

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

Monday, October 19, 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, Smith, and Timmons.

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

Council Member Igoe led the Pledge of Allegiance.

Council Member Conti made a motion to change the order of business to allow for the introduction and consideration of Resolution Number 80.102.09R, which was approved by unanimous voice vote.

Council Members Igoe, Calsolaro, Casey, Conti, Ellis, Fahey, Fox, Herring, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons introduced the following resolution, which was approved:

RESOLUTION NUMBER 82.102.09R (MC)

**RESOLUTION CONGRATULATING HAROLD GREENSTEIN ON HIS 85TH BIRTHDAY AND
THANKING HIM FOR HIS MANY YEARS OF SERVICE TO THE CITY OF ALBANY**

WHEREAS, Harold Greenstein was born on Oct. 10, 1924 in New Britain, Connecticut, the youngest child and only son of Edward and Sarah Wellins Greenstein, and

WHEREAS, Mr. Greenstein was attending Purdue University when he was drafted into the U.S. Navy and was assigned to Admiral Nimitz's personal staff, and

WHEREAS, he moved to Albany in 1946 and began work in the family wholesale wine and liquor business where he made his vocational career for the next 41 years. Harold and his wife of over fifty years, Beverly raised a family of four children. He now has six grandsons, and

WHEREAS, he was a member of the first Albany City School District Elected School Board in 1972 serving until 1975, and

WHEREAS, Harold Greenstein was elected to the Albany City Common Council in 1975 representing the 14th Ward as Alderman where he served until 1997. He served as majority leader of the Common Council and under his leadership significant programs were launched with the cooperation of the mayor. These initiatives included the management and audit study that guided decisions for streamlining city government; the Albany Charter Reform Commission; and the Parks Commission, and

WHEREAS, he presently serves as the Chairman of the City of Albany Civil Service Commission, serves as the Freedom of Information Appeals Officer for the City of Albany, and serves as a court attendant for the New York State Unified Court System. He has always been proud of his Democratic party affiliation, having a special relationship with the late Mayor Erastus Corning, and

WHEREAS, on October 10, 2009, Harold Greenstein celebrated his 85th birthday. The City of Albany deeply appreciates his hard work and dedication over many years.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany congratulates Harold Greenstein on his 85th birthday and wishes him continued health and happiness.

BE IT FURTHER RESOLVED, that the Common Council of the City of Albany wishes to thank Harold for his many years of service and contributions to the City of Albany.

**Note: There was discussion honoring the life of Harold Greenstein and his overall commitment to the City of Albany.*

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, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

PUBLIC HEARING

Clerk to the Council John Marsolais read the notice of the public hearing on the proposed City of Albany 2010 budget. The following individuals spoke:

1. Terry O'Neil, 102 Willet St., Albany, NY 12210
2. Anton Konev, 268 Washington Ave. Apt. L4, Albany, NY 12203
3. Brian Levine, 43 Buell St., Albany, NY 12206
4. Dr. Leonard Morgenbesser, 219 Tampa Ave., Albany, NY 12208
5. Daniel Curtis, 135 Spring St., Albany, NY 12208
6. Luke Gucker, 9 Western Ave., Albany, NY 12206

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

PUBLIC COMMENT PERIOD

1. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (APD Labor Contract)
2. Luke Gucker, 9 Western Ave., Albany, NY 12206 (Proposed Demolition Ordinance)
3. Dan Curtis, 135 Spring St., Albany, NY 12208 (Public Hearings on Demolitions)
4. Dr. Leonard Morgenbesser, 219 Tampa Ave. Albany, NY 12208 (Senator Monserrate)
5. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Tax Exempt Properties/Residential Laws)
6. Susan Holland, Historic Albany Foundation (Demolitions)

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

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Conti made a motion to approve the minutes of the September 10 and September 21, 2009, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

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

LOCAL LAW I - 2009

A LOCAL LAW AMENDING VARIOUS SECTIONS OF THE CODE OF THE CITY OF ALBANY TO ELIMINATE THE POSITION OF COMMISSIONER OF PUBLIC SAFETY AND REFERENCES TO THAT POSITION

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

Section 1. Part 3 (Department of Public Safety) of Chapter 42 of the Code of the City of Albany is hereby repealed in its entirety:

§ 42-69. Establishment.

There is hereby established a department known as the "Department of Public Safety."

§ 42-70. Commissioner of Public Safety.

~~There shall be appointed by the Mayor a Commissioner of Public Safety, who shall head the Department of Public Safety and carry out the functions and duties thereof. The Commissioner shall serve and hold such office at the pleasure of the Mayor. The Commissioner shall appoint such deputies, directors, and other subordinates as shall be authorized by the Board of Estimate and Apportionment and who shall serve at the Commissioner's pleasure.~~

§ 42-71. Scope, powers, and duties of Commissioner.

~~The Commissioner of Public Safety shall have cognizance, jurisdiction, supervision, and control of the government, administration, disposition, and discipline of the Police Department and the Department of Fire, Emergency, and Building Services, and of the officers and members of said departments. The Commissioner shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance, and direction of said departments, and the apparatus and property thereof and buildings furnished therefor. The Commissioner shall have the general direction and supervision of the expenditure of all moneys appropriated to said departments. In addition, the Commissioner shall possess such other powers and perform such other duties as may be prescribed by the law or by ordinance of the Common Council.~~

§ 42-72. (Reserved)

Section 2. Section 20-2 of Chapter 20 (Bureau of Buildings) of the Code of the City of Albany is hereby amended to read as follows:

§ 20-2. Superintendent of Buildings; head of Bureau of Buildings; qualifications.

~~The Commissioner of Public Safety of the City of Albany shall appoint a Superintendent of Buildings who shall be the head of the Bureau of Buildings and shall hold office during his pleasure. He shall be either a civil engineer of not less than five (5) years' experience in his profession or an architect, a general building contractor or a person engaged in the supervision~~

Matter in ~~strikethrough~~ to be deleted. Matter underlined is new material.

~~of building construction of not less than ten (10) years' actual experience in his profession or occupation. The Commissioner of Public Safety may also appoint such inspectors and other subordinates as may from time to time be prescribed by the Board of Estimate and Apportionment. Before entering upon the performance of the duties of his office, the Superintendent shall execute and file with the City Clerk an official undertaking in such penal sum as may be prescribed by the Common Council.~~

Section 3. Section 42-87(H) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

H. Upon Common Council approval of a designation, a list of the landmarks or historic districts designated shall be filed with the City Clerk, the Director of Planning, ~~the Commissioner of Public Safety~~, the City Engineer and the Albany County Hall of Records.

Section 4. Section 42-92(B) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

B. It shall be the duty of the ~~Commissioner of Public Safety~~ Director of the Division of Buildings and Codes to inspect any such work during the course of construction to ensure compliance. In the event that any such inspection reveals that the work is not being carried out in compliance with the certificate of appropriateness, the ~~Commissioner~~ Director shall order the work to cease and may order corrections to be made. In addition, the ~~Commissioner~~ Director may revoke the building permit.

Section 5. Section 42-93(A) of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

A. Complaints and determinations of violation. Any person alleging violation of this chapter may file a complaint in writing with the ~~Commissioner~~ Director, who shall investigate the same and prepare a report thereon. If reasonable evidence of a violation exists, the ~~Commissioner~~ Director may then revoke or suspend the permit or issue a notice of violation and an order to cease and desist.

Section 6. Section 42-96 of Part 4 (Historic Resources Commission) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

~~§ 42-96. Limitation of powers.~~

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

Section 7. Section 42-360(A) of Part 35 (Office of the City Archaeologist) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

A. The City Archaeologist shall be a professional archaeologist who meets the professional qualification standards set forth in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. The City Archaeologist shall advise the Mayor, the Common Council, the Historic Resources Commission, the Planning Board, the Board of Zoning Appeals, ~~the Commissioner of Public Safety~~ the Division of Building and Codes, the Engineering Department, and the Planning Department on archaeological matters in the City of Albany.

Section 8. Section 42-360(B)(4) of Part 35 (Office of the City Archaeologist) of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

(4) To render advisory opinions to the Mayor, the Common Council, the Historic Resources Commission, the Planning Board, the Board of Zoning Appeals, ~~the Commissioner of Public Safety~~ the Division of Buildings and Codes, the Engineering Department, and the Planning Department with regard to archaeological resources;

Section 9. Section 255-44 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

For the purposes of this article, the following terms shall have the meanings indicated, unless the context clearly requires otherwise:

COMMISSIONER CHIEF

The ~~Commissioner of Public Safety~~ Chief of Police or his or her designee.

Section 10. Section 255-45 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

In addition to the enforcement procedures established elsewhere in this article, the ~~Commissioner~~ Chief, after notice and opportunity for a hearing, shall be authorized:

- A. To order the discontinuance of such activity at the premises where such public nuisance exists; and/or
- B. To order the closing of the premises to the extent necessary to abate the public nuisance.

Section 11. Section 255-46 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. Prior to the issuance of an order by the ~~Commissioner~~ Chief, pursuant to this article, the ~~Commissioner~~ Chief shall give notice and opportunity for a hearing to the owner, and any other person directly or indirectly in control of the premises wherein the public nuisance is being conducted, maintained or permitted. Such notice and opportunity to be heard may be given to a mortgagee of the premises. Such notice shall be served upon an owner or any other person directly or indirectly in control of the premises pursuant to Article 3 of the New York State Civil Practice Law and Rules, and upon a mortgagee by means of certified mail, return receipt requested, sent to the mortgagee's last known address, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting without the necessity of filing proof of service with the clerk of the court.

B. The notice provided for in Subsection A of this section shall:

- (1) Specify the activity creating the public nuisance;
- (2) Provide 30 days for elimination of the public nuisance;
- (3) Inform the person to whom it is directed of their right to apply within 10 days of service of the notice for a hearing before the ~~Commissioner~~ Chief;
- (4) Inform the owner or any other person directly or indirectly in control of the premise that upon expiration of 30 days after service without a hearing before the ~~Commissioner~~ Chief, or upon noncompliance with any written agreement reached at the hearing, the ~~Commissioner~~ Chief shall act to obtain compliance as provided by this article; and
- (5) Inform the owner or any other person directly or indirectly in control of the premises of the obligation to post a copy of the notice within five days, in a conspicuous place, so that all premises occupants and others entering the premises shall have notice that the public nuisance is being conducted, maintained or permitted on the premises and that upon expiration of 30 days after service of the notice, the ~~Commissioner~~ Chief shall act to obtain compliance as provided in this article, including, but not limited to, closing the premises.

Section 12. Section 255-48 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief shall issue the order provided for in § 255-45 of this article by posting said order on the premises wherein the public nuisance is occurring and mailing a copy by first class mail of said order to the

owner, mortgagee or any other persons directly or indirectly in control of the premises, within one business day of the posting of said order on the premises.

Section 13. Section 255-49 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. No sooner than five business days after the issuance of an order pursuant to §§ 255-45 and 255-48 of this article, and upon the directive of the ~~Commissioner~~ Chief, officers of the Albany Police Department are authorized to act upon and enforce such order.

B. Where the ~~Commissioner~~ Chief closes a premises pursuant to this section, such closing shall be for such period as the ~~Commissioner~~ Chief may direct, but in no event shall the closing be for a period of greater than one year from the issuance of the order.

C. Upon receiving a copy of the order issued by the ~~Commissioner~~ Chief, pursuant to §§ 255-45 and 255-48 of this article, the Corporation Counsel shall maintain a special proceeding to affix a civil penalty in the amount up to \$5,000, and to collect any costs and expenses incurred by the City of Albany, in commencing the proceeding, closing the premises and in relocating any occupants on the premises. The Corporation Counsel shall file a notice of pendency of the proceeding in the Albany County Clerk's office.

D. The judgment in such proceeding, in favor of the City of Albany, shall establish the penalty sued for with costs and disbursements as a lien upon the premises, subject only to taxes, assessments, water rates, mortgages and mechanics' liens as they exist thereon.

Section 14. Section 255-51 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A closing directed by the ~~Commissioner~~ Chief pursuant to this article shall not constitute an act of possession, ownership or control by the City of Albany of the closed premises.

Section 15. Section 255-52 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

A. It shall be a misdemeanor for any person to use or occupy, or to permit any other person to use or occupy, the premises, or any portion thereof, ordered closed by the ~~Commissioner~~ Chief.

B. Mutilation or removal of a posted order of the ~~Commissioner~~ Chief shall be punishable by a fine of not more than \$250, or by imprisonment not exceeding 15 days, or both, provided that such order contains therein a notice of such penalty.

C. Intentional disobedience of or resistance to any provision of the order issued by the ~~Commissioner~~ Chief, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$500, or imprisonment not exceeding six months, or both.

D. Each day's violation shall constitute a separate offense.

Section 16. Section 255-53 of Article VIII (Public Nuisance Abatement) of Chapter 255 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief may promulgate such rules and regulations as may be necessary to carry out the provisions of this article.

Section 17. Section 353-14 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

As used in this article, the following words shall have the meanings set forth in this section:

COMMISSIONER CHIEF

The ~~Commissioner of Public Safety~~ Chief of Police or his or her designee.

Section 18. Section 353-16 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

With the advice and consent of the Common Council, the ~~Commissioner~~ Chief may set a limit on the number of medallions to be issued in the interest of public convenience and necessity.

Section 19. Section 353-17(H) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

H. For new applications filed on or after the effective date hereof and renewal applications filed on or before December 31, 2002, the following shall also be required:

(1) Three untouched photographs of such size as may be prescribed by the ~~Commissioner~~ Chief taken within 30 days of the date of filing of the application.

(2) The fingerprinting of the applicant by the Police Department of the City of Albany, and the set of fingerprints which accompanies the application shall be kept on file at the office of the ~~Commissioner~~ Chief as a permanent record. The ~~Commissioner~~ Chief shall cause an investigation to be made relative to the character and criminal record, if any, of every applicant and shall forward the applicant's finger prints and the processing fee set forth herein to the New York State Division of Criminal Justice Services for its review and report. The fee for the investigation and fingerprinting shall be \$25, payable to the Albany Police Department, and \$50 payable to the New York State Division of Criminal Justice Services.

(3) A consent signed by the applicant, on a form provided by the ~~Commissioner~~ Chief, permitting any person to divulge and report to the ~~Commissioner~~ Chief any matter which might, without such consent, be deemed confidential.

Section 20. Section 353-19 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. The ~~Commissioner~~ Chief shall investigate the applicant's qualifications and background and consider the following in determining whether the applicant is eligible to be issued a taxicab medallion:

(1) Whether the applicant has complied with all provisions of this article.

(2) Whether the applicant is a current or former holder of a taxicab medallion which has been suspended or revoked and, if so, for what cause.

(3) Whether the applicant has been convicted of a crime.

(4) Whether the applicant meets the criteria set forth in Article 23-A of the Correction Law of the State of New York.

B. Upon consideration of the factors listed above, the ~~Commissioner~~ Chief may refuse to certify an applicant as eligible to receive a taxicab medallion based on any of the factors listed above. Written notification of such denial shall be sent to the applicant at the address indicated on the application, stating the reason for the denial of the medallion. Upon the applicant's written request addressed to the ~~Commissioner~~ Chief, a hearing shall be granted within 10 days of the ~~Commissioner~~ Chief's receipt of request. The applicant is entitled to be represented by counsel.

C. The ~~Commissioner~~ Chief shall otherwise issue taxicab medallions to any qualified applicant.

Section 21. Section 353-20(D) and (F) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

D. Failure by the owner to maintain such logs shall serve as a basis for the ~~Commissioner~~ Chief to prohibit such taxicabs, even if medallioned, from operating within the City of Albany, in addition to any other penalty authorized by this article for a period to be specified by the ~~Commissioner~~ Chief.

F. The ~~Commissioner~~ Chief shall immediately notify the New York State Commissioner of Motor Vehicles upon the conviction of any taxicab owner or operator not medallioned by the City of Albany for operating in the City in violation of Subsection A. The Commissioner shall revoke such owner's or operator's taxi and livery registrations as provided in § 401, Subdivision 7C, of the Vehicle and Traffic Law of the State of New York.

Section 22. Section 353-23 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. No taxicab medallion shall be transferred or assigned except upon approval by the Commissioner based on a written application to the ~~Commissioner~~ Chief.

B. A medallion holder shall give written notice to the ~~Commissioner~~ Chief within 10 days of any change of address or phone number.

Section 23. Section 353-25 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

The ~~Commissioner~~ Chief is hereby empowered in the exercise of discretion to require owners and operators of medallioned taxicabs to display distinctive colors, emblems, signs or other devices on each taxicab in order to provide prospective passengers an opportunity to differentiate between taxicabs owned or operated by different owners.

Section 24. Section 353-26 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A taxicab medallion issued pursuant to this article shall be displayed in the manner prescribed by the ~~Commissioner~~ Chief. No one other than the ~~Commissioner~~ Chief is authorized to adhere or remove a medallion to or from a taxicab. Medallions may, in the discretion of the ~~Commissioner~~ Chief, be of a different or alternating color or otherwise distinguished for each year of issuance.

Section 25. Section 353-28 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. All taxicabs assigned a medallion by the City of Albany shall conform to the following requirements:

(1) Exterior requirements: headlights, taillights, brake lights, directional signal lights, windshield, windshield wipers, backup lights, defrosters (front and rear) and horn, all other vehicle glass, a minimum of four doors, door locks, trunk lid, trunk hood, splash shields, bumpers and fenders. Body and tires shall be maintained in a clean condition and in good working order. Unless the wheel rims are specifically designed to eliminate the need for hubcaps, vehicles must be equipped with four hubcaps. There shall be no tears, holes or large rust spots in the vehicle body and no loose pieces, such as fenders, bumpers or trim, hanging from the vehicle body. The body, including the color scheme, owner's trademark, name, monogram, phone number, cab number (minimum of four inches in height on both sides of the vehicle), insignia or other marking shall be well painted and in a clean and orderly appearance.

(2) Interior requirements. The interior of each vehicle shall be maintained in a clean condition, free of foreign matter and offensive odors. There shall be no litter in the vehicle or trunk. Seats and floor mats shall be kept clean and without holes or large wear spots.

(3) Posted notices. There shall be posted conspicuously on the interior and exterior of each taxicab the phone number of the ~~Commissioner~~ Chief indicating where to direct any complaints relative to the fare charged, appearance or functioning of the vehicle or the conduct of the driver.

(4) On and after June 1, 2002, no taxicab shall be older than seven years old.

B. Before any taxicab can initially be placed in operation, such vehicle shall be inspected by the ~~Commissioner~~ Chief as to the requirements listed in Subsection A(1) and (2) above, and no taxicab medallion will be issued for such vehicle until it has been found that the exterior and interior of such vehicle is clean, fit and of good appearance. The ~~Commissioner~~ Chief shall inspect all taxicabs for these requirements twice a year.

C. Every owner or operator shall have each medallioned taxicab submitted to a New York State motor vehicle inspection every six months. Valid proof of such inspection shall be by certificate issued by a licensed New York State inspection station certifying that the vehicle meets all requirements of the Vehicle and Traffic Law of the State of New York. Certifications shall be made on a form to be supplied by the ~~Commissioner~~ Chief.

D. The ~~Commissioner~~ Chief shall also have the right to inspect all taxicabs from time to time or on the complaint of any citizen. If the ~~Commissioner~~ Chief finds that a vehicle does not meet the requirements of this section, he may, in his discretion, suspend or revoke the owner's taxicab medallion or the driver's hack license. It shall be the responsibility of the medallion owner to ensure that its taxicabs meet the above requirements in § 353-28A(1), (2) and (3) before going into service. Failure of the medallion owner to comply may result in the taking of the medallion and a hearing held in accordance with § 353-19. Fines may be assessed.

Section 26. Section 353-29(A) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. The ~~Commissioner~~ Chief is authorized to designate taxicab stands, along with the number of taxicabs that shall be allowed to park or stand at each location.

Section 27. Section 353-30(C) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

C. Maps. The map set forth in § 353-30A of this article bearing the seal of the City of Albany depicting both the zones within the City of Albany, fares and waiting time charges established herein and the consumer information set forth therein in a format approved by the ~~Commissioner~~ Chief shall be conspicuously displayed inside every medallioned taxicab so as to be clearly visible to all passengers in the vehicle. In addition, such map shall be clearly affixed to the exterior of every medallioned taxicab. The specific locations and manner of affixation of such maps shall be as prescribed by the rules and regulations promulgated pursuant to this article.

Section 28. Section 353-32 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

Upon request of the passenger, the taxicab driver shall provide a receipt upon a form approved by the ~~Commissioner~~ Chief containing the following information:

A. The name of the taxicab company and medallion number of such taxicab.

B. Trip origin and terminus.

(1) The date and place the trip originated.

(2) The date and place of trip termination.

C. The number of passengers for which the paying party paid a fare.

D. The total fare charged.

E. The printed and signed name of the driver.

F. The telephone number where a complaint may be directed:

(1) Phone: ~~Commissioner~~ Chief.

(2) Phone: Taxicab company.

Section 29. Section 353-34 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Each owner or operator of a taxicab assigned a medallion pursuant to this article shall keep or cause to be kept a legible record of every trip for which a fare is collected. The record shall include information as to the date, time of day, point of origin, point of destination and fare for each trip, together with any other information as the ~~Commissioner~~ Chief, in his discretion, may require and shall be in the form as follows:

B. Trip records shall be made immediately available to the ~~Commissioner~~ Chief, upon his request, for inspection and copying. The records shall be maintained for a period of one year from the date the record was made.

C. Every operator or owner licensed and/or medallioned hereunder shall maintain accurate records concerning the attendance at work of all persons holding a hack license employed by him and shall report to the ~~Commissioner~~ Chief the failure on the part of any holder of a hack license to use such license in his employment for a period longer than 90 days. Every medallioned operator or owner shall submit to the ~~Commissioner~~ Chief or his designee biannually a list of taxicab drivers they employ.

D. Failure to provide any of the foregoing shall be prima facie justification for a revocation by the ~~Commissioner~~ Chief of the applicable medallion and/or hack license.

Section 30. Section 353-32 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. A taxicab medallion may be suspended or revoked by the ~~Commissioner~~ Chief or his designee at the time a violation is filed, and a written specification of the charge served personally on the owner or his agent or by certified mail addressed to the owner at the address provided by the owner on the medallion application. The medallion owner shall be entitled to be represented by counsel, and civil forfeitures may be assessed. Violations shall be specified as follows:

(1) Failure to notify the ~~Commissioner~~ Chief that the owner of a hack license has not used such license in his employment for a period longer than 90 days.

(2) Permitting the operation of the taxicab by a person not licensed under the provisions of this article as hereinafter provided.

(3) Operation of a taxicab at a rate or fare exceeding that established under § 353-30 and stated on the rate card issued by the ~~Commissioner~~ Chief.

(4) Discontinuance of operations beyond the time period prescribed in the rules and regulations of the ~~Commissioner~~ Chief.

(5) Does not meet the standards as embodied in Article 23-A of the Corrections Law of the State of New York.

(6) Violation of any other provision of this article or any rule or regulation of the ~~Commissioner~~ Chief.

B. Immediately upon revocation of a taxicab medallion, the ~~Commissioner~~ Chief shall notify the Commissioner of the New York State Department of Motor Vehicles of such revocation. As provided in § 401, Subdivision 7C, of the New York State Vehicle and Traffic Law, the Commissioner shall revoke the licensee's tax and livery registrations.

Section 31. Section 353-36 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Taxicab medallions which have been suspended or revoked by the ~~Commissioner~~ Chief shall be surrendered forthwith to the ~~Commissioner~~ Chief, and the operation of any taxicab or taxicabs covered by such medallion shall cease.

B. Taxicab medallions for taxicabs needing repairs reasonably requiring 60 days or more to complete shall be surrendered to the ~~Commissioner~~ Chief. Such medallions shall be reinstated upon satisfactory inspection by the ~~Commissioner~~ Chief.

C. The time limitations set forth in Subsection B may be extended by the ~~Commissioner~~ Chief in his discretion upon written request of the medallion holder.

D. No taxicab medallion shall be transferred or affixed to any other vehicle except by or upon the express authorization of the ~~Commissioner~~ Chief.

Section 32. Section 353-38(B) and (C) of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

B. The application for a hack license shall be submitted to the ~~Commissioner~~ Chief on such form or forms as shall be required by him, and the information provided by the application shall be sworn to or given under the penalties of perjury.

C. The application shall also include:

(1) Three untouched photographs of such size as may be prescribed by the ~~Commissioner~~ Chief taken within 30 days of the date of filing of the application.

(2) The fingerprinting of the applicant by the Police Department of the City of Albany, and the set of fingerprints which accompanies the application, shall be kept on file at the office of the ~~Commissioner~~ Chief as a permanent record. The ~~Commissioner~~ Chief shall cause an investigation to be made relative to the character and criminal record, if any, of every applicant and shall forward the applicant's fingerprints and the processing fee set forth herein to the New York State Division of Criminal Justice Services for its review and report. The fee for the investigation and fingerprinting shall be \$25, payable to the Albany Police Department, and \$50 payable to the New York State Division of Criminal Justice Services.

(3) A consent signed by the applicant, on a form provided by the ~~Commissioner~~ Chief, permitting any person to divulge and report to the ~~Commissioner~~ Chief, any matter which might, without such consent, be deemed confidential.

(4) A certified copy of the applicant's driving record obtained by the applicant from the Department of Motor Vehicles.

(5) A statement indicating that the applicant has read, and fully understands, all of the provisions of this article.

Section 33. Section 353-39 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. After receipt of an application, the ~~Commissioner~~ Chief shall do a background investigation of the applicant to determine if he meets the requirements of § 353-38.

B. The ~~Commissioner~~ Chief may require the applicant to submit a certificate from a duly licensed physician certifying that he has examined the applicant within 30 days prior to the filing date of the application and, in his opinion the applicant does not have any physical or mental condition which would affect the ability of the applicant to safely operate a motor vehicle.

C. If the applicant does not meet the requirements of § 353-38, the ~~Commissioner~~ Chief shall deny the applicant's hack license application.

Section 34. Section 353-40 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. Upon the written approval by the ~~Commissioner~~ Chief of the application for a hack license in accordance with the foregoing procedures, a hack license shall be issued to the applicant. The license shall be in a form to be prescribed by the ~~Commissioner~~ Chief and shall contain a photograph of the licensee, his signature and his right thumb print. The license shall become invalid if defaced or if any entry is made thereon by anyone other than the ~~Commissioner~~ Chief. Except for licenses issued for the year 2002 (which shall expire on March 1, 2003), a hack license shall be valid for a period not to exceed one year and shall expire on March 1 following the year issued.

B. A hack badge shall be issued with a hack license. It shall be of a form as prescribed by the ~~Commissioner~~ Chief; it shall be imprinted with the hack license number; and it shall be displayed on the right upper portion of the licensee's outer clothing.

Section 35. Section 353-41.1 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

Within one year of licensure, and every five years thereafter, all licensees shall attend and successfully complete a training program organized and conducted by the ~~Commissioner~~ Chief. Such program shall train licensees in the licensing and conduct requirements of this article together with such other information deemed necessary by the ~~Commissioner~~ Chief. Licensees shall be provided with certificates by the ~~Commissioner~~ Chief attesting to their successful completion of the program and the date thereof.

Section 36. Section 353-42 of Article II (Taxicabs and Hacks) of Chapter 353 of the Code of the City of Albany is hereby amended to read as follows:

A. A hack license shall be renewable upon compliance with the foregoing provisions of this article relating to hack licenses, provided that the application is filed not less than 30 days nor more than 60 days prior to expiration of the current license on a form supplied by the ~~Commissioner~~ Chief. Renewal applications shall be accompanied by a certified copy of the applicant's driving record obtained by the applicant from the Department of Motor Vehicles. The fee for renewal shall be \$100.

B. The ~~Commissioner~~ Chief shall, upon application for renewal, make such background check of the applicant which, in his discretion, is appropriate. At a minimum, it shall include criminal records and Department of Motor Vehicle checks.

Section 37. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

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

REPORTS OF STANDING COMMITTEES

Finance, Taxation and Assessment – Council Member Sano stated that the committee is holding meetings with various city departments on presentation of their budget requests for 2010.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 68.102.09

AN ORDINANCE AMENDING CHAPTER 133 (BUILDING CONSTRUCTION) IN RELATION TO DEMOLITION PROCEDURES

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

Section 1. Sections 133-20 and 133-21 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 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 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 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 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 of Buildings may revoke such permit. Said permit may also be revoked without notice if in the opinion of the Commissioner of Buildings or the Commissioner of Public Works 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 Chapter 42 of this code. In order to facilitate such review, every application for demolition shall include standard submittal requirements as determined by the Commissioner 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, building façade elevations, site plans, landscaping plans and existing and proposed first floor elevations but may also include, and not be limited to sections, floor plans and grading plans. 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, consistency with the City of Albany comprehensive plan, neighborhood and district plans, and/or City of regional planning objectives and review by the City's Preservation Planner.

E. 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.

131-21. 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. This ordinance shall take effect 30 days after enactment into law.

Council Member Ellis asked for passage of ORDINANCE NUMBER 61.101.09 (AN ORDINANCE AUTHORIZING AND DIRECTING THE GRANT OF A PERMANENT EASEMENT TO 17 CHAPEL, LLC OVER AND UPON PORTIONS OF THE CITY RIGHT-OF-WAYS OF ORANGE, CHAPEL AND MONROE STREETS IN THE CITY OF ALBANY), which had been previously introduced.

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, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Sano asked for passage of ORDINANCE NUMBER 67.101.09 (AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE OF ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO A PORTION OF 451-441 NEW SCOTLAND AVENUE IN THE CITY OF ALBANY, NEW YORK TO BERNARD DUFFY), which had been previously introduced.

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, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

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

CONSIDERATION OF RESOLUTIONS

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

Resolution Number 80.102.09R

RESOLUTION OF THE COMMON COUNCIL SUPPORTING AMENDMENTS TO THE NEW YORK STATE PUBLIC HEALTH LAW IN REGARD TO THE CONSENT FOR HIV TESTING, CONFIDENTIALITY AND DISCLOSURE IN CERTAIN OCCUPATIONAL SETTINGS

WHEREAS, the City of Albany has many individuals living with HIV/AIDS as well as many large medical facilities that serve the City and much of the surrounding area, and

WHEREAS, the state laws surrounding the testing for HIV/AIDS need to be updated to reflect new medical technologies and advances, and

WHEREAS, changes are needed to the NYS Public Health Law to increase the protections to individuals who are at risk of acquiring HIV infection due to an occupational event by permitting HIV testing if consent is not available, and

WHEREAS, in New York State, if the patient or others with capacity are unable to give consent, any workers who may have been exposed to HIV must start treatment prophylactically. Treatment is expensive and has serious side effects. This could be entirely avoided if the hospital was able to test the patient on behalf of the employee, and

WHEREAS, forty-eight states currently provide this protection to health care workers and this type of amendment is supported by many groups whose members are involved in emergency care including emergency medical technicians, physicians, professional firefighters, volunteer firefighters, state troopers and sheriffs.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council supports the changes to New York State's HIV testing laws to authorize confidential testing of patients without capacity or unconscious or deceased patients in order to protect workers who have been exposed at the workplace.

BE IT FURTHER RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to our legislative representatives, Senate Majority Leader Pedro Espada Jr., Senate Temporary President Malcolm Smith, Senate Minority Leader Dean Skelos, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ronald Canestrari, and Assembly Minority Leader Brian Kolb.

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, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 81.102.09R

A RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT WITH THE ALBANY POLICE OFFICERS UNION, LOCAL 2841, COUNCIL 82

BE IT RESOLVED, that the Mayor of the City of Albany be, and is hereby authorized and empowered to execute a successor collective bargaining agreement with the Albany Police Officers Union, Local 2841, Council 82, together with such other forms necessary to effectuate the purposes thereof.

**Note: There was discussion from Council Member O'Brien regarding the Council not being involved in these negotiations and being unclear on the Council authority in approving contracts. He stated that he would be voting present.*

There was discussion from Council Member Calsolaro stating that the Council should have the power to approve these contracts. He discussed it being hard to vote on contracts that the Council does not see or review.

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

Affirmative -- Conti, Fahey, Fox, Igoe, McLaughlin, Rosenzweig, Sano, Scalzo, and Timmons

Present -- Calsolaro, Ellis, Herring, O'Brien, and Smith

Affirmative 9 Negative 0 Abstain 0 Present 5

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 failed by 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:

Fiddemon, Calvin (Rev.), 220 Livingston Avenue, Albany, NY 12210
Ramdath, Ravi, 41 Woodlake Road, Apt 1, Albany, NY 12203
Scavo, Brian, 7 Barclay Street, Albany, NY 12209

Council Member Calsolaro stated that he read an article stating that the assessed value of the Dewitt Clinton Apartment Building was lowered after meeting with the City Assessor and that he thinks that it was a terrible move. He stated that he thinks it is unfair that the assessment value gets lowered by buying a building and kicking the tenants out. He stated that this needed to be corrected immediately. He discussed another issue in relation to a complaint from a resident who called the Department of General Services three times and never got an answer or return call.

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 October 19th, 2009.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL