

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

**Monday, May 18, 2009**

**YOUTH IN GOVERNMENT AWARDS NIGHT**

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, Casey, 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 Ellis led the Pledge of Allegiance.

Council President Morris greeted the students present as part of Youth in Government Awards Night and asked each student to introduce themselves. The following students were present: Molly Boisseau, Catherine Calsolaro, Samantha Cramer, Kelly Criscione, Owen Daniels, Xavier Davie, Star-Asia Ginyard, Cathie Gibbons, Barbara Leibo, Melanie Mabee, Kierra Moore, Emily Neuffer, Juan Carlos Rivera, Ocasio Willson, and Abigail Wolfgang.

**PUBLIC COMMENT PERIOD**

1. Gary Allocco, 22 Warren Ave., Albany, NY 12203 (Parking Scandal)
2. Guillermo Perez, 47 Myrtle Ave., Albany, NY 12202 (Immigrant Rights)
3. Fred Boehrer, 45 45 Trinity Pl., Albany, NY 12202 (Immigrant Rights)
4. Richard Ring, 58 Elm St., Albany, NY 12202 (Immigrant Rights)
5. Jim Collins, 360 partridge St., Albany, NY 12208 (Immigrant Rights)
6. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Ghost Tickets)
7. Mike Roberts, 368 Broadway, Saratoga Springs, NY (EFCA)
8. Craig Preski, 350 Stanford Ave., Schenectady, NY (EFCA)
9. Steven Leibo, 104 Fleetwood Ave., Albany, NY 12208 (Energy)
10. Cheyenne Brown, 488 Third St., Albany, NY 12206 (Gun Violence)
11. Herbert Hughes, 79 Lincoln Ave., Albany, NY 12206 (Minority Business)
12. Ernest Latimer, 22 Bogart Terr., Albany, NY 12209 (Small Business Jobs)
13. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (Solid Waste & Dump Odors)
14. Lynne Jackson, 223 S. Swan St., Albany, NY 12202 (Bikes & Immigrant Rights)
15. Ardra Wilson, 185 N. Main Ave., Albany, NY 12206 (Youth Teaching/Incarcerated Women)
16. Mary Lou Nolan Gillham, 11 Cardinal Ave., Albany, NY 12208 (Bike Month & Climate Smart)

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

**APPROVAL OF MINUTES FROM PREVIOUS MEETING**

DEFERRED

**CONSIDERATION OF LOCAL LAWS**

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**

**General Services, Health & Environment** – Council Member O’Brien stated that the committee would be meeting on May 20, 2009 at 5:30pm for an update on in-house street improvement projects.

## **REPORTS OF AD HOC COMMITTEES**

**Ad Hoc Committee on Cable Access** – Council Member Rosenzweig stated that he was waiting to hear back from Time Warner regarding PEG access funding.

## **CONSIDERATION OF ORDINANCES**

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

### **Ordinance Number 47.52.09**

#### **AN ORDINANCE AMENDING CHAPTER 54 OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ETHICS AND FINANCIAL DISCLOSURE**

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

**Section 1. Chapter 54 of the Code of the City of Albany entitled “Financial Disclosure” is hereby repealed in its entirety and a new Chapter 54 entitled “Ethics Law of the City of Albany” is hereby added to read as follows:**

#### §54-1. Purpose.

The purposes of the Code of Ethics are:

- A. to establish high standards of ethical conduct for City officers and employees and to prohibit acts incompatible with the public interest;
- B. to provide City officers and employees clear guidance on such ethical standards;
- C. to prevent unethical conduct before it occurs by providing education and training;
- D. to promote public confidence in the integrity of the governance and administration of the City, including but not limited to its boards, agencies and administrative offices;
- E. to require reasonable public disclosure of financial interests that may influence or be perceived to influence the actions of City officers and employees, so that consideration of potential ethical problems can be addressed before they arise, so that suspicion by the public of the administration of government is minimized, and so that public accountability is maximized; and
- F. to provide for the fair and effective administration of the Codes of Ethics.

#### §54-2. Supersession of General Municipal Law § 808; Legislative Intent.

- A. To the extent that this article is inconsistent with the provisions of Section 808 of the General Municipal Law, this article shall supersede such provisions.
- B. The intent of this Article is to supplement the legal requirements of the General Municipal Law and to replace any conflicting provisions to the extent authorized by the supersession set forth in Subsection A.

#### §54-3. Definitions.

When used in the Code of Ethics, the following terms shall have the following meanings:

- A. “appear” and “appear before” shall mean communicating in any form, including, without limitation, personally, through another person, by letter or other writing, or by telephone.

B. "Candidate" shall mean an individual who is on the ballot as a candidate for an federal, state or local elective office or who seeks election to any such office as a write-in candidate."

C. "Candidate for City elective office" shall mean a candidate for the position of Mayor, City Treasurer, City Auditor, Common Council President, or Common Council member.

D. "City" shall mean the City of Albany, but shall not include the Albany City Court.

E. "City officer or employee" shall mean any elected or appointed officer or employee of the City, whether paid or unpaid, and includes, but is not limited to, all members of any office, board, body, advisory board, council, commission, agency, department, bureau, division, or committee of the City. "City officer or employee" shall exclude:

1. a judge, justice, or employee of the unified court system; and

2. a member of an advisory board of the City if, but only if, the advisory board has no authority or power to implement its recommendations or to act on behalf of the City or to restrict the authority of the City to act. No entity established pursuant to the New York State General Municipal Law shall be deemed an advisory board for purposes of the Code of Ethics.

F. "customer or client" means:

1. any person to whom a City officer or employee has supplied goods or services during the previous twelve (12) months having, in the aggregate, a value greater than two thousand five hundred dollars (\$2500.); or

2. any person to whom a City officer's or employee's outside employer or business has supplied goods or services during the previous twelve (12) months having, in the aggregate, a value greater than two thousand five hundred dollars (\$2500.), but only if the City officer or employee knows or has reason to know the outside employer or business supplied such goods or services.

G. "Ethics Board" shall mean the Ethics Board of the City of Albany.

H. "ethics violation" shall mean a violation of this Ethics Code or Article 18 of the General Municipal Law.

I. "financial benefit" shall mean any pecuniary or material benefit including but not limited to any money, stock, security, service, license, permit, contract, authorization, loan, travel, entertainment, discount not available to the general public, real or personal property, or anything of value.

J. "gift" shall mean a financial benefit that is given to a person without receipt or promise of any significant consideration or financial benefit in return.

K. "household member" or "member of household" shall mean any person with whom a City officer or employee lives as a single household unit.

L. "interest" shall mean a pecuniary or material benefit accruing to a City officer or employee, or a pecuniary or material benefit accruing to that City officer's or employee's:

1. close relatives; or

2. outside employer or business.

M. "ministerial act" means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

N. "outside employer or business" shall mean:

1. any person from whom or from which a City officer or employee receives a financial benefit for services rendered or goods sold or produced;

2. any business in which the City officer or employee has an ownership interest of five percent (5%) or more;

3. any business in which the City officer or employee has an ownership interest which has a value in excess of fifty thousand dollars (\$50,000.); or

4. any business corporation for which the City officer or employee is an uncompensated member of the board of directors or is an uncompensated corporate officer.

O. "person" shall mean an individual, all forms of business organizations, and all forms of not-for-profit entities. The City and other governmental entities are not persons as defined herein.

P. "political campaign activity" shall mean canvassing, campaigning, gathering petition signatures, distributing campaign literature, fundraising, electioneering, speaking on behalf of a candidate, and any other act or activity intended to cause a candidate to win any election.

Q. “political committee” shall have the meaning set forth in Section 14-100 of the New York State Election Law.

R. “relative” means a spouse, domestic partner, child, step-child, sibling, half-brother, half-sister, parent, step-father, step-mother, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparent, grandchild, uncle, aunt, niece, and nephew. “Relative” shall also include any person claimed as a dependent on the New York State individual tax return of a City officer or employee. “Close relative” means a spouse, domestic partner, child, step-child, sibling, half-brother, half-sister, parent, step-father, and step-mother.

S. “subordinate” of a City officer or employee shall mean another City officer or employee that he or she has the power to hire, fire or discipline, or over whose activities he or she has the power to direct, supervise or control. Subordinates shall not include those who serve in positions that are classified as “exempt” or “unclassified” under the New York State Civil Service Law for purposes of the Ethics Code.

T. “superior” shall mean a City officer or employee who has the power to hire, fire, discipline, direct, supervise or control a subordinate.

#### §54-4. Exclusions From The Code Of Ethics and From Transactional Disclosure.

The following are not prohibited by the City Code of Ethics, nor shall the following require the recusal of or disclosure by any City officer or employee:

- A. an action specifically authorized or mandated by statute, regulation, or rule of the State of New York or the United States;
- B. a ministerial act;
- C. financial benefits having a value of fifty dollars (\$50) or less that are received by a City officer or employee listed in Section 11 of the New York State Domestic Relations Law for the solemnization of a marriage by that officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business;
- D. public awards from charitable organizations;
- E. receipt of City services or benefits or use of City facilities, that are generally available on the same terms and conditions to the general public, residents of the City, or a class of residents in the City;
- F. representation of constituents by elected officials without compensation in matters of public advocacy;
- G. Appearances by a former City officer or employee before the Albany City Court.

#### §54-5. General Ethics Standards.

A. A City officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a financial benefit for:

- 1. himself or herself;
- 2. a member of his or her household;
- 3. his or her relative;
- 4. his or her outside employer or business, or any owner, director, or office thereof;
- 6. his or her customers or clients; or
- 7. his or her creditors.

B. All City officers and employees shall comply with Sections 801 and 802 of the New York State General Municipal Law.

C. No City officer or employee shall use or permit the use for non-municipal purposes of City property, including but not limited to vehicles, equipment, or materials. Nothing herein shall preclude the incidental use of City property for private purposes if such use is principally for the benefit of the City and is pursuant to a previously established written City policy established by the Mayor or enunciated in a collective bargaining agreement.

D. No City elected official shall enter into any business relationship with any City officer or employee, and no City officer or employee shall enter into any business relationship with that individual’s subordinate, if such business relationship would be an outside employer or business as to any one of them.

E. No City officer or employee may appoint a household member or relative to a compensated position under his or her supervision or control or supervise such an individual. Nothing in this subsection shall be construed to prohibit such a household member or close relative from being employed in a position subject to and pursuant to the provisions of a collective bargaining agreement or the New York State Civil Service Law.

§54-6. Financial Benefits and Gifts.

A. Except as provided in Subsection B, a City officer or employee shall not accept, or directly or indirectly solicit, a financial benefit or gift:

1. under circumstances from which it could reasonably be inferred that the financial benefit or gift is intended to influence the City officer or employee in the performance of his or her duties;
2. under circumstances which would create an appearance of impropriety; or
3. from any person who received any financial benefit from an action or failure to act by that City officer or employee within the previous twelve (12) months.

B. The following are exceptions to the prohibitions set forth in Subsection A of this section:

1. a gift accepted by a city officer or employee on behalf of the City and transferred to the City.
2. a gift of any amount received by a City officer or employee from his or her close relative under circumstances that make it clear that it is the familial relationship rather than the recipient's office or position that is the primary motivating factor.
3. lawful political campaign contributions to a candidate for any City elective office.
4. a waiver of post-service employment issued pursuant to the provisions of this Chapter.

§54-7. Representation.

A. A City officer or employee shall not represent any other person in any matter before the City, nor represent another person in any matter against the interests of the City.

B. No City officer or employee shall give paid opinion evidence as an expert witness adverse to the position of the City in any civil litigation involving the City.

C. Nothing herein shall prohibit the Corporation Counsel or any counsel to a City elected official from appearing in litigation on behalf of a City elected official who is a party to litigation in his or her official capacity as a City elected official.

§54-8. Appearances Before City Agencies.

A. A City officer or employee shall not appear before any agency of the City except on his or her own behalf or on behalf of the City.

B. The outside employer or business of a City officer or employee may appear on its own behalf before the City, but shall not appear on behalf of any other person:

1. before the particular agency, board, commission, or other specific part of the City government at which the City officer or employee serves or is employed; or
2. before any agency, board, commission, or other specific part of the City government as to which the City officer or employee has:
  - a. the authority to appoint any officer, employee or member; or
  - b. the authority to review, approve, audit or authorize any budget, bill, payment or claim.

C. Nothing in Subsection B shall:

1. be construed to eliminate the need for transactional disclosure and recusal by any City officer or employee;
2. be applicable to a ministerial act; or

3. be applicable to receipt of a City service or benefit, or use of a City facility, which is generally available to the public on the same terms and conditions as available to residents or a class of residents in the City

§54-9. Post Service Or Employment Activities.

A. Except as otherwise provided in this section, a City officer or employee shall not appear before the City on behalf of another person for a period of one (1) year after the completion of his or her City service or employment. This Subsection shall not prohibit a City officer or employee from being elected to a City office, being appointed to any City board or commission, being hired as a City officer or employee, or being paid by the City to appear as a witness in any proceeding on behalf of the City.

B. The prohibition set forth in Subsection A shall be permanent as to particular matters on which the City officer or employee personally worked while a City officer or employee. A City officer or employee personally works on a matter when that City officer or employee is substantially involved with the matter or personally supervises or directs how the matter is to be handled.

C. No City officer or employee shall solicit or accept a position of employment after termination of City service, from any person who received any financial benefit from an action or failure to act by that City officer or employee within the prior one (1) year.

D. Nothing herein shall prevent a City officer or employee from working for a federal, state or local government body or agency and, in that capacity, appearing before the City at any time after the completion of City service.

E. Any City officer or employee may request a waiver of the provisions of this section from the Ethics Board, as provided in this Chapter.

§54-10. Avoidance of Conflicts.

A City officer or employee shall not knowingly acquire, solicit, negotiate for, or accept any financial benefit or gift that would constitute an ethics violation.

§54-11. Confidential Information.

Current and former City officers and employees shall not disclose any confidential information or use it to further his or her own, or any person's interests.

§54-12. Interests in Contracts with the City.

A. No City officer or employee shall have an interest in a contract with the City, or an interest in a bank or trust company, that is prohibited by Section 801 of the New York State General Municipal Law. Any contract willfully entered into by or with the City in which there is an interest prohibited by that section shall be null, void and wholly unenforceable, to the extent provided by Section 804 of the General Municipal Law.

B. Any City officer or employee who has, will have, or later acquires an interest in any actual or potential contract with the City, shall publicly disclose the nature and extent of that interest in accordance with Section 803 of the General Municipal Law. The disclosure shall be filed with the Ethics Board and the City Clerk.

C. Any City officer or employee who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by Section 805 of the General Municipal Law.

§54-13. Political Activity; Public Disclosure.

A. No candidate for any elected office of the City and no City officer or employee shall knowingly request, or knowingly authorize any person to request, that any of the following persons participate in any political campaign activity in connection with any campaign for City elected office:

1. a City officer or employee; or
2. any person who has received a financial benefit from the City within the prior twelve (12) months, including but not limited to persons that have contracts to supply goods or services to the City.

Nothing in this subsection shall require that individual names of City officers and employees be deleted from general mailing lists soliciting campaign contributions from City residents, generally, or by geographic area.

B. Public disclosure is required when a person, who has made campaign contributions to a City officer or employee in the prior twelve (12) months that exceed in the aggregate a total of five thousand dollars (\$5,000.), requests that such City officer or employee act or refrain from acting in a manner that would cause the person to receive a financial benefit. Both the person making the request and the City officer or employee shall publicly disclose the fact that such campaign contributions had been made. The disclosure shall be made in writing and shall be retained in the official records of the body, official or employee to whom the request has been made, as well as in the records of the Ethics Board. Nothing herein shall require recusal by the City officer or employee, solely disclosure. The requirements of this subsection shall be applicable whether or not the City official or employee was a victorious or defeated candidate and whether the City officer or employee was a candidate for City elected office or for another elected office.

C. No City officer or employee shall engage in any political campaign activity during times when that person is working on City business.

D. No City officer or employee shall solicit any subordinate to engage in political campaign activity on behalf of any candidate for any elected office, including but not limited to City elected office.

E. No City officer or employee shall wear any City of Albany uniform or insignia when engaged in any political campaign activity. Nothing herein shall prevent a City officer or employee from wearing a City of Albany uniform or insignia when performing official duties on behalf of the City in conjunction with any election. Nothing herein shall prevent an incumbent City elected official from identifying himself or herself by any official Albany insignia designating that official's elected office.

F. Nothing herein shall prevent any City officer or employee from voluntarily: engaging in any political campaign activity, voting, making a campaign contribution, engaging in free speech, assembling for political purposes, or engaging in other acts not prohibited by this section.

#### §54-14. Mandatory Resignation for Certain Officers and Employees.

A. Any City officer or employee in the unclassified or exempt classes under the New York Civil Service Law shall automatically be deemed to have resigned from his or her position as a City officer or employee as of the date that he or she accepts the appointment, either by taking the oath of office or assuming the duties, as a member of any one of the following boards or commissions: the City Ethics Board, Zoning Board of Appeals, Planning Commission, or any other appointed City Board or Commission other than an advisory board.

B. The automatic resignation required in Subsection A shall not apply to:

1. a City officer or employee who is authorized in any statute, the Albany City Charter, or the City Code to be appointed as a member of a City board or commission; including but not limited to the Board of Contract and Supply; or
2. any individual who is serving on a City board or commission as of the effective date of this Article and who resigns from the City board or commission within thirty (30) days after the effective date of this Article.

#### §54-15. Inducement of Violations of the Code of Ethics.

No person shall induce any other person to violate, attempt to induce any other person to violate, or aid any other person in violating, any provision of the Code of Ethics.

#### §54-16. Whistleblower Protection.

A. No City officer or employee shall retaliate against any City officer or employee or other person for submitting a complaint to the Ethics Board or for acting, or refusing to act, as required by the Ethics Code and Article 18 of the General Municipal Law.

B. Any City officer or employee who violates Subsection A has committed an ethics violation.

C. In resolving a complaint that a City officer or employee has violated this section, the Ethics Board may recommend that a retaliatory personnel action be reversed.

§54-17. Recusal and Transactional Disclosure.

A. A City officer or employee shall immediately recuse himself or herself from formally or informally acting on a matter before the City when acting on the matter, or failing to act on the matter, may financially benefit any of the persons listed in Section 54-5(A).

B. A City officer or employee that has recused himself or herself shall not participate in any aspect of the matter, including but not limited to discussions or debate, rendering advice, voting, deciding to take action or deciding not to act, and attempting to influence others to act or not to act.

C. A City officer or employee that has recused himself or herself shall:

1. promptly inform his or her superior, if any; and

2. execute a signed statement disclosing the reason for recusal, which shall be filed both with the Ethics Board and in the records of the matter; or, if a member of a board, commission, or similar entity, state such information upon the public record of the board and cause the minutes of the meeting to include such disclosure.

§54-18. Applicant Disclosure.

A. When a person requests that the City or a City officer or employee act or refrain from acting, in any capacity other than a ministerial act, then the person making such a request shall disclose the name of any City officer, employee, or any person listed in Section 54-5(A) who could financially benefit if the request is granted and who is reasonably known at the time the request is made or that becomes known thereafter.

B. The disclosure shall be made in writing and shall be retained in the official records of the body, official or employee to whom the request has been made, as well as in the records of the Ethics Board.

C. No disclosure shall be required pursuant to this Section, if a disclosure statement has been filed with respect to the same matter pursuant to Section 54-19.

§54-19. Applicant Disclosure, Land Use Applications.

A. Every application, petition, or request submitted for a change of zoning; zoning amendment; subdivision approval; site plan approval; special permit; variance; waiver or modification any land use law or regulation; exemption from a plat or official map, license or permit; or other approval or action of any type pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning, planning and land use regulations of the City, shall state the information required, to the extent required, by Section 809 of the New York State General Municipal Law.

B. Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by Section 809 of the General Municipal Law.

§54-20. Disclosure of Interest in Legislation.

If a City officer or employee issues an official opinion or participates in the public discussion or public hearing on any proposed legislation, then the City officer or employee shall publicly disclose on the official record the nature and extent of any interest the City officer or employee has in the proposed legislation. Such disclosure shall be filed in the office of the City Clerk and with the Ethics Board.

§54-21. Annual Disclosure.

A. The following City officers and employees holding the following job titles or descriptions shall be required to file a signed annual disclosure statement:

1. the Mayor, City Treasurer, City Auditor, Common Council President, and Common Council members;
2. deputy mayor;
3. commissioners, department, and bureau heads, as well as their principal deputies;
4. inspection personnel;
5. members of appointed boards, except advisory boards; and
6. all other City officers and employees who exercise substantial discretionary authority, as designated by either the Mayor or by rule of the Ethics Board.

B. The City Clerk shall cause the annual disclosure statement form to be distributed to all City officers and employees who must file the statement not later than April 1<sup>st</sup>.

C. Annual disclosure statements shall be filed with the Ethics Board not later than May 15<sup>th</sup> of each year. If an individual receives an automatic extension of time to his or her federal income tax return, then the individual shall so indicate on their annual disclosure statement and may, within ten (10) days after the expiration of the extension, supplement the annual disclosure statement without any penalty for late filing. If a board, commission, or similar appointed entity comes into existence after May 15<sup>th</sup>, then the first annual statement shall be filed by its members within fifteen (15) days of its first meeting. If a City officer or employee who must file an annual disclosure is newly hired or appointed after May 15<sup>th</sup>, then the first annual statement shall be filed within fifteen (15) days of that individual commencing City service. Any material changes to the information reported in the annual disclosure statement shall be reported to the Ethics Board in a written amendment to the disclosure statement by the filer within thirty (30) days of the change.

D. The Ethics Board shall review the filed annual disclosure statements to assure that they comply with the Ethics Code and the General Municipal Law.

E. The annual disclosure statements shall be kept confidential to the maximum extent allowed by law. If the annual disclosure statement of any City officer or employee is requested via a properly submitted request under the freedom of information law, then the City officer or employee shall be given sufficient opportunity to request the Ethics Board or the City's Records Access Officer to redact whatever information is not subject to public access under the law. Nothing herein shall be deemed to be a waiver of the Freedom of Information Law or the privacy and confidentiality protections set forth therein.

F. If a City officer or employee has not filed an annual disclosure statement on time, then the Ethics Board shall notify that individual and direct that the individual file an annual disclosure within seven (7) days. If the annual disclosure statement is filed within that seven (7) day period, then there shall be no penalty for late filing. Otherwise, failure to timely file an annual disclosure statement shall be an ethics violation.

G. The Ethics Board shall promulgate an annual disclosure form that shall require the following information from the disclosing City officer or employee to be submitted in writing and signed under oath:

1. the disclosing City officer or employee's name, home address, and home telephone.
2. that disclosing City officer or employee's position with the City.
3. the names of that disclosing City officer or employee's :
  - a. spouse;
  - b. relatives (as defined in Section 54-3); and
  - c. household members (as defined in Section 54-3).
4. the name, address and telephone number of any outside employer or business (as defined in Section 54-3) of:
  - a. the disclosing City officer or employee;
  - b. each close relative of the disclosing City officer or employee; and
  - c. each household member of the disclosing City officer or employee.
5. whether each outside employer or business disclosed in response to Paragraph 4 of this subsection has within the prior year received or solicited a financial benefit from the City, or appeared before the City on behalf of another person, and, if so, the nature of such activities or matters.

6. whether the disclosing City officer or employee has entered into an agreement or made a promise concerning future employment after leaving City service or employment, and, if so, the complete details thereof.

7. identification of all real estate in the City of Albany owned by the disclosing City officer or employee or that individual spouse, household members, or children.

8. identification of all loans in excess of one thousand dollars (\$1,000.) made to the disclosing City officer or employee or that individual's spouse, household members, or children.

9. identification of an interest in excess of one thousand dollars (\$1,000.) of the disclosing City officer or employee in any trust or estate;

10. identification of gifts in excess of two hundred dollars (\$200.) received by the disclosing City officer or employee within the prior year, except for those gifts enumerated in Section 54-6(B).

11. identification of any interest in any contract involving the City held by the disclosing City officer or employee or that individual's spouse, household members, or children.

12. identification of any positions held by the disclosing City officer or employee within the prior five years as an officer of any political party or political committee.

13. identification of any relative of the disclosing City officer or employee who is a City officer or employee and the department within which he or she is employed.

14. identification of any customer or client of the disclosing City officer or employee or that individual's outside employer or business, who is known to have received or solicited a financial benefit from the City within the prior year or appeared before the City on behalf of another person within the prior year.

§54-22. Ethics Board: Establishment; Qualifications of Members; Appointment of Members; Term of Office; Limitation on Activities.

A. There is hereby established an Ethics Board that shall consist of seven (7) members. Any prior Ethics Board shall cease to function as of January 1, 2010 and all records and files of the prior Ethics Board shall be transferred to the Ethics Board established herein.

B. The following are the composition of the Ethics Board, the members' terms of office, and their qualifications:

1. There shall be a chairperson who shall be appointed for a term of five years. The other six members of the Ethics Board shall be appointed for a term of three years. In order to stagger the terms, the initial appointments made following the effective date of this Article shall be as follows: two members shall be appointed for a three year term, two members shall be appointed for a two year term, and two members shall be appointed for a one year term. The terms of office of the Ethics Board chairperson and all members shall commence on January 1st and expire on December 31<sup>st</sup>.

2. All members of the Ethics Board must be qualified electors and residents of the City of Albany.

3. No member of the Ethics Board may be an employee of the City.

4. No more than three members of the Ethics Board shall be registered as members of the same political party. No individual who holds an office in any political party shall be appointed to the Ethics Board.

5. No individual shall be appointed to the Ethics Board who, within the prior one (1) year, has:

a. been employed by the City in a position classified as exempt or unclassified under the New York Civil Service Law; or

b. held any elective office in the City of Albany.

C. All members of the Ethics Board shall be appointed by the Ethics Board Appointing Committee which shall consist of: the Mayor, the Senior Judge of the Albany City Court, and the Common Council President. A vote by a majority of all of the members of the Ethics Board Appointing Committee shall be necessary to appoint an individual to the Ethics Board. Initial appointments to the Ethics Board shall be made prior to December 31, 2009.

D. The members of the Ethics Board shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

E. No person while a member of the Ethics Board shall:

1. hold a public office;
2. be a candidate for any City elected office;
3. participate, other than to vote or make a lawful campaign contribution, in any political campaign for any candidate for City elected office, including but not limited to hold any political party office; or
4. appear before the City on behalf of any other person.

§54-23. Vacancies; Removal of Ethics Board Members.

A. A member of the Ethics Board shall be deemed to have automatically resigned, and his or her office as a member of the Ethics Board shall automatically be deemed vacant, if that member:

1. ceases to maintain the qualifications enumerated including but not limited to City residency; or
2. has unexcused absences for three consecutive meetings of the Ethics Board or three out of any five consecutive meetings of the Ethics Board. Absences may be excused only by a vote of four of the other six members of the Ethics Board.

B. An Ethics Board member may be removed from office for cause, including substantial neglect of duty, misconduct in office, inability to discharge the powers or duties of office, or violation of this Article. Removal shall be by vote of a majority of all of the members of the Ethics Board Appointing Committee, after written notice to the Ethics Board member and an opportunity to be heard.

C. The Ethics Board Appointing Committee shall fill any vacancy on the Ethics Board within thirty (30) days by appointing an individual to fill the unexpired term of office.

§54-24. Ethics Board; Meetings and Voting.

A. The Ethics Board shall meet no less than once every three (3) months and more often, as necessary.

B. A majority of all of the members of the Ethics Board shall constitute a quorum.

C. A majority vote by all of the members of the Ethics Board shall required for actions other than simple procedural motions, such as a motion to adjourn a meeting, or to table a matter. An affirmative vote by a majority of all of the members of the Ethics Board shall be necessary to adopt a rule; issue an advisory opinion; commence an investigation; issue a subpoena; conduct a hearing; commence an administrative enforcement proceeding; assess a penalty; recommend appropriate enforcement action regarding violations of the Ethics Code; appoint special counsel; or grant a waiver of compliance with the Ethics Code.

§54-25. Ethics Board: Jurisdiction, Powers, and Duties.

A. The Ethics Board may only act with respect to matters that are covered by the Ethics Code and Article 18 of the General Municipal Law.

B. The termination of a City officer's or employee's term of office or employment with the City shall not deprive the Ethics Board of the power to act with respect to any matter covered by the Ethics Code or Article 18 of the GML.

C. The Ethics Board shall have the following powers and duties:

1. to prescribe and promulgate rules and regulations governing its own procedures and to further the purposes of this Article and Article 18 of the General Municipal law.
2. to review, evaluate, index, and maintain on file:
  - a. lists of City officers and employees who are required to file annual disclosure statements; and
  - b. all disclosure statements.

3. to undertake investigations of complaints of ethics violations and to review, evaluate, index, and maintain on file all such complaints and all documents, records and other evidence relating to such complaints.

4. to conduct hearings, subpoena witnesses and documents, recommend disciplinary action, assess penalties, make referrals, and recommend appropriate enforcement actions and proceedings regarding ethics violations.

5. to grant waivers of compliance with the Ethics Code to the extent authorized in this Chapter.

6. to render advisory opinions concerning compliance with the Ethics Code and Article 18 of the General Municipal Law, whether upon request to the Ethics Board or upon the Ethics Board's own motion, and to index, maintain and disseminate such advisory opinions.

7. to provide training and education to City officers and employees, including dissemination of the Ethics Code and any related explanatory material prepared by or on behalf of the Ethics Board to maximize knowledge and awareness of the Ethics Code by all City officers and employees, including but not limited to:

a. annual training for all City officers and employees;  
b. distribution of a plain English summary of the Ethics Code and Article 18 of the General Municipal Law; and  
c. such other training and educational programs as will maximize awareness and compliance.

8. to comprehensively review the Ethics Code and, not less than once every five years, recommend revisions to the Ethics Code to the Mayor and the City Council.

9. to maintain records of all of the matters before it, including but not limited to complaints, investigations, advisory opinions, hearings, and actions to enforce the Ethics Code.

D. The office of the Corporation Counsel shall function as staff to the Ethics Board and shall assist the Ethics Board in:

1. providing training to City officers and employees regarding compliance with the Ethics Code and Article 18 of the General Municipal Law;  
2. reviewing and analyzing disclosure statements; and  
3. providing such additional assistance as may be required by the Ethics Board.

E. The Corporation Counsel shall be counsel to the Ethics Board and shall assist the Board in issuance of advisory opinions, interpretation of the Ethics Code and Article 18 of the General Municipal Law, conducting any administrative hearing, as well as issuing process in relation thereto. In addition, the Corporation Counsel shall provide assistance to the Ethics Board in drafting of documents, administration of oaths or affirmations, preparation of subpoenas, and process needed to compel compliance with subpoenas.

F. If the Ethics Board determines an ethics related matter before it requires investigation, then it may undertake such investigation itself or may direct the Corporation Counsel to undertake such investigation.

#### §54-26. Distribution and Posting of Ethics Code and State Laws.

A. Within thirty (30) days of the effective date of this Article, the Mayor shall cause a copy of the Albany Ethics Code and the applicable sections of Article 18 of the General Municipal Law to be distributed to every City officer and employee by e-mail or such other means as the Mayor reasonably chooses. Within thirty (30) days of the effective date of any significant amendment to this Article or the applicable sections of Article 18 of the General Municipal Law, the Mayor shall cause a copy of the amendment to be distributed to every City officer and employee by e-mail or such other means as the Mayor reasonably chooses.

B. At the time that a new City officer or employee takes office or commences employment, that individual shall be given a copy of the Albany Ethics Code and the applicable sections of Article 18 of the General Municipal Law.

C. Within 30 days of receipt of the Ethics Code or an amendment thereto pursuant to Subsections A or B, the City officer or employee shall file a written statement with the Ethics Board stating that he or she has read and understands the Ethics Code.

D. A current and accurate copy of the Ethics Code and article 18 of the General Municipal Law shall be posted on the City's internet web site and a hard copy shall be maintained on file and be available for use by any City officers and employees in the office of the Mayor, the Common Council President, and every department head.

E. The City Clerk shall provide at no charge to any person a copy of the Ethics Code and the applicable sections of Article 18 of the General Municipal Law.

F. A notice containing substantially the following statements shall be posted in the office of the Mayor, the Common Council President, and every department head in a conspicuous location visible to members of the general public as well as City officers and employees:

**“EVERYONE MUST COMPLY WITH THE CITY OF ALBANY  
ETHICS CODE AND THE NEW YORK STATE ETHICS LAWS**

You can obtain your own free copy of the Albany  
Ethics Code and the state ethics laws from the City Clerk.

A copy of the Albany Ethics Code and state ethics laws  
is also maintained on file in this office for your convenience.

If you are unsure how to comply with the Albany Ethics  
Code and state ethics laws, please contact the Albany Ethics Board. They can assist  
you and provide an advisory opinion.

If you believe a person has violated the Albany Ethics Code  
or state ethics law, file a complaint with the City Ethics Board.

**GOOD GOVERNMENT IN ALBANY DEPENDS ON YOU!!”**

§54-27. Ethics Board; Disclosure Statements.

A. The Ethics Board shall review the lists of officers and employees, prepared pursuant to Section 54-21 to assure that the lists are complete and accurate. The Ethics Board shall add the title of any other officer or employee who the Ethics Board determines should appear on the list.

B. The Ethics Board shall review the filing of annual disclosure statements to assure that all City officers and employees required to file such a statement have done so.

C. The Ethics Board shall maintain indexed records of all disclosure statements to assure that such records are available for use in respect of any alleged violation of the Ethics Code or in respect of any advisory opinion.

D. If the Ethics Board determines that any disclosure statement is deficient, then the Ethics Board shall issue a notice in writing requiring correction of the deficient disclosure statement. Failure to comply with the notice shall be an ethics violation.

§54-28. Advisory Opinions.

A. On its own initiative or upon the request of any person whose conduct is governed by this Article, including but not limited to a City officer or employee, the Ethics Board may issue an advisory opinion concerning compliance with the Ethics Code and the provisions of Article 18 of the General Municipal Law. Advisory opinions are intended to prevent violations of the Ethics Code by identifying potential violations before they occur. A request for an advisory opinion shall be made in writing and shall include the facts that are relevant to the request.

B. If an advisory opinion requires a legal interpretation of the Ethics Code, then the Ethics Board shall obtain the advice of the Corporation Counsel, or special counsel upon recusal by the Corporation Counsel,

who shall advise the Ethics Board on the proper legal interpretation of the Ethics Code. All advisory opinions regarding the Ethics Code shall be issued by the Ethics Board.

C. A City officer or employee who faithfully and accurately follows the guidance of an advisory opinion issued by the Ethics Board, shall not be deemed to have committed an ethics violation as to the specific matters addressed in the advisory opinion.

D. The Ethics Board shall cause its advisory opinions to be maintained in indexed records for future reference. Advisory opinions shall be public documents, subject to necessary redactions to protect confidentiality.

#### §54-29. Complaints and Investigations.

A. Upon its own initiative concerning a potential ethics violation or upon receipt of a written complaint by any person alleging an ethics violation, the Ethics Board shall investigate the matter. If the Ethics Board elects to commence an investigation of a possible ethics violation on its own motion in the absence of any complaint, then it shall notify the person being investigated in writing within five days of the commencement of the investigation. If the Ethics Board determines at any time that an ethics violation may have occurred, then in addition to its other powers, the Ethics Board may solicit the assistance of the Corporation Counsel in undertaking an investigation or may request that the Corporation Counsel undertake an independent investigation.

B. All complaints of ethics violations shall be filed in writing with the Ethics Board. Within five (5) days of its receipt of a complaint, the Ethics Board shall notify in writing the complainant and the person(s) alleged to have committed the ethics violations that the Ethics Board is in receipt of the complaint and is investigating the matter.

C. The Ethics Board shall complete a preliminary investigation of the complaint within thirty (30) days from the date the complaint is received. In the event that the Ethics Board finds no merit to the complaint, then it shall be dismissed and the complainant and the person alleged to have committed the ethics violation shall be promptly notified in writing.

D. In the event that the Ethics Board determines that the complaint may have merit, then the Ethics Board shall cause a full investigation to be conducted, including interviewing the person who is the subject of the complaint and interviewing other witnesses, and requesting and reviewing documents.

E. The Ethics Board shall maintain complete records of its investigations and shall document in writing the results of every investigation it conducts, including the disposition of the matter being investigated. Within five (5) days of the completion of each investigation, the Ethics Board shall give notice to the complainant, if any, and the person who was the subject of the investigation.

F. After a complaint has been filed and during any investigation undertaken of a complaint before the Ethics Board, no member of the Ethics Board or any of the Ethics Board's authorized agents, may communicate privately with any party or other person about any issue of fact or law regarding the complaint, except as authorized by the Ethics Board.

G. Upon completion of its investigation, the Ethics Board shall take one or more of the following actions:

1. dismiss the complaint or Ethics Board investigation if:
  - a. there has been no ethics violation;
  - b. the Ethics Board has no jurisdiction over the matter;
  - c. if the complainant fails to cooperate with the Ethics Board's investigation; or
  - d. for other good grounds;
2. refer the complaint to the appropriate authorities for criminal investigation and prosecution;
3. refer the matter to the Mayor or appropriate administration officers for disciplinary personnel action;
4. conduct an administrative enforcement hearing; or
5. settle the matter with the person who is the object of the complaint or Ethics Board investigation.

§54-30. Hearings; Administrative Enforcement.

A. The Ethics Board shall adopt rules governing the conduct of all hearings. Such rules shall contain appropriate due process procedural mechanisms, as well as take into account any applicable provisions of law and collective bargaining agreements. The Ethics Board shall conduct and complete each hearing with reasonable promptness.

B. If the Ethics Board elects to conduct a hearing on a possible ethics violation, then the person who is the subject of the hearing has the right to be represented by counsel. A copy of the transcript of the testimony provided by the person who is the subject of the complaint shall be provided at no cost to such person.

C. If after hearing all of the testimony and reviewing the relevant documents, the Ethics Board determines that an ethics violation has been committed, then the Ethics Board shall impose one or more appropriate sanctions, as follows:

1. impose a civil penalty in an amount not less than two hundred fifty dollars (\$250.) nor more than ten thousand dollars (\$10,000.);
2. refer the matter to the district attorney for criminal prosecution;
3. refer the matter to the Corporation Counsel or special counsel (if previously appointed) for civil action seeking injunction; debarment; voiding of a transaction; permanent bar from appointment, employment or election as a City officer or employee; civil forfeiture, or other relief; or
4. refer the matter to the appointing authority of a City employee, or officer or the person empowered to discipline that City officer or employee;

D. Nothing in this section shall be construed to permit the Ethics Board to take any action with respect to any alleged ethics violation by the Ethics Board or one of its members. Such a violation shall be referred to the District Attorney for criminal prosecution.

§54-31. Subpoenas.

The Ethics Board may issue subpoenas to compel the attendance of necessary witnesses and the production of documents and other materials pertinent to an investigation or hearing.

§54-32. Prohibition on Influence of the Ethics Board.

A. No City officer or employee or any other person shall attempt to privately influence or communicate with an Ethics Board member concerning a pending Ethics Board complaint or investigation. All communications shall be to the Ethics Board itself or the Chairperson of the Ethics Board as authorized by Ethics Board rule.

B. Any improper communication to an Ethics Board member shall be disclosed by the Ethics Board member to the Ethics Board and shall, itself, constitute an ethics violation.

§54-33. Appointment of Special Counsel.

A. In the event that the subject of an ethics violation, complaint, investigation, or advisory opinion is the Mayor, a Deputy Mayor, or the Corporation Counsel, then the Corporation Counsel shall recuse himself or herself, as well as the entire office of the Corporation Counsel, and special counsel shall be appointed to advise the Ethics Board, assist in rendering an advisory opinion, assist in conducting an investigation, and assist the Ethics Board regarding administrative enforcement, hearing, and other matters relating to ethics violation enforcement.

B. When special counsel is needed, the Council President, the President Pro-Tempore and the Majority Leader shall each provide the Ethics Board with the name of one (1) proposed special counsel and the Ethics Board shall appoint one (1) special counsel from the names so provided.

C. The City shall bear the expense of reasonable attorney's fees, costs and disbursements incurred by special counsel in assisting the Ethics Board with such ethics violation, complaint, or investigation. Special counsel shall have the same powers and duties as does Corporation Counsel under this Article.

§54-34. Confidentiality.

Complaints, investigations, records and other material related to ethics violations, advisory opinions, and other matters before the Ethics Board shall be confidential until final action is taken by the Ethics Board. Prior to release, personal information shall be redacted to the extent authorized by the Freedom of Information Law.

§54-35. Waivers.

A. The Ethics Board is empowered to grant waivers from certain provisions of the Ethics Code, as provided herein.

B. The Ethics Board may grant a waiver of the prohibitions set forth in Section 54-9 upon the affirmative supermajority vote of five members of the Ethics Board. Such a waiver may include, but is not limited to, authorizing former City officers or employees to appear before the City on behalf of another person concerning a matter that was before the City officer or employee prior during his or her employment by or service to the City.

C. An application for a waiver must be made in writing setting forth in detail the reasons for the requested waiver. The application must be signed by the applicant with a statement, under oath, that the contents of the application are true and correct. The Ethics Board may grant a waiver if there is no substantial prejudice to the City and upon such conditions as are appropriate to assure that public interest in high ethical conduct is maintained. The applicant shall provide such additional information as is necessary and the Ethics Board may investigate the application as it sees fit.

D. All waivers shall be issued in writing by the Ethics Board and the contents of any waiver shall be a public record.

§54-36. Penalties.

Any ethics violation shall be punishable by:

A. a civil penalty to be imposed by the Ethics Board of at least two hundred fifty dollars (\$250.) for a first ethics violation, of at least five hundred dollars (\$500.) for a second ethics violation, and of at least one thousand dollars (\$1,000.) for a third ethics violation. A person need not commit the same ethics violation to be considered a repeat ethics violator. The maximum civil penalty for any ethics violation is ten thousand dollars (\$10,000.).

B. a criminal penalty as a Class I offense of up to one year imprisonment or a fine of one thousand dollars (\$1,000.), or both.

C. upon the recommendation of the Ethics Board, suspension or dismissal from office, or other personnel disciplinary action by the City officer or employee empowered to take such disciplinary action.

D. upon recommendation of the Ethics Board, a court of competent jurisdiction may order the permanent debarment from doing business with the City of any person; disqualification from appointment, employment or election as a City officer or employee; or voiding of any contract.

**Section 2. This ordinance shall take effect immediately.**

**Council Member Calsolaro made a motion to withdraw Ordinance Number 68.111.08, which was approved by unanimous voice vote.**

Council Member Conti moved to amend and having been amended asked for passage and a roll call vote thereon:

**ORDINANCE NUMBER 25.31.09 (as amended)**

**AN ORDINANCE AMENDING CHAPTER 359 (VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ALTERNATE SIDE OF THE STREET PARKING REGULATIONS**

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

Section 1. Section 359-21 of the Code of the City of Albany is amended to read as follows:

§ 359-21. Parking limits and alternate side of the street parking.

A. Parking limits in the City of Albany will be designated by the Chief of the Department of Police and displayed through the use of official signs, except in designated areas within the City where parking meters are installed [which will have a parking limit of one hour between the hours of 9:00 a.m. and 6:00 p.m., Monday through Saturday, except holidays] in accordance with Article XIII of this chapter.

B. In instances where alternate side of the street parking limits are instituted on streets with one-sided on street parking only, the Chief of the Department of Police shall designate a one-hour change over window to allow vehicles to move from one side of a street to another so as to be in compliance with applicable alternate side of the street parking regulations. Such change over period shall be divided so as to provide thirty (30) minutes prior to the applicable posted no parking period and thirty (30) minutes after the applicable posted no parking period. During such window period, vehicles shall not be considered to be parked in violation of the provisions of this chapter.

Section 2. This ordinance shall take effect 30 days after enactment.

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

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

Affirmative 15 Negative 0 Abstain 0

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

**CONSIDERATION OF RESOLUTIONS**

Council Member Rosenzweig offered the following, which was held:

**Resolution Number 51.52.09R**

**RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE CLIMATE SMART COMMUNITY PLEDGE**

**WHEREAS**, the City of Albany, New York (hereinafter "local government") believes that climate change poses a real and increasing threat to our local and global environments which is primarily due to the burning of fossil fuels; and

**WHEREAS**, the effects of climate change will endanger our infrastructure,

economy and livelihoods; harm our farms, orchards, ecological communities, including native fish and wildlife populations; spread invasive species and exotic diseases; reduce drinking water supplies and recreational opportunities; and pose health threats to our citizens; and

**WHEREAS**, we believe that our response to climate change provides us with an unprecedented opportunity to save money, and to build livable, energy-independent and secure communities, vibrant innovative economies, healthy and safe schools and resilient infrastructures; and

**WHEREAS**, we believe the scale of greenhouse gas (GHG) emissions reductions required for climate stabilization will require sustained and substantial efforts; and

**WHEREAS**, we believe that even if emissions were dramatically reduced today, communities would still be required to adapt to the effects of climate change for decades to come.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Albany, in order to reduce greenhouse gas emissions and adapt to a changing climate will:

**1. Pledge to Combat Climate Change by Becoming a Climate Smart Community**

Set goals to reduce GHG emissions and adapt to predicted climatic changes. Establish a task force of local officials and community members to review the issues and propose a plan of action. Designate a point person who will oversee climate change initiatives and publicly report on progress. Work cooperatively with similar task forces in neighboring communities to ensure that efforts complement and reinforce one another. As an official signal of commitment and for access to technical resources, sign on to a widespread climate campaign such as ICLEI Local Governments for Sustainability - Climate Protection campaign.

**2. Set Goals, Inventory Emissions, Move to Action**

Gather data, inventory GHG gas emissions, and establish baselines for local government operations and community sectors. Develop quantifiable interim GHG emission targets consistent with emission reduction goals and propose a schedule and financing strategy to meet them. Encourage stakeholder and public input and develop an action plan. Report emissions to The Climate Registry (TCR), which has developed a standardized method for reporting emissions inventories; use ICLEI and TCR's tools to track and evaluate progress.

**3. Decrease Energy Demand for Local Government Operations**

Adopt a goal of reducing electricity use by 15 percent from projected levels no later than 2015.

Existing Public Facilities. Inventory current building electricity usage and identify opportunities for conservation and efficiency retrofits. Obtain energy assessments from the New York State Energy Research and Development Authority (NYSERDA), the New York Power Authority, the Long Island Power Authority or other professionals. Consider actions such as purchasing energy efficient equipment and appliances, such as ENERGY STAR®; improving lighting, heating, and cooling efficiency; setting thermostats for maximum energy conservation; decreasing plug load from office equipment; and increasing pump efficiency in water and wastewater systems.

New Public Buildings. Achieve at least minimum U.S. Green Building Council Leadership in Energy and Environmental Design standards (LEED Silver) for all new local government buildings.

Infrastructure. Incorporate energy efficient technologies and operations and maintenance practices into municipal street lighting, traffic signals, and water and wastewater treatment facilities.

Vehicle Fleet and Commuting. Improve the average fuel efficiency of local government fleet vehicles. Discourage vehicle idling and encourage bicycling, car-pooling and public transit for employees. Consider reducing the number of vehicles; converting fleet vehicles to sustainable alternative fuels; and using electric vehicles where possible.

**4. Encourage Renewable Energy for Local Government Operations**

Supply as much of the local government's power, heat and hot water needs as possible from solar, wind, and small hydro through purchase or direct generation.

### **5. Realize Benefits of Recycling and Other Climate Smart Solid Waste Management Practices**

Expand the "reduce, reuse and recycle" approach to waste management in local government operations and in the whole community. Reduce the amount of solid waste generated -- promote backyard composting, implement volume-based pricing and educate residents on how to prevent waste. Promote reuse by organizing community-wide yard sales, and providing a space for drop-off or trade of reusable goods. Provide recycling receptacles in local government buildings and outdoor spaces, require duplex printing in government offices, compost food scraps and green waste, and adopt a comprehensive green purchasing program.

### **6. Promote Climate Protection through Community Land Use Planning**

Combat climate change by encouraging low-emissions development that is resilient to climatic changes. When updating land use policies, building codes or community plans, include provisions to combat climate change; reduce sprawl; preserve and protect open space, biodiversity, and water supplies; promote compact, transit-oriented, bikeable and walkable communities; promote infill development; minimize new development in floodplains; maintain or establish healthy community forests; and promote best forest management practices and encourage tree planting, especially along waterways, to increase shading and to absorb carbon dioxide.

### **7. Plan for Adaptation to Unavoidable Climate Change**

Evaluate risks from unavoidable climate change, set adaptation goals and plan for adaptation. Identify climate change impacts (such as flooding, drought, and extreme temperatures) that could affect the community. Identify areas such as water supply and sewer infrastructure that may be at risk due to sea-level rise and future changes in climate. Factor risks into long-term investments and decision-making. Execute climate change adaptation and preparedness measures through local government planning, development and operations, giving priority to the highest risk areas.

### **8. Support a Green Innovation Economy**

Identify opportunities to incorporate climate protection, sustainability and environmental goods and service industries into economic development plans. Encourage workforce development training and school curricula that support the emerging green collar job sector, including renewable energy and energy efficiency, as well as climate smart solid waste management practices. Procure climate smart goods and services for local government operations and support modernizing of local and national electricity grids.

### **9. Inform and Inspire the Public**

Lead by example. Highlight local government commitment to reducing energy use, saving tax dollars, and adapting to changing conditions. Demonstrate the benefits of energy savings, energy efficiency, and renewable energy projects by hosting open houses; distributing fliers; holding local meetings; working with school districts, colleges, and universities to develop climate change curricula and programs; engaging faith-based communities in climate protection; and regularly communicating community climate protection goals and progress to constituents.

### **10. Commit to an Evolving Process**

Acknowledge that research and policy on climate protection are constantly improving and evolving. Be willing to consider new ideas and commit to update plans and policies as needed. Compare successes, cooperate and collaborate with neighboring communities to redirect less-effective actions and amplify positive results.

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

### **Resolution Number 52.52.09R**

**RESOLUTION CALLING UPON THE OBAMA ADMINISTRATION AND THE UNITED STATES CONGRESS TO RECONSIDER THE NEW ROUTING RULE THAT ALLOWS THE RAILROAD COMPANIES TO DETERMINE THE SAFEST AND MOST SECURE ROUTES FOR TRANSPORTING CHLORINE AND OTHER HAZARDOUS MATERIALS, AND TO AMEND THE RULE TO REQUIRE RAILROAD COMPANIES TO WORK WITH STATE AND LOCAL OFFICIALS TO DETERMINE THE SAFEST AND MOST SECURE ROUTES**

**WHEREAS**, major US railroads operate through the City of Albany, and the greater Capital Region, bringing rail freight which includes chlorine gas, anhydrous ammonia, and other hazardous cargoes of concern to federal homeland security officials; and

**WHEREAS**, the Capital District Region, including all or parts of the following counties: Albany, Rensselaer, Schenectady, Saratoga and Schoharie, which together make up the *Urban Area Work Group* of the *Urban Area Securities Initiative* under the US Department of Homeland Security; and

**WHEREAS**, liquefied chlorine gas and anhydrous ammonia rail shipments, of highest concern to homeland security officials, total nearly 100,000 railcars per year in the US; and

**WHEREAS**, the current routes used by major railroads pass within yards of our urban neighborhoods, through the downtown and near many potential terrorism targets including sports arenas and government buildings; and

**WHEREAS**, possible alternative rail routes could transfer the most dangerous through chemical cargoes onto available non-target lines that skirt well around the City of Albany and other target cities, and would therefore significantly reduce both terrorism risk and the potential consequences of accidental releases; and

**WHEREAS**, chlorine is classified as a Toxic Inhalation Hazard by the Department of Homeland Security; and

**WHEREAS**, the Chlorine Institute estimates that one chlorine tank car can release a cloud at a potentially lethal level that extends 15 miles downwind and 4 miles wide; and

**WHEREAS**, recent filings with the US Surface Transportation Board indicate clearly that railroads transport many chlorine gas railcar cargoes hundreds, even thousands of miles across the US, on routes some of which no doubt routinely traverse the City of Albany; and

**WHEREAS**, a recent statement submitted to a federal regulatory docket, by major chlorine “captive shipper” PPG Industries, indicates that railroads may have available alternative routes that can lower both the distance and the terrorism risk potentials for chlorine shipments but that the railroads can refuse to do so, instead unnecessarily forcing shipments onto routes hundreds of miles longer and through major target urban areas; and

**WHEREAS**, immediately after the 9/11 attacks chlorine and other ultrahazardous railcars were promptly ordered off the tracks and brought to safe havens, and subsequently, federal agencies have been quietly meeting with railroads and shippers to try to shorten chlorine and other ultrahazardous cargo routes to reduce terrorism risks; and

**WHEREAS**, a regulation finalized by the Bush Administration’s Federal Railroad Administration, effective December 26, 2008, provides that each individual railroad during 2009 will unilaterally analyze and select its hazardous cargo urban routes, with no significant input from state and local officials; and

**WHEREAS**, local and state governments have a direct interest in protecting the community from the

threat of hazardous materials releases.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Albany hereby urges the Obama Administration and the United States Congress to revise the routing law and the routing rule to include requirements that railroads work together with state and local officials to determine the safest and most secure routes for chlorine and other hazardous cargo transport that involve all carriers.

**BE IT FURTHER RESOLVED**, that the City of Albany and the other members of the *Urban Area Work Group* have seats at the table with the railroad companies as they work on their routing analyses and selections that impact our citizens, and to assess the adequacy of the transportation security vulnerability assessments and security plans produced by the railroads for routing and storage of hazardous shipments that place our citizens at risk throughout the Capital District Region.

**RESOLVED**, that a copy of this resolution be transmitted to Senators Schumer and Gillibrand, Congressman Tonko, and Jo Strang, Acting Administrator, Federal Railroad Administration.

*\*Note: There was discussion from Council Member Calsolaro regarding asking the government to all local homeland security offices to having a say on the most safest and secure routes for hazardous materials.*

*There was discussion from Council Member Smith commending Council Member Calsolaro.*

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

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

Affirmative 15 Negative 0 Abstain 0

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

**Resolution Number 53.52.09R**

**RESOLUTION COMMEMORATING THE MAIMONIDES HEBREW DAY SCHOOL OF THE CAPITAL DISTRICT'S 29<sup>TH</sup> ANNUAL SCHOLARSHIP TRIBUTE DINNER**

**WHEREAS**, it is the sense of this Council to recognize and commend those institutions and individuals of commitment and high achievement whose purpose and endeavor have been dedicated to the pursuit of excellence in the education of the children of this great city; and

**WHEREAS**, religious institutions, and the many spiritual, social and educational benefits they confer, play a vital role in the development of the moral fabric of a responsible citizenry; and

**WHEREAS**, it is the tradition of this City and State to pay tribute to those institutions and individuals who have contributed to the ethical and spiritual values of their communities; and

**WHEREAS**, this Council is justly proud to commemorate the 29<sup>th</sup> Anniversary of Maimonides Hebrew Day School of the Capital District; and

**WHEREAS**, at the Annual Scholarship Tribute Dinner the school honored Sheldon Abelson, Dr. Eric Block, Dr. Seth Chaiken, Dr. Steve Cramer, Jay Freud, Eric Fried, Dr. Gerald Friedman, Jessica Many, Howard

Mittleman, Dr. Lewis Morrison, Dr. Jerald O'Brien, Harvey Patashnick, Carl Rosner, Moshe Sinai, Dr. Lawrence Sturman, Esther Sussman, Dr. Sally Temple, Dr. Scott Tenenbaum and Dr. Yosef Yishai with the Maimonides Huson 400 Explorers Award which honors individuals representing the spirit of research and discovery in the spirit of Henry Hudson. The Berger Memorial Award was also presented to Benjamin and Ruth Mendel for their service to the local Jewish community. Yefim and Galina Baskin were honored with the Bezalel Award; and

**WHEREAS**, the greatest asset of any society is its children and the hope and promise they represent for the future. Maimonides Hebrew Day School of the Capital District has a proud and rich history of providing its students with an educational and religious foundation which is both strong and enduring.

**NOW, THEREFORE, BE IT RESOLVED**, that this Council pause in its deliberations to honor the Maimonides Hebrew Day School of the Capital District and the individuals it has chosen as award winners.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution, suitably engrossed be transmitted to the Maimonides Hebrew Day School of the Capital District.

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

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

Affirmative 15 Negative 0 Abstain 0

Council Members Smith and Ellis offered the following, which was referred to the Human Resources and Human Rights Committee:

**Resolution Number 54.52.09R**

**RESOLUTION SUPPORTING IMMIGRANT RIGHTS IN THE CITY OF ALBANY**

**WHEREAS**, the recent tragedy in Binghamton, New York has brought attention to the many challenges that immigrants face; and

**WHEREAS**, approximately twelve million undocumented immigrants reside in the United States, and many in our own community; and

**WHEREAS**, many immigrant workers are exploited with sub-standard wages and working conditions; and

**WHEREAS**, immigrant families, including local families, are living in constant fear of repression, jail or deportation; and

**WHEREAS**, many new immigrants face structural barriers to resources and services because of lack of language access; and

**WHEREAS**, we, the City of Albany Common Council find the above conditions deplorable and unjust; and

**WHEREAS**, Albany is a city built by immigrants and continues to benefit from the economic and cultural contributions of new immigrants.

**NOW, THEREFORE, BE IT RESOLVED**, that when an immigrant living, visiting and/or working in the City of Albany is not posing a threat to the community, the City of Albany Common Council calls on all state, federal and local political leaders and agencies to:

- 1) Refrain from all unnecessary measures to jail, detain or deport documented and undocumented immigrants and their families living in the City of Albany;
- 2) Instruct public safety personnel to refrain from asking people their immigration status, which is a federal matter;
- 3) Support a transparent and equitable legal due process leading to citizenship for all immigrants living in our city;
- 4) Provide equitable language access to all city offices and services; and
- 5) Support a welcoming and compassionate environment for immigrants and their families within our city and its institutions.

**BE IT FURTHER RESOLVED**, that a copy of this resolution, suitably engrossed, be transmitted to the locally elected federal and state officials.

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

**Resolution Number 55.52.09R**

**RESOLUTION DECLARING MAY AS BIKE MONTH IN THE CITY OF ALBANY**

**WHEREAS**, bicycling is an excellent form of clean transportation with the added benefit of being a very good form of exercise; and

**WHEREAS**, it is in the best interests of the City of Albany to promote the use of bicycles for transportation to reduce air pollution, increase the health of residents, and make Albany an attractive place to live; and

**WHEREAS**, bicycling does not require the use of fossil fuels, and thus decreases our reliance on other countries to meet our energy needs; and

**WHEREAS**, the Albany Bicycle Coalition is offering an entire month of events to promote bicycling, including: an opening of the "Grand Tour" exhibit at the Downtube Bicycle Shop, the Commuter Contest of car vs. bus vs. cyclist on May 14<sup>th</sup>, Bike to Work Day on May 15<sup>th</sup>, a bike race from Albany to Troy on May 16<sup>th</sup>, the Ride of Silence on May 20<sup>th</sup>, and the showing of several bicycle themed movies including VEER at the Madison Theatre on May 14<sup>th</sup>; and

**WHEREAS**, all citizens of Albany and neighboring communities are welcome to participate in these events.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council hereby declares May as Bike Month in the City of Albany and encourages all residents to try bicycling as a form of transportation for exercise and enjoyment.

*\*Note: There was discussion from Council Member Sano regarding people he knew that reclaims bikes and gives them to people who needed them.*

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

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

Affirmative 15 Negative 0 Abstain 0

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

**Resolution Number 56.52.09R**

**RESOLUTION OF THE COMMON COUNCIL SUPPORTING ENACTMENT OF THE EMPLOYEE FREE CHOICE ACT AS PROPOSED IN H.R. 1409/ S. 560**

**WHEREAS**, The National Labor Relations Act was passed in 1935 to guarantee workers in the United States the right to organize and collectively bargain for better wages, benefits and working conditions and mandates that workers and their employers bargain in good faith about wages, benefits and other working conditions once the workers have formed a union; and

**WHEREAS**, it has been incredibly weakened over the years, and often manipulated by anti-union companies often forcing workers to wait years to hear the results of their union election, and even longer for an actual contract with their employer; and

**WHEREAS**, public opinion polls indicate that a majority of U.S. workers say they would join a union now if they had the opportunity; and

**WHEREAS**, union membership provides workers better wages and benefits, and protection from discrimination and unsafe workplaces, while benefiting whole communities by strengthening tax bases, promoting equal treatment and enhancing civic participation; and

**WHEREAS**, even though laws guarantee America's workers the right to choose for themselves whether to have a union, employers across the nation routinely violate that right by harassing, intimidating, and firing workers for exercising this freedom; and

**WHEREAS**, the Employee Free Choice Act, bi-partisan legislation in Congress, will help begin to fix the broken process through which workers form unions by speeding the process that certifies whether a majority of workers at a company want to form a union, speeding the process of negotiating a first union contract, increasing penalties for employers who violate workers' rights, strengthening protections for workers' freedom to choose a union by requiring employers to recognize a union after a majority of workers sign cards authorizing union representation, and by providing for mediation and arbitration of first-contract disputes.

**NOW, THEREFORE, BE IT RESOLVED**, that the Albany Common Council expresses its support

for the Employee Free Choice Act (H.R. 1409 and S. 560), and calls upon federal legislators to work toward its immediate enactment; and,

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be transmitted to United States Senators Kirsten Gillibrand and Charles Schumer, and United States Representative Paul Tonko

*\*Note: There was discussion from Council Member Ellis regarding intimidation from employers.*

*There was discussion from Council Member Sano regarding the National Labor Relations Act being amended and the need for provisions to all arbitration.*

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

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

Affirmative 15 Negative 0 Abstain 0

**Council Member Conti asked and received majority consent to add Resolution Number 57.52.09R to the pending agenda, which was approved by unanimous voice vote.**

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

**RESOLUTION NUMBER 57.52.09R(MC)**

**RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF EVRIL E. CLAYTON, JR. AS A MEMBER OF THE PLANNING BOARD**

**WHEREAS**, the Mayor of the City of Albany has, pursuant to the provisions of Article 3 of the City Charter appointed Evril E. Clayton, Jr. as a member of the Planning Board to fill a vacancy.

**NOW, THEREFORE, BE IT RESOLVED**, that Evril E. Clayton, Jr. be confirmed as a member of the Planning Board for a term of office to expire December 31, 2009.

**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:**

- Attardo, Robert H, 27 S. Lake Avenue, Apt 3, Albany, NY 12203
- Bissell-Evans, Brandon, 286 Western Avenue, Albany, NY 12203
- Callaschai, Ariel, 114 Grand Street, Apt 2, Albany, NY 12202
- Fattarvso, Laura, 60 S. Allen Street, Albany, NY 12208
- Konev, Anton A, 268 Washington Avenue, Albany, NY 12203
- Lussier, David, 382 Morris Street, Albany, NY 12208

Pearson, Jane, 580 Myrtle Avenue, 1<sup>st</sup> Floor, Albany, NY 12208  
Springfield, Martin George, 382 Morris Street, Albany, NY 12208  
Sweet, LeeFrances, 60 S. Allen Street, Apt 2, Albany, NY 12208

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

**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:**

Scavo, Brian, 5 Barclay Street, Albany, NY 12209

**Not passed by the following vote of all the Council Members elected voting in favor thereof:**

Affirmative -- Casey, Fox, Igoe, Rosenzweig, and Timmons

Present -- Calsolaro, Conti, Ellis, Fahey, Herring, McLaughlin, O'Brien, Sano, Scalzo, and Smith

Affirmative 5 Negative 0 Abstain 0 Present 10

Council Member Fahey discussed her support of Resolution 51.52.09R regarding climate change and green collar jobs.

Council Member Conti made a motion to subpoena APD officer Condon as part of the Council's parking ticket investigation and to appear before the Council on May 28, which was approved by unanimous voice vote.

Council Member Conti made a motion to subpoena APD Officer McDade as part of the Council's parking ticket investigation and to appear before the Council on May 28, which was approved by unanimous voice vote.

### **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 May 18<sup>th</sup>, 2009.

CASHAWNA PARKER  
SENIOR LEGISLATIVE AIDE TO THE  
ALBANY COMMON COUNCIL