

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, September 16, 2013

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

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

Also present were the following staff: Cashawna Parker, Nala Woodard, Barbara Samel and Patrick Jordan.

Council Member Igoe led the Pledge of Allegiance.

PUBLIC HEARING

Clerk to the Common Council Nala Woodard read the notice of the public hearing on Ordinance Number 40.82.13 (**AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (ZONING) CHANGING THE ZONING CLASSIFICATION OF THE PROPERTIES LOCATED AT 241 SOUTH ALLEN STREET, 70, 68, 66, 64, 62, 60, 44, 42, 40 AND 38 ONDERDONK AVENUE AND THE PORTION OF THE FORMER DALE PLACE ADJACENT TO 261 SOUTH ALLEN STREET AND 70 ONDERDONK AVENUE TO MULTIFAMILY LOW DENSITY RESIDENTIAL DISTRICT (R-3A) AND AMENDING THE ZONING MAP ACCORDINGLY**). The following persons spoke:

1. Robert G. Porter, 564 Park Avenue, Albany, NY

There being no further speakers, the President declared the public hearing closed.

PUBLIC COMMENT PERIOD

1. Jesse Calhoun (Support Resolution 80.92.13R);
2. Lynn Jackson, 223 South Swan Street, Albany, NY (Support Resolution 80.92.13R);
3. Andres Rivera, 20 Corlear Street, Albany, NY (Public safety);
4. Helene Brown, 562 Park Avenue, Albany, NY (Bedbugs);
5. Manon Robishaud, 43 Watervliet Avnue, Albany, NY (Bedbugs);
6. Robert Porter, 564 Park Avenue, Albany, NY (Bedbugs).

President Pro Tempore Conti made a motion to extend public comment for an additional 30 minutes, which was approved by unanimous voice vote.

7. Judd Feinman, (Bedbugs/Ordinance 47.92.13 in relation to the definition of family);
8. Asaf Elkayam, Washington Avenue, Albany, NY (Bedbugs/Ordinance 47.92.13 in relation to the definition of family).

There being no further speakers, the President declared the public comment period closed.

CONSIDERATION OF LOCAL LAWS

The local laws on the agenda were held at the request of President Pro Tempore Conti.

REPORTS OF STANDING COMMITTEES

Human Resources and Human Rights – Chairperson Fahey stated that the committee met on September 11, 2013 to discuss Local Law C-2010 in relation to city employee residency requirements, which will be held for further discussion. She stated that there was discussion on the EEO in relation to the make up of the City workforce, APD recruitment efforts, AFD recruitment efforts and diversity training.

General Services, Health and Environment – President Pro Tempore Conti stated that the committee would be meeting on September 24, 2013 to discuss Ordinance Number 46.92.13 in relation to bedbugs.

REPORTS OF AD HOC COMMITTEES

Park South Ad Hoc Committee – Chairperson Conti stated that the ad hoc committee would be meeting on September 25, 2013 to discuss Ordinance Number 44.91.13 (MC) in relation to amendments to the Park South Urban Renewal Plan.

CONSIDERATION OF ORDINANCES

President Pro Tempore Conti on behalf of Council Member O’Brien introduced ORDINANCE NUMBER 45.92.13, which was referred to the Planning, Economic Development and Land Use Committee:

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (ZONING) CHANGING THE ZONING CLASSIFICATION OF 182 NORTH ALLEN STREET FROM ONE- AND TWO-FAMILY FAMILY RESIDENTIAL DISTRICT (R-2A) TO NEIGHBORHOOD-COMMERCIAL DISTRICT (C-1) AND AMENDING THE ZONING MAP ACCORDINGLY

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

Section 1. Chapter 375 of the Code of the City of Albany (Zoning) and the Official Zoning Map are hereby amended to change the zoning classification of 182 North Allen Street from One- and Two-Family Family Residential District (R-2A) to Neighborhood-Commercial District (C-1), said properties being more particularly described as follows:

All that parcel of land situated in the City of Albany, County of Albany and State of New York, identified on the tax map as follows:

Parcel 1
Section: 64.36
Block: 1
Lot: 70

Said premises more commonly known as 182 North Allen Street measuring 30.00’ by 150.00’

Section 2. The Council finds and declares that this action is an “Unlisted” action under Article 8 of the Environmental Conservation Law and the regulations promulgated thereunder (SEQRA), and directs that coordinated review be conducted for the determination and establishment of Lead Agency.

Section 3. This Ordinance shall take effect immediately.

Council Member Sano introduced ORDINANCE NUMBER 46.92.13, which was referred to the General Services, Health and Environment Committee:

AN ORDINANCE AMENDING CHAPTER 231 (HOUSING) OF THE CODE OF THE CITY OF ALBANY TO IN RELATION TO BEDBUGS

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

Section 1. Section 231-93 of Chapter 231 of the Code of the City of Albany is hereby amended to read as follows:

Section 231-93. Infestation and screening.

- A. Grounds, buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall meet the generally accepted Health Department practice and shall be in accordance with the manufacturer’s specifications.
- B. Where the potential for rodent infestation exists, windows and other openings in basements and cellars shall be appropriately ratproofed with wire or other suitable materials.
- C. From May 1 to November 1, entrance to residential buildings shall be provided with self-closing-type devices, or screens and windows or other openings used for ventilation shall be appropriately screened. Screens shall not be required in rooms located sufficiently high in the upper stories of multiple dwellings as to be free of mosquitoes, flies and other flying insects.
- D. The exterior of every structure used for human habitation shall be so maintained as to be vermin- and rodent-free. Where rodent or vermin problems exist, all exterior windows, doors and other openings two feet above ground level and below shall be screened or protected with acceptable wire mesh or other approved materials. Defects, cracks or holes shall be tightly sealed to prevent the entrance of vermin and rodents.
- E. When a bedbug infestation has been identified by the Division of Buildings and Codes, it is the responsibility of the owner to provide pest control services within ten days after mailing of the written notice of violation, by a pest management professional until such time that no evidence of infestation can be found. When necessary the dwelling unit directly above and below the affected unit and common areas shall also be treated if evidence is found on these premises or when treatment is necessary to prevent the spread. The property owner shall submit a written record of treatment to the Division of Buildings and Codes.

Section 2. This ordinance shall take effect immediately.

Council Member Konev introduced ORDINANCE NUMBER 47.92.13, which was referred to the Planning, Economic Development and Land Use Committee:

AN ORDINANCE AMENDING CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE DEFINITION OF FAMILY

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

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

FAMILY –

(1) Shall mean:

(a) One, two [~~or~~], three or four persons occupying a dwelling unit; or

(b) [~~Four~~] Five or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

(2) It shall be presumptive evidence that [~~four~~] five or more unrelated persons living in a single dwelling unit do not constitute the functional equivalent of a traditional "family."

Section 2. This ordinance shall take effect immediately.

Council Member Conti asked for passage of ORDINANCE NUMBER 42.91.13 (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 78 MORRIS STREET IN THE CITY OF ALBANY, NEW YORK AT PRIVATE SALE TO THE OWNER OF 80 MORRIS STREET), which had been previously introduced.

The ordinance passed by unanimous voice of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Igoe, Jenkins-Cox, Konev, Rosenzweig, and Sano.

Affirmative 12 Negative 0 Abstain 0

The remaining ordinances on the agenda were held at the request of President Pro Tempore Conti.

CONSIDERATION OF RESOLUTIONS

Council Member Sano introduced RESOLUTION NUMBER 78.92.13R, and asked for passage and a roll call vote thereon:

RESOLUTION OF THE COMMON COUNCIL DECLARING ITSELF LEAD AGENCY FOR PURPOSES OF DETERMINING ENVIRONMENTAL SIGNIFICANCE IN ACCORDANCE WITH ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW (SEQRA), AND ITS IMPLEMENTING REGULATIONS REGARDING THE PROPOSED REZONING OF THE PROPERTIES LOCATED AT 241 SOUTH ALLEN STREET, 70, 68, 66, 64, 62, 60, 44, 42, 40 AND 38 ONDERDONK AVENUE AND THE PORTION OF THE FORMER DALE PLACE ADJACENT TO 261 SOUTH ALLEN STREET AND 70 ONDERDONK AVENUE

WHEREAS, Ordinance 40.82.13 was introduced by the City of Albany Common Council on August 19, 2013, which proposed rezoning the properties located at 241 South Allen Street from Single-Family Medium-Density District (R-1B) and Land Conservation District (LC) and 70, 68, 66, 64, 62, 60, 44, 42, 40 and 38 Onderdonk Avenue from Single-Family Medium-Density District (R-1B) and the portion of the right-of-way formerly known as Dale Place, measuring approximately thirty (30) feet in width by approximately one hundred ninety eight (198) feet in length, adjacent to 261 South Allen Street and 70 Onderdonk Avenue to Multifamily Low-Density Residential District (R-3A), and

WHEREAS, the City of Albany has prepared a short Environmental Assessment Form (short EAF), in conjunction with said proposed rezoning; and

WHEREAS, the action is preliminarily classified as an Unlisted action and is subject to the provisions of the State Environmental Quality Review Act (“SEQRA”), as set forth in Environmental Conservation law Article 8, and its implementing regulations; and

WHEREAS, the Common Council is the most involved agency and, as such, is the most appropriate Lead Agency to conduct a review of the plan in accord with SEQRA regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany shall coordinate review of the proposed rezoning of the properties located at 241 South Allen Street, 70, 68, 66, 64, 62, 60, 44, 42, 40 and 38 Onderdonk Avenue and the portion of the right-of-way formerly known as Dale Place, adjacent to 261 South Allen Street and 70 Onderdonk Avenue and hereby declares itself lead agency pursuant to and under SEQRA.

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

The resolution passed by unanimous voice of the following Council Members:

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Igoe, Jenkins-Cox, Konev, Rosenzweig and Sano

Affirmative 12 Negative 0 Abstain 0

Council Member Sano introduced RESOLUTION NUMBER 79.92.13R, and asked for passage and a roll call vote thereon:

RESOLUTION HONORING PATRICIA BRADY-DANZIG FOR HER CONTRIBUTIONS TO THE CITY OF ALBANY THROUGH MUSIC

WHEREAS, Patricia Brady-Danzig has maintained an international career, performing in the major concert halls of Europe as well as our own Carnegie Hall; and

WHEREAS, Patricia Brady-Danzig was awarded an Honorary Doctorate of Humane Letters from The College of St. Rose, Albany, New York, the first music graduate to be so honored; and

WHEREAS, Patricia Brady-Danzig established PBD Associates, Inc. a music foundation formed to aid the careers of outstanding young classical musicians from both here and abroad; and

WHEREAS, Patricia Brady-Danzig has a facility named after her at The College of St. Rose, Albany, New York; and

WHEREAS, Patricia Brady-Danzig has donated her time to hold numerous master classes and recitals for the benefit of The College of St. Rose; and

WHEREAS, Patricia Brady-Danzig has donated the D'Arcy Brady Stage at the college's Massry Center for the Performing Arts in memory of her parents; and

WHEREAS, Patricia Brady-Danzig musicianship has been praised by music critics in Spain, Italy, Ireland and Romania, as well as the United States; and

WHEREAS, Patricia Brady-Danzig was awarded the Symbol Star of Romania, presented to her by the President of Romania, in recognition of her musical and philanthropic efforts in that country; and

WHEREAS, Patricia Brady-Danzig has recently published a children's book, "Fabrizio's Fable" written in English and Italian; and

WHEREAS, Patricia Brady-Danzig is co-sponsoring "Fabrizio the Musical" to be performed by the orchestra of The College of St. Rose at the college's Massry Center for the Arts on October 12, 2013; and

WHEREAS, Governor Andrew M. Cuomo has praised the efforts of Patricia Brady-Danzig for promoting the heritage of the Italian-American community in the Capital District.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council congratulates and commends Patricia Brady-Danzig on her many musical and philanthropic accomplishments, and further congratulates her on the great honors and international prestige she has brought to her alma mater, The College of St. Rose, Albany, New York.

Resolution Number 79.92.13R was co-sponsored by Council Members Bailey, Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig and Smith.

Council Member Konev introduced RESOLUTION NUMBER 80.92.13R, which was held:

RESOLUTION OPPOSING THE INDEFINITE MILITARY DETENTION WITHOUT TRIAL OF ANY PERSON, INCLUDING US CITIZENS

WHEREAS, the Constitution of the United States is the foundation of our nation's rights and freedom, and the basis of our representative democracy, and the indefinite military detention of any person without trial violates the 5th and 6th amendments of the Constitution of the United States, Article III of the Constitution of the United States and the Posse Comitatus Act; and

WHEREAS, it can be argued that the indefinite military detention without trial of any person, including U.S. citizens, could be allowed by Sections 1021 and 1022 of the National Defense Authorization Act (NDAA), passed by strong bipartisan majorities and signed by President Obama on December 31, 2011; and

WHEREAS, Albany City is not a "battlefield" subject to the "laws of war;" and

WHEREAS, Federal Judge Katherine Forrest has ruled Section 1021 of the 2012 NDAA is unconstitutional before that well reasoned decision was overturned by the Second Circuit based on a legal technicality unrelated to the merits of the case; and

WHEREAS, the U.S. Supreme Court has ruled that neither Congress nor the President can constitutionally authorize the detention and/or disposition of any person in the United States, or citizen of the United States “under the law of war” who is not serving “in the land or naval forces, or in the Militia, when in actual service in time of War or public danger.”

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany acting in the spirit and history of our community, does hereby declare that we:

Strongly affirm our loyalty to the rights and liberties enshrined within the Constitution of the United States, including the Fifth Amendment right to due process and the Sixth Amendment right to trial;

Instruct all our public agencies to decline requests by federal agencies acting under detention powers granted by the NDAA that could infringe upon residents' freedom of speech, religion, assembly, privacy, or rights to counsel;

Expect all federal and state law enforcement officials acting within the City to work in accordance with local law, and in cooperation with the Albany Police Department, by allowing any detainees among Albany’s residents or visitors access to a trial, counsel and due process, as provided by Article III of the Constitution of the United States; and

Request that our United States Congressman and Senators monitor the implementation of the NDAA and actively work for the repeal of the NDAA’s detention provisions to restore fundamental rights and liberties embodied in the Constitutions of the Commonwealth and the United States.

BE IT FURTHER RESOLVED, that the Clerk of this Council forward copies of this resolution to United States Senators Kirsten Gillibrand and Charles Schumer and United States Representative Paul Tonko.

The remaining resolutions on the agenda were held at the request of President Pro Tempore Conti.

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Konev discussed disenfranchisement and confusion of voters on Election Day because of split neighborhoods and election site changes. He discussed low voter turnout. He stated that he did not believe Administrative Services was keeping a database of applicants and the refusal of the Acting Commissioner to do so. He discussed applicants being discouraged by the application process for employment.

Council Member Golby agreed with Council Member Konev on his Election Day concerns. She discussed that she spoke with Denise Kelley, the City Registrar, to verify which portion of the Dutch Quad is located in the City of Albany.

Council Member Calsolaro discussed concerns and issues that have come up since Albany County took over the whole election process. He agreed with Council Members Konev and Golby on the disenfranchisement concerns. He discussed inspector of elections not knowing how to operate the voting machine for disabled voters and voting sites not being opened at noon.

Council Member Sano discussed issues he had in his ward on Election Day. He discussed a resident that has been voting for years that was not on the rolls and that the voting site is no longer within walking distance. He discussed the need for Albany County to find alternative voting sites.

Council Member Rosenzweig reported no voting issues in his ward.

Council President McLaughlin discussed an inspector of elections who was listed as felon on the rolls even though he has been an inspector for years. She suggested having conversations with the Albany County Board of Elections and inviting the election commissioner to a Common Council Caucus.

ADJOURNMENT

President Pro Tempore Conti made a motion to adjourn. President McLaughlin, hearing no objections, stated that the meeting was adjourned.

A true record of the Common Council Minutes of September 16th, 2013.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL