

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

Monday, December 15, 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, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith, and Timmons.

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

Council Member Sano led the Pledge of Allegiance.

Council President Morris delivered her end of the year speech. (See Attached).

PUBLIC COMMENT PERIOD

1. Warren Mackey, 223 Livingston Ave., Albany, NY 12210 (Arbor Hill School Bridge)
2. Marlon Anderson 491 Livingston Ave., Albany, NY 12206 (City Hall Accomplishments)
3. Dr. Leonard Morgenbesser, 219 Tampa Ave., Albany, NY 12208 (Community Development Block Grant)
4. Paul Doyle, 648 Kenwood Ave., Delmar, NY 12064 (Trash Removal on Lark Street)

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Conti made a motion to approve the minutes from the meetings of November 17, 2008 and November 24, 2008, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

Council Member Conti introduced the following, which was referred to the Finance, Taxation and Assessment Committee:

LOCAL LAW L – 2008

**A LOCAL LAW AMENDING CHAPTER 90 (TRAFFIC VIOLATIONS BUREAU) OF THE
CODE OF THE CITY OF ALBANY**

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

Section 1. Section 90-3 (powers and duties) of Chapter 90 (Traffic Violations Bureau) is amended by adding new Subsections C and D thereto to read as follows:

- C. The Bureau shall establish and adopt comprehensive written policies and procedures to govern and direct the processing and enforcement of parking violations; such procedures shall include mechanisms to periodically reconcile issued parking tickets to tickets paid, dismissed, outstanding and voided.
- D. The Bureau shall report to the Common Council quarterly the number of parking tickets issued, paid, dismissed, outstanding and voided, and the value thereof, within each calendar quarter.

Section 3. This Local Law shall be effective thirty (30) days after passage, public hearing and filing with the Secretary of State as required by law.

**Note: There was discussion from Council Member Conti regarding establishing accountability for tickets that are adjudicated and this being an important step forward. He discussed the need for new policy to deal with this issue.*

Local Law L – 2008 was co-sponsored by Council Members Casey, Herring, Igoe, Rosenzweig, Sano and Smith

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

Law, Building, and Code Enforcement – Council Member Igoe stated that the committee would be meeting on December 17, 2008 to discuss Ordinance 77.121.07 and Ordinance 65.101.087.

Housing and Community Development – Council Member McLaughlin stated that the committee met on December 8, 2008 to continue discussions regarding Community Development Block Grant with staff from the Housing and Community Development Agency. They are at the preliminary awards point of the process. She stated that this is a discussion that would continue because the committee would like to find different ways to appropriate the CDBG money.

REPORTS OF AD HOC COMMITTEES

Ad Hoc Committee on Cable Access – Council Member Rosenzweig stated that he was happy to hear that most things are agreed to with Time Warner. The educational aspect may need their own dumps & hubs for their own programming.

CONSIDERATION OF ORDINANCES

Council Member O'Brien introduced the following, which was held:

Ordinance Number 72.122.08

AN ORDINANCE AMENDING CERTAIN CHAPTERS OF THE CODE OF THE CITY OF ALBANY TO AMEND THE TITLE OF DEPUTY COMMISSIONER OF THE DEPARTMENT OF GENERAL SERVICES TO ASSISTANT COMMISSIONER

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

Section 1. Section 42-100 (Term of office; appointment of Deputy Commissioner) of Chapter 42 (Departments and Commissions) of the Code of the City of Albany is amended to read as follows:

§42-100 Term of office; appointment of [Deputy] Assistant Commissioner.

- B. The Commissioner shall appoint, to serve at his pleasure, [Deputy] Assistant Commissioner(s) and such other subordinates as may be authorized by the Board of Estimate and Apportionment.
- C. In case of the absence or disability of the Commissioner or of a vacancy in office, the most senior [Deputy] Assistant Commissioner shall discharge the duties of the office until the Commissioner returns, the disability ceases or the vacancy is filled by Mayoral appointment.

Section 2. Section 223-11 (Private vaults and privies) of Chapter 223 (Health) of the Code of the City of Albany is amended to read as follows:

§223-11 Private vaults and privies.

No privy vault or privy shall be erected or maintained at a distance less than 30 inches from any partition fence, adjoining lot or dwelling, unless otherwise specially permitted by the Department of Health, and any person violating any of the provisions of this section, or who, having authority to remove it, shall suffer and allow it to remain after having been notified by the Department of Health, Health Inspector, [Commissioner of Public Works or Deputy Commissioner of Public Works] Commissioner of General Services or Assistant Commissioner of General Services to remove the same, shall incur a penalty in the sum of \$10 for each and every day the violation or refusal is continued.

Section 3. Section 345-5 (Permit required) of Chapter 345 (Trees and Vegetation) of the Code of the City of Albany is amended to read as follows:

§345-5 Permit required.

A. It shall be unlawful and it is hereby prohibited for any person other than the Commissioner of the Department of General Services, Assistant Commissioner or his duly authorized agent [or deputy] to cut, trim, prune, spray, brace, plant, move, remove or replace any tree in any public street or public park within the City, or to cause the same to be done, unless and until a written permit to do so shall have been first obtained from the Commissioner of the Department of General Services. The applicant must obtain a permit from the Department of General Services, and the Commissioner must approve the suggested worker. Said worker must follow standards promulgated by the U.S. Occupational Safety and Health Administration (OSHA). Permit fees shall be promulgated by the Department of General Services. Any such permit may be declared void and a fine imposed by the Commissioner if its terms are violated.

Section 4. Except as herein amended, Chapters 42, 223 and 345 of the Code of the City of Albany are hereby ratified, continued and approved.

Section 5. This ordinance shall take effect immediately after passage.

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

Ordinance Number 73.122.08

AN ORDINANCE AMENDING ARTICLE V-A (NOTICE OF VIOLATION) OF CHAPTER 313 (SOLID WASTE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO TIME LIMITS

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

Section 1. Section 313-51.1 (B) of Chapter 313 (Solid Waste) of the Code of the City of Albany is hereby amended to read as follows:

§313-51.1 Responsibility of property owners; action by city; costs of abatement; hearing.

A. All property owners or persons owning, occupying or otherwise having control of property within the City of Albany shall at all times maintain that property and the adjoining public ways free of litter and debris, excessive accumulation of animal waste, water and other hazards. Appropriate groundcover shall be properly established and maintained. Heavy undergrowth, weeds and/or overgrowth of plant material which are noxious or

detrimental to the public health, safety and welfare shall be eliminated.

B. Upon complaint, on his or her own motion and after inspection of the property, the Commissioner of the Department of General Services or his or her designee shall notify the property owner or person occupying or having control of the property as hereinafter provided, of any conditions on the property or sidewalk violating the provisions of Articles IV and/or V of this Chapter and require compliance within [five (5)] two (2) calendar days from the date of such notice.

Section 2. This ordinance shall take effect immediately.

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

CONSIDERATION OF RESOLUTIONS

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

Resolution Number 87.122.08R

RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE UNIFIED COURT SYSTEM FOR COURT CLEANING AND MINOR REPAIRS

RESOLVED, that the Mayor be and he is hereby authorized and empowered to enter into a contract with the Unified Court System for the cleaning and minor repairs of the courts within Albany City Hall, in a form and upon such terms and conditions as are approved by the Corporation Counsel together with such other forms, documents and agreements necessary to amend, supplement, renew and otherwise effectuate the same.

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

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

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 88.122.08R(MC)

RESOLUTION OF THE COMMON COUNCIL ADJUSTING THE BUDGET FOR FISCAL YEAR 2009 PURSUANT TO THE CHARTER OF THE CITY OF ALBANY AND RESOLUTION 85.113.08R

WHEREAS, the Mayor presented the budget for the 2009 fiscal year on October 1, 2008; and

WHEREAS, the budget for the 2009 fiscal year was adopted by the Common Council on November 24, 2008 by Ordinance 67.102.08 (as amended); and

WHEREAS, the Common Council adopted Resolution 85.113.08R entitled: “Resolution of the Common Council Outlining Its Actions and Expressing Its Findings and Intent with Regard to the Adoption of the Fiscal Year 2009 City of Albany Budget as Proposed in Ordinance 67.102.08 (as amended) Entitled: ‘An

Ordinance Adopting the Budget as Proposed by the Mayor on October 1, 2008, for Fiscal Year 2009” on November 24, 2008; and

WHEREAS, Resolution 85.113.08R directed the funds be transferred and the 2009 budget be adjusted to provide for a 4 percent cost of living increase for full-time employees salaried at \$35,000 or less, which was supported by the Mayor;

WHEREAS, the Common Council approves and directs that said fund transfers and adjustments be made to the 2009 Budget pursuant to Subsection (D) of Section 603 of the Charter of the City of Albany.

NOW, THEREFORE, BE IT RESOLVED, that the budget transfers necessary to effectuate the changes in salary as directed by Resolution 85.112.08R, being so described in particular in exhibit “A”, attached hereto and made a part hereof, are approved by the Common Council of the City of Albany.

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

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

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 89.122.08R(MC)

RESOLUTION OF THE COMMON COUNCIL RESOLVING A LEAD AGENCY DISPUTE WITH THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (“DEC”) AND ADOPTING A NEGATIVE DECLARATION PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW OF THE STATE OF NEW YORK (ECL) AND THE REGULATIONS OF THE DEC PROMULGATED THEREUNDER (“SEQR”) FOR THE PROPOSED LANDFILL GAS UTILIZATION PROJECT AT THE CITY OF ALBANY’S RAPP ROAD LANDFILL

WHEREAS, the Common Council received a long form Environmental Assessment Form (EAF) from Albany Energy, LLC, in conjunction with its proposal to construct and operate a gas utilization project at the Rapp Road Landfill; and

WHEREAS, the Council reviewed the EAF, and by Resolution Number 83.112.08R, adopted November 17, 2008, expressed its intent to act as Lead Agency for purposes of review of the proposed Landfill Gas Utilization Project at the City of Albany’s Proposed Rapp Road Landfill (the “Action”) and determined to conduct a coordinated review among all involved agencies; and

WHEREAS, the Action under review is an Unlisted Action, as that term is defined under SEQR; and

WHEREAS, the New York State Department of Environmental Conservation (“DEC”) has objected to the Common Council acting as Lead Agency pursuant to a coordinated review of the Action; and

WHEREAS, coordinated review of an Unlisted Action under SEQR is not mandated under the SEQR regulations; and

WHEREAS, in order to resolve the DEC’s objection to the Common Council acting as Lead Agency pursuant to a coordinated review, it appears appropriate to allow DEC to make an independent review of the Action pursuant to SEQR through its permitting jurisdiction; and

WHEREAS, as a result, the Common Council desires to repeal its resolution 83.112.08R, and consents to allowing DEC to perform an independent SEQR review of the Action pursuant to the terms of the letter attached hereto as Exhibit A; and

WHEREAS, the record demonstrates that the proposed Action will not have a significant adverse environmental impact, and that a Negative Declaration of Environmental Significance should be issued in accord with 6 NYCRR 617.7 (a) (2).

NOW, THEREFORE BE IT RESOLVED, that Resolution Number 83.112.08R is hereby repealed; and

BE IT FURTHER RESOLVED, that Common Council desires to resolve the Lead Agency dispute with DEC upon the terms and conditions set forth in the attached Exhibit A, and consents to the execution of same; and

BE IT FURTHER RESOLVED, that the proposed Action will not result in any large and important impacts and, therefore, is one which will not have a significant effect on the environment, thus requiring the preparation of a full Environmental Impact Statement, and a Negative Declaration of Environmental Significance in accord with 6 NYCRR 617.7 (a) (2) be and hereby is issued; and

BE IT FURTHER RESOLVED, that the basis of this decision is the negative declaration attached hereto as Exhibit B; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

**Note: There was discussion from Council Member O’Brien regarding being the lead agency and DEC wanting to be lead agency for the landfill gas project. He discussed this project making over \$20 million for the City of Albany over the next 20 years.*

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

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

Affirmative 14 Negative 0 Abstain 0

Council Member O’Brien asked passage of resolution 84.1121.08R (RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE EXECUTION OF A GAS LEASE AGREEMENT WITH ALBANY ENERGY, LLC FOR THE USE OF CITY PROPERTY IN CONNECTION WITH THE PROPOSED LANDFILL GAS UTILIZATION PROJECT AT THE CITY OF ALBANY’S RAPP ROAD LANDFILL), which had been previously introduced.

**Note: There was discussion from Council Member O’Brien stating that any leasing of property requires council approval*

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

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, 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

Council Member McLaughlin offered the following, which was approved by unanimous voice vote:

RESOLVED THAT THE FOLLOWING PERSONS BE AND HEREBY APPOINTED COMMISSIONERS OF DEEDS FOR THE CITY OF ALBANY, NEW YORK FRO THE TERM JANUARY 1, 2009 THRU DECEMBER 31, 2010, AND WAIVE THE READING OF THE NAMES:

Miscellaneous Names – 4
Albany Housing Authority – 7 Names
Albany Police Department – 152 Names
(SEE ATTACHED)

Council Member Calsolaro discussed passing the resolution regarding environmental impact findings on 125 Washington Avenue Extension before hearing from DEC and not getting a copy of a letter DEC sent and dated November 25, 2008. He stated that the Council passed the resolution based on what the developer said. He also expressed concern that the Council designated itself lead agency on the gas to energy project before hearing from DEC. He discussed the need to hire private consultants. He discussed the worm snake fencing not being appropriate. He discussed not knowing that the Arbor Hill Bridge was going to be torn down. He stated the city can build a bridge to the waterfront but not sustain a bridge that allowed people to get to school and health care facilities. He stated it bothered him that the city did nothing to save or replace the bridge.

Council Member Conti clarified that the Council had not declared itself lead agency on the gas to energy project. He addressed the Lark Street trash issue from public comment. He acknowledged staff and fellow Council members and expressed best wishes for the holiday season.

Council Member O'Brien discussed possibly having a General Services Committee meeting to discuss the bridge and he agreed with Council Member Conti on the intent of lead agency. He stated that DEC have been very cooperative and believe that the Council did the right thing.

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 December 15th, 2008.

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