

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

Monday, November 3, 2008

The Common Council was convened at 7:00 p.m. and was called to order by Council President Morris.

The roll being called, the following answered to their names: Council Members Calsolaro, Conti, Ellis, Fahey, Fox, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith, and Timmons.

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

Council Member Timmons led the Pledge of Allegiance.

PUBLIC HEARING

Clerk of the Council John Marsolais read the following:

Notice is hereby given that a Public Hearing will be held in the Common Council Chambers, City Hall, Albany, New York at 7:00 p.m. on Monday, November 3rd, 2008, on the following matter:

City of Albany 2009 Proposed Budget

Speakers:

1. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (Budget)
2. Tim Karney, 277 Delaware Ave., Albany, NY 12209 (Budget)
3. Tom Scott, 175 Jay St., Albany, NY 12210 (Budget)
4. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Budget)
5. Vincent Riguso, 13 Beach Ave., Albany, NY 12208 (Budget)
6. Ruth Pelham, 140 Milner Ave., Albany, NY 12206 (Budget)
7. Leona Paeglow, 498 Clinton Ave., Albany, NY 12206 (Budget)
8. Jenna Wilkinson, 11 S. Lake Ave., Albany, NY 12206 (Budget)

PUBLIC COMMENT PERIOD

1. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (Landfill Expansion)
2. Marlon Anderson 491 Livingston Ave., Albany, NY 12206 (Violence in the City)

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Conti made a motion to approve the minutes from the October 6, 2008, which was approved by unanimous voice vote.

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

Finance, Taxation and Assessment – Council Member Sano stated that the Committee had completed discussions with the various departments on their budgets for the upcoming year. It seems to be some agreement for a COLA increase for non-union employees making under \$30,000 annually.

Planning, Economic Development, and Land Use - Council Member Herring stated that the committee would be meeting on November 6, 2008 to discuss the Resolution 79.102.08R(MC).

Law, Building, and Code Enforcement – Council Member Igoe stated that the committee would be meeting on November 12, 2008 to discuss Council Member Ellis’ Ordinances 80.122.07 and 81.122.07.

CONSIDERATION OF ORDINANCES

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

Ordinance Number 70.111.08

AN ORDINANCE AMENDING CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY TO AUTHORIZE AUDIO ENTERTAINMENT WITHIN TAVERNS AND RESTAURANTS AND AMENDING CHAPTER 111 (AMUSEMENTS) BY ADDING A NEW PART 3 TO BE ENTITLED “ENTERTAINMENT PERMITS”

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

Section 1. Section 375-7 of Chapter 375 (Zoning) of the Code of the City of Albany is amended to read as follows:

§375-7. Definitions.

A. When used in this chapter as well as throughout the text, the following words shall have these meanings.

TAVERN - An establishment where alcoholic beverages are sold to be consumed on the premises. Food may also be served, but it is secondary and incidental to the business. A bar, grill, saloon, pub, public house, beer garden or similar establishment is considered to be a “tavern.” The establishment may play music or other audio through a central audio system, including the use of a juke box. The use of a disc jockey (DJ), karaoke machine or live musical entertainment are not principally permitted uses for this establishment. However, the establishment may seek a permit from the City Clerk for each occasion on which the establishment seeks to employ or use a DJ, karaoke machine or live music. Said permit may be issued as set forth in Chapter 111 of the Code of the City Albany.

RESTAURANT - Any establishment which prepares and serves meals for consumption on premises or to take away. The establishment may play music or other audio through a central audio system, including the use of a juke box. The use of a disc jockey (DJ), karaoke machine, or live musical entertainment are not principally permitted uses for this establishment. However, the establishment may seek a permit from the City Clerk for each occasion on which the establishment seeks to employ or use a dj, karaoke machine, or live music. Said permit may be issued as set forth in Chapter 111 of the Code of the City Albany.

Section 2. Chapter 111 (Amusements) of the Code of the City of Albany is amended by adding thereto a new Part 3 entitled “Entertainment Permits” to read as follows:

Part 3 - Entertainment Permits
ARTICLE VII
Entertainments Permits

§ 111-64. Entertainment permit required.

As set forth in the Chapter 375 of the Code of the City of Albany, an establishment, other than a nightclub, must receive a permit from the City Clerk for the purposes of using or authorizing a disc jockey (DJ), karaoke machine or live music inside said establishment.

§ 111-65. Application for permit; review by Police Department and
Division of Buildings and Code

- A. The City Clerk, with the advise and consent of the Chief of Police or his designee and the Director of the Division of Buildings and Code, or his designee, may issue a permit to an establishment upon the proper submission of a permit application.
- B. The application for said permit shall be for a single event, occurring on one day only.
- C. The clerk must receive the application at least ten (10) days prior to the event.
- D. The application must include:
 - 1. The name of the person submitting the application
 - 2. The name of the business
 - 3. The address of the business
 - 4. The principal offices of the business if different from the business location
 - 5. The location where the event shall take place
 - 6. The owner of the building where said entertainment shall take place
 - 7. The date of the event
 - 8. The length of time the event shall take place
 - 9. The person/group/organization/or business hired to perform at said event
 - 10. A copy of the contract or agreement between the establishment and the performer/person/agency/business providing the entertainment
 - 11. If an establishment licensed to serve alcohol, a copy of the liquor license
 - 12. A copy of the Certificate of Occupancy
 - 13. The expected number of guests or persons expected to be in attendance
 - 14. The name, telephone number and address of the manager or person in control of the establishment at the time of the event

§ 111-66. Fee.

The application must be accompanied with a processing fee of fifty dollars (\$50.00)

§ 111-67. Penalties.

Any individual or business that uses or authorizes a disc jockey (DJ), karaoke machine or live music without securing the permit established by this Article shall be subject to a fine of not less than \$300 and not more than \$1,000.

§ 111-68. Revocation.

This Article shall not restrict the enforcement powers of the City Clerk, Police Department or Division of Buildings and Code, found in this City Code or authorized by other local, state or federal law. Should a violation of the above occur, an authorized permit may be revoked by the City Clerk, Chief of Police or Director of the Division of Buildings and Code, or their designees, at any time before or during the entertainment permitted. The application fee will be forfeited.

Section 3. Except as herein amended, Chapters 375 and 111 of the Code of the City of Albany are hereby ratified, continued and approved.

Section 4. This ordinance shall take effect thirty (30) days after passage.

Council Member Scalzo on behalf of Council Member Casey asked for passage of ORDINANCE 61.101.08 (AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE OF ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO A PORTION OF HAMILTON STREET IN THE CITY OF ALBANY, NEW YORK AT PRIVATE SALE TO GIDEON LODGE #140 B'NAI B'RITH HOUSING DEVELOPMENT FUND COMPANY, INC. IN ORDER TO ESTABLISH A COMPLETE RECORD WITH THE COUNTY CLERK OF THE COUNTY OF ALBANY), which had been previously introduced.

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

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

Affirmative 14 Negative 0 Abstain 0

Council Member Conti asked for passage of ORDINANCE 66.102.08 (AN ORDINANCE AUTHORIZING AND DIRECTING THE GRANT OF TWO PERMANENT EASEMENTS TO 217-219 LARK STREET OVER, UPON AND UNDER PORTIONS OF THE CITY RIGHT-OF-WAY OF LARK STREET IN THE CITY OF ALBANY), which had been previously introduced.

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

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

Affirmative 14 Negative 0 Abstain 0

Council Member McLaughlin asked for passage of ORDINANCE 69.102.08(MC) (AN ORDINANCE AUTHORIZING AND DIRECTING THE GRANT OF A PERMANENT EASEMENT TO SOUTHEND ASSOCIATES LP OVER, UPON AND UNDER PORTIONS OF THE CITY RIGHT-OF-WAYS OF BROAD AND CLINTON STREETS AND THIRD AVENUE IN THE CITY OF ALBANY), which had been previously introduced.

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

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

Affirmative 14 Negative 0 Abstain 0

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

CONSIDERATION OF RESOLUTIONS

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

Resolution Number 80.111.08R

AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE “MARCHISELLI” PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID PROJECT, AND APPROPRIATING FUNDS THEREFOR (EUCLID AVENUE/BERKSHIRE BOULEVARD SIDEWALK EXTENSION [P.I.N. 1757.62])

WHEREAS, a Project for the Spot R4: Euclid Avenue/Berkshire Boulevard Sidewalk Extension, City of Albany, P.I.N. 1757.62 (“the Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Albany desires to advance the Project by making a commitment of 100% of the non-federal share of the cost of Construction.

NOW, THEREFORE, the Common Council, duly convened does hereby

RESOLVE, that the Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council hereby authorizes the City of Albany to pay in the first instance 100% of the federal and non-federal share of the cost of Construction work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$59,691.00 (Fifty nine thousand six hundred ninety one dollars and no cents) has already been appropriated from Ordinance No. 9.22.08 and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Albany shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Mayor of the City of Albany be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Albany with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

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

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

Affirmative 14 Negative 0 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

RESOLVED THAT THE FOLLOWING PERSONS BE AND HEREBY APPOINTED COMMISSIONERS OF DEEDS FOR THE CITY OF ALBANY, NEW YORK FOR THE TERM ENDING DECEMBER 31, 2008, AND WAIVE THE READING OF THE NAMES:

Falterman, Edward, 303 State Street Apt. 6, Albany, NY 12210

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 November 3rd, 2008.

**CASHAWNA PARKER
LEGISLATIVE AIDE TO THE COMMON COUNCIL**