

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, September 2, 2015

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

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

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

Council Member Herring led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Leah Gunn Barrett, New Yorker's Against Gun Violence (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
2. Gary Pudup, New Yorker's Against Gun Violence (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
3. Pat Tuz, New Yorker's Against Gun Violence, Wilton, NY (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
4. Pam Dudoff, New Yorker's Against Gun Violence (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
5. Ruth Senchya, Albany, NY (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
6. Dr. Laura Steff, (Support LL A-2014 (As Amended) in relation to safe storage of firearms);
7. Garrah Lloyd Lester (Support LL A-2015 (As Amended) in relation to safe storage of firearms);

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

8. Vincent Riguso, 13 Beach Avenue, Albany, NY (Support Resolution 13.31.15R (MC) (As Amended) in relation to 911 dispatchers);
9. Angelo Dager, 1151 Russell Road, Albany, NY (911 Dispatchers);
10. Fred Pheiffer, 124 North Pine Avenue, Albany, NY (Support Resolution 13.31.15R (MC) (As Amended) in relation to 911 dispatchers);
11. Thomas Hoey, 19 Vine Street, Albany, NY (911 Dispatchers)
12. John Jay Steinhardt, 680 Central Avenue, Albany, NY (Appointment to PEG Access Oversight Board);
13. Keith Irish, 461 Ontario Street, Albany, NY (PEG Access television).

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

CONSIDERATION OF LOCAL LAWS:

Council Member Fahey asked for passage of Local Law A-2014 (As Amended) (A LOCAL LAW AMENDING ARTICLE II (FIREARMS AND AMMUNITION) OF CHAPTER 193 (FIREARMS

AND AMMUNTION) TO REQUIRE SAFE STORAGE OF FIREARMS), which had been previously introduced.

**Note: Council Members Fahey, Igoe, Robinson and Golby spoke on this local law prior to passage.*

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

Affirmative – Applyrs, Bailey, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Kornegay, Krasher, O’Brien and Robinson

Negative - Commissso

Affirmative 14 Negative 1 Abstain 0

Local Law A-2014 was co-sponsored by Council Members Applyrs, Bailey, Conti, Doesschate, Fahey, Golby, Herring, Igoe, Kimbrough, Kornegay, O’Brien and Robinson.

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

REPORTS OF STANDING COMMITTEES:

Planning, Economic Development and Land Use - Chairperson Herring reported that the committee would be meeting tomorrow, September 3, 2015 to discuss Resolution 61.82.15R appointing Martin Hull to the Planning Board and Ordinance 42,82.15 relation to expanding the Washington Park Historic District.

Parks, Recreation and Family Services - Chairperson Fahey stated that there is a committee meeting scheduled for Wednesday, September 16, 2016 immediately following caucus.

CONSIDERATION OF ORDINANCES

Council Member Igoe introduced ORDINANCE NUMBER 44.91.15, which was referred to the Law, Buildings and Code Enforcement Committee.

AN ORDINANCE AUTHORIZING AND ENACTING THE IMPLEMENTATION OF A PARKING VIOLATIONS AMNESTY PROGRAM (2015) AND AMENDING CHAPTER 247 OF THE CODE OF THE CITY OF ALBANY ACCORDINGLY

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

Section 1. Chapter 247 of the Code of the City of Albany is hereby amended to read as follows:

CHAPTER 247

PARKING VIOLATIONS AMNESTY PROGRAM – [2008] 2015

§247-1. Program established.

There is hereby enacted for the City of Albany a parking violations amnesty program whereby the Treasurer of the City of Albany and/or her designee may cancel, in whole or in part, any penalties imposed for a traffic infraction constituting parking, standing or stopping violations issued within the City of Albany as hereinafter set forth.

§247-2. Applicability; duration.

The Albany parking violations amnesty program shall only apply to such violations issued on or before ~~[July 31, 2008]~~ July 31, 2015 and shall be effective for a period commencing ~~[September 12, 2008]~~ September 22, 2015 and ending ~~[December 12, 2008]~~ November 23, 2015. Amnesty for such tickets shall only be available to individuals prior to an immobilization device being placed on said individual's vehicle and/or prior to said individual's vehicle being towed pursuant to Chapter 359 of the Code of the City of Albany.

§247-3. Advertising campaign.

The Treasurer shall develop and implement an advertising campaign to adequately inform the public of the amnesty program which shall consist of announcements on radio, television and/or in the print media.

§247-4. Treasurer to promulgate rules.

The Treasurer is hereby authorized and directed to promulgate rules and regulations not inconsistent with the provisions hereof to effectuate the program.

Section 2. This ordinance shall take effect immediately.

Council Member Applrys moved to amend ORDINANCE NUMBER 41.81.15 and as amended requested it remained held:

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (ZONING) CHANGING 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) 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 O'Brien withdrew ORDINANCE NUMBER 43.82.15 (MC).

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

CONSIDERATION OF RESOLUTIONS

Council Member Herring introduced 63.91.15R, which was approved by unanimous voice vote:

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 REZONE ALBANY PLAN AND THE UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE

WHEREAS, the City of Albany has prepared a Full Environmental Assessment Form (FEAF) in conjunction with the proposed adoption of the ReZone Albany Plan and the Unified Sustainable Development Ordinance; and

WHEREAS, the action is preliminarily classified as a Type I 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 ReZone Albany Plan and the Unified Sustainable Development Ordinance by issuing a Notice of Intent to act as lead agency to all involved agencies pursuant to and under SEQRA.

BE IT FURTHER 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, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Kornegay, Krasher, O’Brien and Robinson

Affirmative 15 Negative 0 Abstain 0

President Pro Tempore Conti asked and received majority consent to add Resolution Numbers 64.91.15R and 65.91.15R to the pending agenda, which was approved by unanimous voice vote

Council Member Fahey introduced RESOLUTION NUMBER 64.91.15R (MC), which was approved by unanimous voice vote:

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 (TEN BROECK STREET, CARDINAL AVENUE AND WHITEHALL ROAD RECONSTRUCTION [P.I.N.S 1759.79, 1759.80 and 1759.81])

WHEREAS, the Pavement Preservation Project [P.I.N.s 1759.79, 1759.80 and 1759.81] (“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 costs of the Engineering and Design Phases.

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 Design work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$218,775.00 (Two hundred eighteen thousand seven hundred seventy five dollars and no cents) is hereby appropriated pursuant to Ordinance No. 16.32.15 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.

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

Affirmative – Applyrs, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Kornegay, Krasher, O'Brien and Robinson

Affirmative 15 Negative 0 Abstain 0

Council Member Doesschate introduced ORDINANCE NUMBER 65.91.15R (MC), which was held

**Note: Council Members Krasher, Commisso, O'Brien, Conti, Applyrs, Doesschate and President McLaughlin spoke on the introduction.*

A RESOLUTION OF THE COMMON COUNCIL RELATING TO PENDING CONTRACT NEGOTIATIONS BETWEEN THE CITY OF ALBANY AND THE COMMUNICATIONS UNIT OF THE ALBANY POLICE DEPARTMENT

WHEREAS, the Common Council of the City of Albany values the APD Communications Unit employees and the invaluable service they provide to residents in the City of Albany and believes the members of the Communications Unit have earned a salary increase for the 2010-2013 period which has been the subject of negotiations; and

WHEREAS, resolution of a collective bargaining agreement between the Albany Police Officers Union, Local 2841, District Council 82, AFSCME, AFL-CIO (o/b/o Communications Unit) and the City of Albany for the contract period 2010-13 remains unresolved; and

WHEREAS, the Common Council desires adoption of an equitable and affordable contract through a collective negotiation process that is fair to APD Communications Unit employees and taxpayers in the City of Albany; and

WHEREAS, the terms and conditions of the previous contract continue in effect until a new contract is entered into; and

WHEREAS, this matter (along with the then unresolved collective bargaining agreement with the Civilian Unit) was referred to Fact Finding in accordance with §209(3) of the NYS Civil Service Law; and

WHEREAS, on or about August 21, 2013 the Fact Finding report was submitted to both parties and, subsequently, on or about August 30, 2013 transmitted to the Common Council in accordance with the NYS Civil Service Law by then Deputy Corporation Counsel Tara Wells; and

WHEREAS, the Fact Finder recommended annualized salary adjustments of: 2% for 2010; 2% for 2011; 2% for 2012; and 2.5% for 2013 and that both units transition to the city's PPO and/or CDPHP health insurance option effective November 1, 2013 to offset the costs of the aforementioned salary adjustments; and

WHEREAS, subsequent to such transmission, the administration of then Mayor Gerald Jennings offered contract terms to both units, that proposed the adoption of the Fact Finders salary adjustment recommendations for 2010 and 2011 along with acceptance of the health insurance recommendation; and

WHEREAS, such offer was accepted by the Civilian Unit, who are no longer a part of the Fact Finding process, and was rejected by the APD Communications Unit; and

WHEREAS, on or about September 8, 2014 the Common Council held a public hearing on the Matter of Fact Finding during which representatives of APOU, Local 2841, Council 82 and the City of Albany presented their respective positions and recommendations; and

WHEREAS, Council 82 requested a one-year (2010) imposition of the Fact Finder Recommendation and the City of Albany recommended no imposition; and

WHEREAS, a legislative imposition, which is limited to salary adjustments, cannot be a substitute for good faith negotiations to seek a written agreement through collective bargaining; and

WHEREAS, subsequent to the public hearing before the Common Council, and outside of a legislative imposition, the City of Albany twice presented offers to the Communications Unit offering a prospective salary adjustment reflective of the compounded value of the Fact Finders recommendation for 2010-2013, or 8.82% with an additional lump sum payment of \$95,000 to be allocated by a formula recommended by the APD Communications Unit with a transition to the city's PPO and/or CDPHP health insurance option; and

WHEREAS, such offer was rejected, it still remains available; and

WHEREAS, in March 2015, the APD Communications Unit proposed that they receive the full fact Finder recommendation including all retroactive adjustments with a prospective transition to the City's PPO and/or CDPHP health insurance option which was rejected by the City; and

WHEREAS, subsequent to a public hearing NYS Civil Service Law §209(3)(e)(iv) provides that "the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved;" and

WHEREAS, the Taylor Law prohibits the Common Council from imposing adjustments to the existing agreement that would transition union members to the City's PPO and/or CDPHP health insurance options that would save taxpayers \$37,000 to \$47,000 per year to help offset the costs of the proposed salary adjustments; and

WHEREAS, the Common Council is also cognizant of the financial limitations and constraints the City of Albany is operating under and acknowledges the settlement offers which have been made to resolve this dispute; and

WHEREAS, the Common Council is unable to engage in collective negotiation, which is otherwise a careful deliberative process between designated agents, and is concerned with the extent to which legislative imposition may or may not further the goals of collective negotiation;

NOW, THEREFORE BE IT RESOLVED, that in accordance with NYS Civil Service Law §209(3)(e)(iv) the Common Council deems it in the public interest not to undertake legislative imposition at this time, and encourage the City of Albany and Communications Unit of the Albany Police Department to seek resolution through the collective bargaining process in which both parties should exhibit flexibility in seeking resolution cognizant of the financial constraints under which the City of Albany is currently operating.

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

MISCELLANEOUS AND UNFINISHED BUSINESS:

NONE

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 September 2nd, 2015.

CASHAWNA PARKER
Legislative Aide to the Council