESSING ITS FINDINGS AND INTENT WITH REGARD TO ADOPTION OF THE FISCAL YEAR 2010 CITY OF ALBANY BUDGET AS PROPOSED IN ORDINANCE 66.101.09 (AS AMENDED) ENTITLED: “AN ORDINANCE ADOPTING THE BUDGET AS PROPOSED BY THE MAYOR ON OCTOBER 1, 2009, FOR FISCAL YEAR 2010”

WHEREAS on October 1, 2009 the Common Council received the proposed budget for the City of Albany for fiscal year 2010; and

WHEREAS subsequent to receipt of such budget, the Common Council engaged in an extensive review of the proposal which included meeting with department heads, holding two public hearings, discussion of the city’s financial status and identification of budget priorities; and

WHEREAS as a result of this process the Council has adopted Ordinance Number 66.101.09 (as amended) which adopts the fiscal year 2010 City of Albany budget with revisions;

NOW, THEREFORE, BE IT RESOLVED that the Common Council does adopt the following statement outlining its actions and expressing its findings and intent with regard to adoption of the fiscal year 2010 City of Albany budget; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the Mayor, Deputy Mayor, Budget Director and all other department heads; and

BE IT FURTHER RESOLVED that a copy of the “Statement of Common Council Actions, Findings and Intent” as herein adopted be printed in the final bound document constituting the “City of Albany 2010 Budget” immediately following the Mayor’s transmittal message.

**2010 City of Albany Budget
Statement of Common Council Actions, Findings and Intent**

The Common Council has completed its review of the proposed 2010 City of Albany budget. This statement summarizes the Council’s actions, findings and intent with regard to adoption of Ordinance 66.101.09.

Overview

The Common Council recognizes that the City of Albany is facing significant financial challenges in the upcoming fiscal year and beyond. Among which are:

- Reductions in state aid payments under the Aid Incentives to Municipalities (AIM) program;
- Scheduled reductions in PILOT payments under section 19-A of the NYS Public Lands Law;
- Increased State-mandated contributions to the NYS Employee-Retirement System;
- Increased costs related to employee salary and health benefits.

While the proposed budget maintains the property tax levy at last year's level, it also anticipates the use of \$5,261,000 from the Fund Balance to meet net increased expenditures. We need to move beyond short-term fiscal management to structural reforms that will carry us into future years and an opportunity to make government more efficient and affordable. In the year ahead, notwithstanding the amounts appropriated for 2010, department heads must aggressively manage expenditures in all areas, no matter how small, to meet this challenge.

To deal with the longer term issues, the Council is proposing two initiatives discussed more fully at the end of this statement.

Finally, as we move forward, the Council remains committed to working with the Administration on efforts to secure enhanced state aid which rectify inequitable funding formulas and identifying new sources of revenue, especially expanded PILOT agreements with non-governmental entities, to help maintain the delivery of services to residents and non-resident visitors and commuters. As part of this effort we will work to assure that our elected representatives in the State Legislature are more fully aware of the financial challenges facing Albany as New York State's capital city.

Council Revisions

Department of General Services

The Council places a high priority on enhanced recycling but also realizes that there is variability in the market for recyclables. Nonetheless, recycling compliance works best when the rules are simple. Currently, the City limits plastic recycling to #'s 1 and 2, while based on current market conditions, expanding plastic recycling to #'s 3 through 7 will require increased expenditures to dispose of recycled material, the Council believes that there is a greater benefit to expanding plastic recycling, thereby simplifying the rules and likely enhancing compliance. In addition, expanded collection of plastics for recycling will reduce utilization of landfill space and extend its anticipated life. The Council therefore adds \$142,500 in additional funds to support a waste hauler contract that includes expanded collection of plastics for recycling. The Council believes that costs of increased public education regarding the expanded recycling rules can be minimized and therefore adds an additional \$7,500 to support education related materials.

Offices of City Auditor and Treasurer

As a result of Albany City Charter revisions adopted in 1998, the Office of Comptroller is eliminated effective January 1, 2010 and a new Office of City Auditor is established. Many of the functions of the Office of Comptroller, including designation of Chief Financial Officer, are transferred to the Treasurer's office. The proposed budget makes various staffing changes to reflect these revised responsibilities. The incoming City Auditor has requested additional staffing for his office; the Council defers action on that request at this time without prejudice. The Council is committed to re-examining staffing needs within the Auditor's office early in the new year once there is a better understanding of need and a more defined work plan is put in place.

Public Safety Staffing Reports

As part of the 2009 budget the Council requested quarterly staffing reports from both the Fire Chief and Police Chief for their respective departments, the Council continues that request for 2010 and directs that such reports be submitted to the Clerk of the Common Council for dissemination to Council Members.

Capital Budget

The Council has reviewed the proposed 2010 Capital Budget; it will review it more closely in 2010 during the consideration of separate bonding ordinances and for consistency with the adopted debt policy. In the interim, the Council adjusts the proposed 2010 Capital Budget to include an additional \$125,000 in bonding authorization for traffic signals with the intent that the increased funding supports traffic signal enhancements at the Harriet B. Myers Middle School.

Longer Term Financial Management

As indicated at the outset, this budget must be treated as a bridge to long term fiscal stability and addressing our financial challenges. As we move forward, we must understand that our financial situation continues to be pressured.

To that end, we must begin to look at longer term restructuring.

Independent Management Audits

The use of targeted independent outside management audits of certain departments is one way to look for efficiencies. The Council has included funding in past budgets, which is continued in the 2010 proposal, to fund targeted management audits. The Council directs that for 2010 this funding be targeted toward the code enforcement function including areas related to inter-departmental co-ordination and accountability and the need to establish a central focus point for code enforcement activity and intake. The parameters of this audit should be more fully developed by the Ad Hoc Committee described below.

On-Going Financial Management and Oversight

Addressing the challenges ahead must be part of a cooperative effort between the Executive and Legislative branches of government as well as with our other elected officials. To that end, the Council is proposing an Ad Hoc Committee on Financial Management and Oversight to include the:

- Council Leadership and Chair and Vice Chair of the Committee on Finance, Taxation and Assessment;
- Appropriate representatives of the Executive Branch; and
- City Treasurer and Auditor.

This Ad Hoc Committee should meet on an at least monthly basis to monitor the City's financial situation, identify areas for potential economies and efficiencies, examine options for government restructuring and mechanisms to enhance financial management. This committee should work with departments toward reducing expenditures during the course of the year. The committee should report on a quarterly basis to the public.

Conclusion

In previous resolutions the Council has outlined opportunities for longer term restructuring, we continue to advocate examination of those options through the Ad Hoc Committee. We believe that restructuring and meeting our financial challenges can only come through a partnership which involves all branches working together on an on-going basis; addressing the challenges ahead must be part of a cooperative effort. The Council is committed to being a part of that process. All of us in city government share the same goals: stable finances, a level of services necessary to meet public needs, and a minimal tax burden on residents. We need to continue our efforts at economic and neighborhood development that will make Albany a "community of choice" for Capital District residents seeking an optimal quality of life.

With adoption of Ordinance 66.101.09 as amended and this resolution, we complete action on the fiscal year 2010 City of Albany budget.

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

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

Affirmative 13 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 McLaughlin 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:

Morales, Toni M, 30 Summit Avenue, Albany, NY 12209

ADJOURNMENT

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 November 16th, 2009.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL