

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

**Monday, October 7, 2013**

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

The roll being called, the following answered to their names: Council Members Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano.

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

Council Member Igoe led the Pledge of Allegiance.

**President Pro Tempore Conti made a motion to change the order of business to allow for the consideration of RESOLUTION NUMBER 84.101.13R, which was approved by unanimous voice vote.**

**President Pro Tempore Conti asked and received majority consent to add RESOLUTION NUMBER 84.101.13R to the pending agenda, which was approved by unanimous voice vote.**

**Council Member Bailey introduced RESOLUTION NUMBER 84.101.13R, and asked for passage and a roll call vote thereon:**

**Resolution Number 84.101.13R**

**RESOLUTION COMMEMORATING THE 40<sup>TH</sup> ANNIVERSARY OF THE ARBOR HILL ELEMENTARY SCHOOL**

WHEREAS, in 1973, the doors of the Arbor Hill Elementary School were opened; and

WHEREAS, the School was inspiring as well as architecturally startling when it opened its doors and was a first in many areas in our community. It serves as the core and heart of the neighborhood; and

WHEREAS, the sidewalk to the school lead down to and completely over the roof of the school, integrating the neighborhood and families into the school and melding together old and new neighborhoods; and

WHEREAS, the school had no traditional classrooms and featured an open design where each level is reached by a continuously skylighted "circulation spine." When it opened it was unlike any school anywhere. The primary purpose of the passageway was to expose children of all ages to the various activities of the entire student body as they travelled through such diverse facilities as art studios, printing shops, science and botany labs, model shops and exhibit areas; and

WHEREAS, educationally it was equally innovative with children grouped by age rather than in the traditional grades and grouped again according to their abilities; and

WHEREAS, the school put Albany in the educational forefront and the Corning administration spearheaded the effort and encouraged the innovative approach; and

WHEREAS, the first principal was Edmond O'Neal, thereafter followed by Linda Jackson-Chalmers, Robert White, and the current principal, Rosalind Gaines-Harrell; and

WHEREAS, the Arbor Hill building was redesigned and rededicated in 2010, with renovations to the floors and the installation of classroom walls and doors to support new methods for preparing students with 21<sup>st</sup> century skills, while maintaining the original open school architecture, including an astounding well-lit entrance.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council congratulates the school on 40 years of educational service to the students of Arbor Hill and for its impact on the neighborhood, the city, and the countless students it has graduated.

BE IT FURTHER RESOLVED, that a copy of the resolution suitably engrossed be transmitted to the Arbor Hill Elementary School for their celebration on October 18, 2013.

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

*Resolution Number 84.101.13R was co-sponsored by Council Members Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano.*

**PUBLIC HEARING #1**

Clerk to the Common Council Nala Woodard read the notice of the public hearing on Ordinance Number 50.101.13 (AN ORDINANCE ADOPTING THE BUDGET AS PRESENTED BY THE MAYOR ON OCTOBER 1, 2013, FOR FISCAL YEAR 2014). The following individuals spoke:

1. Katherine Sheehan, City of Albany Treasurer;
2. Marlon Anderson, 491 Livingston Avenue, Albany, NY;
3. Willie White, 3 Lincoln Square, Albany, NY.

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

**PUBLIC HEARING #2**

Clerk to the Common Council Nala Woodard read the notice of the public hearing on Ordinance Number 44.91.13 (MC) (AN ORDINANCE AMENDING THE PARK SOUTH URBAN RENEWAL PLAN AND PLANNED DEVELOPMENT OVERLAY DISTRICT (PSPDOD) CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY). The following individuals spoke:

1. Dan Hershberg (Presentation and overview on behalf on developer);
2. Rich Rosen, Albany Medical Center/Tri-City Rentals;
3. Susan Holland, Historic Albany Foundation, 89 Lexington Avenue, Albany, NY;
4. Marlon Anderson, 491 Livingston Avenue, Albany, NY;
5. Dennis Gaffney, 51 Lawnridge Avenue, Albany, NY;
6. Michael McGovern, 116 Morris Street, Albany, NY;

7. Andrew Harvey, 271 Myrtle Avenue, Albany, NY;
8. Kimberly Alvarez, 83 Bohl Avenue, Albany, NY;
9. Joseph McGovern, 116 Morris Street, Albany, NY;
10. Daniel Plaat, 187 Elm Street, Albany, NY;
11. Vincent Riguso, 13 Beach Avenue, Albany, NY.

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

### **PUBLIC COMMENT PERIOD**

1. Charles Robinson, 407 Livingston Avenue, Albany, NY (Oppose proposed rehabilitation center on Second Street);
2. Mark Robinson, 13 Lexington Avenue, Albany, NY (Oppose proposed rehabilitation center on Second Street);
3. Tracy Birmingham, Albany, NY (Oppose proposed rehabilitation center on Second Street);
4. Jonathan Capra, 847 New Scotland Avenue, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
5. Sylvia Jordan, 13 Lexington Avenue, Albany, NY (Oppose proposed rehabilitation center on Second Street);
6. Beverly Padgett, Third Street, Albany, NY (Oppose proposed rehabilitation center on Second Street);
7. John Wolcott, 344 Sheridan Avenue, Albany, NY (Historic preservation);
8. Marlon Anderson, 491 Livingston Avenue, Albany, NY (Oppose proposed rehabilitation center on Second Avenue).

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

9. Robert Rodrigo, 2900 Cedar Mill Drive, Acworth, CA (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
10. Jesse Calhoun, (Support Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
11. John Cirrin, 532 Madison Avenue, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons and invitation to NYCLU event);
12. Roger Markovich and Sandy Levine, United Tenants (Ordinance Number 46.92.13 in relation to bedbugs);
13. Jessica Semon, 180 Washington Avenue, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
14. Robert Porter, 564 Park Avenue, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
15. Dan Hogan, 155 Third Street, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
16. Steve Downs, 26 Dinmore Road, Selkirk, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
17. Doug Bullock, Albany County Legislator, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons);
18. John Amiden, 25 Melrose Avenue, Albany, NY (Resolution Number 80.92.13R in relation to opposing the indefinite military detention without trial of any persons).

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

## **APPROVAL OF MINUTES FROM PREVIOUS MEETING**

President Pro Tempore Conti made a motion to approve the minutes of the June 3, 2013, June 17, 2013 and the July 1, 2013 meetings, which was approved by unanimous voice vote.

## **CONSIDERATION OF LOCAL LAWS**

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

## **REPORTS OF STANDING COMMITTEES**

**Council Operations and Ethics** – Chairperson Conti stated that the committee would be meeting on October 10, 2013 to discuss Ordinance 49.101.13 in relation to PEGA OB membership.

**General Services, Health and Environment** – Chairperson O’Brien stated that the committee met on September 24, 2013 to discuss Ordinance Number 36.92.13 in relation to bedbugs. The ordinance was amended and referred out of committee with a positive recommendation.

## **REPORTS OF AD HOC COMMITTEES**

**Ad Hoc Committee on Permit Parking** - Chairperson Conti stated that the committee met on September 30, 2013 to discuss Ordinance Number 41.91.13 in relation to visitor permits, which was referred out of committee with a favorable recommendation.

**Park South Ad Hoc Committee** – Chairperson Conti stated that the ad hoc committee met on September 25, 2013 to discuss Ordinance Number 44.91.13 (MC) in relation to amendments to the Park South Urban Renewal Plan. The committee had a preliminary presentation and set a meeting tentatively for October 29, 2013.

## **CONSIDERATION OF ORDINANCES**

**Council Member Sano introduced ORDINANCE NUMBER 48.101.13, which was referred to the Parks, Recreation and Family Services Committee:**

### **AN ORDINANCE AMENDING CHAPTER 252 (PARKS AND RECREATION) OF THE CODE OF THE CITY OF ALBANY TO IN RELATION TO PARK HOURS**

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

**Section 1. Subsection A(13) of Section 251-5 (Rules and Regulations) of Chapter 251 (Parks and Recreation) of the Code of the City of Albany is hereby amended to read as follows:**

#### **§ 251-5 Rules and regulations.**

(13) The parks will be open to the public daily during the months of May, June, July, August, September and October, from sunrise to 11:00 p.m., and during the other months of the year from sunrise to 10:00 p.m. The Commissioner of the Department of General Services and the Commissioner of Parks and Recreation shall have the authority to amend these hours when necessary for the parks overseen by the particular Commissioner.

**Section 2. This ordinance shall take effect immediately.**

**Council Member Rosenzweig introduced ORDINANCE NUMBER 49.101.13, which was referred to the Council Operations and Ethics Committee:**

**AN ORDINANCE AMENDING PART 38 (PUBLIC, EDUCATION AND GOVERNMENT ACCESS OVERSIGHT BOARD) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY REGARDING BOARD MEMBERSHIP**

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

**Section 1. Subsections A and B of Section 42-376 of Part 38 of Chapter 42 of the Code of the City of Albany are amended to read as follows:**

**§ 42-376. Membership; term; compensation; vacancies.**

A. The "PEGAOB" shall be composed of eleven voting members, four of whom shall be appointed by the Common Council and two of whom shall be appointed by the Mayor. The term of each member so appointed shall be three years; provided, however, that of the initial members two appointed by the Common Council shall serve for a one year term; one appointed by the Common Council and one appointed by the Mayor shall serve for a two year term; and one appointed by the Common Council and one appointed by the Mayor shall serve for a three year term. The remaining members of the Board shall be composed of the following: one representative from the Albany City School District; one representative from the College of Saint Rose; one representative from the New School of Radio and Television; one representative from the ~~[Capitalize Albany Corporation]~~ Albany Community Development Agency; and one representative from the Albany Public Library District.

B. ~~[The six]~~ A minimum of four of the six members appointed by the Common Council and the Mayor shall be residents of the City of Albany and possess knowledge and interest in promoting public access cable television in the City of Albany. One Council appointment and one Mayoral appointment to the Board may reside outside of the City of Albany if said appointee provides a unique and desired expertise and commitment to the cause of public access television in Albany In making such appointments, the Common Council and Mayor shall endeavor to reflect the community diversity of the City of Albany.

**Section 2. This ordinance shall take effect immediately.**

**Council Member Sano introduced ORDINANCE NUMBER 50.101.13, which was referred to the Finance, Taxation and Assessment Committee:**

**AN ORDINANCE ADOPTING THE BUDGET AS PRESENTED BY THE MAYOR ON OCTOBER 1, 2013, FOR FISCAL YEAR 2014**

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

Section 1. The budget as presented by the Mayor on October 1, 2013, is hereby adopted as and for the Budget of the City of Albany for fiscal year 2013.

Section 2. It is hereby ordered and directed that the sums set forth therein as expenditures are hereby appropriated in the amounts and for the several departments, offices and purposes specified therein.

Section 3. It is further hereby ordered and directed that the sums set forth therein as revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the City shall be and are hereby applicable in the amounts specified for the purpose of meeting said appropriations.

**Section 4. This ordinance shall be effective immediately.**

**Council Member Calsolaro introduced ORDINANCE NUMBER 51.101.13, which was referred to the Planning, Economic Development and Land Use Committee:**

**AN ORDINANCE AMENDING PART 4 (HISTORIC RESOURCES COMMISSION) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO DEMOLITION REQUIREMENTS IN HISTORIC DISTRICTS**

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

**Section 1. Subsection B of Section 42-94 of Article XII of Chapter 42 of the Code of the City of Albany is hereby amended by adding a new subsection (4) to read as follows:**

(4) A minimum of 50% of construction and demolition debris generated from applicable construction or demolition projects shall be diverted from disposal to landfills through recycling, reuse and diversion programs. The structure must be photographed and measured prior to demolition and the owner shall submit to the Commission a report after the demolition documenting the portion of the debris that was diverted to the landfill.

**Section 2. This ordinance shall take effect immediately.**

**Council Member O'Brien introduced ORDINANCE NUMBER 52.101.13, which was referred to the Law, Buildings and Code Enforcement Committee:**

**AN ORDINANCE AMENDING CHAPTER 323 (STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE VIII REGARDING TO STREET SIDE MEMORIALS**

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

**Section 1. Chapter 323 of the Code of the City of Albany is hereby amended by adding a new Article VIII to be entitled "Street Side Memorials"**

**§ 323-100 Findings.**

The Common Council finds it is important to establish a procedure to ensure safe and unobstructed streets and sidewalks. The Council recognizes that spontaneous outpourings of grief may follow a sudden and unexpected tragic incident occurring on a city street or sidewalk that may result in the erection of a street side memorial to the victim(s). These memorials may take on a variety of sizes, forms and styles and be composed of various items such as pictures, candles, boxes, stuffed animals,

letters, trinkets, mementos, etc. To preserve the public health and safety of residents and visitors, the free passage of pedestrian and vehicular traffic on public streets and sidewalks must be ensured.

**§ 323-101 Definitions.**

**STREET SIDE MEMORIAL**

A commemorative site that arises in the aftermath of a tragic event that occurred on or near a public street or sidewalk that may include the creation of a tribute or remembrance on that public street or sidewalk.

**GHOST BIKE**

A bicycle painted all white and placed near an accident site that occurred on a public street or sidewalk that resulted in the death of a bicyclist.

**§ 323-102 Rules and regulations.**

- A. The Department of General Services is responsible for the maintenance of the public streets and sidewalks in the City of Albany and endeavors to keep them free from obstructions, thereby ensuring the free passage of pedestrian and vehicular traffic. To maintain that responsibility and be cognizant of public grief or mourning after a tragic event, the Department shall:
1. Following the reporting of a street side memorial Department personnel shall periodically observe the site for any signs of neglect, disrepair or public health and safety violations that demand a need for immediate cleanup or removal in order to ensure the free flow of traffic or to maintain public health and safety.
  2. Fifteen days following the Department's physical observation of a street side memorial, Department personnel shall post a notice at the site advising observers that the memorial will be removed by the Department in thirty days.
  3. Upon the passing of the posted thirty days the removal or dismantling of the street side memorial shall commence. All items will be collected and stored by the Department for a period of thirty days following collection in order for family, friends or contributors of the memorial to collect said items. Upon the expiration of the thirty days of storage all unclaimed items shall be recycled or destroyed.
- B. Memorial bicycles, commonly known as "Ghost Bikes" will be excluded from these regulations provided that each Ghost Bike is properly maintained in accordance with this Article. An identifying placard or bicycle basket shall be permit on the bicycle frame but all other items placed near or on a Ghost Bike will be subject to this Article. Ghost Bikes shall not be attached to City-owned trees in such a manner that could physically harm a tree. Ghost Bikes are not permitted to be attached to utility poles or utility infrastructure without the written consent of the utility company that owns said pole or infrastructure.

**Section 2. This ordinance shall take effect immediately.**

**President Pro Tempore Conti made a motion to change the order of business to allow for the consideration of Resolution Number 81.101.13R, which was approved by unanimous voice vote.**

**Council Member Sano introduced RESOLUTION NUMBER 81.101.13R, and asked for passage and a roll call vote thereon:**

**RESOLUTION OF THE COMMON COUNCIL ISSUING A NEGATIVE DECLARATION IN ACCORDANCE WITH ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW (SEQRA), AND ITS IMPLEMENTING REGULATIONS REGARDING THE PROPOSED REZONING OF THE PROPERTIES LOCATED AT 241 SOUTH ALLEN STREET, 70, 68, 66, 64, 62, 60, 44, 42, 40 AND 38 ONDERDONK AVENUE AND THE PORTION OF THE FORMER DALE PLACE ADJACENT TO 261 SOUTH ALLEN STREET AND 70 ONDERDONK AVENUE**

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

WHEREAS, the Common Council declared itself Lead Agency for coordinated review at a public meeting held on September 16, 2013 in connection with the proposed rezoning; and

WHEREAS, the Common Council received a short Environmental Assessment Form (short EAF), in conjunction with said proposed rezoning; and

WHEREAS, the proposed rezoning was the subject of a Public Hearing held by the Common Council on September 16, 2013, where public comment was received; 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 rezoning is determined to be an Unlisted action pursuant to SEQRA; and

WHEREAS, the record demonstrates that the rezoning 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 short Environmental Assessment Form and public comments, the Common Council finds and declares the action to be Unlisted 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 rezoning the properties located at 241 South Allen Street from Single-Family Medium-Density District (R-1B) and Land Conservation District (LC) and 70, 68, 66, 64, 62, 60, 44, 42, 40 and 38 Onderdonk Avenue from Single-Family Medium-Density District (R-1B) and the portion of the right-of-way formerly known as Dale Place, measuring approximately thirty (30) feet in width by approximately one hundred ninety eight (198) feet in length, adjacent to 261 South Allen Street and 70 Onderdonk Avenue to Multifamily Low-Density Residential District (R-3A) 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

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

**Council Member Conti offered ORDINANCE NUMBER 41.91.13, moved to amend and as amended asked for passage and a roll call vote thereon:**

**AN ORDINANCE AMENDING ARTICLE VIII (RESIDENTIAL PARKING PERMIT SYSTEM) OF CHAPTER 359 (VEHICLE AND TRAFFIC) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO VISITOR PERMITS**

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

**Section 1. Section 359-73 (Definitions) is amended by adding thereto the following new definitions:**

**RESIDENT, TRANSIENT**

An individual currently residing with in the parking area based on the submission of adequate documentation in accordance with the provisions of this article for a temporary period not to exceed eight months.

**TRANSIENT RESIDENTIAL PARKING PERMIT**

An authorization allowing a transient resident individual to park a vehicle operated by such person for a period of time within a prepaid parking permit area without regard to the two-hour limitation on streets requiring display of a parking permit.

**Section 2. Section 359-77 (Issuance of visitor parking permits) is amended to read as follows:**

- A. Upon application and purchase of a residential parking permit, a resident of a prepaid parking permit area [shall receive] may purchase not more than one visitor parking permit per household for use within the prepaid parking area for which a permit is issued in accordance with § 359-76 of this article; provided, however, that a resident of a prepaid parking permit area not purchasing a residential parking permit may purchase a visitor parking permit in accordance with the provisions of this article. [A] Transient residents and nonresident business/property [owner] owners shall not be entitled to a visitor parking permit.
- B. A visitor permit issued in accordance with this section shall include a unique code assigned by the City Clerk upon issuance that will facilitate the identification of the name and address of the permit holder.
- C. A visitor permit issued in accordance with this article is for use by visitors to a resident within the parking permit area, any other use is a violation of this article.

**Section 3. Section 359-79 (Fees) is amended to read as follows:**

- A. The City Clerk shall collect the following fees at the time a permit is issued:

- (1) Residential parking permit: [~~\$25~~] \$20.
- (2) [~~Nonresident business/property owner permit: \$25.~~] Transient residential parking permit: \$15.
- (3) [~~Visitor permit: \$10.~~] Nonresident business/property owner permit: \$25.
- (4) [~~Replacement/transfer permit: \$10.~~] Visitor permit:
  - (i) \$5 when purchased by a resident purchasing a residential parking permit;
  - (ii) \$10 when purchased by a resident not purchasing a residential parking permit.
- (5) Replacement/transfer permit: \$10.

B. All fees shall be credited to the general fund of the City.

**Section 4. Section 359-81 (Penalties for offenses) is amended to read as follows:**

- A. Any vehicle parked in the permit area in violation of this article may be issued a fifty-dollar parking ticket.
- B. No resident or nonresident business owner shall permit a nonresident to use a residential or nonresident business permit issued to a resident or nonresident business owner or aid a nonresident in any way in obtaining a parking permit. No resident shall allow for the use, sale or transfer of a visitor permit in violation of the authorized uses under this article. Violation of the terms of this section shall be punishable by a fine not to exceed \$250 and/or suspension of residential parking permit privileges for a period not to exceed six months.

**Section 5. This ordinance shall take effect immediately.**

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O’Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

**Council Member Sano offered ORDINANCE NUMBER 40.82.13 (AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (ZONING) CHANGING THE ZONING CLASSIFICATION OF THE PROPERTIES LOCATED AT 241 SOUTH ALLEN STREET, 70, 68, 66, 64, 62, 60, 44, 42, 40 AND 38 ONDERDONK AVENUE AND THE PORTION OF THE FORMER DALE PLACE ADJACENT TO 261 SOUTH ALLEN STREET AND 70 ONDERDONK AVENUE TO MULTIFAMILY LOW DENSITY RESIDENTIAL DISTRICT (R-3A) AND AMENDING THE ZONING MAP ACCORDINGLY), which had been previously introduced, and asked for passage and a roll call vote thereon.**

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O’Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

**Council Member Sano offered ORDINANCE NUMBER 31.81.13 (AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE OF ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO 229, 231, 241, 251, 253, 257 AND 259 SOUTH ALLEN STREET, 70, 68, 66, 64, 62, 60, 44, 42, 40 AND 38 ONDERDONK AVENUE AND THE PORTION OF DALE PLACE ADJACENT TO 261 SOUTH ALLEN STREET AND 70 ONDERDONK AVENUE IN THE CITY OF ALBANY IN THE CITY OF ALBANY, NEW YORK AT PRIVATE SALE TO JAMES J. AND MARY E. GOOGAS), which had been previously introduced, and asked for passage and a roll call vote thereon.**

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O’Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

**Council Member Sano offered ORDINANCE NUMBER 46.92.13, moved to amend, and as amended asked for passage and a roll call vote thereon:**

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

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

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

**Section 231-93. Infestation and screening.**

- A. Grounds, buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall meet the generally accepted [~~Health Department practice~~] practices of the industry and shall be in accordance with the manufacturer’s specifications.
- B. Where the potential for rodent infestation exists, windows and other openings in basements and cellars shall be appropriately rat proofed with wire or other suitable materials.
- C. From May 1 to November 1, entrance to residential buildings shall be provided with self-closing-type devices, or screens and windows or other openings used for ventilation shall be appropriately screened. Screens shall not be required in rooms located sufficiently high in the upper stories of multiple dwellings as to be free of mosquitoes, flies and other flying insects.
- D. The exterior of every structure used for human habitation shall be so maintained as to be vermin- and rodent-free. Where rodent or vermin problems exist, all exterior windows, doors and other openings two feet above ground level and below shall be screened or protected with acceptable wire mesh or other approved materials. Defects, cracks or holes shall be tightly sealed to prevent the entrance of vermin and rodents.
- E. When a pest, bedbug or other insect or rodent infestation, as defined in Section 308 of the New York State Property Maintenance Code, has been identified by the Department of Buildings and Regulatory Compliance after a routine inspection by the Department, or inspection after the

Department receives a complaint of an infestation, the Department shall contact the premises owner and require the owner to provide proof of extermination/pest control services. [If the owner of a multiple occupancy premises provides a proper showing that the premises were leased/rented to a tenant clean and free of pests, insects or rodents, and that the owner has properly secured the exterior of the building and maintained the property's common areas free of pests, insects or rodents, then the occupant of the infested dwelling unit/premises shall be responsible for extermination fees.] When determined by a professional exterminator, the dwelling unit(s) in direct proximity to the affected unit and common areas shall also be treated if evidence of infestation in these areas is found. The occupant of a one-family rental dwelling shall be responsible for the costs associated with any extermination on the premises. No tenant shall willfully refuse to comply with reasonable written instructions from a landlord, pest control operator or the Department of Buildings and Regulatory Compliance to prepare the dwelling unit for remediation of an infestation of pests, insects or rodents, including bed bugs, provided that such instructions are given to an adult member of the tenant household such that the tenant household has a reasonable opportunity to comply, and in all cases at least 48 hours prior to remediation. Property owners of rental properties, or their agents, or the professional pest control service company hired by the property owner shall provide a copy of a report for the services rendered electronically to the Department of Buildings and Regulatory Compliance.

**Section 2. This ordinance shall take effect immediately.**

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

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

**CONSIDERATION OF RESOLUTIONS**

**Council Member Fahey introduced RESOLUTION NUMBER 82.101.13R, which was held:**

**A RESOLUTION OF THE COMMON COUNCIL CONSENTING TO THE CREATION OF A CLERK TYPIST II POSITION IN THE DEPARTMENT OF ADMINISTRATIVE SERVICES, PERSONNEL OFFICE**

**WHEREAS**, Section 604(D)(b) of the Charter of the City of Albany dictates that any personnel titles or salary changes that occur in the City of Albany outside of those described in the duly adopted budget must be consented to by the Common Council; and

**WHEREAS**, it is recognized that the needs of the Department of Administrative Services, Personnel Office requires a Clerk Typist II position to assist with the many tasks required by the Personnel Office staff.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Albany consents to the creation of the Clerk Typist II position within the Department of Administrative Services, Personnel Office.

**Council Member Fahey introduced RESOLUTION NUMBER 83.101.13R, and asked for passage and a roll call vote thereon:**

**RESOLUTION DECLARING OCTOBER 20-26, 2013 AS “FREEDOM FROM WORKPLACE BULLIES WEEK”**

**WHEREAS**, the City of Albany has an interest in promoting the social and economic well-being of its employees and citizens; and

**WHEREAS**, that well-being depends upon the existence of healthy and productive employees working in safe and abuse-free environments; and

**WHEREAS**, surveys and studies have documented the stress-related health consequences for individuals caused by exposure to abusive work environments; and

**WHEREAS**, abusive work environments can create costly consequences for employers, including reduced productivity, absenteeism, turnover, employee health-related expenses and if left unchecked, costly litigation; and

**WHEREAS**, protection from abusive work environments should apply to every worker, and not limited to legally protected class status based only on race color, gender, national origin, age, or disability.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Albany Common Council hereby proclaims October 20-26 “Freedom from Workplace Bullies Week.”

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O’Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

*Resolution Number 83.101.13R was co-sponsored by Council Members Bailey, Calsolaro, Commisso, Conti, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O’Brien, Rosenzweig, Sano and Smith*

**President Pro Tempore Conti asked for and received majority consent to add Resolution Number 85.101.13R to the pending agenda, which was approved by unanimous voice vote.**

**Council Member Fahey introduced RESOLUTION NUMBER 85.101.R, and asked for passage and a roll call vote thereon:**

**RESOLUTION DECLARING OCTOBER AS DOMESTIC VIOLENCE AWARENESS MONTH**

**WHEREAS**, domestic violence is a serious crime that affects people of all races, ages, gender, and income levels; and

**WHEREAS**, domestic violence is widespread and affects over four million Americans each year; and

WHEREAS, one in three Americans have witnessed an incident of domestic violence; and

WHEREAS, children that grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, domestic violence costs the nation billions of dollars annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism, and non-productivity; and

WHEREAS, only a coordinated community effort will put a stop to this heinous crime; and

WHEREAS, Domestic Violence Awareness Month provides an excellent opportunity for citizens to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services, and assistance to victims.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany proclaims the month of October as Domestic Violence Awareness Month and urge the citizens of Albany to work together to eliminate domestic violence from our community.

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O'Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

*Resolution Number 85.101.13R was co-sponsored by Council Members Bailey, Calsolaro, Commisso, Conti, Freeman, Golby, Herring, Igoe, Jenkins-Cox, Konev, O'Brien, Rosenzweig, Sano and Smith*

**Council Member Konev offered RESOLUTION NUMBER 80.92.13R, moved to amend, and as amended asked for passage and a roll call vote thereon:**

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

WHEREAS, the Constitution of the United States is the foundation of protecting our nation's rights and freedom, and the basis of our representative democracy, and the indefinite military detention (military or civilian) of any person without trial violates the 5th and 6th amendments to the Constitution, as well as Article III thereof, and

WHEREAS, it can be argued that the indefinite military detention without trial of any person, including citizens of the United States, could be allowed by Sections 1021 and 1022 of the National Defense Authorization Act (NDAA) signed by President Obama on December 31, 2011, although the President's signing statement disagrees with the addition of the detention language to the statute and the President has indicated that such detentions will not occur within the United States, and

WHEREAS, City of Albany is not a "battlefield" with its residents and visitors subject to "detention under the law of war"; and

WHEREAS, the United States Supreme Court has ruled that neither Congress nor the President can constitutionally authorize the detention and/or disposition of any person in the United States, or

citizen of the United States “under the law of war” who is not serving “in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;” or in subsequent cases as "part of or supporting forces hostile to the United States or coalition partners" and who have "engaged in an armed conflict against the United States" while "in a *foreign* combat zone;"

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

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

Recognize that the City of Albany is not a “battlefield,” and its citizens and constitutionally-protected persons are not currently subject to "detention under the law of war";

Expect all federal and state law enforcement officials acting within the City of Albany to work in accordance with the Constitution of the United States by assuring that any person subject to detention be afforded access to a trial, counsel and due process, including under the Fourth, Fifth, and Sixth Amendments to the Constitution and Article III thereof;

Request that our United States Congressional representatives monitor the implementation of Sections 1021 and 1022 of the NDAA as signed into law on December 31, 2011 and actively work for the repeal of the NDAA’s detention provisions, and expressly prohibit the application of "detention under law of war" except as to lawful combatants as defined by treaties under the internationally recognized law of war, to safeguard the fundamental rights and liberties embodied in the Constitutions of the State of New York and the United States; and

BE IT FURTHER RESOLVED, that the Common Council of the City of Albany requests copies of this resolution, suitably engrossed, be transmitted to New York State Governor Andrew Cuomo, the New York State Legislative representatives of the City of Albany, New York State Attorney General Eric Schneiderman, United States President Barack Obama, United States Senators Kirsten Gillibrand and Charles Schumer and United States Representative Paul Tonko.

*\*Note: Council Member Konev spoke on this resolution prior to passage.*

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

Affirmative – Bailey, Calsolaro, Commisso, Conti, Fahey, Golby, Igoe, Konev, O’Brien, Rosenzweig and Sano

**Affirmative 11 Negative 0 Abstain 0**

*Resolution Number 80.92.13R was co-sponsored by Council Members Fahey and Golby.*

**MISCELLANEOUS AND UNFINISHED BUSINESS**

None.

**ADJOURNMENT**

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

A true record of the Common Council Minutes of October 7<sup>th</sup>, 2013.

CASHAWNA PARKER  
SENIOR LEGISLATIVE AIDE TO THE  
ALBANY COMMON COUNCIL