

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday March 19, 2012
Draft: May 7, 2012 Approved:

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: Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O'Brien, Rosenzweig, Sano, and Smith.

Also present were the following staff: Cashawna Parker, Nala Woodard, Patrick Jordan, and Barbara Samel.

Council Member Bailey led the Pledge of Allegiance.

PUBLIC HEARING

Clerk to the Common Council Nala Woodard read the notice of the public hearing on the City of ALBANY 2030 COMPREHENSIVE PLAN. The following individuals spoke:

1. Doug Melnick, Director of Planning, 21 Lodge Street, Albany, NY;
2. Gene Solan, 126 S. Allen Street, Albany, NY;
3. Marlon Anderson, 491 Livingston Avenue, Albany, NY;
4. Vincent Riguso, 13 Beach Avenue, Albany, NY;
5. Helen Klaeyesen, 817 Livingston Avenue, Albany, NY;
6. Jeff Gritsavage, 266 Lark Street, Albany, NY;
7. Arlene Way, 17 Second Street, Albany, NY.

PUBLIC COMMENT PERIOD

1. Marlon Anderson, 491 Livingston Avenue, Albany, NY (Community Centers);
2. John Armstrong, 562 Madison Avenue, Albany, NY (Hydrofracking);
3. Jessie Rosenthal, 55 S. Lake Avenue, Albany, NY (Hydrofracking);
4. Sandy Steubing, 680 Central Avenue, Albany, NY (Peak Oil Production);
5. Cory Ellis, 69 Ten Broeck Street, Albany, NY (Term Limits/Public Financing of Elections);
6. Calvin Thomas, 6 S. Lake Avenue, Albany, NY (Hydrofracking);
7. Mara Schechter, 113 Pine Hurst Avenue, Albany, NY (Hydrofracking);
8. Siobhan Burke, 1635 Van Vranken Avenue 2nd Fl., Schenectady, NY (Hydrofracking);
9. Daniel Morrissey, 98 Grand Street, Albany, NY (Hydrofracking);
10. Mary Finnerman, 104 Jerome Court, Cairo, NY (Hydrofracking).

Majority Leader Herring made a motion to extend public comment for 20 additional minutes, which was approved by unanimous voice vote.

11. Brendan Kelly, 472 Madison Avenue, Albany, NY (Hydrofracking);
12. Susan Holland, Historic Albany Foundation, 89 Lexington Avenue, Albany, NY (Ordinance 13.21.12);
13. Helena Kosorek, 172 Gifford Road, Greenville, NY (Hydrofracking).

There being no further speakers, the President declared the public comment period closed.

CONSIDERATION OF LOCAL LAWS

The local laws on the agenda were held at the request of Majority Leader Herring.

REPORTS OF STANDING COMMITTEES

Public Safety – Chairwoman Smith stated that the committee met on March 7, 2012 to discuss Local Law B-2010 regarding multiple complaints against an officer. Deputy Chief Reilly and CPRB Chair, Reverend Smart were present and she felt that the committee had a good discussion. She stated that the sponsor was unable to be present and more information is needed, so the Committee held this legislation for further discussion.

General Services, Health and Environment – Chairman O'Brien stated that he had a discussion with Joe Giebelhaus (Landfill) to get reports on the landfill restoration and he will be available to meet. Mr. Giebelhaus is preparing a summary of reports that were submitted to the Department of Environmental Conservation to present to the Council.

Human Resources and Human Rights – Chairwoman Fahey stated the Committee would be meeting on March 21, 2012 at 5:30 p.m. to discuss Local Law C-2010 relating to employee residency requirements and diversity in the City workforce.

Finance, Taxation and Assessment – Chairman Sano stated that the Committee would be meeting on March 22, 2012 at 5:30 p.m. with the City Treasurer to discuss bonding and the City debt limit.

Planning, Economic Development and Land Use – Council Member Rosenzweig stated that the Committee met on March 14, 2012 and took up several appointments to various boards. All were voted out of committee favorably. The Committee also discussed Resolution Number 7.21.12R relating to the Capital Resource Corporation, which was favorably recommended out of committee. He stated that Mr. Anthony Potenza of the CPRB was present at the meeting.

Housing and Community Development – Chairman Calsolaro stated that he wanted to remind Council Members that the public hearing on the CDBG would be held March 20, 2012 at 5:30 p.m. at 200 Henry Johnson Boulevard.

CONSIDERATION OF ORDINANCES

Council Member Sano introduced ORDINANCE NUMBER 17.32.12, which was referred to the Finance, Taxation and Assessment Committee:

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$450,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$450,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (POLICE VEHICLES)

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

Section 1. The objects or purposes to be authorized and financed pursuant to this ordinance are set forth below, together with estimates of the maximum estimated costs thereof; determinations of the periods of probable usefulness thereof and the subparagraphs of Section 11.00(a) of the New York Local Finance Law pursuant to which it is determined; the maximum amount of the bonds to be issued with respect to such object or purpose and the maximum term of the obligations to be issued with respect to each project or purpose.

Object or Purpose: Passenger vehicle other than a school bus

Local Finance Law Section 11.00(a) Subparagraph 77

Period of Probable Usefulness: 3 years

Maximum Term of Obligations: 3 years

Maximum Estimated Cost: \$450,000.00

Maximum Amount of Bonds: \$450,000.00

Treasurer's Bond Authorization Numbers: R-12

Treasurer's Project Numbers: GH 31208218

Section 2. The plan of financing such objects or purposes is the lease financing of or the issuance of \$450,000.00 serial bonds hereby authorized to be issued.

Section 3. It is hereby ordered and directed that the projects specified above be undertaken and the amounts set forth as the maximum estimated costs are hereby appropriated therefor. The Board of Contract and Supply is hereby authorized to take such necessary and further steps to carry out the provisions of this section.

Section 4. Pending the sale of the bonds herein authorized, the temporary use of funds from the City's general fund, pursuant to the provisions of section 165.10 of the New York Local Finance Law, is hereby authorized. The City reasonably expects to reimburse such temporary expenditures with the proceeds of the bonds or bond anticipation notes authorized by section 1 of this ordinance. This ordinance shall constitute the City's "official intent" to reimburse such temporary expenditures in accordance with United States Treasury Regulation section 1.150-2.

Section 5. The faith and credit of the City of Albany, New York are hereby irrevocably pledged for the payment of the principal of and interest on such leases or bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such leases or bonds becoming due and payable in such year and such debt service payments may be made in substantially level or declining amounts as may be authorized by law. There shall annually be levied on all taxable real property of said City, a tax sufficient to pay the principal of and interest on such leases or bonds as the same become due and payable.

Section 6. Subject to the provisions of the New York Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and

sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated in the City Treasurer, as chief fiscal officer of the City of Albany. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of Local Finance Law.

Section 7. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the leases or bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial issuer of the leases or the purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934.

Section 9. The validity of such leases or bonds and bond anticipation notes may be contested only if:

(a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this ordinance pursuant to Section 8 hereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publications, or

(c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. Upon this ordinance taking effect, the Clerk of the Common Council is hereby authorized and directed to publish the same together with a notice in substantially the form set forth in section 81.00 of the New York Local Finance Law.

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitute either unlisted of Type II actions under the New York State Environmental Quality Review Act and the regulations promulgated thereunder having no adverse effect upon the environment.

Section 12. This ordinance shall be dated March 19, 2012 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Council Member Sano introduced ORDINANCE NUMBER 18.32.12, which was referred to the Finance, Taxation and Assessment Committee:

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$115,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$115,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (POLICE SPECIAL USE VEHICLES)

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

Section 1. The objects or purposes to be authorized and financed pursuant to this ordinance are set forth below, together with estimates of the maximum estimated costs thereof; determinations of the periods of probable usefulness thereof and the subparagraphs of Section 11.00(a) of the New York Local Finance Law pursuant to which it is determined; the maximum amount of the bonds to be issued with respect to such object or purpose and the maximum term of the obligations to be issued with respect to each project or purpose.

Object or Purpose: Passenger vehicle other than a school bus

Local Finance Law Section 11.00(a) Subparagraph 77

Period of Probable Usefulness: 3 years

Maximum Term of Obligations: 3 years

Maximum Estimated Cost: \$115,000.00

Maximum Amount of Bonds: \$115,000.00

Treasurer's Bond Authorization Numbers: S-12

Treasurer's Project Numbers: GH 33108219

Section 2. The plan of financing such objects or purposes is the lease financing of or the issuance of \$115,000.00 serial bonds hereby authorized to be issued.

Section 3. It is hereby ordered and directed that the projects specified above be undertaken and the amounts set forth as the maximum estimated costs are hereby appropriated therefor. The Board of Contract and Supply is hereby authorized to take such necessary and further steps to carry out the provisions of this section.

Section 4. Pending the sale of the bonds herein authorized, the temporary use of funds from the City's general fund, pursuant to the provisions of section 165.10 of the New York Local Finance Law, is hereby authorized. The City reasonably expects to reimburse such temporary expenditures with the proceeds of the bonds or bond anticipation notes authorized by section 1 of this ordinance. This ordinance shall constitute the City's "official intent" to reimburse such temporary expenditures in accordance with United States Treasury Regulation section 1.150-2.

Section 5. The faith and credit of the City of Albany, New York are hereby irrevocably pledged for the payment of the principal of and interest on such leases or bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such leases or bonds becoming due and payable in such year and such debt service payments may be made in substantially level or declining amounts as may be authorized by law. There shall annually be levied on all taxable real property of said City, a tax sufficient to pay the principal of and interest on such leases or bonds as the same become due and payable.

Section 6. Subject to the provisions of the New York Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated in the City Treasurer, as chief fiscal officer of the City of Albany. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of Local Finance Law.

Section 7. The City Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the leases or bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The City Treasurer is further authorized to enter into a continuing disclosure agreement with the initial issuer of the leases or the purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934.

Section 9. The validity of such leases or bonds and bond anticipation notes may be contested only if:

(a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this ordinance pursuant to Section 8 hereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publications, or

(c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. Upon this ordinance taking effect, the Clerk of the Common Council is hereby authorized and directed to publish the same together with a notice in substantially the form set forth in section 81.00 of the New York Local Finance Law.

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitute either unlisted of Type II actions under the New York State Environmental Quality Review Act and the regulations promulgated thereunder having no adverse effect upon the environment.

Section 12. This ordinance shall be dated March 19, 2012 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Council Member Calsolaro introduced ORDINANCE NUMBER 19.32.12:

AN ORDINANCE AMENDING ARTICLE XIV (SPECIFIC USE REGULATIONS) OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO NATURAL GAS EXTRACTION

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

Section 1. Article XIV of Chapter 375 of the Code of the City of Albany is hereby amended by adding thereto a new Section 375-112-a to read as follows:

§ 375-112-a. Natural Gas Extraction.

The Common Council of the City of Albany finds, declares and determines that the exploration for natural gas, the extraction of natural gas and the storage, transfer, treatment or disposal of natural gas exploration and production wastes in the urban environment of Albany poses a significant threat to its residents' health, safety and welfare. If natural gas exploration or extraction or the storage, transfer, treatment or disposal of natural gas exploration and production wastes were to occur within the City, this activity would endanger the health, safety and welfare of City residents through the deposit of toxins into the air, soil, water, environment and the bodies of residents within the City. Clean air and water are essential to most resources and activities in the Albany area and the quality of the air and the water will be degraded by natural

gas exploration and extraction activities and/or the storage, transfer treatment or disposal of natural gas exploration and production wastes and natural gas exploration and extraction activities and the storage, transfer, treatment or disposal of natural gas exploration and production wastes may presently or in the future cause irreparable harm to the City's water supply, pollution of the water, soil and air, and may cause cancer, lung disease and respiratory diseases. This ordinance is not directed at the regulatory scheme for the operation of natural gas wells under the Oil, Gas & Solution Mining Law of New York State. It only addresses land use and nuisance concerns and the protection of the health, safety and welfare of the people of the City of Albany and the enhancement of its physical environment.

- A. "Exploration" shall mean geologic or geophysical activities related to the search for natural gas or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas deposits.
- B. "Natural Gas" shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.
- C. "Natural Gas Exploration and Production Wastes" shall mean any garbage, refuse, sludge, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from the exploration, drilling or extraction of natural gas.
- D. No person, firm or corporation shall conduct any exploration for natural gas; drill any well for natural gas; transfer, store, treat, or dispose of natural gas exploration or production wastes; or erect any derrick, building, or other structure or place any machinery or equipment for such purpose within the territorial boundaries of the City of Albany.
- E. The storage, transfer, treatment and/or disposal of natural gas exploration and production wastes are hazardous wastes within the meaning of this Code. No person, firm or corporation shall engage in the storage, transfer, treatment and/or disposal of natural gas exploration and production wastes within territorial boundaries of the City of Albany. No permit issued by any state or federal agency, commission or board to any person, firm or corporation, which would violate the prohibitions of this Ordinance shall be deemed valid within the City of Albany.

The Ordinances on the pending agenda were held at the request of Majority Leader Herring.

CONSIDERATION OF RESOLUTIONS

Council Members Fahey, Bailey, Calsolaro, Commisso, Conti, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith offered RESOLUTION 16.32.12R, asked for passage and a roll call vote thereon:

RESOLUTION OF THE COMMON COUNCIL CONGRATULATING COUNCIL MEMBER BARBARA SMITH FOR HER DESIGNATION AS ONE OF THE "WOMEN WHO MAKE AMERICA"

WHEREAS, Barbara Smith is a Common Council Member in her 2nd term as representative of Albany's 4th ward; and

WHEREAS, Hon. Smith's work on the Council benefiting her constituents is exemplary and has contributed to improvements particularly in the areas of public safety and education; and

WHEREAS, Council Member Smith has expertise in the area of black women's literature; and

WHEREAS, Council Member Smith was a co-founder in 1980 of Kitchen Table: Women of Color Press, the first U.S. publisher for women of color; and

WHEREAS, Council Member Smith's work as a publisher of women of color literature is groundbreaking; and

WHEREAS, Council Member Smith has received national designation as one of the "Makers: Women Who Make America".

NOW, THEREFORE, BE IT RESOLVED, that Albany's Common Council congratulates Council Member Barbara Smith for her outstanding contributions to both the City of Albany and American culture.

Council Members Fahey, Golby, Smith, and Council President McLaughlin spoke on this resolution prior to passage.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O'Brien, Rosenzweig, Sano and Smith

Affirmative 13 Negative 0 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 49.72.11R (RESOLUTION OF THE COMMON COUNCIL CONSENTING TO THE APPOINTMENT OF JEFFREY SPERRY AS A MEMBER OF THE ALBANY PARKING AUTHORITY), which has been previously introduced.

Resolution Number 49.72.11R was co-sponsored by Council Member Freeman.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O'Brien, Rosenzweig, Sano and Smith

Affirmative 13 Negative 0 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 82.111.11R (RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT

OF NORMAN RICE AS A MEMBER OF THE HISTORIC RESOURCES COMMISSION), which had been previously introduced.

Resolution Number 82.111.11R was co-sponsored by Council Member Freeman.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O'Brien, Rosenzweig, Sano and Smith

Affirmative 13 Negative 0 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 83.111.11R (RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF JOHN J. WAGNER AS A MEMBER OF THE HISTORIC RESOURCES COMMISSION), which had been previously introduced.

Resolution Number 83.111.11R was co-sponsored by Council Member Freeman.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O'Brien, Rosenzweig, Sano and Smith

Affirmative 13 Negative 0 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 7.21.12R (RESOLUTION OF THE COMMON COUNCIL AUTHORIZING AND APPROVING THE CONTINUATION OF THE CITY OF ALBANY CAPITAL RESOURCE CORPORATION), which had been previously introduced.

**Note: Council Members Calsolaro, Konev and Golby spoke on the resolution prior to passage.*

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Commisso, Fahey, Golby, Herring, Igoe, O'Brien, Rosenzweig, and Sano
Negative – Calsolaro, Freeman, Konev, and Smith

Affirmative 9 Negative 4 Abstain 0

Council Member Herring asked for passage of RESOLUTION NUMBER 14.31.12R (RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF GLENN G. VIELE AS A MEMBER OF THE BOARD OF ZONING APPEALS), which had been previously introduced.

**Note: Council Member Calsolaro spoke on this resolution prior to passage.*

Resolution Number 14.3112R was co-sponsored by Council Member Igoe.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Commisso, Fahey, Golby, Herring, Igoe, O’Brien, Rosenzweig, Sano and Smith

Negative – Calsolaro, Freeman, and Konev

Affirmative 10 Negative 3 Abstain 0

Council Member Smith asked for passage of RESOLUTION NUMBER 8.21.12R (RESOLUTION OF THE COMMON COUNCIL RE-APPOINTING ANTHONY F. POTENZA AS A MEMBER OF THE CITIZENS’ POLICE REVIEW BOARD), which had been previously introduced.

Resolution Number 8.21.12R was co-sponsored by Council Members Igoe, Konev, O’Brien, Rosenzweig and Sano.

The resolution passed by the majority vote of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Fahey, Freeman, Golby, Herring, Igoe, Konev, O’Brien, Rosenzweig, Sano and Smith

Affirmative 13 Negative 0 Abstain 0

The remaining resolutions on the agenda were held at the request of Majority Leader Herring.

MISCELLANEOUS OR UNFINISHED BUSINESS

Majority Leader Herring offered the following, which was adopted 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, 2012, AND WAIVE THE READING OF THE NAMES:

1. Melissa Gipson

ADJOURNMENT

Majority Leader Herring made a motion to adjourn. President McLaughlin, hearing no objections, stated that the meeting was adjourned.

A true record of the Common Council March 19, 2012.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL