

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

**Thursday, January 21, 2010**

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

The roll being called, the following answered to their names: Council Members Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano, and Smith.

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

Council Member Freeman led the Pledge of Allegiance.

**PUBLIC COMMENT PERIOD**

1. Tom Ellis, 43 N. Pine Ave., Albany, NY 12203 (SWMP Committee)
2. Laurie Dillenbeck and Timothy Stewart, 192 Lisha Kill Rd., Schenectady, NY 12309 (Entertainment Permits)
3. David Ricks, 457 State St., Albany, NY 12203 (Entertainment Permits)
4. Vera Michelson, 13 Pennsylvania Ave., Albany, NY 12206 (YMCA & Police Chief Search)
5. Lorraine Hogan, 29 Willowdale Terr., Colonie, NY 12205 (YMCA)
6. Terry O'Neil, 102 Willett St., Albany, NY 12210 (Community Policing)
7. Dr. Leonard Morgenbesser, 219 Tampa Ave., Albany, NY 12203 (Gun Violence)

Council Member Freeman made a motion to extend Public Comment Period for an additional 30 minutes, which was approved by unanimous voice vote.

8. Tom McPheeters, 14 Wilbur St., Albany, NY 12206 (YMCA & Community Policing)
9. Jim Travers, 587A Blodgett Hill Rd., Ravena, NY (Solid Waste Management Plan)
10. Fiona Thompson, 360 Partridge St., Albany, NY 12208 (Community Policing & Police Chief Search)
11. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Various Issues)
12. Tim Carney, 277 Delaware Ave., Albany, NY 12209 (LL C-2010 & Resolution 2.11.10R(MC))

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

**APPROVAL OF MINUTES FROM PREVIOUS MEETING**

Council Member Herring made a motion to approve the minutes of the December 21, 2009, January 4, 2010 Organizational meeting and January 4, 2010 Regular meeting, which was approved by unanimous voice vote.

**CONSIDERATION OF LOCAL LAWS**

Council Member Rosenzweig introduced the following, which was referred to the Human Resources and Human Rights Committee:

**LOCAL LAW C – 2010**

**A LOCAL LAW ESTABLISHING A RESIDENCY REQUIREMENT FOR ALL CITY EMPLOYEES**

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

**Section 1. Chapter 62 of the Code of the City of Albany shall be amended by adding a new Section 62-1-a to read as follows:**

**Section 62-1-a. Employee Residency.**

A. Purpose. The legislative body determines that individuals who are employees of the City of Albany take a greater interest, commitment and involvement with the government which employs them by living within that municipality. Thus, the Common Council believes that the public need is sufficient to require that employees hired after the effective date of this section be residents of the City of Albany.

B. This section shall not supersede or override any other residency provision existing in state or federal law or existing in the Code of Ordinances of the City of Albany found to be contrary to the provisions herein. This section shall affect all city employees, including all provisional, permanent and temporary employees.

C. Residency for new employees. Except as otherwise provided by this section, the Common Council hereby establishes a residency requirement for all prospective employees of the City. Every person initially employed by the City of Albany, shall, as a qualification of employment, be or become a resident of the City of Albany within six months of the date of initial appointment for said City. Furthermore, during the time of service of such employees, no employee shall cease to be a resident of the City of Albany, and such shall be deemed a voluntary resignation.

D. Board of Residency. There is hereby created by this section a Board of Residency. This Board shall consist of five members, one such member to be the Mayor of the City of Albany or the Mayor's appointee, one by the Corporation Counsel of the City of Albany and three Council members. All members of this Board shall be City of Albany Residents. The Board shall have the following powers and obligations:

(1) The Board shall, upon written request of the Mayor, make a determination granting an annual waiver of the residency requirement to any city employee and thereby exempt said employee from the provisions of this section. This determination shall be based upon one or more of the following criteria: (a) The degree of specialization and professionalism required in any given field of employment; (b) The existence of hardship such as may be determined by the Board.

**Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.**

**The remaining Local Laws on the agenda were held at the request of Council Member Conti.**

**REPORTS OF STANDING COMMITTEES**

Council Member O'Brien discussed the SWMP Committee Final report. He urged Council Members to read the document. He discussed the planning process should begin around March and stated that the minutes are posted on the Solid Waste Management website.

**CONSIDERATION OF ORDINANCES**

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

**Ordinance Number 7.12.10**

**AN ORDINANCE AMENDING ARTICLE XIV (SPECIFIC USE REGULATIONS) OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO STORAGE PODS**

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

**Section 1. Article XIV of Chapter 375 of the Code of the City of Albany is hereby amended to read as follows:**

**§ 375-107. Outdoor storage areas, including junkyards and automobile wrecking; portable on-demand storage devices.**

A. [Such uses] Junkyards and automobile wrecking lots shall not be located within 200 feet of the nearest R district, and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Board of Zoning Appeals to protect the public health, safety, comfort, convenience and general welfare with special regard to abutting properties and the occupants thereof[:].

[A. Fencing and setbacks.]

B. [(1)] All outdoor trash storage shall be in accordance with Chapter 313 of the City Code. In addition, all trash storage accessory to buildings with more than four dwelling units or having a commercial or industrial use shall:

(1) [(a)] Be enclosed by a solid fence, six feet in height.

(2) [(b)] Be located no less than 10 feet from the property line.

C. [(2)] All outdoor storage facilities shall be enclosed by a solid fence or wall six feet in height adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line.

(1) [B. Deposit of wastes.] No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.

(2) [C. Other hazardous materials.] All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

(3) [D.] Inflammable, explosive liquids and gases: see the New York State Uniform Fire Prevention and Building Code.

D. A portable on-demand storage device (POD) shall be prohibited upon a lot within a residential district or upon a vacant commercial lot, except where the POD provides necessary storage: for an active construction project; to compensate for an act of God; or to help a person move in or move out.

(1) Portable storage units shall not be placed on any property more than two (2) times per calendar year, and not more than three weeks per time. The building inspector may approve an extension of time in writing, but in no event shall the extension exceed three months.

(2) No portable storage unit shall be placed, in whole or in part, upon any street, sidewalk or within any public right of way.

(3) All portable storage units shall be securely closed when not in use. No materials, property or goods shall be stored outside of a Portable Storage Unit during the hours between sunset of one day and sunrise of the next day, except if the Portable Storage Unit is being used in conjunction with construction, and in such case only construction materials may be left outside of the Portable Storage Unit.

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

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

**Ordinance Number 8.12.10**

**AN ORDINANCE AMENDING ARTICLE IX (BUILDING CONSTRUCTION AND REGULATION) OF CHAPTER 133 (BUILDING CONSTRUCTION) OF THE CODE OF THE CITY OF ALBANY.**

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

**Section 1. Section 133-55 of the Code of the City of Albany is amended to read as follows:**

**§ 133-55. Power to act in emergencies.**

A. Whenever the Commissioner finds that a violation of this Part 2 exists which, in his opinion, requires immediate action to abate a direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public, the Commissioner may, without prior notice or hearing except as provided in subsection B, take any action authorized herein which is reasonably necessary to abate or remove the condition. A direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public shall exist when utilizing the time periods and notice otherwise provided in this chapter would cause an immediate and irreparable danger to life, health or property.

B. Such action may include but is not limited to [demolition of the building or structure,] vacating the occupants of the premises and of surrounding premises, closing of public or private streets or rights-of-way, termination of utility service, erection of barricades and other protections and the performance of physical work on the premises. Demolition of the building or structure under this section shall only be used as a last resort when no other method will serve to protect the occupants or the public from a direct hazard or immediate danger. In the event that the Commissioner shall order a demolition under this section, the Commissioner shall make a reasonable attempt to notify the property owner prior to the demolition. The notification shall in no way impair the ability of the Commissioner to demolish the building or structure.

C. Recovery of any cost incurred with respect to the abatement of an emergency by the Commissioner shall take place pursuant to the provisions of this Part 2, and the Commissioner of Buildings is hereby authorized and empowered to employ such labor and furnish such materials and take such steps as in his judgment may be necessary to make the building safe.

D. The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, as provided for in the last section, shall, when properly certified by the Commissioner of Buildings, be audited and paid by the City in the same manner as other claims against the City are audited and paid, and the amount so paid shall be and remain a lien against the property upon which the work is done and shall be collected by the City from the owner of such property in the same manner as taxes are collected, and the City may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.

**Section 2. Savings clause. In the event that this ordinance or any provisions of it shall be deemed by a court to be in conflict with a provision of the New York State Constitution or with a general law, or**

**if adherence to or enforcement of any section of this ordinance shall be restrained by a court, the remaining provisions of this ordinance shall not be affected.**

**Section 3. This ordinance shall take effect immediately.**

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

**Ordinance Number 9.12.10**

**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 VIII  
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 advice 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 one year.
- C. The clerk must receive the application at least twenty (20) days prior to the first 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(s) shall take place
  - 6. The owner of the building where said entertainment shall take place
  - 7. The date of the event(s)
  - 8. The length of time the event(s) shall take place
  - 9. The person/group/organization/or business hired to perform at said event(s)
  - 10. A copy of the contract(s) or agreement(s) 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
- E. The Applicant may supplement the application at a later date to include information for a specific future event that was not included in the original application. This supplemental information must be received ten (10) days prior to the additional event.

**§ 111-66. Fee.**

The application must be accompanied with a processing fee of three hundred dollars (\$300.00). A fifty dollar (\$50.00) processing fee shall be charged for any supplement to the original application.

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

**Ordinance Number 10.12.10**

**AN ORDINANCE AMENDING ARTICLES II XI OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO FRATERNAL ORGANIZATIONS**

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

**Section 1. Article II (Interpretation, Word Usage and Definition) of Chapter 375 (Zoning) of the Code of the City of Albany is amended to read as follows:**

**§ 375-7. Definitions.**

~~[CLUB, PRIVATE~~

~~A facility operated by a corporation, association or group of people for the social, educational or recreational intent of the dues-paying members and their guests, but not primarily for profit nor to render a service which customarily is carried on as a business.]~~

FRATERNAL ORGANIZATION

~~[Any social, service or community organization. Examples are Elks, VFW, Kiwanis, Junior League, Masonic Lodge, Rotary and University Club.]~~

A nonprofit organization which is a branch, lodge, or a chapter of a national or state organization registered by the Internal Revenue Service as a 501(c) nonprofit organization that exists for the purpose of its members to come together and perform activities among which must be services to aid their community.

**Section 2. Article XI (Nonresidential District Regulations) of Chapter 375 (Zoning) of the Code of the City of Albany is amended to read as follows:**

**§ 375-71. C-1 Neighborhood Commercial District.**

- A. Principal permitted uses shall be as follows (NOTE: Commercial spaces established after 1993 are limited to the basement and first floor; also, any business in a C-1 Zoning District that is open between the hours of 11:00 p.m. and 6:00 a.m. shall be required to obtain a special use permit.):

~~[(5) Fraternal organizations.]~~

- C. Special permit uses shall be as follows:

(17) Fraternal organizations.

**§ 375-72. C-O Commercial Office District.**

C. Special permit uses shall be as follows:

(10) Fraternal organizations.

**§ 375-73. C-2 Highway Commercial District.**

C. Special permit uses shall be as follows:

(13) Fraternal organizations.

**§ 375-74. C-3 Central Business District.**

C. Special permit uses shall be as follows:

(10) Fraternal organizations.

**Section 3. Except as herein amended Chapter 375 of the Code of the City of Albany is hereby ratified, continued and approved.**

**Section 4. This ordinance shall take effect immediately after passage.**

Council Member Sano, along with Co-Sponsor Fahey introduced the following, which was referred to the Planning, Economic Development, and Land Use Committee:

**Ordinance Number 11.12.10**

**AN ORDINANCE AMENDING ARTICLE XIV (SPECIFIC USE REGULATIONS) OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO SATELLITE DISH ANTENNAS**

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

**Section 1.** Section 375-94 of the Code of the City of Albany provides specific use regulations for satellite dish antennas. Due to changes in technology, new providers and pricing, there has been an increased demand from consumers for satellite dish antennas. To allow time to educate new installers and homeowners and give them sufficient time to adjust their practices, the Council directs staff to delay enforcement of the restrictions established by Section 375-94 for those not in compliance until eighteen months after the adoption of this ordinance.

Council Member Sano, along with Co-Sponsor Calsolaro introduced the following, which was referred to the Planning, Economic Development, and Land Use Committee:

**Ordinance Number 12.12.10**

**AN ORDINANCE AMENDING ARTICLE XIV (SPECIFIC USE REGULATIONS) OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXTERNAL FUEL-BURNING AND HEATING DEVICES**

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

**Section 1. Article XIV of Chapter 375 of the Code of the City of Albany is hereby amended by adding thereto a new Section 375-112-a to read as follows:**

**Section 375-112-a. External Fuel-Burning and Heating Devices.**

A. Residences and commercial establishments situated within the City of Albany are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smells, as well as an environment free of stored debris and storage of combustible fuels in adjacent or exposed exterior areas within densely populated areas.

B. Definitions. As used in this article, the following terms shall have the meanings indicated:

(1) Exterior Furnace -- Any device, contrivance or apparatus or any part thereof which is installed, affixed or situated out-of-doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed there from by conduit or other mechanism into any interior space for the supply of heat or energy.

(2) Exterior Furnace Device -- Any contrivance, apparatus or part thereof, including a boiler, fire box, exchanger, grate, fuel gun, fuel nozzle, chimney, smoke pipe, exhaust conduit and like devices used for the burning of combustible fuels for the creation of heat or energy from an exterior location into an interior location.

C. Installation standards. Standards for the installation of any exterior furnace or furnace device, exterior, in addition to any manufacturer's recommended installation requirements, shall also require the following:

(1) Installation upon a nominal six-inch thick permanent, reinforced cement pad in such dimension so as to allow a minimum of six inches of exposed surface area along the perimeter of the pad.

(2) The location of the exterior furnace or furnace device must be at least 100 feet from any structure heated by it, any accessory uses on the property, and the adjoining property line.

D. Fuel substances permitted for combustion in an exterior furnace installation shall be limited to the following:

(1) Natural gas, propane, home heating oil, coal and wood.

Fuel substances prohibited for combustion in an exterior furnace installation shall include the following:

(1) Industrial waste, rubber, plastic, used motor oil, toxic chemicals, contaminated waste, yard waste, household garbage, cardboard and wastepaper, animal waste and any material prohibited for combustion by federal or state statute.

No exterior furnace shall be utilized in any manner as a waste incinerator.

E. This section shall in no way be construed nor is the same intended to prohibit the installation, operation or use of exterior chimneys, stove pipes or similar contrivances that are otherwise in conformity with other federal or state laws, rules or regulations constituting any part of any interior furnace system or interior stove system or operation, or any system that provides the exhaust of waste heat, smoke or similar substances from interior spaces.

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

**Ordinance Number 13.12.10**

**AN ORDINANCE AMENDING ARTICLE XVII (GENERAL AREA, YARD, HEIGHT AND LANDSCAPING REGULATIONS) OF CHAPTER 375 (ZONING) IN RELATION TO FRONT YARDS**

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

**Section 1. Section 375-132 of Chapter 375 of the Code of the City of Albany is hereby amended to read as follows:**

**§375-132. Front yards [exception].**

A. In residential zoning districts, no more than 50% of a required front yard may be improved with pavement of concrete, asphalt, crushed stone or other similar impermeable substances.

B. When an unimproved lot is situated between two improved lots, each having a principal building within 25 feet of the side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots, but not less than 10 feet. Where an unimproved lot is in an area where no side yard is required, the front yard may be reduced to the average depth of the two adjoining improved lots.

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

**Resolution Number 3.12.10R**

**A RESOLUTION OF THE COMMON COUNCIL CONSENTING TO THE ELIMINATION OF A EQUIPMENT OPERATOR III AND THE CREATION OF AN EQUIPMENT OPERATOR II POSITION IN THE DEPARTMENT OF GENERAL SERVICES**

**WHEREAS**, Section 603(D)(b) of the Charter of the City of Albany dictates that any personnel titles or salary changes that occur in the City of Albany outside of those described in the duly adopted budget must be consented to by the Common Council; and

**WHEREAS**, it is recognized that the needs of the Department of General Services require the skills and abilities of an Equipment Operator II rather than those of a Equipment Operator III.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Albany consents to the elimination of one current position of Equipment Operator III and the creation of a position of Equipment Operator II within the Department of General Services.

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Herring, Igoe, Jenkins-Cox, Konev, O’Brien, Rosenzweig, Sano, and Smith

Negative -- Freeman

Affirmative 14 Negative 1 Abstain 0

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

**Resolution Number 4.12.10R**

**RESOLUTION OF THE COMMON COUNCIL APPROVING THE PROPOSED CERTIFICATE OF INCORPORATION AND CONSENTING TO THE FORMATION OF THE CITY OF ALBANY CAPITAL RESOURCE CORPORATION**

**WHEREAS**, on January 31, 2008, Section 854 of the General Municipal Law, commonly referred to as the Civic Facilities Legislation (the “Law”) expired and, since the expiration of the Law, industrial development agencies have generally not been able to provide financial assistance to projects owned or operated by not-for-profit corporations (hereinafter referred to as “Civic Facility Projects”); and

**WHEREAS**, the ability to finance Civic Facility Projects with tax-exempt bonds has been a very important tool for the City of Albany Industrial Development Agency (the “Agency”), as the Civic Facility Projects undertaken by the Agency have increased employment opportunities for residents of the City of Albany and allowed local not-for-profit corporations to upgrade their facilities at the lowest possible cost; and

**WHEREAS**, local development corporations formed under the New York State Not-For-Profit Corporation Law (the “NFPCL”) are created to assist, among others, not-for-profit corporations that are undertaking projects that further any of the following purposes for which local development corporations are created: (1) relieving and reducing unemployment, (2) promoting and providing for additional and maximum employment, (3) bettering and maintaining job opportunities, (4) instructing or training individuals to improve or develop their capabilities for such jobs, (5) carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area and (6) lessening the burdens of government and acting in the public interest; and

**WHEREAS**, in furtherance of the public purposes set forth above, a local development corporation formed under the NFPCL is empowered to take the following actions: (1) to construct, acquire, rehabilitate and improve for use by others, industrial or manufacturing plants in the territory in which its operations are principally to be conducted, (2) to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, (3) to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, (4) to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, (5) to borrow money and to issue negotiable bonds, notes and other obligations therefor and (6) to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine to be suitable; and

**WHEREAS**, under the laws of the State of New York, capital resource corporations are permitted to issue tax-exempt bonds for the benefit of qualifying Civic Facility Projects; and

**WHEREAS**, in accordance with Section 1411(a) of the NFPCL, prior to forming a capital resource corporation, the Agency must obtain the Common Council’s approval of the certificate of incorporation that will be used to form the local development corporation; and

**WHEREAS**, by resolution adopted on October 22, 2009, the Agency has approved the formation of the local development corporation and has requested the Common Council to approve the formation of the local development corporation; and

**WHEREAS**, the Agency has prepared a proposed certificate of incorporation for review by the Common Council and a copy of such proposed certificate of incorporation is attached hereto as Schedule A.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Albany Common Council authorizes the City of Albany Industrial Development Agency to form the City of Albany Capital Resource Corporation in accordance with Section 1411 of the NFPCL; provided, however, that any obligations issued by the local development corporation, and the premium (if any) and interest thereon, shall be special obligations of the capital resource corporation and shall never be a debt of the State of New York, the City of Albany, New York or any political subdivision thereof (other than the capital resource corporation), and neither the State of New York, the City of Albany, New York nor any political subdivision thereof (other than the capital resource corporation) shall be liable thereon.

**BE IT FURTHER RESOLVED**, that the Common Council approves the form and substance of the certificate of incorporation presented to the Common Council, attached hereto as Schedule A, in its entirety or in substantially the form thereof presented, with such changes, variations, omissions and insertions as the Common Council shall approve.

**RESOLVED**, that this resolution shall take effect immediately.

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

**Resolution Number 5.12.10R**

**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 (TRAFFIC SIGNALS, WASHINGTON AND WESTERN AVENUES [P.I.N. 1756.63])**

**WHEREAS**, a Project for the ITS Traffic Signal Priority on Washington Avenue and Western Avenue, City of Albany, P.I.N. 1756.63 (“the Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of 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 Preliminary Engineering.

**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 Preliminary Engineering work for the Project or portions thereof; and it is further

**RESOLVED**, that the additional sum of \$492,000.00 (Four hundred ninety two thousand dollars and no cents) is hereby appropriated pursuant to Ordinance Nos. 42.31.07 and 43.52.08 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.

*Resolution Number 5.12.10R was Co-Sponsored by Council Members Freeman, Igoe, and Konev.*

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano, and Smith

Affirmative 15 Negative 0 Abstain 0

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

**Resolution Number 6.12.10R**

**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 (SCHOOL ZONE SIGNALS [P.I.N. 1758.01])**

**WHEREAS**, a Project for the School Zone Speed Warning Signals, City of Albany, P.I.N. 1758.01 ("the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 90% Federal funds and 10% 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 Preliminary Engineering.

**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 Preliminary Engineering work for the Project or portions thereof; and it is further

**RESOLVED**, that the additional sum of \$94,000.00 (Ninety four thousand dollars and no cents) is hereby appropriated pursuant to Ordinance No. 20.22.09 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.

*Resolution Number 6.12.10R was Co-Sponsored by Council Member Freeman.*

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano, and Smith

Affirmative 15 Negative 0 Abstain 0

**Council Member Herring asked and received majority consent to add Resolution Number 7.12.10R to the pending agenda, which was approved by unanimous voice vote**

Council Member Sano offered the following, which was held:

**Resolution Number 7.12.10R(MC)**

**RESOLUTION URGING THE STATE LEGISLATURE TO RESTORE FUNDING TO THE NEW YORK STATE THEATRE INSTITUTE IN THE 2010-2011 STATE BUDGET**

**WHEREAS**, Governor David Paterson has proposed a complete elimination of state funding for the New York State Theatre Institute (NYSTI) in his proposed budget for the fiscal year 2010-2011; and

**WHEREAS**, the state subsidy of over 3 million dollars represents 85 percent of the budget of the New York State Theatre Institute, and this cut effectively closes the doors of this arts institution; and

**WHEREAS**, previous attempts in 1989, 1995, and 2009 to cut funding to the NYSTI or to combine the NYSTI with the Egg have failed; and

**WHEREAS**, NYSTI is a world-class institution and highly regarded center for the performing arts. It is a producing organization dedicated to high quality arts-in-education. The complete elimination of funding will

produce disastrous results. The children of New York State, and in particular the Capital Region deserve to have NYSTI's acclaimed educational program and services to young audiences intact.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Albany hereby urges the New York State Legislature to restore funding to the NYSTI when they enact the 2010-2011 state budget.

**BE IT FURTHER RESOLVED**, that a copy of this resolution, suitably engrossed, be transmitted to the leadership of the New York State Legislature, the Chairs of the Senate Committee on Finance and Assembly Committee on Ways and Means and Senator Neil Breslin and Assemblyman Jack McEneny.

Council Member Fahey moved to amend Resolution Number 2.11.10R(MC), and as amended, requested it be held:

**Resolution Number 2.11.10 (MC) (As Amended 1/21/09)**

**RESOLUTION OF THE COMMON COUNCIL URGING THE STATE LEGISLATURE TO ENACT CHARTER SCHOOL FUNDING RELIEF AND TO IMPOSE A SPECIFIC LIMIT ON THE ENROLLMENT OF STUDENTS IN CHARTER SCHOOLS FOR THE CITY OF ALBANY SCHOOL DISTRICT**

**WHEREAS**, the number of charter schools approved in the State of New York is nearing the authorized limit of 200, and there is interest in increasing the number of charters substantially over this amount; and

**WHEREAS**, the New York State Board of Regents and the SUNY Board of Trustees have failed to consider the Albany City School District's unique situation, in that, the ratio of the number of charter schools to the number of public schools in Albany far exceeds the ratio of charter schools to public schools in any other school district in New York to a degree that is unfair and inequitable; and

**WHEREAS**, 82% of Albany citizens, a majority from every neighborhood in Albany, voted in a non-binding referendum in May, 2005 against paying for charter schools out of the public school budget; and

**WHEREAS**, the number of schools required to be supported with local taxpayer funds now stands at 28 - 16 district schools and 12 charter schools - a 75% increase in the schools supported with local taxpayers dollars in just 12 years; and

**WHEREAS**, over-saturation of charter schools in Albany has had a devastating impact on the City School district of Albany, its students and its taxpayers; and

**WHEREAS**, all statistics referenced herein are directly from City of Albany School District published information; and

**WHEREAS**, the cost of charter schools for the 2010-2011 school year is projected to be over \$30 million, a figure that does not include the additional, required costs of providing nursing services, social workers and transportation for 12 additional locations; and

**WHEREAS**, the district received \$4 million in "transition aid" this year to offset the financial impact of charters, an amount that is wholly inadequate given the sheer number of charter schools and the fact that enrollment is unpredictable and not sustainable; and

**WHEREAS**, the charter schools in Albany had an approved capacity of 3300 for the 2009-10 school year, but only enroll about 2000 Albany students, amounting to a 1300 student shortfall and providing evidence that the district is over-saturated with charter schools; and

**WHEREAS**, the excess approved capacity in charter schools has made charter school enrollments unsustainable and unpredictable and the district is obligated to enroll all students not attending charter schools, the oversaturation of charter schools in Albany has undermined the district's ability to plan efficiently and effectively for students enrolled in district schools and substantially increases the costs of this duplicative system to local taxpayers; and

**WHEREAS**, the cost of charter schools amounts to an un-funded mandate by New York State and an unfair burden on taxpayers as opposed to other states that fund charter schools through the state and not by local property taxes; and

**WHEREAS**, the charter schools are failing to meet their statutory responsibility to "*increase learning opportunities for all students, with special emphasis on expanded learning opportunities for students who are at-risk of academic failure*", as evidenced by the fact that only 3% of the students enrolled in charter schools are students with disabilities as compared to 16% of the students in the public schools; and

**WHEREAS**, charter schools' failure to retain at-risk students should be taken into consideration when determining enrollment limits.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Albany Common Council does hereby urge our New York State legislators to support charter school funding relief for the City School District of Albany.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Council urges legislators to impose a specific limit on the enrollment of students in Albany's charter schools to ensure that charter school approvals in Albany are at a predictable and sustainable level.

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

#### **MISCELLANEOUS AND UNFINISHED BUSINESS**

Council Member Herring 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:**

Jones, Michael K, 100 State Street, Albany, NY 12207

Council Member O'Brien discussed the importance of the SWMP Committee report and plan. He stated that the Committee advocates a regional solid waste management authority that would share in expenses by using fees generated from the garbage. He stated that DEC gave input on the report and at meetings. He stated that the plan should formally come before the Council in March.

Council Member Calsolaro discussed that the report should have included all the appendices. He stated that Vermont passed an idling ordinance similar to the one the Council passed in December 2009. He stated that he has membership packets to join the YMCA if anyone was interested.

Council Member Konev commended Council Member Herring for not taking the leadership stipend therefore saving the City some money.

Council Member Conti gave reminders to Council Members regarding submitting their representatives for the Community Policing Board, the Board of Assessment Review deadline and the African-American History month celebration the second meeting in February.

**ADJOURNMENT**

Council President Pro Tempore Conti moved for adjournment.

Council President Pro Tempore Conti stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of January 21<sup>st</sup>, 2010.

CASHAWNA PARKER  
SENIOR LEGISLATIVE AIDE TO THE  
ALBANY COMMON COUNCIL