

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

Monday, August 3, 2015

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

The roll being called, the following answered to their names: Council Members Applys, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, O'Brien and Robinson.

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

Council Member O'Brien led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Jennifer McErlean, 166 South Manning Boulevard (Police/community relations);
2. Sister Honora Kinney, 93 Park Avenue, Albany, NY (Justice for Marquis Dixon);
3. Marlon Anderson, West Hill, Albany, NY (Race in the City of Albany);
4. Joseph Paparone, 835 Washington Avenue, Albany, NY (Black Lives Matter and racial disparities);
5. Doris Coles, 51 Pieter Schuyler Court, Albany, NY (Crime Victim).

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

APPROVAL OF MINUTES FROM PREVIOUS

DEFERRED

CONSIDERATION OF LOCAL LAWS:

Council Member Fahey moved to amend LOCAL LAW A-2014 and as amended requested it remained held.

**A LOCAL LAW AMENDING ARTICLE II (FIREARMS AND AMMUNITION) OF
CHAPTER 193 (FIREARMS AND AMMUNITION) TO REQUIRE SAFE STORAGE OF
FIREARMS**

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

**Section 1. Article II of Chapter 193 of the Code of the City of Albany shall
be amended to read as follows:**

**ARTICLE II
STORAGE AND DISPLAY OF FIREARMS AND AMMUNITION
~~FIREARMS AND AMMUNITION~~**

§ 193-6. Purpose.

The Common Council hereby finds that the storage, possession and display of firearms and the storage, possession, display and sale of ammunition in the City of Albany require the regulation thereof in the public interest, convenience and necessity. In addition, the presence of an unsecured, easily accessible loaded firearm in the home increases the likelihood of death or injury from accidents or impulsive acts. Guns left unattended in the home should be kept locked or stored securely to prevent access by children and others who should not have access to them. Gun owners are responsible for keeping their firearms from falling into the hands of children and other unauthorized individuals.

§ 193-7. Definitions.

Unless otherwise expressly stated, whenever used in this article, the following words shall have the meanings given to them by this section. When used herein:

AMMUNITION -- Any projectile commonly known as a "bullet" or "shell."

FIREARM -- Any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, and shall include any weapon which is otherwise capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

PERSON -- Any person, firm, partnership, association, corporation, company or organization of any kind.

SAFE STORAGE DEPOSITORY – A safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the firearm contained therein.

§ 193-8. Storage.

A. Firearms and ammunition for sale shall be kept secured at all times when the place in which they are held for sale is not open for business. The manner in which the firearms and ammunition are to be secured must be approved by both the Chief of Police and the Chief of the Fire Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.

B. No person who owns or is custodian of a firearm shall store or otherwise leave such firearm out of his or her immediate possession or control without having first securely locked such firearm in an appropriate safe storage depository, which when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the firearm contained therein, or rendered it incapable of being fired by use of a gun locking device appropriate to that firearm. The regulations provided for herein shall not apply to personal possession, use or ownership of firearms or ammunition therefor.

§ 193-9. Sale of ammunition and firearms.

A. Ammunition shall only be sold to persons possessing a valid firearms license, when a license is required for the type of firearm for which the ammunition is used. When purchasing any other type of ammunition, where a firearms license would not be required for the type of ammunition being purchased, a

driver's license shall be required. A record shall be kept by the dealer of each sale of ammunition which shall show the type, caliber and quantity of ammunition sold, the name and address of the person receiving the same, the caliber, make, model, manufacturer's name and serial number of the firearm for which the purchaser is purchasing ammunition, the date and time of the transaction, and the identifying number of the firearms or driver's license. Such record shall be maintained for 10 years and shall be made available to state and local enforcement agencies upon request.

B. Every person engaged in the retail business of selling firearms shall post a notice in the place where such firearms are displayed or delivered to the purchaser conspicuously stating, in no smaller than 24 point type and on no smaller than 8 ½ x 11 paper stating in bold print the following warning:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN THE CITY OF ALBANY. FIREARMS MUST BE STORED IN A SAFE OR OTHER SECURE CONTAINER WHICH, WHEN LOCKED, IS INCAPABLE OF BEING OPENED WITHOUT THE KEY, COMBINATION OR OTHER UNLOCKING MECHANISM AND IS CAPABLE OF PREVENTING AN UNAUTHORIZED PERSON FROM OBTAINING ACCESS TO AND POSSESSION OF THE FIREARM CONTAINED THEREIN, OR IS RENDERED INCAPABLE OF BEING FIRED BY USE OF A GUN LOCKING DEVICE APPROPRIATE TO THAT FIREARM. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR UNAUTHORIZED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. YOU MAY ALSO FACE ADDITIONAL CRIMINAL PENALTIES IF THE FIREARM IS USED BY ANOTHER NEGLIGENTLY AND CIVIL LIABILITY.

§ 193-10. Report of theft or loss to Police Department.

Any theft or loss of ammunition or firearms from a storage vault, safe storage depository, or otherwise shall be reported immediately to the Police Department of the City of Albany.

§ 193-11. Declaration of state of emergency by Mayor.

In the event of disaster, riots, catastrophe, insurrection, war or acts of war and at which time the Mayor of the City of Albany or the Acting Mayor shall declare a state of emergency, then and in that event ~~he~~ the Mayor or Acting Mayor may order such additional security measures as he may deem advisable.

§ 193-12. Penalties for offenses.

Any person who shall violate or shall neglect or refuse to comply with this article or any provisions thereof, upon a first offense, shall be guilty of a violation and upon conviction thereof, shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days. Upon a second offense or when a first offense results in injury or death, the offender shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense and be subject to punishment as such.

Section 2. This local law shall take effect January 1, 2016 and after final passage, public hearing and filing with the Secretary of State.

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

REPORTS OF STANDING COMMITTEES:

Public Safety – Chairperson Golby stated that the committee met on July 23, 2015 to interview candidates to fill a vacancy on the Citizen Police Review Board. She reported that the committee selected Kerry Mulligan unanimously.

Parks, Recreation and Family Services – Chairperson Fahey stated that the committee would be meeting on August 6, 2015 at 5:30 p.m. to discuss issues concerning the Albany Boxing Facility.

CONSIDERATION OF ORDINANCES

Council Member Conti introduced ORDINANCE NUMBER 40.81.15, which was referred to the Public Safety Committee:

AN ORDINANCE AMENDING ARTICLE I (DOGS RUNNING AT LARGE) OF CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO HUDSON-JAY PARK

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

Section 1. Subsection A of Section 115-2 of Chapter 115 of the Code of the City of Albany is hereby amended to read as follows:

§ 115-2. Regulations.

Pursuant to the authority granted to the City of Albany by Article 7 of the New York Agriculture and Markets Law, it shall be unlawful for any owner of, or any person harboring, any dog in the City of Albany to permit or allow such dog to:

A. Run at large. All dogs are to be restrained by an adequate collar and leash, except that within the parks in the City of Albany, not including Hoffman Park or Hudson-Jay Park, all dogs shall be so restrained or under the control of its owner or responsible person over 12 years of age. For the purposes of this section, "control" shall mean within sight of the owner and subject to immediate restraint. Any female dog in heat shall be confined to the premises of the owner or person harboring such dog during this period.

Section 2. This ordinance shall take effect immediately.

Council Member Applys introduced ORDINANCE NUMBER 41.81.15, 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 CLASSIFICATIONS OF 90[;] AND 92 [~~AND A PORTION OF 70~~] MCCARTY AVENUE FROM ONE- AND TWO-FAMILY

RESIDENTIAL DISTRICT (R-2A) TO MULTIFAMILY LOW-DENSITY RESIDENTIAL DISTRICT (R-3A) 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 classifications of 90[5] and 92 [and a portion of 70] McCarty Avenue from One- and Two-Family Residential District (R-2A) to Multifamily Low-Density Residential District (R-3A), 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: 76.18
Block: 4
Lot: 1.1

Said premises more commonly known as 90 McCarty Avenue measuring approximately 2.9 acres.

Parcel 2
Section: 76.18
Block: 4
Lot: 1.3

Said premises more commonly known as 90 McCarty Avenue measuring approximately 3.4 acres.

~~Parcel 3
Section: 76.18
Block: 4
Lot: 1.23~~

~~Said premises more commonly known as a portion of 70 McCarty Avenue measuring approximately 2.1 acres, being adjacent to 90 McCarty Avenue.]~~

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 Conti introduced ORDINANCE NUMBER 42.81.15, which was referred to the Planning, Economic Development and Land Use Committee:

AN ORDINANCE AMENDING ARTICLE XII (GENERAL PROVISIONS) OF PART 4 (HISTORIC RESOURCES COMMISSION) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXPANDING THE WASHINGTON PARK HISTORIC DISTRICT

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

Section 1. Section 42-86 of Article XII of Part 4 of Chapter 42 of the Code of the City of Albany is hereby amended to read as follows:

§ 42-86. Area and structures designated as having special historic and aesthetic interest of value.

B. Pursuant to [~~Subdivision 25-a of § 20 of the General City Law~~] § 96-a of the General Municipal Law, the following described areas are designated as areas, buildings, structures and objects having a special historical or aesthetic interest or value:

(1) Districts.

(b) Washington Park Historic District

[9] Henry Johnson Boulevard: 5, 7, 9, 11, 15, 17

[10] Sprague Place: 1, 2, 3, 4, 5

[11] Spring Street: 74, 76, 77, 78, 79, 80, 81, 82, 83, 87, 89, 90, 92, 95, 99

Section 2. This ordinance shall take effect immediately upon passage

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

CONSIDERATION OF RESOLUTIONS

Council Member Applys introduced RESOLUTION NUMBER 57.81.15R, asked for passage and a voice 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 90, 92 AND A PORTION OF 70 MCCARTY AVENUE

WHEREAS, Ordinance 41.81.15 was introduced by the City of Albany Common Council on August 3, 2015, which proposed rezoning the properties located at 90, 92 and a portion of 70 McCarty Avenue from One- and Two-Family Residential District (R-2A) 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 90, 92 and a portion of 70 McCarty Avenue and hereby declares itself lead agency pursuant to and under SEQRA;

RESOLVED, that this resolution shall take effect immediately.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applrys, Commisso, Conti, Doeschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, O’Brien and Robinson

Affirmative 12 Negative 0 Abstain 0

President Pro Tempore Conti asked and received majority consent to add Resolution Number 58.81.15R to the pending agenda, which was approved by unanimous voice vote.

Council member Conti on behalf of Council Member Bailey introduced, asked for passage and a voice vote thereon:

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE CATHEDRAL OF ALL SAINTS IN ITS APPLICATIONS TO THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION FOR STATE ASSISTANCE IN FUNDING THE PUBLIC PERFORMANCE AND GATHERING GARDEN PROJECT

WHEREAS, the Cathedral of All Saints is requesting financial aid from the State of New York to assist in funding for the Public Performance and Gathering Garden Project in the City of Albany; and

WHEREAS, the Cathedral of All Saints is applying to the New York State Office of Parks, Recreation and Historic Preservation for funding under the Environmental Protection Fund Municipal Grant Program; and

WHEREAS, the Cathedral of All Saints is applying for these funding sources through the 2015 New York State Consolidated Funding Application Round; and

WHEREAS, the grant applications require that the applicant obtain the approval and endorsement of the governing body of the municipality in which the project will be located.

WHEREAS, the proposed application supports and advances the goals of the adopted Albany 2030 comprehensive plan, the citywide economic development strategy and applicable neighborhood revitalization plans; and

WHEREAS, the proposed application supports and advances the established goals of the Capital Region Economic Development Council and will have a significant regional impact.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany does hereby approve and endorse the application of the Cathedral of All Saints to the New York State Office of Parks, Recreation and Historic Preservation Environmental Protection Fund Municipal Grant Program for funding to aid the Public Performance and Gathering Garden Project.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applrys, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, O’Brien and Robinson

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

MISCELLANEOUS AND UNFINISHED BUSINESS:

Council Member Commisso discussed his concerns with the cabaret license hearing process in which the involved departments sign off on the applications and are not present when the hearing is held. He discussed that there were six people who spoke against a business at the cabaret hearing this evening.

Council Member Conti agreed with Council Member Commisso’s concerns and discussed weaknesses written into the enabling ordinance relating to cabaret licenses. He agreed that the involved departments sign off should be after a hearing is held.

Council Member Kimbrough informed the Council that the street renaming for former Council Member Sarah Curry-Cobb will be held on August 13, 2015 at 1 p.m.

ADJOURNMENT

A motion was made for adjournment.

President McLaughlin stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of August 3rd, 2015

CASHAWNA PARKER
Legislative Aide to the Council