

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, December 5, 2011

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, Herring, Igoe, Jenkins-Cox, Konev, O'Brien and Smith. Council Member Rosenzweig was not present for roll call but arrived at 8:15 p.m.

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

Council Member O'Brien led the Pledge of Allegiance.

PUBLIC COMMENT PERIOD

1. Stephen Smith, 132 Bradford St. 2nd Fl., Albany, NY 12206 (Hydro Fracking & Taxicab Issues)
2. David Sickler, 184 S. Swan St., Albany, NY 12202 (Hydro Fracking)
3. Ed Miller, 4 Arcadia Ave., Albany, NY 12209 (Resolution 93.121.11R)
4. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Various City Issues)
5. Lois Griffin, 28 gingerbread Ln., Albany, NY 12208 (Resolution 93.121.11R)
6. Brendan Kelly, 16 Heather Dr., Clifton Pk, NY 12065 (Resolution 93.121.11R)
7. Sheldon Caires, Jr., 286 3rd Ave., Troy, NY 12185 (Resolution 93.121.11R & Hydro Fracking)
8. Joanne Kathleen Farrell, 1025 3rd St., Rensselaer, NY 12146 (Hydro Fracking)
9. Howard Neville Rolls, 1381 Regent St., Niskayuna, NY (Hydro Fracking)

Council Member Conti made a motion to extend public comment period for an additional 30 minutes, which was approved by unanimous voice vote.

10. Timothy Holmes, 119 Townline Rd., West Chazy, NY (Hydro Fracking)
11. Doris Coles, 232 First St., Albany, NY 12210 (Water Bills/Democracy)
12. Jennifer Kotary, 98 Grand St., Albany, NY 12202 (Hydro Fracking)
13. Siobhan Burke, 1635 Van Vranken Ave., Schenectady, NY 12308 (Hydro Fracking)
14. Collin Thomas, 6 S. Lake Ave., Albany, NY 12203 (Hydro Fracking)
15. Daniel Morrissey, 98 Grand St., Albany, NY 12202 (Hydro Fracking)
16. Jessie Rosenthal, 55 S. Lake Ave, Albany, NY 12206 (Hydro-Fracking)
17. Eyadall Alkarasi Eddi, 748 Carlton Rd. (Resolution 93.121.11R, Occupy Albany & Hydro Fracking)
18. James Davis, No Address Listed, (Hydro Fracking)
19. Julin Roberts, N Address Listed (Hydro Fracking)

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

CONSIDERATION OF LOCAL LAWS

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

CONSIDERATION OF VETOES

Council Member Calsolaro moved for the reconsideration of Ordinance No. 43.62.11 and roll call vote thereon:

Ordinance Number 43.62.11

AN ORDINANCE AMENDING ARTICLE XIV (SPECIFIC USE REGULATIONS) OF CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO NATURAL GAS EXTRACTION

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:

§ 375-112-a. Natural Gas Extraction.

The Common Council of the City of Albany finds, declares and determines that the exploration for natural gas, the extraction of natural gas and the storage, transfer, treatment or disposal of natural gas exploration and production wastes in the urban environment of Albany poses a significant threat to its residents' health, safety and welfare. If natural gas exploration or extraction or the storage, transfer, treatment or disposal of natural gas exploration and production wastes were to occur within the City, this activity would endanger the health, safety and welfare of City residents through the deposit of toxins into the air, soil, water, environment and the bodies of residents within the City. Clean air and water are essential to most resources and activities in the Albany area and the quality of the air and the water will be degraded by natural gas exploration and extraction activities and/or the storage, transfer treatment or disposal of natural gas exploration and production wastes and natural gas exploration and extraction activities and the storage, transfer, treatment or disposal of natural gas exploration and production wastes may presently or in the future cause irreparable harm to the City's water supply, pollution of the water, soil and air, and may cause cancer, lung disease and respiratory diseases. This ordinance is not directed at the regulatory scheme for the operation of natural gas wells under the Oil, Gas & Solution Mining Law of New York State. It only addresses land use and nuisance concerns and the protection of the health, safety and welfare of the people of the City of Albany and the enhancement of its physical environment.

- A. "Exploration" shall mean geologic or geophysical activities related to the search for natural gas or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas deposits.
- B. "Natural Gas" shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.
- C. "Natural Gas Exploration and Production Wastes" shall mean any garbage, refuse, sludge, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from the exploration, drilling or extraction of natural gas.

- D. No person, firm or corporation shall conduct any exploration for natural gas; drill any well for natural gas; transfer, store, treat, or dispose of natural gas exploration or production wastes; or erect any derrick, building, or other structure or place any machinery or equipment for such purpose within the territorial boundaries of the City of Albany.
- E. The storage, transfer, treatment and/or disposal of natural gas exploration and production wastes are hazardous wastes within the meaning of this Code. No person, firm or corporation shall engage in the storage, transfer, treatment and/or disposal of natural gas exploration and production wastes within territorial boundaries of the City of Albany. No permit issued by any state or federal agency, commission or board to any person, firm or corporation, which would violate the prohibitions of this Ordinance shall be deemed valid within the City of Albany.

Section 2. This ordinance shall take effect immediately.

**Note: Council Members Calsolaro, Bailey, Rosenzweig, O’Brien, and Konev spoke on this ordinance prior to the roll call vote.*

The veto was NOT overridden by the following vote of all the Council Members duly elected voting. Ten votes are necessary to override a mayoral veto:

Affirmative – Calsolaro, Commisso, Conti, Fahey, Freeman, Golby, Jenkins-Cox, Konev, and Smith

Negative – Bailey, Herring, Igoe, O’Brien and Rosenzweig

Affirmative 9 Negative 5 Abstain 0

REPORTS OF STANDING COMMITTEES

Council Member Calsolaro reported that the Housing Committee met on November 29, 2011 to discuss CDBG funding.

Council Member Igoe reported that the Law Committee would be meeting on December 7, 2011.

CONSIDERATION OF ORDINANCES

Council Member Conti asked and received majority consent to add Ordinance Number 60.121.11 to the pending agenda, which was approved by unanimous voice vote.

Council Member Conti then asked for unanimous consent to consider Ordinance Number 60.121.11 on the same night as introduction, which was approved by unanimous voice vote.

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

Ordinance Number 60.121.11(MC)(UC)

AN ORDINANCE AMENDING ORDINANCE 55.102.11 ADOPTING THE BUDGET, AS AMENDED, FOR THE 2012 FISCAL YEAR

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

Section 1. Ordinance 55.102.11 passed by the Common Council on November 21, 2011, as amended, is hereby amended to read as follows:

Section 1. The budget as presented by the Mayor on September 30, 2011, is hereby adopted as and for the Budget of the City of Albany for fiscal year 2012 with the following amendments.

Net Budgetary Effect to be added to Contingency Fund A1900.7448 ~~[\$96,310]~~ 102,756

Section 2. This ordinance shall be effective immediately.

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

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

Negative – Commisso

Affirmative 13 Negative 1 Abstain 0

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

CONSIDERATION OF RESOLUTIONS

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

Resolution Number 92.121.11R

RESOLUTION OF THE COMMON COUNCIL ISSUING A NEGATIVE DECLARATION IN ACCORDANCE WITH ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW (SEQRA), AND ITS IMPLEMENTING REGULATIONS, IN CONNECTION WITH ORDINANCE NUMBER 56.102.11 (25 DELAWARE AVENUE)

WHEREAS, the conveyance of 25 Delaware Avenue was proposed by Ordinance Number 56.102.11 at a public meeting of the Common Council held on November 7, 2011; and

WHEREAS, the action 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 of the City of Albany received a long form Full Environmental Assessment Form (EAF), in conjunction with said conveyance to the Albany Community Development Agency; and

WHEREAS, the Common Council declared itself Lead Agency at a public meeting held on November 21, 2011 in accord with SEQRA regulation 617 NYCRR 617.6; and

WHEREAS, the conveyance is determined to be a Type I action pursuant to SEQRA; and

WHEREAS, the record demonstrates that the Project will not have a significant adverse environmental impact, and that a Negative Declaration of Environmental Significance should be issued.

NOW, THEREFORE, BE IT RESOLVED, that based upon the review and consideration of the Full Environmental Assessment Form, including the completed Parts I and II thereof, the Common Council finds and declares the action to be Type I pursuant to the New York State Environmental Conservation Law, and its implementing regulations, and having duly considered the entire record before it, declares that the Project has no potentially significant adverse impacts upon the environment, as that term is defined in SEQRA, will not require the preparation of a full Environmental Impact Statement and therefore issues a Negative Determination of Environmental Significance.

RESOLVED, that this resolution shall take effect immediately.

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, and Smith

Affirmative 14 Negative 0 Abstain 0

Council Members Calsolaro, Fahey, Golby, Konev, Sano and Smith offered the following, asked for passage and a roll call vote thereon:

Resolution Number 93.121.11R (As amended prior to introduction)

RESOLUTION SUPPORTING THE MOVE TO AMEND CAMPAIGN RELATING TO CORPORATE PERSONHOOD AS DECIDED IN *CITIZENS UNITED VS. FEDERAL ELECTION COMMISSION*; CALLING ON CONGRESS TO PASS LEGISLATION LIMITING CORPORATE PERSONHOOD TO THE HISTORIC PARAMETERS AS SET FORTH IN THE 1886 SUPREME COURT DECISION IN *SANTA CLARA COUNTY VS. SOUTHERN PACIFIC RAILROAD*; AND SUPPORTING FEDERAL LEGISLATION REQUIRING DISCLOSURE OF DONORS TO ORGANIZATIONS MAKING POLITICAL EXPENDITURES

WHEREAS, government of, by, and for the people has long been a cherished American value, and We The People’s fundamental and inalienable right to self-govern, and thereby secure rights to life, liberty, property, and the pursuit of happiness is guaranteed in the US Constitution and the Declaration of Independence, and;

WHEREAS, free and fair elections are essential to democracy and effective self-governance, and;

WHEREAS, persons are rightfully recognized as human beings whose essential needs include clean air, clean water, safe and secure food, and;

WHEREAS, corporations are entirely human-made legal fictions created by express permission of We The People and our government, and;

WHEREAS, corporations can exist in perpetuity, can exist simultaneously in many nations at once, need only profit for survival, and exist solely through the legal charter imposed by the government of We The People, and;

WHEREAS, in addition to these advantages, the great wealth of large corporations allows them to wield coercive force of law to overpower human beings and communities that can affect We The People's exercise of our Constitutional rights, and;

WHEREAS, in the 1886 Supreme Court decision in *Santa Clara vs. Southern Pacific Railroad*, the United States Supreme Court ruled that only certain, specified rights for "persons" can be extended to corporations, and this decision has been the basis for corporate personhood for more than one hundred years, until the *Citizens United* decision in 2010, and;

WHEREAS, in the dissenting opinion in the *Citizens United* decision, Justice Stevens wrote that, ". . . in a variety of contexts, we have held that speech can be regulated differentially on account of the speaker's identity, when identity is understood in categorical or institutional terms." The dissent concludes that ". . . the Court's opinion is thus a rejection of the common sense of the American people", and;

WHEREAS, in response to the *Citizens United* decision, United States Senator Charles Schumer introduced legislation to ban foreign-controlled corporations and government contractors from making political expenditures and also requiring disclosure of donors to organizations making political expenditures, and;

WHEREAS, corporations are not and have never been human beings, and therefore are rightfully subservient to human beings and governments as our legal creations, and;

WHEREAS, the recent *Citizens United v. the Federal Election Commission* Supreme Court decision that rolled back the legal limits on corporate spending in the electoral process creates an unequal playing field and allows unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes, and forces elected officials to divert their attention from The Peoples' business, or even vote against the interest of their human constituents, in order to ensure competitive campaign funds for their own re-election, and;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany states its support for the Move to Amend campaign relating to corporate personhood as decided in *Citizens United v. Federal Election Commission* and calling on Congress to pass legislation limiting corporate personhood to its historic parameters as decided by the U.S. Supreme Court in *Santa Clara vs. Southern Pacific Railroad*.

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to United States Senators Charles Schumer and Kirstin Gillibrand and United States Representative Paul Tonko.

Resolution Number 93.121.11R 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, and Smith

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 94.121.11R

RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE LEVY UPON CITY OF ALBANY PROPERTIES FOR UNPAID WATER AND SEWER CHARGES

WHEREAS, Section 604(e) of the Charter of City of Albany states that “all water and sewer charges shall be collected by the City Treasurer in the manner set forth in Second Class Cities Law and be a lien upon the property assessed as a general City tax and as a part thereof shall be levied and collected” pursuant to the procedures set forth in Section 604 of the City Charter; and

WHEREAS, Public Authorities Law Section 1115-i(9) calls for all unpaid water and sewer charges in the preceding year to be levied and placed on annual tax rolls of the City of Albany under the name “delinquent water and sewer charges”; and

WHEREAS, the Chief Financial Officer of the Albany Water Board has filed with the City of Albany a statement of unpaid water and sewer charges for the year 2011 totaling \$4,009,019.88.

NOW, THEREFORE BE IT RESOLVED, by the City of Albany Common Council that there be a delinquent water and sewer charge levied and assessed against each specific lot or parcel of land as set forth in the statement of unpaid water and sewer charges for the year 2011 by the Albany Water Board.

BE IT FURTHER RESOLVED, that such individual sums, being hereby levied against said liable properties, amounting in the aggregate to \$4,009,019.88, shall be placed on the 2012 tax roll of the City of Albany and further allocated individually to the liable properties in conjunction with said properties’ 2012 tax bills.

RESOLVED, that the Clerk of the City of Albany is directed to forward a certified copy of this resolution to the Treasurer of the City of Albany.

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, and Smith

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 95.121.11R

RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE LEVY UPON CITY OF ALBANY PROPERTIES FOR UNPAID CHARGES OF THE DEPARTMENT OF FIRE AND EMERGENCY SERVICES, DEPARTMENT OF BUILDING AND CODES AND THE DEPARTMENT OF GENERAL SERVICES

WHEREAS, the Department of Fire and Emergency Services was created under Part 2 of Chapter 42 of the Code of the City of Albany; and

WHEREAS, the Department of Building and Codes was created under Part 2 of Chapter 42 of the Code of the City of Albany; and

WHEREAS, the Department of General Services was created under Part 5 of Chapter 42 of the Code of the City of Albany; and

WHEREAS, all of the above-referenced departments have the ability to apply charges to real property the services they perform at those properties during the course of any tax year; and

WHEREAS, those charges are transmitted to the Treasurer of the City of Albany and collected by the Treasurer; and

WHEREAS, Chapter 258, Section 258-2 of the Code of the City of Albany provides that “any unpaid fees, fines or penalties levied against property, or owner(s) thereof, within the City of Albany that are owed to the City of Albany for the violation of any or all City laws, ordinances and promulgations, and of all state laws, shall be and remain a lien against the property, and such fees, fines or penalties shall be collected by the City from the owner(s) of such property in the same manner as taxes are collected, in that such fees, fines or penalties shall be added to the property tax bill of the subject property”; and

WHEREAS, on or about November 15 of each year, the Treasurer creates an accounting of all these charges that remain uncollected from the preceding year; and

WHEREAS, all of these charges uncollected in the preceding year need to be levied and placed on the annual tax roll of the City of Albany; and

WHEREAS, the Treasurer of the City of Albany has filed with the Common Council a statement of unpaid charges for the year 2011 totaling \$1,338,346.94.

NOW, THEREFORE BE IT RESOLVED, by the City of Albany Common Council that there be delinquent charges levied and assessed against each specific lot or parcel of land as set forth in the statement of unpaid charges for the year 2011 by the City of Albany.

BE IT FURTHER RESOLVED, that such individual sums, being hereby levied against said liable properties, amounting in the aggregate to \$1,338,364.94, shall be placed on the 2012 tax roll of the City of Albany and further allocated individually to the liable properties in conjunction with said properties’ 2012 tax bills.

RESOLVED, that the charges totaling \$1,338,364.94 represent the following:

- 1) Delinquent Board Up Charges - \$80,951.08
- 2) Delinquent Demolition Charges - \$911,095.50

- 3) Delinquent Illegal Debris Charges - \$281,602.10
- 4) Delinquent Snow Removal Charges - \$12,025.01
- 5) Delinquent ROP Charges - \$52,673.25

RESOLVED, that the Clerk of the City of Albany is directed to forward a certified copy of this resolution to the Treasurer of the City of Albany.

Resolution Number 95.121.11R was Co-Sponsored by Council Members Igoe and Rosenzweig.

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, and Smith

Affirmative 14 Negative 0 Abstain 0

Council Member Conti asked and received majority consent to add Resolution Number 96.121.11R and 97.121.11R to the pending agenda, which was approved by unanimous voice vote.

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

Resolution Number 96.121.11R(MC)

RESOLUTION OF THE COMMON COUNCIL AUTHORIZING THE LEVY OF 2012 BUSINESS IMPROVEMENT DISTRICT (BID) CHARGES AND AUTHORIZING THE TREASURER TO PLACE SUCH CHARGES ON THE 2012 TAX BILLS

WHEREAS, the Lark Street Area Business Improvement District (BID) was established by the Common Council on November 6, 1995 by Local Law No. 10-1995; and

WHEREAS, the Downtown Albany Business Improvement District (BID) was established by the Common Council on November 20, 1995 by Local Law No. 11-1995; and

WHEREAS, the Central Business Improvement District (BID) was established by the Common Council on November 17, 1997 by Local Law No. 5-1997; and

WHEREAS, the operation of the BID is governed by the provisions set forth in Article 19-A of the General Municipal Law, Section 980j of which requires that the expense incurred in the operation of the district shall be financed in accordance with the district plan upon which the establishment of the district was based, and that the district charge upon benefited real property shall be imposed as provided in the district plan; and that the charge shall be determined, levied, and collected in the same manner and at the same time and by the same officers as the general municipal taxes are levied and collected; and

WHEREAS, the proposed 2012 Lark Street BID budget, includes \$90,005.00 in anticipated revenue to be generated by the BID charge; and;

WHEREAS, the proposed 2012 Downtown BID budget, includes \$837,938.52 in anticipated revenue to be generated by the BID charge; and;

WHEREAS, the proposed 2012 Central BID budget, includes \$540,083.01 in anticipated revenue to be generated by the BID charge; and;

NOW, THEREFORE, BE IT RESOLVED, that the combined amount of the three BID budgets totaling \$1,468,026.53 shall constitute a levy of the amount to be raised by the BID charge, and a warrant to the Clerk/Treasurer to spread and extend such levy upon the properties in each BID in accordance with the BID plans, and to collect the same.

BE IT FURTHER RESOLVED, that such individual sums, being hereby levied against said liable properties, amounting in the aggregate to \$1,468,026.53, shall be placed on the 2012 tax roll of the City of Albany and further allocated individually to the liable properties in conjunction with said properties' 2012 tax bills.

RESOLVED, that the charges totaling \$1,468,026.53 represent the following:

- 1) Lark Street Area Business Improvement District - \$90,005.00
- 2) Downtown Albany Business Improvement District - \$837,938.52
- 3) Central Business Improvement District - \$540,083.01

RESOLVED, that the Clerk of the City of Albany is directed to forward a certified copy of this resolution to the Treasurer of the City of Albany.

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, and Smith

Affirmative 14 Negative 0 Abstain 0

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

Resolution Number 97.121.11R(MC)

RESOLUTION OF THE COMMON COUNCIL OUTLINING ITS ACTIONS AND EXPRESSING ITS FINDINGS, INTENT AND RECOMMENDATIONS WITH REGARD TO ADOPTION OF THE FISCAL YEAR 2012 CITY OF ALBANY BUDGET AS PROPOSED IN ORDINANCE 55.102.11 (AS AMENDED) ENTITLED: "AN ORDINANCE ADOPTING THE BUDGET AS PRESENTED BY THE MAYOR ON SEPTEMBER 30, 2011 FOR FISCAL YEAR 2012"

WHEREAS, on September 30, 2011 the Common Council received the proposed budget for the City of Albany for fiscal year 2012; and

WHEREAS, subsequent to receipt of such budget, the Common Council engaged in an extensive review of the proposal which included meeting with department heads, holding two public hearings, discussion of the city's financial status and identification of budget priorities; and

WHEREAS, as a result of this process the Council on November 21, 2011 adopted Ordinance Number 55.102.11 (as amended) which adopts the fiscal year 2012 City of Albany budget with revisions;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council does adopt the following statement outlining its actions and expressing its findings, intent and recommendations with regard to adoption of the fiscal year 2012 City of Albany budget; and

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Mayor, Deputy Mayor, Budget Director and all other department heads; and

BE IT FURTHER RESOLVED, that a copy of the “Statement of Common Council Actions, Findings, Intent and Recommendations” as herein adopted be printed in the final bound document constituting the “City of Albany 2012 Budget” immediately following the Mayor’s transmittal message.

2012 City of Albany Budget Statement of Common Council Actions, Findings, Intent and Recommendations

The Common Council has completed its review of the proposed 2011 City of Albany budget. This statement summarizes the Council’s actions, findings, intent and recommendations with regard to adoption of Ordinance 55.102.11 (as amended).

Overview

The Common Council recognizes that the City of Albany is facing significant financial challenges in the upcoming fiscal year and beyond, partially exacerbated by federal and state fiscal policies. While we realize there are positive elements in the 2012 budget, the Council is still concerned with the lack of multi-year planning and initiatives to implement structural reforms that will have long-term financial benefits. One of the areas that was striking during the Council’s review of departmental budgets was the lack of data collection and analysis as a management tool to better deliver services in a financially efficient manner. The Council notes that this was also one of the management deficiencies cited in the PFM Group Management Audit.

Council Revisions

Common Council

The Common Council budget is amended to reflect salary adjustments for the positions of Research Counsel and Senior Legislative Aide consistent with the adjustments for non-union employees. This adjustment is offset by reductions in expenditures for health insurance and Social Security resulting in a net decrease in the Council’s 2012 budget.

Police Department

The allocation for School Crossing Guards is adjusted based on implementation of the following:

- Hourly salary is increased from \$10.80 to \$13;

- Implementation of weekly timesheets to relate payment to time worked;
- Restoration of three non-accruable sick days; and
- Establishment of minimum work hours.

These revisions are intended to provide standardization with regard to hours and benefits for school crossing guards resulting in a net expenditure reduction of \$50,000 during 2012.

Albany SNUG

The Common Council has been a consistent supporter of Albany SNUG. During its initial year of operation there has been a 21 percent decrease in gun incidents and a 29 percent decrease in injuries from gun violence. Initial state funding for the program, and other programs around the state, lapsed in October. We acknowledge the recent announcement of \$150,000 in new grant funding for the program by the NYS Division of Criminal Justice Services (DCJS) and their affirmation of the effectiveness of the program in reducing gun violence and its fidelity to the Chicago Ceasefire model. The Council is adding an additional \$150,000 under “contracted services” to meet program needs not met by the DCJS grant and to serve as a bridge to longer term financial support. It should be noted that this additional allocation is not meant to be a source of ongoing operational support but to serve as a bridge to longer term financial funding. We note that support for SNUG is not an issue limited to the City of Albany but effects several localities around the state which have similar programs. Moving forward, the state must recognize these programs as important initiatives to address gun violence and provide ongoing financial support.

It's important that any continuation of Albany SNUG maintains fidelity to the current model of a community-based violence intervention and prevention program modeled after Chicago Cease Fire and consistent with the recommendations of the Gun Violence Task Force. It's also important that this be a program that connects with the community and builds those relationships. The fact that Albany SNUG is not a creature of a law enforcement or government agency is one of the keys to its success. It is the Council's intention that the additional funding allocated in the 2012 budget support this model.

Land Fill – Methane Gas

Upon review, the Council finds that the projected revenue from the production and sale of methane gas at the Rapp Road Landfill is under-estimated and not reflective of current operational capacity. The Council amends the budget to conservatively estimate an additional \$200,000 in revenue for 2012.

Overtime Expenditures & Fire Department Staffing

According to the Treasurer's 3rd Quarter 2011 Financial Performance Report seventy-nine percent of budgeted overtime has been expended to date with seven out of seventeen units exceeding their 2011 budgeted amounts. This is in sharp contrast to last year, when during the same period ninety-eight percent of budgeted overtime had been expended with nine out of seventeen units already exceeding their total 2010 budgeted amounts. We particularly commend units in the Police Department which have reduced overtime expenditures across the board; the largest increase in overtime is within the Fire Department which is projected to exceed its total 2011 overtime budget by nearly 40 percent.

The 2012 proposed budget maintains overtime expenditure levels essentially at prior year amounts with the exception of the Fire Department which is budgeted for a \$300,000 increase; the

2011 budget reflected a 100 percent increase in budgeted overtime from the prior year. Subsequent to submission of the initial budget, the Mayor has requested an amendment to repurpose the proposed \$300,000 increase in overtime to the hiring of five additional firefighter positions bringing budgeted strength to 245. The assumption is that increased staffing will reduce the need for overtime. While the Council adopts this amendment, it is concerned that there is no management plan to address overtime issues. Therefore, the Council is requesting that on or before January 31, 2012, the Fire Chief should submit to the Council a detailed plan of action for maintaining overtime expenditures within budgeted amounts. It is also the recommendation of the Council that the Fire Department use these additional positions to enhance diversity within department ranks.

In addition, in order to further control overtime expenditures and provide incentives to manage overtime use, the Council shall:

- Continue to explore, separate from the budget, legislation establishing a hard cap on overtime prohibiting expenditures in excess of budgeted amounts until a budget transfer of funding has been made through the Board of Estimate and Apportionment, any transfer should come from within the department's budget; and
- Will seek monthly reports on overtime expenditures in order to better monitor overtime use and expenditure of budgeted funds.

Ultimately, however, it is the responsibility of the Executive Branch through ongoing budget monitoring to assure that departments live within their respective overtime budgets.

Public Safety Staffing Reports

As part of the 2009, 2010 and 2011 budgets the Council requested quarterly staffing reports from both the Fire Chief and Police Chief for their respective departments, the Council continues that request for 2012 and directs that such reports be submitted to the Clerk of the Common Council for dissemination to Council Members.

Capital Budget & Bonding

The Council has reviewed the proposed 2012 Capital Budget; it will review it more closely in 2012 during the consideration of separate bonding ordinances and for consistency with the adopted debt policy. The Council is concerned however with the level borrowing proposed for 2012 and the accumulation of debt. In addition, preliminary analysis indicates that debt service is exceeding what's allowable under our current debt policy; that's a cause for concern. The Council recommends we begin to move a greater share of the capital budget from bonding sources to operating revenues.

Additionally, the Council recommends that before approving bonding for large vehicles, a study be undertaken on purchasing Natural Gas Powered Vehicles and/or converting presently used vehicles to natural gas. Natural gas is a much cleaner fuel than either diesel or gasoline. In addition, a stated purpose or needs assessment, and projected life span of the vehicle should accompany all requests for new vehicle purchases.

Landfill Operations

The Council is concerned about revenues and costs associated with the Landfill; currently operating surpluses from the Landfill are deposited to the general fund to support citywide operating

expenses. Debt associated with outstanding bonds associated with the landfill will exceed the useful life of the facility and its revenue producing capacity. We recommend setting aside five-percent of surplus landfill revenue to offset expenses with related debt. The Council is further concerned that the effort to move toward a full-cost accounting method for Landfill operations has halted. As such, there is no mechanism to identify actual short and long term costs associated with this operation.

Longer Term Financial Management

Financial Management and Oversight

In 2010 the Mayor appointed an Ad Hoc Committee on Financial Management and Oversight which included the:

- Council Leadership;
- Appropriate representatives of the Executive Branch; and
- City Treasurer and Auditor.

Appointment of this committee was consistent with recommendations made by the Council in 2009 and prior years. During its first year the committee focused on work surrounding the PFM Group Management Audit; for 2011 the committee met only once and that was at the request of the non-Executive Branch members.

The Council's original recommendation with regard to this committee was that it should meet on an at least monthly basis to monitor the City's financial situation, identify areas for potential economies and efficiencies, examine options for government restructuring and mechanisms to enhance financial management and oversee implementation of management audit recommendations. It was the further recommendation that the committee work with departments toward reducing expenditures during the course of the year. The Council believes that there is value to this committee as originally envisioned by the Council to creating partnerships and improving financial management of government operations. If this committee is to continue it needs to be in the context of the Council's original recommendation to be effective.

Information Systems

The Council has included funding in past budgets, which is continued in the 2012 proposal, to fund targeted management audits. For 2010 this funding was allocated toward the PFM Group Management Audit, otherwise it has not been expended. The Council is concerned with the fragmented information systems within city government and the lack of a Chief Information Officer who can co-ordinate information technology. The Council recommends that this funding be used in 2012 to support an independent analysis of our IT systems with recommendations for improvement.

Employee & Retiree Health Costs

For 2012 employee and retiree health costs are budgeted at \$24.0 million; approximately \$8.1 million is allocated to retirees and \$15.9 million is allocated to active employees. This represents a 5 percent decrease in budgeted expenditures from the prior fiscal year (for active employees there is a 2 percent increase; for retirees there is a 16.5 percent decrease). For active employees hired post-1988 a ten percent contribution for individual plans and twenty-five percent contribution for family plans is required; the exception is for uniformed police and firefighters covered by collective bargaining who receive non-contributory health insurance plans after eight years of service. The provision and design

of retiree health benefits is at the total discretion of the City and not subject to collective bargaining; retirees entitled to a continuation of city-provided health insurance under the current discretionary policy receive the same coverage as during their period of active employment.

Moving forward, if we are going to deal with our long term financial problems, we must deal with the cost of health care. As the Council has advocated in the past, we need to re-examine the policy of non-contributory health insurance for active public safety personnel after eight years of service. Clearly this is a collective bargaining issue and has to be mutually agreed to; however, we can no longer afford that benefit if we are to contain costs and still maintain an adequate public safety system. In addition, we need to implement a uniform contributory policy for discretionary retiree health insurance benefits, during the course of 2012 a plan should be developed which can be implemented as part of the 2013 budget.

The Council notes the initiation of discussions with various collective bargaining units on health insurance coverage issues for active employees which includes current benefits and design. The goal of these discussions is to identify savings and improve plan offerings. Any savings that are achieved for active employees will carry over to savings on the retiree health benefits as well. The Council supports these discussions, and their potential to produce savings, but also emphasizes the need for them to be timely and productive.

Restructuring of Fire Department

In the past the Council has recommended a re-examination of the use of firefighters to conduct residential occupancy permit (ROP) inspections. The current system is expensive in terms of personnel use and firefighter apparatus that is needed when firefighters are on call, and difficult to administer in terms of scheduling appointments and follow-up. The Council continues to support this recommendation but also believes that a more fundamental restructuring of the Fire Department is needed.

The main mission of the Fire Department should be fighting fires and fire prevention. The Council is concerned that the department has been diverted from this mission. Consistent with The PFM Group management audit, the Council recommends that the buildings and codes function be separated from the Fire Department and either merged with the Department of Development and Planning or established as a separate department. This would also remove all code enforcement and residential inspection functions from the Fire Department.

The Council notes the reorganization of the Division of Buildings into a new Division of Buildings and Regulatory Compliance as well as additional personnel associated with the code enforcement function. The Council will monitor this new Division as a possible precursor to its separation from the Fire Department.

Finally, considering that eighty-percent of Fire Department response calls are related to EMS, the Council continues to recommend an assessment of how these calls are handled with the potential for savings.

Miscellaneous Areas

In addition to those areas specified above, the Council recommends examination of the following areas:

- **Bi-weekly Payrolls** are common in private industry and other levels of government, we should begin now in examining the feasibility of moving to a biweekly payroll which has potential cost savings as well as implementing a lag payroll to assure that salary payments are for work days completed;
- We need to move toward a **Uniform, Automated Time-Keeping System** throughout the city to improve payroll functions and accountability. The Treasurer has indicated this as a priority initiative for 2012, the Council fully supports those efforts.
- **Red Light Cameras** have been authorized by the State Legislature for certain communities, this enhances traffic enforcement; the Council passed Resolution 90.112.11R requesting that our state legislative representatives pursue a similar authorization for the City of Albany;
- **Vital Statistic fees** charged by localities are capped at a level below those authorized for the same services and documents accessed through the NYS Department of Health. Certain municipalities have received approval from the State Legislature to set vital statistic fees at a level not to exceed those set by the NYS-DOH. In 2011, at the request of the Council, legislation (A.5667-A, McEneny, Canestrari/S.3551-A, Breslin) was introduced in the State Legislature to implement this recommendation; the bill passed the Assembly but not the Senate. We should continue to pursue passage of this legislation in 2012.
- **Motor Vehicle Policy** and assignment of city-owned vehicles needs to be examined. There should be a starting point that assignment of 24-hour vehicles should only be assigned on the basis of objective standards, further, all city-vehicles should be marked with the city seal with exceptions related to public safety vehicles or based on other objective standards;
- All city departments need to develop clear **mission statements** and what their core missions are, activities that are peripheral to the core mission need to be re-examined;
- We need to more actively explore opportunities for **Shared Services** with other units of local government including Albany County, the Albany City School District and other local governments.
- The position of **Commissioner of Administrative Services** has been vacant for a number of years. Filling this position must be a priority; it oversees vital functions in the areas of human resources, affirmative action, and purchasing and information systems.
- We should explore cooperative **Grant Writing** between departments to enhance our success rates; the Office of Special Events should expand its responsibilities to procuring sponsorships for our youth programs.
- The Department of Recreation should review fees associated with **Bleeker Stadium** to assure they generate the appropriate level of revenues.
- We continue to be concerned about financial operations at the **Golf Course**; the PFM Group Management Audit recommended the establishment of an enterprise fund, absent moving forward on that, the Council recommends the issuance of a Request for Interest (RFI) to gauge interest in leasing options of this facility. Such request should include the provision that all npn-golf uses are guaranteed.

Conclusion

With adoption of Ordinance 55.102.11 as amended and this resolution, we complete action on the fiscal year 2012 City of Albany budget.

Resolution Number 97.121.11R(MC) was Co-Sponsored by Council Member Konev.

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

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

Negative – Commisso and Freeman

Affirmative 12 Negative 2 Abstain 0

Council Member Freeman asked for passage of Resolution Number 51.81.11R (RESOLUTION RECOGNIZING THE LIFE AND ACCOMPLISHMENTS OF SERGEANT ELLEN O. SPRINGSTEEN, 1930-2011), which had been previously introduced.

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, and Smith

Affirmative 14 Negative 0 Abstain 0

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

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Konev addressed what he considered to be uncivil behavior of fellow council members during the budget process.

ADJOURNMENT

Council Member Conti made a motion to adjourn.

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

A true record of the Common Council Minutes of December 5th, 2011.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL