

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

Wednesday, July 15, 2009

The Common Council was convened at 6:00 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 Fahey led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

(All Comments Made Must pertain to the purpose of the Special Meeting)

1. Lynne Jackson, 223 S. Swan St., Albany, NY 12202
2. John Wolcott, 344 Sheridan Ave., Albany, NY 12206
3. Gregory Bell, 536 Providence St., Albany, NY 12208
4. Grace Nichols, 439 Elk St., Albany, NY 12206
5. Sally Cummings, 12 Malpass Rd., Westmere, NY 12203

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

CONSIDERATION OF ORDINANCES

Council Member Sano moved to amend and as amended asked for passage and a roll call vote thereon:

Ordinance Number 40.51.09 (As Amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF [~~\$9,000,000.00~~] \$8,000,000.00 AND AUTHORIZING THE ISSUANCE OF [~~\$9,000,000.00~~] \$8,000,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (LANDFILL EXPANSION - PHASE 1)

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

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

(A) Object or Purpose: [Solid waste management-resource recovery facilities] Refuse disposal areas
Local Finance Law Section 11.00(a) Subparagraph 6-a
Period of Probable Usefulness: [25] 15 years
Maximum Term of Obligations: [25] 15 years
Maximum Estimated Cost: [\$9,000,000.00] \$7,535,000.00
Maximum Amount of Bonds: [\$9,000,000.00] \$7,535,000.00
Comptroller's Bond Authorization Numbers: AE-08
Comptroller's Project Numbers: GH 81609932

(B) Object or Purpose: Refuse disposal areas

Local Finance Law Section 11.00(a) Subparagraph 6-a

Period of Probable Usefulness: 10 years

Maximum Term of Obligations: 10 years

Maximum Estimated Cost: \$465,000.00

Maximum Amount of Bonds: \$465,000.00

Comptroller's Bond Authorization Numbers: AE-08

Comptroller's Project Numbers: GH 81609932

Section 2. The plan of financing such objects or purposes is the issuance of [\$9,000,000.00] \$8,000,000.00 serial bonds hereby authorized to be issued.

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

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

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

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

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

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

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

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

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

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

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

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitutes a Type 1 action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder for which Common Council has previously adopted a Findings Statement.

Section 12. This ordinance shall be dated May 4, 2009 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany

**Note: There was discussion from Council Member Sano thanking Council Members Conti, McLaughlin, Herring and O'Brien for getting clarification on some issues with the bonding ordinances.*

There was discussion from Council Member Calsolaro thanking Council Members. He discussed taking a stand to get needed answers. He discussed 15 years for the life of the bond is in violation of the debt policy, since the useful life of the landfill is expected to be 6 years. He stated that he hoped other Members would join him in voting no for this legislation.

There was discussion from Council Member Conti regarding issues raised from the Finance Committee meeting and at caucus. He discussed elements of the landfill bonding package that would enhance oversight and transparency. He discussed the amended versions are a better package than what was previously before the Council. He discussed the debt policy would be monitored by the City Treasurer. He discussed Phase II of the landfill expansion being a great concern, but that it would not come before the Council until next year. He discussed consideration of the whole package in the context of the terms and conditions of the landfill expansion permit from the NYS DEC.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

Council Member Sano asked for passage of Ordinance Number 41.51.09 (AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$850,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$850,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (COMPACTOR -LANDFILL), which had been previously introduced.

**Note: There was discussion from Council Member Calsolaro regarding bonding 5 years for equipment. He discussed NYS DEC stating that the landfill being the best densely packed landfill in the state. He discussed his concern for the landfill filling up so fast and the previous use of posishell for covering.*

There was discussion from Council Member Sano stating that this bonding is to replace a 20 year old compactor. He discussed \$11.6 million in revenue from the landfill.

There was discussion from Council Member Conti stating the NYS Finance law sets the guidelines for probable usefulness.

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 Sano moved to amend and as amended asked for passage and a roll call vote thereon:

Ordinance Number 42.51.09 (as amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$300,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$300,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (GAS ANALYZER)

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

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

Object or Purpose: [Solid waste management-resource recovery facilities] Refuse disposal areas
Local Finance Law Section 11.00(a) Subparagraph 6-a
Period of Probable Usefulness: [25] 20 years
Maximum Term of Obligations: [25] 20 years
Maximum Estimated Cost: \$300,000.00
Maximum Amount of Bonds: \$300,000.00
Comptroller's Bond Authorization Numbers: AG-09
Comptroller's Project Numbers: GH 81609934

Section 2. The plan of financing such objects or purposes is the lease financing of or the issuance of \$300,000.00 serial bonds hereby authorized to be issued.

****Please refer to Ordinance Number 40.51.09 (As Amended) for the language of Sections 3 thru 12****

**Note: There was discussion from Council Member Calsolaro regarding bonding 20 years for a small amount and paying interest on the bond.*

There was discussion from Council Member O'Brien regarding this bond having a useful life along with the contract with Fordastar.

There was discussion from Council Member Sano regarding the gas analyzer being an investment to keep checks and balances on our agreement with Fordastar. He discussed hoping this would be an item that would get paid off early.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

Council Member Sano asked for passage of Ordinance Number 43.51.09 (AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$800,000.00 AND AUTHORIZING THE ISSUANCE OF \$800,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (LAND ACQUISITION), which had been previously introduced.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

Council Member Sano moved to amend and as amended ask for passage and a roll call vote thereon:

Ordinance Number 44.51.09 (as amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$1,395,000.00 AND AUTHORIZING THE ISSUANCE OF \$1,395,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (PROFESSIONAL FEES LANDFILL)

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

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

Object or Purpose: [Solid waste management-resource recovery facilities] Refuse disposal areas
Local Finance Law Section 11.00(a) Subparagraph 6-a
Period of Probable Usefulness: [25] 15 years
Maximum Term of Obligations: [25] 15 years
Maximum Estimated Cost: \$1,395,000.00
Maximum Amount of Bonds: \$1,395,000.00
Comptroller's Bond Authorization Numbers: W-09
Comptroller's Project Numbers: GH 81609924

Section 2. The plan of financing such objects or purposes is the issuance of \$1,395,000.00 serial bonds hereby authorized to be issued.

**Note: There was discussion from Council Member Calsolaro regarding the fees and NYS DEC requiring post*

closure for 30 years. He discussed needing the full accounting on how much the landfill cost so that Council knows how much the total costs are. He discussed the costs of shipping garbage out and the discrepancies in fees based on what he had been told. He discussed burdening taxpayers.

There was discussion from Council Member Sano regarding the information he gave out early has real numbers on the costs.

There was discussion from Council Member O'Brien regarding the life of the bond being 15 years, not 30 years.

There was discussion from Council Member Conti regarding the state not allowing the 30 years.

There was discussion from Council Member Rosenzweig regarding it being impossible to know the cost of bonding until it goes to market.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

Council Member Sano moved to amend and as amended asked for passage and a roll call vote thereon:

Ordinance Number 45.51.09 (as amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$900,000.00 AND AUTHORIZING THE ISSUANCE OF \$900,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (PROFESSIONAL FEES SWMP)

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

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

Object or Purpose: [Solid waste management-resource recovery facilities] Refuse disposal areas

Local Finance Law Section 11.00(a) Subparagraph 6-a

Period of Probable Usefulness: [25] 15 years

Maximum Term of Obligations: [25] 15 years

Maximum Estimated Cost: \$900,000.00

Maximum Amount of Bonds: \$900,000.00

Comptroller's Bond Authorization Numbers: AH-09

Comptroller's Project Numbers: GH 81609935

Section 2. The plan of financing such objects or purposes is the issuance of \$900,000.00 serial bonds hereby authorized to be issued.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

Council Member Sano moved to amend and as amended asked for passage and a roll call vote thereon:

Ordinance Number 46.51.09 (as amended)

AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$2,400,000.00 AND AUTHORIZING THE ISSUANCE OF \$2,400,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF. (PINE BUSH RESTORATION)

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

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

Object or Purpose:	Land Acquisition	Local Finance Law Section 11.00(a) Subparagraph 21
Period of Probable Usefulness:		30 years
Maximum Term of Obligations:		30 years
Maximum Estimated Cost:		\$2,400,000.00
Maximum Amount of Bonds:		\$2,400,000.00
Comptroller's Bond Authorization Numbers:	AD-09	
Comptroller's Project Numbers:	GH 81609931	

Section 2. The plan of financing such objects or purposes is the issuance of \$2,400,000.00 serial bonds hereby authorized to be issued.

**Note: There was discussion from Council Member Calsolaro regarding NYS DEC allowing the city to set up a account/fund to put the 10% fee in. He discussed taking it out of the tipping fee without increasing the fee. He discussed using the money the city is making from the landfill to cover the costs. He discussed collecting the fee from the 88% that are not city residents who use the landfill. He discussed these bonding ordinances are only to give the landfill 3 ½ years more life. He discussed concern of lawsuits because of the segmentation of the expansion.*

There was discussion from Council Member O'Brien regarding being required to set aside \$500,000 that would go towards the Pine Bush restoration portion of the expansion. He discussed voting for \$18 million last year, that Council Member Calsolaro voted in favor of. He discussed the tipping fees being under contract. He discussed working within the constraints that we have.

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

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

Negative -- Calsolaro, Ellis, Fahey, and Smith

Affirmative 11 Negative 4 Abstain 0

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 July 15th, 2009

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL