

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

Thursday, April 23, 2015

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

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

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

Council Member Conti led with the Pledge of Allegiance.

PUBLIC COMMENT

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

CONSIDERATION OF ORDINANCES

Council Member Commisso moved to amend ORDINANCE NUMBER 36.41.15 and as amended, asked for passage and a roll call vote thereon:

AN ORDINANCE REGARDING CERTAIN BONDS OF THE CITY OF ALBANY, NEW YORK (THE "CITY"), ADOPTED APRIL 23, 2015, AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF THE \$9,125,000.00 OUTSTANDING PRINCIPAL BALANCE OF THE GENERAL OBLIGATION (SERIAL) BONDS, 2006 (FEDERALLY TAXABLE) AND GENERAL OBLIGATION (SERIAL) BONDS, 2006 ORIGINALLY ISSUED BY THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$25,595,000.00, STATING THE PLAN OF REFUNDING, APPROPRIATING AN APPROXIMATE AGGREGATE AMOUNT OF \$9,270,000.00 THEREFOR, AUTHORIZING THE ISSUANCE OF APPROXIMATELY \$9,270,000.00 CITY OF ALBANY GENERAL OBLIGATION REFUNDING (SERIAL) BONDS, SERIES 2015 TO FINANCE SAID APPROPRIATION AND THE COSTS RELATED THERETO, AUTHORIZING THE EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS RELATED THERETO, AND MAKING CERTAIN DETERMINATIONS ALL RELATIVE THERETO

WHEREAS, the City of Albany, New York (the "City"), has heretofore issued:

(i) \$10,095,000.00 General Obligation (Serial) Bonds, 2006 (Federally Taxable) (the "2006 Taxable Bonds"), now outstanding in the approximate aggregate principal amount of \$5,260,000.00, which are scheduled to mature in varying principal amounts on June 1, 2015 through June 1, 2020, and which bonds bear interest at the rate of 5.750% per annum; and

(ii) \$15,500,000.00 General Obligation (Serial) Bonds, 2006, now outstanding in the approximate aggregate principal amount of \$6,050,000.00, which are scheduled to mature in varying principal amounts on June 1, 2015 through June 1, 2018, and which bonds bear interest at the rate of 4.125% per annum; (the “2006 Tax-Exempt Bonds” and, together with the 2006 Taxable Bonds, the “Refunded Bonds”); and

WHEREAS, it would be in the public interest to refund all or a portion of the \$11,310,000.00 outstanding principal balance of the Refunded Bonds and (such outstanding principal balance being stated as of April 1, 2015), by the issuance of refunding bonds pursuant to Section 90.10 of the Local Finance Law; and

WHEREAS, such refunding will result in present value savings in debt service if so required by Section 90.10 of the Local Finance Law.

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

Section 1. For the object or purpose of refunding all or a portion of the \$11,310,000.00 outstanding aggregate principal balance of the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (i) the principal amount of the Refunded Bonds, (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date on which the Refunded Bonds which are callable are to be called prior to their respective maturities in accordance with the refunding financial plan, as hereinafter defined, (iii) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including the development of the refunding financial plan, as hereinafter defined, compensation to the underwriter or underwriters, as hereinafter defined, costs and expenses of executing and performing the terms and conditions of the escrow contract or contracts, as hereinafter defined, and fees and charges of the escrow holder or holders, as hereinafter mentioned, (iv) the redemption premium to be paid on the Refunded Bonds which are to be called prior to their respective maturities, and (v) the premium or premiums for a policy or policies of municipal bond insurance or cost or costs of other credit enhancement facility or facilities, for the refunding bonds herein authorized, or any portion thereof, that are hereby authorized to be issued not exceeding \$9,450,000.00 refunding serial bonds of the City pursuant to the provisions of Section 90.10 of the Local Finance Law (the “Refunding Bonds”), it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$9,270,000.00, as provided in Section 4 hereof. The Refunding Bonds described herein are hereby authorized to be consolidated for purposes of sale in one or more refunding serial bond issues. The Refunding Bonds shall each be designated substantially “CITY OF ALBANY GENERAL OBLIGATION REFUNDING (SERIAL) BONDS, SERIES 2015” together with such series designation and year as is appropriate on the date of sale thereof, shall be of the denomination of \$5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be numbered with the prefix R-15 (or R with the last two digits of the year in which the Refunding Bonds are issued as appropriate) followed by a dash and then from 1 upward, shall be dated on such dates, and shall mature annually on such dates in such years, bearing interest semi-annually on such dates, at the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the City Treasurer pursuant to Section 4 hereof. It is hereby further determined that (a) such Refunding Bonds may be issued in series, (b) such Refunding Bonds may be sold at a discount in the manner authorized by paragraph a of Section 57.00 of the Local Finance Law pursuant to subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, and (c) such Refunding Bonds may be issued as a single consolidated issue. It is hereby further determined that such Refunding Bonds may be issued to refund all, or any portion of, the Refunded

Bonds, subject to the limitation hereinafter described in Section 10 hereof relating to approval by the State Comptroller.

Section 2. The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the City Treasurer shall prescribe which terms shall be in compliance with the requirements of Section 53.00 (h) of the Local Finance Law. If fewer than all of the Refunding Bonds of any maturity are to be redeemed, the particular refunding bonds of such maturity to be redeemed shall be selected by the City by lot in any customary manner of selection as determined by the City Treasurer. The Refunding Bonds shall be issued in registered form and shall not be registrable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the bonds in accordance with the Book-Entry-Only system of DTC. In the event that either DTC shall discontinue the Book-Entry-Only system or the City shall terminate its participation in such Book-Entry-Only system, such bonds shall thereafter be issued in certificated form of the denomination of \$5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to The Depository Trust Company, New York, New York, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such Book-Entry-Only System. Principal shall only be payable upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the City Clerk as Fiscal Agent as hereinafter provided).

In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the registered owners of the Refunding Bonds as shown on the registration books of the City maintained by the Fiscal Agent (as hereinafter defined), as of the close of business on the fifteenth day of the calendar month or first business day of the calendar month preceding each interest payment date as appropriate and as provided in a certificate of the City Treasurer providing for the details of the Refunding Bonds. Principal shall only be payable upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the City Treasurer as fiscal agent of the City for the Refunding Bonds (the “Fiscal Agent”).

Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount. Principal and interest on the Refunding Bonds will be payable in lawful money of the United States of America.

The City Treasurer, as Chief Fiscal Officer of the City, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act, in connection with the Refunding Bonds, as the Fiscal Agent for said City, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the City, regardless of whether the Refunding Bonds are initially issued in certificated or non-certificated form; provided, however, that the City Treasurer is also hereby authorized to name the City Clerk as the Fiscal Agent in connection with the Refunding Bonds if said Refunding Bonds are issued in non-certificated form.

The City Treasurer is hereby further delegated all powers of this Common Council with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

The Refunding Bonds shall be executed in the name of the City by the manual or facsimile signature of the City Treasurer, and a facsimile of its corporate seal shall be imprinted thereon. In the event of facsimile signature, the Refunding Bonds shall be authenticated by the manual signature of an authorized officer or employee of the Fiscal Agent. The Refunding Bonds shall contain the recital required by subdivision 4 of paragraph j of Section 90.10 of the Local Finance Law and the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Treasurer shall determine. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of the Refunding Bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the Fiscal Agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the Fiscal Agent.

Section 3. It is hereby determined that:

a) The maximum amount of the Refunding Bonds authorized to be issued pursuant to this ordinance does not exceed the limitation imposed by subdivision 1 of paragraph b of Section 90.10 of the Local Finance Law; and

b) The maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds, for the objects or purposes for which such Refunded Bonds were issued is twenty (20) years calculated from June 2004, 2005 and 2006, based upon various subdivisions of paragraph a of Section 11.00 of the Local Finance Law; the last installment of the Refunding Bonds will mature not later than the expiration of the period of probable usefulness of the object or purpose for which said Refunded Bonds were issued in accordance with the provisions of subdivision 1 of paragraph c of Section 90.10 of the Local Finance Law and, more specifically, pursuant to the Refunding Financial Plan (as defined in Section 4, below), the last installment of the Refunding Bonds will mature in 2020; and

c) The estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, if any, computed in accordance with the provisions of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law, is as shown in the Refunding Financial Plan described in Section 4 hereof.

Section 4. The financial plan for the aggregate of the refundings authorized by this ordinance (collectively, the "Refunding Financial Plan") showing the sources and amounts of all moneys required to accomplish such refundings, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit A attached hereto and made a part of this ordinance. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in one series to refund all of the Refunded Bonds in the principal amount of \$9,125,000.00, and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth on Exhibit A attached hereto and made a part of this ordinance. This Common Council recognizes that the Refunding Bonds may be issued in one or more series, and for the Refunded Bonds, or portions thereof, that the amount of the Refunding Bonds, maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the City will most probably be different from such assumptions and that the Refunding Financial Plan will also

most probably be different from that attached hereto as Exhibit A. The City Treasurer is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and at what time, the amount of the Refunding Bonds to be issued, the date or dates of such bonds and the date or dates of issue, maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph e of Section 57.00 of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan for the Refunding Bonds and all powers in connection therewith are hereby delegated to the City Treasurer; provided that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law. The City Treasurer shall file a copy of the certificates determining the details of the Refunding Bonds and the final Refunding Financial Plan with the City Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The City Treasurer is hereby authorized and directed to enter into an escrow contract or contracts (collectively the “Escrow Contract”) with a bank or trust company, or with banks or trust companies, located and authorized to do business in this State as said City Treasurer shall designate (collectively the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law.

Section 6. The faith and credit of said City of Albany, Albany County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be annually levied on all the taxable real property in said City a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

Section 7. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder for the Refunded Bonds. Accrued interest on the Refunding Bonds shall be paid to the City to be expended to pay interest on the Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with Section 90.10 of the Local Finance Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

Section 8. Notwithstanding any other provision of this ordinance, so long as any of the Refunding Bonds shall be outstanding, the City shall not use, or permit the use of, any proceeds from the sale of the Refunding Bonds in any manner which would cause the Refunding Bonds to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended, and, to the extent applicable, the Regulations promulgated by the United States Treasury Department thereunder.

Section 9. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Local Finance Law, in the event such bonds are refunded, the City hereby elects to call in and redeem each of the Refunded Bonds which the City Treasurer shall determine to be refunded in accordance with the provisions of Section 4 hereof and with regard to which the right of early redemption exists. The sum to be paid therefore on such redemption date shall be the par value thereof plus the redemption premium, as provided in the Refunded Bond Certificate, and the accrued interest to such redemption date. The Escrow Agent for the Refunding Bonds is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the City in the manner and within the times provided in the Refunded Bond Certificate. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the callable Refunded Bonds and the direction to the Escrow Agent to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor law thereto.

Section 10. The Refunding Bonds shall be sold at private sale to RBC Capital Markets, LLC (the “Underwriter”) for purchase prices to be determined by the City Treasurer, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of the delivery of and payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, the City Treasurer, is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the City providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the City Treasurer to the Underwriter in accordance with said purchase contract upon the receipt by the City of said purchase price, including accrued interest.

Section 11. The City Treasurer and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this ordinance or any document or agreement approved hereby.

Section 12. All other matters pertaining to the terms and issuance of the Refunding Bonds shall be determined by the City Treasurer and all powers in connection thereof are hereby delegated to the City Treasurer.

Section 13. The validity of the Refunding Bonds may be contested only if:

a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money; or

b) The provisions of law which should be complied with at the date of publication of this ordinance are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. A summary of this ordinance, which takes effect immediately, shall be published in the official newspaper of the City, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

**Note: Council Members Commisso, (?) spoke on this ordinance prior to passage*

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

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

Affirmative 13 Negative 0 Abstain 0

MISCELLANEOUS AND UNFINISHED BUSINESS

NONE

ADJOURNMENT

A motion was made to adjourn.

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

A true record of the Common Council Minutes of April 23rd, 2015.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
COMMON COUNCIL