

County of Albany

112 State Street
Albany, NY 12207



Meeting Agenda

Wednesday, May 27, 2020

6:30 PM

Held Remotely

Law Committee

PREVIOUS BUSINESS:

1. APPROVING PREVIOUS MEETING MINUTES
2. LOCAL LAW NO. "A" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING SECTION 603 OF THE ALBANY COUNTY CHARTER AND LOCAL LAW NO. 8 FOR 1993 AS SUBSEQUENTLY AMENDED TO CHANGE THE PROCESS FOR THE RELEASE OF THE TENTATIVE ANNUAL BUDGET
3. LOCAL LAW NO. "B" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY TO PROHIBIT WASTE BURNING AND TO PROTECT THE CLEAN AIR OF ALBANY COUNTY

CURRENT BUSINESS:

4. PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "C" FOR 2020
5. LOCAL LAW "C" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, PROVIDING TECHNICAL AMENDMENTS TO LOCAL LAW NO. 5 FOR 2019

County of Albany

112 State Street
Albany, NY 12207



Meeting Minutes

Wednesday, February 26, 2020

5:30 PM

Harold L. Joyce Albany County Office Building
Room 730

Law Committee

PREVIOUS BUSINESS:

Present: Legislator Victoria Plotsky, Legislator Joanne Cunningham, Dennis A. Feeney, Matthew T. Peter, Bill L. Ricard, Paul J. Burgdorf, Jennifer A. Whalen and Jeffrey D. Kuhn

Excused: David B. Mayo

APPROVING PREVIOUS MEETING MINUTES

A motion was made that the previous meeting minutes be approved. The motion carried by a unanimous vote.

CURRENT BUSINESS:

1. AUTHORIZING AN AGREEMENT WITH THE CITY OF ALBANY REGARDING POLICE ATTENDANCE AND EMERGENCY MEDICAL SERVICES AT THE TAKE BACK THE NIGHT RALLY AND MARCH

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

2. AUTHORIZING AN AGREEMENT REGARDING EXCESS INSURANCE COVERAGE

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

3. AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION AND AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING THE AID TO PROSECUTION PROGRAM

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

4. AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION AND AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING THE MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION PROGRAM

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

5. AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION AND AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING THE CRIMES AGAINST REVENUE

PROGRAM

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

6. AMENDING THE 2020 DISTRICT ATTORNEY'S OFFICE BUDGET: ADMINISTRATIVE ADJUSTMENTS

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

7. PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "A" FOR 2020

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

8. PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "B" FOR 2020

A motion was made that this proposal be moved forward positive recommendation. The motion carried by a unanimous vote.

9. LOCAL LAW NO. "A" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING SECTION 603 OF THE ALBANY COUNTY CHARTER AND LOCAL LAW NO. 8 FOR 1993 AS SUBSEQUENTLY AMENDED TO CHANGE THE PROCESS FOR THE RELEASE OF THE TENTATIVE ANNUAL BUDGET

This Local Law be tabled the request of the sponsor.

10. LOCAL LAW NO. "B" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY TO PROHIBIT WASTE BURNING AND TO PROTECT THE CLEAN AIR OF ALBANY COUNTY

This Local Law be tabled the request of the sponsor.

LOCAL LAW NO. "A" FOR 2020

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING SECTION 603 OF THE ALBANY COUNTY CHARTER AND LOCAL LAW NO. 8 FOR 1993 AS SUBSEQUENTLY AMENDED TO CHANGE THE PROCESS FOR THE RELEASE OF THE TENTATIVE ANNUAL BUDGET

Introduced: 2/10/20

By Messrs. A. Joyce, O'Brien, Peter:

PURSUANT TO SECTIONS 10 AND 33 OF THE MUNICIPAL HOME RULE LAW AND SECTION 2702 OF THE ALBANY COUNTY CHARTER

BE IT ENACTED by the Legislature of the County of Albany as follows:

SECTION 1. Section 603 (d) of the Albany County Charter is hereby amended to read as follows:

Elements of the tentative annual budget. Upon completion of her review, the Commissioner of the Department of Management and Budget shall prepare the tentative annual budget for the County Executive, which shall be filed with the Clerk on or before [October 10] September 15. Upon such filing, the tentative annual budget submission shall become a public record in the office of the Clerk, and copies of it shall be made available by the Clerk for distribution. Elements of the tentative annual budget submission shall be in compliance with the provisions of County law and include such material as the County Executive deems desirable, or the County Legislature may require. In addition, such submission shall include, but not be limited to: Legislative Intent and purpose.

SECTION 2. If any article, section, paragraph, phrase or sentence of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

SECTION 3. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

Referred to Law and Audit and Finance Committees – 2/10/20

LOCAL LAW NO. "B" FOR 2020

A LOCAL LAW OF THE COUNTY OF ALBANY TO PROHIBIT WASTE BURNING AND TO PROTECT THE CLEAN AIR OF ALBANY COUNTY

Introduced: 2/10/20

By Messrs. Reinhardt, Miller, Mses. Cunningham, Plotsky, Mr. Kuhn

Section 1: TITLE

This Local Law shall be known as the "Albany County Clean Air Law."

Section 2: STATUTORY AUTHORIZATION

This Local Law is hereby adopted pursuant to the provisions of the New York Municipal Home Rule Law § 10(1)(ii)(a)(11), the Clean Air Act (42 U.S.C. § 7416), the Resource Conservation and Recovery Act (42 U.S.C. § 6929), New York State Air Pollution Control Act (Environmental Conservation Law §§ 19-0703 and 19-0709), and New York State Environmental Conservation Law § 27-0711.

Section 3: INTENT

It is the intent of this Local Law to promote and protect the public health and welfare of the residents of Albany County by prohibiting the burning or related processing of Waste.

Section 4: DEFINITIONS

As used in this Local Law, the following terms shall have the following meanings:

- A. NEW WASTE DISPOSAL FACILITY** shall mean any non-residential facility that, after the effective date of this Local Law:
- 1) disposes of Waste, uses Waste to heat an industrial process, or uses Waste to produce energy (heat, electricity, or a burnable fuel), and
 - 2) accomplishes this through the combustion of Waste (or gases produced on-site from the burning, gasification or pyrolysis of such Waste), or by producing a solid, liquid and/or gaseous fuel product through conversion of Waste.
 - 3) A New Waste Disposal Facility does not include:
 - i. landfills,
 - ii. publicly owned treatment works,
 - iii. anaerobic digesters,
 - iv. facilities burning landfill gas or gas produced from anaerobic digestion, unless they are also burning Waste,
 - v. systems used exclusively for on-site space heating purposes at a residential home,

- vi. manufacturing facilities that, on a consistent basis as part of their operations, have, prior to the effective date of this law, burned Waste generated on-site from their own manufacturing process, and plan to continue burning the same types of Waste, or
- vii. facilities that burned an average of at least 10 tons of Waste per day throughout calendar year 2019.

B. **RESPONSIBLE OFFICIAL** shall mean the natural person who is on file with the New York State Department of Environmental Conservation (DEC) as the Responsible Official, as defined in 6 NYCRR 201-2(b)(28). If no such individual properly meeting that definition is currently on file with DEC, the Responsible Official shall be the owner of the New Waste Disposal Facility. If the owner is a business entity, then the Responsible Official(s) shall be the person or persons sharing the highest level of decision-making power within the business entity.

C. **PERSON** shall mean any natural person, general or limited partnership, corporation, limited liability company, limited liability partnership, firm, association or organization, trust or other legal entity, or any combination thereof, and the agent(s) or employee(s) thereof.

D. **BURNING AND/OR PROCESSING** shall mean any type of combustion process involving any waste, including for use as a fuel in recovering useable energy.

E. **COMBUSTION** shall mean the thermal treatment of waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the waste. Examples of the combustion process include incineration, pyrolysis, and fluidized bed.

F. **WASTE** shall mean:

- i. all putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water carried materials or substances and those in gaseous form; and
- ii. solid waste as defined by 6 NYCRR 360.2(1) and 42 USC 6903(27); and
- iii. biosolids; and
- iv. hazardous waste as defined by NY Environmental Conservation Law § 27-0901(3); and
- v. waste as defined by NY Environmental Conservation Law § 27-0901(11); and
- vi. low-level radioactive waste as defined by N.Y. Environmental Conservation

- vii. Law § 29-0101(1), and high-level radioactive waste; and
- viii. transuranic waste; and
- ix. regulated medical waste as defined by NY Environmental Conservation Law § 27-1501(1); and
- x. automobile shredder residue; and
- xi. discarded automobiles; and
- xii. waste tires as defined by NY Environmental Conservation Law § 27-1901(13); and
- xiii. plastics, or any material that has been source separated for recycling or composting purposes; and
- xiv. pharmaceutical wastes or expired pharmaceuticals; and
- xv. disaster debris; and
- xvi. electronic wastes; and
- xvii. processed engineered fuel; and
- xviii. refuse derived fuels; and
- xix. any material determined by the U.S. Environmental Protection Agency or New York state agency to be a non-hazardous secondary material
- xx. the solid residue of any air or water pollution control device; and
- xxi. Per- and polyfluoroalkyl substances (PFAS)

Section 5: PROHIBITION

No person shall be permitted to operate a New Waste Disposal Facility in Albany County.

Section 6: PENALTIES FOR OFFENSES

A. Failure to comply with any of the provisions of this Local Law shall be a violation as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of up to \$2,000 or imprisonment of the Responsible Official for not more than 10 days, or both, for the first offense. A second offense shall be a misdemeanor as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine up to \$5,000 or imprisonment of the Responsible Official for a period of not more than 30 days, or both. All subsequent offenses shall be a misdemeanor punishable of a fine up to \$10,000 or imprisonment of the Responsible Official for a period of not more than 50 days, or both. For purposes of this subsection, each day of noncompliance with this Local Law shall constitute a separate and distinct offense.

B. Injunctions; concurrent remedies.

- i. In addition to any other remedy provided herein, the County of Albany may institute a suit in equity where unlawful conduct exists for an

- injunction to restrain a violation of this article.
- ii. In addition, any officer enforcing this law may issue stop work orders or compliance notices relative to any violation of this Local Law.
 - iii. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the County of Albany from exercising any other remedy provided herein or otherwise provided at law or equity.
 - iv. The terms and provisions of this article are to be liberally construed, so as best to achieve and effectuate the goals and purposes hereof.
- C. In the event the County desires or is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs and expenses incurred by the County relative thereto, including attorneys', engineering, consulting, and experts' fees; provided, however, any responsibility or liability therefor, and the amount thereof, shall be determined by a court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

Section 7: ENFORCEMENT AND ADMINISTRATION

Enforcement of this Local Law shall be the responsibility of the law enforcement agencies within the County.

Section 8: SEVERABILITY

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Local Law shall remain in effect.

Section 9: EFFECTIVE DATE

This Local Law shall take effect upon filing with the Secretary of State.

RESOLUTION NO. 125

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "C" FOR 2020

Introduced: 3/9/20

By Ms. Cunningham:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. "C" for 2020, "A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, PROVIDING TECHNICAL AMENDMENTS TO LOCAL LAW NO. 5 FOR 2019" be held by the County Legislature in the William J. Conboy II Legislative Chambers, Albany County Courthouse, Albany, New York at 7:15 p.m. on Tuesday, April 28, 2020, and the Clerk of the County Legislature is directed to cause notice of such hearing to be published containing the necessary information in accordance with the applicable provisions of law.

LOCAL LAW “C” FOR 2020

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, PROVIDING TECHNICAL AMENDMENTS TO LOCAL LAW NO. 5 FOR 2019

Introduced: 03/09/20
By Ms. Cunningham:

BE IT ENACTED by the County Legislature of the County of Albany as follows:

Local Law No. 5 for 2019, entitled “A LOCAL LAW TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO INSTITUTE A FEE ON THE USE OF PAPER BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS” is hereby amended to read as follows:

SECTION 1.

Section 4 of Local Law No. 5 for 2019 is amended to read as follows:

Section 4 Imposition of Fees for Use of Paper Bags

- (a) In accordance with Section 27-2805 of the New York State Environmental Conservation Law, Albany County establishments subject to the ban on Plastic Carryout Bags set forth in Section 27-2803 of the New York State Environmental Conservation Law shall charge customers a Paper Carryout Reduction Fee of \$.05 for each Paper Carryout Bag the Establishment provides to customers. On the effective date, all covered stores shall indicate on the customer receipt the number of Paper Carryout Bags that are provided to customers and the fee at which they were charged for the use of such bag.
- (b) The paper carryout bag reduction fee imposed by this local law shall not apply to any customer using the supplemental nutritional assistance program, special supplemental nutrition programs for women, infants, and children, or any successor programs used as full or partial payment for the items purchased.
- (c) Entities described in paragraphs (1) through (3) of subdivision (a) of section 1116 of the Tax Law of the State of New York shall be exempt from the fee imposed by this local law.

SECTION 2.

Section 5 of Local Law No. 5 for 2019 is amended to read as follows:

Section 5 Distribution of Fees and Transparency of Fee Collection

- (a) Per Section 27-2805 of the New York Environmental Conservation Law, forty percent of the fee shall be provided to Albany County for the purpose of

purchasing reusable bags for Albany County residents, particularly those of low-income or limited means.

- (b) The fee imposed by this local law shall be administered and collected by the New York State Commissioner of Taxation and Finance as provided in Subsection 6 of § 27-2805 of the Environmental Conservation Law and in a like manner as the taxes imposed under Articles 28 and 29 of the Tax Law; provided, however that: (i) the vendor credit provided in subdivision (f) of § 1137 of the Tax Law shall not apply to this enactment; and (ii) the exemptions provided in section 1116 of the Tax Law, other than the exemptions in paragraphs one, two and three of subdivision (a) of such section, shall not apply to the fee imposed by this local law.
- (c) Any monies received by Albany County from the New York State Comptroller in respect of the fee imposed by this act shall be expended only in accordance with subdivision 7 of § 27-2805. Any monies not expended by Albany County for such purposes shall be returned to the New York State Comptroller at the end of the fiscal year.

SECTION 3.

Section 8 (d) of Local law No. 5 for 2019 is amended to read as follows:

Section 8. Albany County Responsibilities, Enforcement and Penalties.

- (e) Violation: Violations of this law shall be enforced pursuant to Section 27-2807 of the New York State Environmental Conservation Law.

SECTION 4.

Section 10 of Local Law No. 5 for 2019 is deleted in its entirety.

SECTION 5.

Section 11 of Local Law No. 5 for 2019 renumbered to Section 10 and is amended to read as follows:

Section 10. Effective Date.

The effective date of this local law will be September 1, 2020.