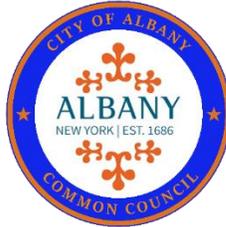


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COMMON COUNCIL MEETING

PLANNING, ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE

Alfredo Balarin, Chair

DATES: Tuesday, May 31, 2022

TIME: 5:30 p.m.

LOCATION: VIRTUALLY ON ZOOM

TOPIC(S) OF DISCUSSION/CONSIDERATION:

- **Interviewing candidates for the Albany Commission on Municipal Internet Service**
- **Ordinance 12.52.22**

AN ORDINANCE AUTHORIZING AND DIRECTING THE CLOSING OF ANTHONY STREET IN THE CITY OF ALBANY, NEW YORK AND DEDICATING ANTHONY STREET TO WESTLAND HILLS PARK FOR PARK PURPOSES

- **Local Law D of 2022**

A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE DEADLINE FOR THE HISTORIC RESOURCES COMMISSION'S ANNUAL REPORT ON EMERGENCY DEMOLITIONS AND STABILIZATION PROCEDURES

PUBLIC COMMENT PERIOD: YES

Council Member Clarke introduced the following:

ORDINANCE 12.52.22

AN ORDINANCE AUTHORIZING AND DIRECTING THE CLOSING OF ANTHONY STREET IN THE CITY OF ALBANY, NEW YORK AND DEDICATING ANTHONY STREET TO WESTLAND HILLS PARK FOR PARK PURPOSES

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

Section 1. It is hereby ordered and directed that Anthony Street, an approximately 686.27 linear foot road, starting at Colvin Avenue at the entrance of Westland Hills Park and terminating in Westland Hills Park, be discontinued and closed upon formal dedication of the road for park purposes to Westland Hills Park.

Section 2. It is hereby determined that the said right-of-way of Anthony Street has been abandoned for city street purposes and is hereby formally dedicated as part of Westland Hills Park to be held for the public's benefit and, as parkland, shall not be subject to alienation without the required consent from the New York State Legislature.

Section 3. This ordinance shall take effect after public hearing and final passage.

**APPROVED AS TO FORM THIS
21ST DAY OF APRIL, 2022**

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: E. Hyde Clarke, Council Member, 12th Ward
Brett Williams, Senior Assistant Corporation Counsel

Re: Common Council Legislation
Supporting Memorandum

Date: April 21, 2022

Sponsor: Council Member Clarke

ORDINANCE 12.52.22

TITLE

AN ORDINANCE AUTHORIZING AND DIRECTING THE CLOSING OF ANTHONY STREET IN THE CITY OF ALBANY, NEW YORK AND DEDICATING ANTHONY STREET TO WESTLAND HILLS PARK FOR PARK PURPOSES

GENERAL PURPOSE OF LEGISLATION

This ordinance will close and discontinue Anthony Street for city street purposes. If approved, Anthony Street will be expressly dedicated for park purposes to Westland Hills Park.

Public parkland is impressed with a public trust and may not be alienated or diverted to private ownership or non-park use without a special act of the New York State Legislature. Express dedication may be shown by an express written provision by the state or local government to dedicate lands for the purposes of a park. In the absence of a formal dedication of land for public use, an implied dedication may exist when a municipality's acts and declarations manifest a present, fixed, and unequivocal intent to dedicate.

According to a map excerpt from 1876, Clinton Avenue originally ran all the way from Ontario Street, in the rear of the Danker property, and through Colvin Avenue towards what is now the Montessori School. A 1940's City of Albany map shows that Clinton Avenue had become "Roseland Street" by the dead end of Ver Planck up to Colvin and was still considered Clinton Ave from Colvin to Zoar and Austain. Roseland Street is an undeveloped paper street that is used by residents as a walking path to Westland Hills Park and the Central Avenue business corridor and Clinton Ave was utilized as the entrance to Westland Hills Park and otherwise never developed. As of today, that portion of Clinton Ave is known as Anthony Street, although is not formally marked.

There is a question of fact as to whether Anthony Street has been expressly or impliedly dedicated as parkland as the entrance to Westland Hills Park. Based on the records that have been located to date, there is not a clear expression of dedication of Clinton Avenue to the park, largely due to the fact that Clinton Avenue was an undeveloped paper street that ran straight through Westland Hills Park prior to the property being developed. There are a number of factors that may demonstrate that Clinton Avenue (Anthony Street) has been impliedly dedicated to Westland Hill Park, however, that would be a question for a court to determine.

This ordinance is proposed to clarify the status of the entrance of the park, avoid any potential litigation fees over the classification of the entrance, and provides for express dedication of the park entrance to Westland Hills Park.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

Closing and discontinuance of rights-of-way, as well as dedication of parkland, require legislative action from a municipality's governing body.

Per Second Class Cities Law § 101, when the Council discontinues a street, "it shall cause a notice to be published for ten days in the official newspaper or newspapers of the city of its intention so to do, and that all persons interested may be heard in reference thereto at a time stated in such notice." In other words, a public hearing must be held. Moreover, "An ordinance discontinuing any street shall require the affirmative vote of three-fourths of all the members of the common council."

FISCAL IMPACT(S)

None.

Council Member Balarin, on behalf of the Committee on Planning, Economic Development, and Land Use, introduced the following:

LOCAL LAW D OF 2022 (MC)

A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE DEADLINE FOR THE HISTORIC RESOURCES COMMISSION'S ANNUAL REPORT ON EMERGENCY DEMOLITIONS AND STABILIZATION PROCEDURES

Be it enacted, by the Common Council of the City of Albany, as follows:

Section 1. Section 42-91 (Review of emergency actions) of Article XII (General Provisions) of Part 4 (Historic Resources Commission) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

§ 42-91 Review of emergency actions.

- A. The Commission shall review orders for emergency actions relating to landmarks or property within historic districts after receiving notification pursuant to § 133-55 of this Code.
- B. The Commission, in consultation with the Department of Buildings and Regulatory Compliance, shall prepare and submit an annual report to the Mayor and Common Council on or before ~~April~~ August 1 of each year concerning emergency actions pursuant to § 133-55 of this Code relating to landmarks or property within historic districts. Such report shall include, but need not be limited to, the following:
 - (1) The number and locations of emergency actions undertaken in the previous calendar year, including maps depicting locations within each historic district and the City as a whole;
 - (2) A description of the architectural and historic merit of landmarks or property within an historic district subject to an emergency action in the previous calendar year, the causes or factors contributing to such actions, and the effects of such action on surrounding buildings or structures;
 - (3) Recommendations, if any, to identify and encourage the stabilization of landmarks and property within historic districts, in order to prevent emergency actions.

Section 2. This Local Law shall take effect upon passage, public hearing, and filing with

the Secretary of State

**APPROVED AS TO FORM THIS
11TH DAY OF APRIL, 2022**

Corporation Counsel

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To: Danielle Gillespie, City Clerk

**From: Martha Mahoney, Esq., Assistant Corporation Counsel
Brett Williams, Esq., Sr. Assistant Corporation Counsel**

**Re: Common Council Legislation
Supporting Memorandum**

Date: April 11, 2022

Sponsor(s): Council Member Balarin, on behalf of the Committee on Planning, Economic Development, and Land Use

LOCAL LAW D OF 2022 (MC)

TITLE

A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE DEADLINE FOR THE HISTORIC RESOURCES COMMISSION'S ANNUAL REPORT ON EMERGENCY DEMOLITIONS AND STABILIZATION PROCEDURES

GENERAL PURPOSE OF LEGISLATION

This local law will change the deadline for the Historic Resource Commission's annual report to the Mayor and Common Council on Emergency Demolitions and Stabilization Procedures, pursuant to Albany City Code § 133-55, from April 1 to August 1.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

The goal is to change the deadline of the annual report to a date that is harmonious with quarterly reports made by the Department of Buildings & Regulatory Compliance ("BRC") to the Historic Resources Commission ("HRC"), as well as to ensure consistency of the delivery of the annual report between past and future practices, based on practicality.

Currently, the Code § 42-91(B) requires the HRC to prepare and submit an annual report to the Mayor and Common Council on or before April 1 of each year concerning emergency actions pursuant to Code § 133-55 relating to landmarks or property within historic districts. It appears that there is no known reason why the April 1 deadline was selected for the annual report.

Pursuant to Code § 133-78.6, the BRC has a Vacant Building Registry quarterly reporting requirement to the HRC, among other entities, due by January 15, April 15, July 15, and October 15 of each year. The BRC's quarterly reports to the HRC include information on emergency actions pursuant to Code § 133-55. Such information contained in the BRC's quarterly reports overlaps with the information that the HRC is to report on in their Emergency Action annual report pursuant to § 42-91(B). The proposed legislation would change the deadline of the HRC's annual report from April 1 to August 1, a date which would allow the HRC to fully review information contained in the quarterly reports for inclusion in the HRC's annual report.

In addition, the HRC's annual reporting requirement under § 42-91(B) was recently codified with the enactment of Local Law M of 2020 in March 2021. Due to the practicality of when the reporting requirement took effect in March 2021, the HRC filed its first annual report in August 2021. The proposed legislation would change the deadline of the annual report from April 1 to August 1 to ensure consistency of the delivery of the annual report between past and future practices.

FISCAL IMPACT(S)

None.

MESSAGE OF NECESSITY

This Local Law is identical to Ordinance 10.42.22, which went out to membership on Friday, April 8, 2022 with the support legislation for the April 18, 2022 Council meeting. However, Code § 42-91, the provision amended thereby, was enacted by Local Law 6 of 2021. Thus, by the Rule of Legislative Equivalency, section 42-91 may only be amended by local law, not by ordinance. This local law corrects that error by replacing Ordinance 10.42.22

The Code and Council rules dictate that items of legislation not included on the printed agenda, which goes out to membership at least 10 days before a meeting, can only be added to the agenda by majority consent.

This local law is requested for majority consent to keep the legislation on the same timeline for passage that Ordinance 10.42.22 would have been.

Ordinance 10.42.22 should not be introduced at the April 18, 2022 Council meeting.