

A regular meeting of the City Council of the City of Newburgh was held on Monday, August 13, 2012 at 7:00 P.M. at the Multi-Purpose Activities Center, 401 Washington Street, Newburgh, New York 12550.

The Prayer was led by Bonnie Hubbard, Ordained Deacon of the Episcopal Diocese of New York and President of Abraham's Table, the sponsor of the Summer Food Program for children in the city.

The Pledge of Allegiance was performed in unison.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-5

Councilwoman Angelo moved and Councilwoman Lee seconded that the minutes of the July 12, 2012 Work Session, the July 16, 2012 City Council Meeting, and the July 30, 2012 Work Session be approved.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the City Clerk's Report and the Registrar of Vital Statistics Report for the month of July be received, filed and made available to the Press.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Civil Service Administrator's Report for the month of July be received and filed only.

Ayes-Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

CARRIED

COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Lee seconded that Notices of Claim and the Tax Certiorari matters be referred to Corporation Counsel with power to act.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

CARRIED

PUBLIC HEARING #1

Mayor Kennedy called a public hearing concerning the housing and community development needs of the City of Newburgh in order to assist in the preparation of its Housing and Community Development Plan for FY 2013.

Courtney Kain, Director of Community Development, provided an overview. She explained that this is the annual Community Development Block Grant fund's public hearing on needs. It is the first part of how we plan to implement next year's funding. The City of Newburgh is the recipient of about \$650K in HUD funding. Each year we receive approximately the same amount of money because we are an entitlement community; though with cuts in federal funding that amount has decreased over the years.

She pointed out that the City of Newburgh started a CDBG Advisory Committee in 2009 to help us ensure that the public remains involved, and that the funds are accountable to the public. The committee talks to neighbors and various community groups about different housing programs.

She acknowledged some members of the advisory committee that were present tonight including Roxie Royal, Mayor Kennedy, Barbara Smith, Stacy Burks, Tamie Hollins, Cheryl Noel and Kain herself. She stated that the purpose of funding is for decent housing, the creation of suitable living environments and the expansion of economic opportunities. She listed types of programs that funding could be used for (Copies were made available to the public). Programs range from housing rehabilitation to code enforcement and historic preservation of public facilities. 15% of the funding the City receives can also be used for public service activities, such as youth services, job training and healthcare and substance abuse training.

After she receives community input on needs, she will then start creating the budget and begin discussing the priorities of what we would like to do next year. Also a public hearing on a budget will be held in the future so that everyone can be heard. She is looking forward to hearing everyone's comments tonight.

Timothy Hayes-el stated that we have been through the CDBG process before. It did not work out the way it was intended. He hopes that people have had a change of heart to do this thing right. Our young people are going to prison and dying in the streets.

Janet Gianopolous remarked that it is important to look at programs for youth. Therefore we should at least be using that 15% for public services to

include youth services and crime prevention. She pointed out that Kingston's police department conducts its youth program. That would be an important step here. Also a lot of our real property is in dire need of improvements. Sidewalk repairs should be looked at too so that the community can walk the streets safely. If we can match people with the services and match the police with our young people then she thinks we can really accomplish something.

Members of Downing Park Planning Committee (DPPC) Karen McCarthy, Patty Sofokles and Kiki Hayden commented that Downing Park is quite treasured in the community. Even though the City of Newburgh owns the park, DPPC is a group of volunteers that work in the gardens. They pick up trash and help coordinate community events in the park. There is a Farmers Market on Fridays that is very popular, and there are events for everyone.

In the 1950s when Newburgh was a very different city, the park had a full time security guard and 30 paid gardeners. In the 1980s the park was abandoned. Volunteers brought their own lawn mowers to cut the grass. The park was full of drug dealers. Now it is much more family-oriented. DPPC does not receive any funding from the City of Newburgh. They proposed that the greenhouses on Carpenter Avenue be restored. They have had a pro-bono study performed by engineers that have stated that these greenhouses would be viable. Year round gardening would ensure that needy families get food, but also children and adults would be learning nutrition. Also there may be jobs that result from it. The greenhouses would not be too expensive to renovate either. CDBG funding fits right in with this.

Sheila Monk stated that funding could also be used for upgrading the basketball court on Gidney Avenue. A water fountain and new rims should be installed. She thanked DPW for its hard work in getting that park together. It looks so much better and the kids really appreciate it. We should use funding to hire a police officer to watch the kids at night while they play basketball. Also we could take one of these abandoned buildings in the city and establish an activities center for the children to do arts and crafts.

Omari Shakur commented that it all looks good on paper. Every year we come up with the same old thing. He would like to know what is put in place to ensure that persons do what they say they are going to do. What safeguards do we have? Is there a committee of community members that could watch over the funds? Our community always suffers.

Rev. Stacy Burks mentioned that there was a block party on Johnston Street this past weekend. The children had created a makeshift basketball court at the empty lot. They set out plants with buckets at each ends that they used as benches. He has seen this going on for the past year. This is where the

kids are and this is what the kids want. Often times we think we know what is best for the kids. But sometimes all we have to do is just open our eyes and watch and see what the kids are doing. That lot is large enough to build a basketball court, complete with benches and permanently affixed board games. Being that it is close to Broadway, people will be able to see that lot and also the change that is occurring here.

Lisa Dailey remarked that she has been a part of Downing Park ever since she began living here. She noticed that a lot of what the residents are asking for fall into the category of the *Suitable Living Environments and Public Facilities* component of CDBG funding. She commented that a lot of our residents have backgrounds from the rural South. That is why vegetables gardens are so popular. People like to bring that part of their home to the City of Newburgh. Furthermore, in Hispanic culture the use of flowers to decorate the homes is very popular. Therefore a gardening activity in the City could really reach a lot of the people that are representative of the city.

There being no one else wishing to speak in favor of or opposition to this public hearing, this portion of the meeting was closed.

PUBLIC HEARING #2

Mayor Kennedy called a public hearing concerning a local law amending Chapter 270 entitled "Taxation" to provide for the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings".

The City Manager explained that this is a local law that encourages property owners of single and two-family dwellings to invest in improvements that are used solely for residential purposes. It would provide an exemption from General Municipal taxes. The construction costs would be exempt from real property taxes over a sliding scale. The local law provides for a 12.5% reduction each year. The City of Newburgh falls into a unique category in that we qualify for this program. We believe it provides an incentive for homeowners to make improvements to their one and two-family dwellings. After the eighth year of exemption the properties go back to being fully taxed.

Corporation Counsel pointed out that the exemption only applies to the improvements, not the value of the entire structure.

Brian Flannery stated that this has been somewhat confusing. He has been following this and trying to understand what the difference is between this local law and the one that former Councilwoman Bello championed when she was in office. Second, he stated that he read the proposed legislation over and over again. He did not understand some of the language that was cited in the State law.

Corporation Counsel pointed out that the previous local law that Flannery was referring to was for *mixed-use* property only.

Mayor Kennedy pointed out that the purpose of this is to encourage homeownership and home improvement so that our city starts to improve itself by giving people the incentives.

There being no one else wishing to speak in favor of or opposition to this public hearing, this portion of the meeting was closed.

PRESENTATION

Pace Law School Professor of Law John Nolon presented the council with an update on the Newburgh Community Land Bank.

According to the studies that Pace Law School interns have been doing in conjunction with other city agencies, there are 703 vacant properties in the City of Newburgh. 127 of those properties are city-owned. The Land Bank has been working on an effort to get these properties back on the tax rolls to be able to rejuvenate the budget and the neighborhoods of the city.

He is proud to be able to tell us that it was decided at a meeting at the Kheel Center on Dispute Resolution that Newburgh would be receiving the annual Founders Grant in recognition of the work that the City has done in code enforcement, streamlining of a development process and the formation of a Land Bank. It was an easy decision to reach. We came to the city for the first time in April 2010 with some people from Flint, Michigan. They came and listened to all of the things that were wrong in the city. They also heard a lot of different views from many factions. A property remediation task force has been created, as well as a community resident advisory board to work with the Land Bank.

Also the Private Sector has been raising money and doing work in the target area that was selected for the Land Bank. Through the Greater Newburgh Partnership a good amount of money has been raised and a good bit of greening and remediation projects have been completed in the city. These are examples of the tremendous collaboration occurring. Nolon hopes that the City of Newburgh will be present to accept the Founders Award in December.

Nolan answered the council's concerns about gentrification, the City of Newburgh's retention of complete authority over property, the transference of vacant property, the distinction between the Greater Newburgh Partnership board members and the Land Bank board members, the procurement process by the Private Sector to rejuvenate the local economy, revenue-sharing between the City of Newburgh and the Land Bank and details about the Resident Advisory Committee.

Public comment concerns were raised too.

Timothy Hayes-el stated that the targeted community is not really involved. Jobs for community residents should be the primary focus.

Omari Shakur stated that we could have told them that there are over 700 vacant properties in the Newburgh. He wanted to know how many people from Newburgh sit on the Community Land Bank committee.

Mayor Kennedy stated that if we would like to discuss this as a separate topic then we need to set up a community meeting. She thanked Professor Nolon for the update.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Virginia D'Orio commented that she thought the amount of money needed for police overtime costs would be double the stated amount. Where is the rest of the money coming from? Second, the City of Newburgh went bankrupt and many people lost their jobs as a result. Instead of fewer police officers getting paid time and a half for overtime, we should have enough officers to do the work to begin with. She read somewhere that we have less police officers now than we did in the 1970s. [*Resolution #133-2012*] Next, she would like to shake the hands of the individual who submitted the grant to bring in 15 new firefighters. That is a great thing. [*Resolution # 140-2012*]

Timothy Hayes-el would like the City Manager to use some of the artists in the City of Newburgh to perform in the festival. He suggested that Mr. Herbek call him to connect with some of the local artists. [*Resolution # 139-2012*]

Barbara Smith stated that there are 29 pieces of properties that we are putting out for bid. Is there a detailed list available delineating the number of properties that are going to be put out for bid, the number of properties that are going to be demolished and the number of properties that are waiting to be turned over to the Land Bank. [*Resolution #128-2012*]

Mr. Herbek remarked that we do have itemized property lists available for public inspection.

Corporation Counsel explained that the list she is referring to is for properties that will be auctioned off in October. There are 5 properties that we plan to put out in the sealed bid process. We do have other lists available of properties that are being considered for transfer for other purposes.

Sheila Monk questioned Councilwoman Lee's objections to the landfill as part of the Hudson Valley Lighting Project. [*Resolution #143-2012*] Second, \$300K is a lot of money to demolish three buildings. [*Resolution #127-2012*] Next, there should be more than one Community Resource Officer. [*Resolution #137-2012*] If we are going to build up the City of Newburgh, then we have to find the money for more police officers and more firefighters. We seem to have the money for everything else.

There being no further comments, this portion of the meeting was closed.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Angelo stated that the local law on the table tonight is a real opportunity for our taxpayers. She is sure that the council is going to support this wholeheartedly.

City Comptroller Cheryl Gross explained to the council that \$53K was discovered in an open position that was not filled. This is money to be used for police overtime costs.

Councilman Brown remarked that we are currently in a budget crisis. That \$53K is a small drop in the bucket. We are probably facing over \$500K in total police overtime costs. We can not control it because it is contractual. If we do not find additional money to support police overtime then we are going to be in big trouble.

Brown remarked that Resolution #148-2012 was a resolution that he brought forth. He has heard some comments about it that it is minor. When we are facing the kind of debt we are facing, small means a lot. These vehicles have no logos and no lights insisting that they are even city vehicles. The City vehicle should be parked. He would like to see the resolution pass tonight. We need all the money that we can get.

Councilwoman Lee read her comments into the record (*SEE COMMENTS ATTACHED*). She pointed out that we need policies that govern such things as the transfer of land, as well as policies that enumerate how the HUD Section 3 Plan will be followed. As a councilmember she has a fiduciary responsibility to the community. She commented that the City of Newburgh is in the shape it is in due to poor planning. Having said that she stated that if someone comes before this council without a plan, then she is not just going to vote *Yes* because he is a nice person or has a lot of money.

Mayor Kennedy commented about Resolution #143-2012. We listened to a presentation about the Mid-Broadway site. They believed that that site was worth developing and they also believed that the developer was capable of doing the job. A license agreement is forthcoming. We are moving along, creating it as we go, because we have good faith in the organization. She pointed out that businesses move at a different speed than government does.

We have the same type of proposal before us tonight with another company. Hudson Valley Lighting has been in this city for nearly sixty years. They have come up with an idea that presents little to no risk because we are dealing with a property that has a pile of garbage. Instead of us having a

triangle piece of land we are going to get a squared off piece of land that can be developed. The owner wants to expand his business as well. If we do not proceed with it then the company will be moving out of this city, and the jobs and the taxes that go on that business will go away too. It is a no brainer to her. She is willing to move the city forward. She understands the negative history of this city. We can not continue to fight every opportunity that comes to this city. It is time to let go and learn from the past and move forward. She intends to vote in the affirmative.

Councilman Dillard remarked that a person who fools him once does not get to fool him twice. He feels that this is what is happening in this situation with the IDA-City of Newburgh property swap. He feels that the whole thing has been orchestrated. He commented that he had a copy of a statement that was made by Mayor Kennedy when she met with one of the interested parties. When the council made the deal, the State had come down and informed them on what they could not do with the property. He feels that the Mayor along with the IDA came in shortly afterwards. Until he gets something concrete, and in writing, he intends to vote in opposition to the resolution. He reminded us that you need four (4) votes to transfer any city property.

Councilwoman Lee clarified that we are talking about the Brownfield. The DEC told them that they could not transfer any land. Once you have a Brownfield, you are responsible. That means that if it is then sold to another, then both parties are responsible. We are trying to have the Brownfields cleaned up. She agrees with Councilman Dillard. She is not opposing the plan itself, because it is a good plan. But she is opposing the conveyance of property that the DEC may come back and say can not be developed. We need to just wait and see if it can be done. We need to devise a plan using a map. We should stop and put a system in place.

Councilman Brown stated that this resolution is not about transferring property to anyone. It is about the city's commitment to a businessman who is looking to maintain his business in the City of Newburgh. Let's vote on it. It only requires three (3) votes. Then we can worry about the transfer of the property as we go along.

Corporation Counsel pointed out that the resolution before the council supports the project and authorizes the City Manager to continue the dialogue to negotiate a contract. It does not authorize the transfer of land.

Mayor Kennedy remarked that in the negotiated contract, the City Manager would make certain that the City is held harmless if and when the transfer occurs.

There being no further comments, this portion of the meeting was closed.

LOCAL LAW NO.: 4 - 2012

OF

AUGUST 13, 2012

A LOCAL LAW ADDING ARTICLE XII ENTITLED
“EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS”
TO CHAPTER 270 “TAXATION” OF THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Adding Article XII entitled ‘Exemption for Conversion of Certain Multiple Dwellings’ to Chapter 270 of the Code of the City of Newburgh”.

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for owners of multiple dwelling buildings which are reconstructed, altered or converted to owner-occupied one-family or two-family residential buildings as authorized by Real Property Tax Law Section 421-k.

SECTION 3 - AMENDMENT

Chapter 270 entitled “Taxation” of the Code of the City of Newburgh is hereby amended by the addition of Article XII entitled “Exemption for Conversion of Certain Multiple Dwellings” to read as follows:

“ARTICLE XII

Exemption for Conversion of Certain Multiple Dwellings

§270-71. Purpose.

The City Council of the City of Newburgh encourages property owners of single and two-family residential dwelling to invest in improvements to one- and two-family

buildings used solely for residential purposes by providing an exemption from general municipal taxes pursuant to Section 421-K of the Real Property Tax Law of the State of New York.

§270-72. Definitions.

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

OWNER-OCCUPIED MULTIPLE DWELLING BUILDING - any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.

§270-73. Exemption granted; amount.

Multiple dwelling buildings that are reconstructed, altered, improved and/or converted back to an owner-occupied single-family or any owner-occupied multiple dwelling that is reduced to at most two units by such reconstruction shall be exempt from taxation levied by the City of Newburgh on the increase in assessed value attributable to such conversion to the extent provided hereinafter pursuant to Section 421-k of the New York State Real Property Tax Law. The length of said exemption shall be eight years and shall be computed in accordance with the following table:

Year of Exemption	Percent of Exemption
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

§270-74. Exemption base and market value defined.

A. Such buildings within the City of Newburgh shall be exempt for a period of one year to the extent of one hundred (100%) per centum of the increase in assessed value thereof attributable to such reconstruction alteration or improvement and for an additional period of seven years, as shown in the table set forth in Section 270-73, subject to the following:

1. The extent of such exemption shall be decreased by twelve and one-half (12.5%) per centum of the “exemption base” each year during such additional period. The “exemption base” shall be the increase in assessed

value as determined by the initial year of the term of the exemption, except as provided in subsection 2 of this section.

2. In any year in which a change in level of assessment of fifteen (15%) per centum or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the New York State Real Property Tax Law.
3. Such exemption shall be limited to \$100,000.00 in increased market value, but not less than \$10,000.00, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class I ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five (95%) per centum in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§270-75. Exclusions from exemption.

- A. No such exemption shall be granted for reconstruction, alterations or improvements unless:

1. Such reconstruction, alteration or improvement was commenced subsequent to the date on which this Local Law takes effect;
2. The value of such reconstruction, alteration or improvement exceeds five thousand (\$5,000.00) Dollars; and
3. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

B. For purposes of this section, the terms “reconstruction,” “alteration” and “improvement” shall not include ordinary maintenance and repairs.

§270-76. Time to File Application.

A. Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

B. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date referred to in Section 270-76 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§270-77. Exemption discontinuance.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

SECTION 4 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 5 - EFFECTIVE DATE

This Local Law shall be effective when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal

Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2013.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

Councilwoman Angelo moved and Councilwoman Lee seconded that the local law be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

No- Councilman Brown-1

Enacted.

RESOLUTION NO.: 125 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH THE GREATER NEWBURGH
PARTNERSHIP, INC.
TO ALLOW CLEANING AND GREENING ACTIVITIES ON CITY-OWNED
PROPERTIES KNOWN AS 140 MONTGOMERY STREET (SECTION 12,
BLOCK 4, LOT 10)
146 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 2.1)
137 SMITH STREET (SECTION 12, BLOCK 4, LOT 4.1)
AND 207 WATER STREET (SECTION 12, BLOCK 3, LOT 2.1)**

WHEREAS, The Greater Newburgh Partnership, Inc. (“GNP”) is a non-profit organization created for the improvement of the City of Newburgh, the greater Newburgh area and its many stakeholders; and

WHEREAS, the City of Newburgh is the owner of real properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York; and

WHEREAS, the GNP has offered to provide services to the City by performing cleaning and greening activities for the beautification of the aforementioned properties and has requested access to the properties to conduct these activities; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with The Greater Newburgh Partnership to allow access to City-owned properties known as 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street for the purpose of performing cleaning and greening activities.

Councilman Dillard understands that under this license agreement, clean-up and greening is involved. He asked if there is going to be any jobs for local people. He recalled that the mid-Broadway site was completed without local hiring, because it was all done on a voluntary basis.

Sue Sullivan, Executive Director of Greater Newburgh Partnership (GNP) responded that it is voluntary.

Mayor Kennedy pointed out that the license agreement gives volunteers the rights to be on the properties.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and twelve, by and between the GREATER NEWBURGH PARTNERSHIP, INC., with offices at _____ as “LICENSEE”; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as “LICENSOR”;

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following title:

SCHEDULE “A”

140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor’s properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform “greening” improvements on property owned by Licensor. No improvements other than planting beds, walkways and the installation of a fence surrounding the perimeter of the property may be erected on the premises. The erection of a fence must be in conformance with Chapter 166 of the City Code.

Second: Licensee agrees to do such work and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby. If, in the course of performing

such work, Licensee, or any employees, agents, contractors and consultants engaged by Licensee to perform the subject work, find, uncover, identify or otherwise locate asbestos or other hazardous material, Licensee, or employees, agents, contractors and consultants of Licensee, shall immediately cease and desist from the performance of the subject work and report said findings to the City Manager.

Third: Licensor acknowledges that the use of the subject properties shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor due to the negligence of Licensee, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fifth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall name Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Sixth: This Agreement and the license or privilege term is from _____, 20__ to _____, 20__ and will be subject to renewal on mutual agreement of both parties for additional one (1) year terms each.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Richard F. Herbek, City Manager

GREATER NEWBURGH
PARTNERSHIP, INC.

LICENSEE

By: _____
Name:
President

SCHEDULE "A"

140 Montgomery Street	Section 12, Block 4, Lot 10
146 Montgomery Street	Section 12, Block 4, Lot 2.1
137 Smith Street	Section 12, Block 4, Lot 4.1
207 Water Street	Section 12, Block 3, Lot 2.1

RESOLUTION NO.: 126 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH
MILL STREET PARTNERS, LLC IN CONNECTION WITH THE
DEVELOPMENT OF CITY OWNED PROPERTIES KNOWN AS THE MID-
BROADWAY SITE**

WHEREAS, the City of Newburgh wishes to develop the City-owned .66 acre Lander Street surface parking lot (between Chambers Street and Lander Street) as well as the 1.8 acre principal site that fronts on Broadway (the “Mid-Broadway Site”); and

WHEREAS, by Resolution No. 78-2012 of May 29, 2012, the City Council of the City of Newburgh authorized the City Manger to negotiate a development and land disposition agreement with Mill Street Partners, LLC for the development of the Mid-Broadway site; and

WHEREAS, Mill Street Partners, LLC has requested that the City of Newburgh allow them access to the Mid-Broadway site prior to finalizing the development and land disposition agreement for the purposes of conducting certain pre-development activities, including but not limited to survey work and preliminary environmental testing; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a license agreement with Mill Street Partners, LLC, and their contracted agents, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, to allow access to the Mid-Broadway site for the purposes of and to perform predevelopment activities.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and twelve by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as “LICENSOR,” and MILL STREET PARTNERS, LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 853 Broadway, New York, New York 10003, and their consultants and contractors as “LICENSEE”;

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor, on behalf of itself and its employees, agents and contractors, known as 132, 136, 138, 140, 142, 142A, 144, 146 and 148 Broadway; 6, 10, 12 and 16 Johnston Street; and 6, 8 and 14 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as “140 Broadway”.

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee’s employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor’s property located at 140 Broadway, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary for the purposes of inspecting the property which inspections may include, but are not limited to, conducting surveys, physical inspections, tests, engineering and construction evaluation and reports, architectural study and planning, and environmental study, testing, and such other tests and evaluations as are reasonably required for an evaluation of the property and the prosecution of any applications for governmental approvals.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall name Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall commence on _____, 20__ and expire and terminate upon the execution of a land development agreement between Licensor and Licensee.

Sixth: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____

Richard F. Herbek, City Manager

MILL STREET PARTNERS, LLC

LICENSEE

By: _____

RESOLUTION NO.: 127 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION REJECTING ALL BIDS RECEIVED
IN CONNECTION WITH THE CITY OF NEWBURGH
COMMUNITY DEVELOPMENT BLOCK GRANT
BUILDING DEMOLITION PROJECT**

WHEREAS, the City of Newburgh has duly advertised for bids in connection with the Community Development Block Grant Building Demolition Project for the demolition of 159 Grand Street, 10 Dubois Street and 113 Washington Street; and

WHEREAS, two (2) bids were received and opened; and

WHEREAS, upon review of the bids it has been determined that all bids received were non-responsive to the bid requirements; and

WHEREAS, this Council has determined that rejecting all bids is in the best interests of the City of Newburgh and the project;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that all bids received in connection with the City of Newburgh Community Development Block Grant Building Demolition Project be and are hereby rejected.

Councilman Dillard wanted to know when this will go out again.

City Engineer Craig Marti explained that the bids will open again within two weeks.

Mayor Kennedy wanted to know if somebody is able to assist the demolition crews in the bid process to ensure that they have all their parts and pieces in place. She does not want to go through another rejection again.

The City Manager explained that there are things that you can do and things that you can not do. We had a pre-bidding conference in which we thoroughly explained all of the requirements. On the date of the bid opening, it is an open public process. At that point in time, you can not work with the companies to correct deficiencies in their bids.

Corporation Counsel Michelle Kelson pointed out that we are trying to make it perfectly clear what we are seeking. There is only so much education that we can provide in a bid call.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 128 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION APPROVING THE
STANDARD TERMS OF SALE FOR PROPERTY PURCHASES
FOR THE CITY OF NEWBURGH 2012 SEALED BID PROCESS**

WHEREAS, this Council, by Resolution No.: 120-2012 authorized the sale of City owned properties through the sealed bid process; and

WHEREAS, such properties shall be sold pursuant to the attached Standard Terms of Sale for Property Purchases; and

WHEREAS, this Council has reviewed such Standard Terms of Sale for Property Purchases;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Standard Terms of Sale for Property Purchases, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Sealed Bid Process.

Councilwoman Angelo asked how many properties are involved.

The City Manager pointed out that there are five properties on the sealed bid list.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

Standard Terms of Sale For Property Purchases

PLEASE NOTE SOME TERMS ARE SPECIFIC FOR AN AUCTION PROCESS
AND MAY NOT BE APPLICABLE

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009 - 2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2009 - 2010, 2010-2011 and 2011-2012 and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009 - 2010, 2010-2011 and 2011-2012 and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the sealed bid sale any of the properties listed on the schedule of real property or cancel the sale of any property at any time prior to closing.
9. Notice is hereby given that all sealed bid properties lie within the City of Newburgh's East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of the Purchaser to redevelop such parcel so designated in accordance with same.
10. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain

provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must obtain a Certificate of Occupancy for all buildings on the property and make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

11. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
12. The owner of the property, or his agent, shall not be permitted to bid on the property or purchase same, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens. Purchaser shall provide information necessary to complete, and shall execute, the necessary forms and documents required for recording the deed in the City of Newburgh Clerk's Office. Offer to Purchase Form and sale cannot be assigned. Unless the City agrees in writing, the purchaser executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal.
13. The Purchaser will complete and execute the Sealed Bid Application. The approval of each bid by Resolution of the Newburgh City Council will not constitute a Contract of Sale and the City reserves the right to reject any bid and/or application prior to the closing of title and the recording of the deed.
14. All recording costs and transfer taxes shall be paid by the purchaser. **All deposits and payments must be in cash or guaranteed funds made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions.**
15. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
16. The entire purchase price and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before **December 7, 2012**. **The City is not required to send notice of acceptance to the Purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without

further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.

17. Previously defaulting parties are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this sale. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
18. If the successful bidder fails to tender such amount due by the close of business on **December 7, 2012**, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
19. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
20. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.
21. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
22. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. For properties acquired by the City by *in rem* tax foreclosure, the City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
23. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Consulting Engineer.
24. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
25. The successful purchaser on each parcel must remove any associated signage within seven (7) days after the recording of the deed.
26. By acknowledging and executing the sealed bid application, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 129 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION APPROVING THE TERMS AND CONDITIONS
OF THE AUCTION FOR THE CITY OF NEWBURGH
2012 PROPERTY AUCTION**

WHEREAS, this Council, by Resolution Nos.: 121-2012 and 122-2012, respectively, authorized a public auction of City owned properties; and

WHEREAS, such properties shall be sold pursuant to the attached Terms and Conditions of the Auction; and

WHEREAS, this Council has reviewed such Terms and Conditions of the Auction;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Terms and Conditions of the Auction, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Property Auction.

The City Manager pointed out that there is a total of twenty-nine properties on the auction. The date of the auction is October 3, 2012.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

Standard Terms of Sale For Property Purchases

PLEASE NOTE SOME TERMS ARE SPECIFIC FOR AN AUCTION PROCESS
AND MAY NOT BE APPLICABLE

27. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
28. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
29. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009 - 2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
30. The properties are sold subject to unpaid school taxes for the tax years of 2009 - 2010, 2010-2011 and 2011-2012 and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009 - 2010, 2010-2011 and 2011-2012 and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
31. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
32. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
33. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
34. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the sealed bid sale any of the properties listed on the schedule of real property or cancel the sale of any property at any time prior to closing.
35. Notice is hereby given that all sealed bid properties lie within the City of Newburgh's East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of the Purchaser to redevelop such parcel so designated in accordance with same.
36. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain

provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must obtain a Certificate of Occupancy for all buildings on the property and make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

37. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
38. The owner of the property, or his agent, shall not be permitted to bid on the property or purchase same, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens. Purchaser shall provide information necessary to complete, and shall execute, the necessary forms and documents required for recording the deed in the City of Newburgh Clerk's Office. Offer to Purchase Form and sale cannot be assigned. Unless the City agrees in writing, the purchaser executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal.
39. The Purchaser will complete and execute the Sealed Bid Application. The approval of each bid by Resolution of the Newburgh City Council will not constitute a Contract of Sale and the City reserves the right to reject any bid and/or application prior to the closing of title and the recording of the deed.
40. All recording costs and transfer taxes shall be paid by the purchaser. **All deposits and payments must be in cash or guaranteed funds made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions.**
41. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
42. The entire purchase price and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before **December 7, 2012**. **The City is not required to send notice of acceptance to the Purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without

further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.

43. Previously defaulting parties are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this sale. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
44. If the successful bidder fails to tender such amount due by the close of business on **December 7, 2012**, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
45. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
46. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.
47. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
48. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. For properties acquired by the City by *in rem* tax foreclosure, the City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
49. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Consulting Engineer.
50. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
51. The successful purchaser on each parcel must remove any associated signage within seven (7) days after the recording of the deed.
52. By acknowledging and executing the sealed bid application, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

Terms and Conditions of the Auction
DATE: October 3, 2012
TIME: 11:00 A.M.
LOCATION: Homewood Suites
Newburgh N.Y. 12550

STANDARD TERMS:

53. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and most of all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture, except for these properties not acquired by in rem tax foreclosure as follows: 33 City Terrace, Section 29, Block 4, Lot 16 and 251 Third Street, Section 22, Block 1, Lot 17.
54. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
55. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009-2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
56. The properties are sold subject to unpaid school taxes for the tax years of 2009-2010, 2010-2011 and 2011-2012, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009-2010, 2010-2011 and 2011-2012, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
57. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.**

For all properties other than 16 William Street, the deed will contain provisions stating that the purchaser is required to either: a) both obtain a building permit within twelve (12) months of the date of the deed and to rehabilitate any existing building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed, or b) complete demolition of such building within twelve (12) months of the date of the deed. Within such eighteen (18) month rehabilitation period, the purchaser must either: i) obtain a Certificate of Occupancy for all buildings on the property, or ii) make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall also require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month

period. The deed shall also require that the property may not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued for rehabilitation of the building or demolition of the building is completed. Failure to comply with any of the requirements in the deed shall cause the title to the property to revert to the City of Newburgh. A written request made to the City Manager for an extension of the twelve (12) month building permit period or the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to obtain a building permit or rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

For 16 William Street, a Certificate of Appropriateness has been issued by the Architectural Review Commission to permit demolition of the existing building located thereon. The deed to such property shall require that demolition of such building be completed within six (6) months of the deed, and shall also provide that the property may not be conveyed to any other person before demolition of the building is completed; otherwise, title shall revert to the City of Newburgh.

58. A property with no existing building and which is substandard in size under zoning, purchased by an adjoining property owner must be merged with the adjoining property at title closing.
59. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. THE CITY, THE AUCTIONEER, AND THE BROKER MAKE NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.
60. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the auction any of the properties listed on the schedule of real property.
61. Notice is hereby given that the properties identified as 61 Campbell Street, Section 23, Block 7, Lot 4; 87 Carson Avenue, Section 45, Block 8, Lot 10; 22 City Terrace, Section 29, Block 5, Lot 27; 33 City Terrace, Section 29, Block 4, Lot 16; 330 Liberty Street, Section 12, Block 1, Lot 16; 374 Liberty Street, Section 10, Block 1, Lot 31; 163 S. William Street, Section 45, Block 2, Lot 2; 162 South Street, Section 11, Block 3, Lot 21; 81 South Street, Section 19, Block 1, Lot 5; 251 Third Street, Section 22, Block 1, Lot 17; 16 William Street, Section 35, Block 3, Lot 14; 50 William Street, Section 38, Block 2, Lot 36; 122 William Street, Section 44, Block 3, Lot 17; 79 William Street, Section 39, Block 2, Lot 23; 85 William Street, Section 39, Block 2, Lot 21; and 87 William Street, Section 39, Block 2, Lot 20 lie within the East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of any bidder to redevelop such parcel so designated in accordance with same. In addition to the foregoing, 16 William Street has been issued a Certificate of Appropriateness by the Architectural Review Commission to permit demolition of the existing building located thereon.
62. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
63. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.

64. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receipt of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.

AT THE AUCTION

65. All bidders are required to register and provide suitable personal identification, such as a driver's license and passport, at registration. Auctioneer reserves the right to decline registration if identification is not sufficient. Individuals, other than lawyers, acting on behalf of others, not in attendance at the auction, must produce a "Power of Attorney" duly executed and notarized. Incorporated entities, (Inc. , Corp., LLC, etc.) are required to provide a corporate resolution with a corporate seal affixed where applicable, authorizing the purchase of real property, prior to the transfer of title, and are encouraged to provide same at registration,
66. All bidders are required to use the bidder number issued to them for all purposes associated with the auction. A bidder may not bid on behalf of a party who is on the prohibited bidder list. A party will be added to such list if he has defaulted in payment of a purchase price or taxes following a purchase. Previously defaulting parties are not allowed to bid.
67. The former owner of the property, or his agent, shall not be permitted to bid on the property or purchase same at the public auction, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens.
68. The auctioneer's decision regarding any disputes is final, and the auctioneer reserves the right to reject any bid that is not an appreciable advancement over the preceding bid.
69. The Successful Bidder will execute an Offer to Purchase form at the auction for each property he/she is the successful bidder on. The approval of each bid by Resolution of the Newburgh City Council will bind the bidder only and will not constitute a Contract of Sale and the City reserves the right to reject any bid prior to the closing of title and the recording of the deed.
70. The Successful Bidder shall provide information necessary to complete and shall execute the necessary forms and documents required for recording the deed in the Orange County Clerk's Office. The bidder executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid, unless the City agrees in writing. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal, or unless the bidder is a lawyer.
71. The Successful Bidder shall be responsible for the payment of an eleven percent (11%) buyer's premium (1% buyer's premium discount for cash and other guaranteed funds) in addition to the accepted purchase price, an advertising fee of 1.5% of the bid price, and the closing fees/costs. The "buyer's premium" is the fee/commission earned by the auctioneer. Accepted purchase price is the amount of the bid by the highest bidder, which has been approved by the Newburgh City Council.
72. All required deposits must be paid in full for all successful bids immediately upon being declared the successful bidder. Any successful bidder, who fails to tender the deposit, will be forbidden to participate in this or any other auction. Any parcels which the City did not

receive deposits for, per these terms and conditions, will be considered to be defaulted, and the bidder will be disqualified from further bidding. Furthermore, upon a default in payment for any one parcel, either during the auction or subsequent thereto, the bidder shall not be permitted to purchase any other parcel(s) bid on, and any deposit monies paid thereon will be forfeited to the City. Additionally, if a declared high bidder at the auction leaves the auction without making the required down payment, he/she will be prohibited from participating at future auctions held by NYSAuctions.com, Haroff Auction & Realty, Inc., Absolute Auctions & Realty, Inc., and the City of Newburgh reserves the right to take legal action against this high bidder.

73. The terms "bidder", "highest bidder" and "successful bidder" shall all have the same meaning.
74. \$1,000.00 or 20% of the total contract price (total contract price is the combination of the high bid and the buyer's premium, as defined in Section 23 of these terms and conditions), whichever is higher, shall be paid as a down payment on the day of the auction upon execution of an Offer to Purchase Form. Total contract prices selling for less than \$1,000.00 must be paid in full at auction, including all closing costs will be paid with the down payment on the day of the auction for each parcel; to wit; (a) New York State Transfer Tax [\$2.00 for each \$500.00 of the purchase/bid price]; (b) Filing Fee for the Real Property Transfer Report [\$125.00 for residential and \$250 for commercial]; (c) Filing Fee for combined Gains Transfer Tax Affidavit [\$5.00]; and (d) all fees required by the Orange County Clerk for recording of the deed [\$40.00 to record one page deed; \$5.00 for each additional page; and \$.50 for any cross reference]. *Closing costs may be subject to an increase in fees as required by law, without notice.* All recording costs and transfer taxes shall be paid by the purchaser. **All deposits must be made in credit/debit card (Master Card or VISA), cash or guaranteed funds (bank checks/tellers checks/cashiers check) made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions. Wire transfers will not be accepted. The City Comptroller may refund overage of a deposit made in excess of the total contract price plus closing costs/fees once the funds have cleared, or apply said sum to the balance owing on the purchase price.**

AFTER THE AUCTION

75. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
76. The entire balance of the accepted purchase price, the buyer's premium as defined in Section 19 of these terms and conditions, and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before December 3, 2012. *The City of Newburgh does not accept credit card payments for the balance of the purchase price, buyer's premium and closing costs/fees after the date of the auction.* **The City is not required to send notice of acceptance or any other notice to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
77. Previously defaulting parties from prior auctions or other sales of city property are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this auction. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.

78. If the successful bidder fails to tender such amount due by the close of business on December 3, 2012, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
79. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
80. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty arising from this sale.
81. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
82. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
83. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
84. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
85. The successful purchaser on each auction parcel must remove the auction sign within seven (7) days after the recording of the deed.
86. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 130-2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO WILLIAM ROSE
TO THE PREMISES KNOWN AS 3 MARNE AVENUE
(SECTION 7, BLOCK 7, LOT 8.1)**

WHEREAS, on January 6, 2012, the City of Newburgh conveyed property located at 3 Marne Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 7, Block 7, Lot 8.1, to William Rose; and

WHEREAS, Mr. Rose has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4 and 5 of the aforementioned deed.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 3 Marne Avenue, Section 7, Block 7, Lot 8.1, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated January 6, 2012, from the CITY OF NEWBURGH to WILLIAM ROSE, recorded in the Orange County Clerk's Office on January 17, 2012, in Liber 13273 of Deeds at Page 0477 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2012

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

On the _____ day of August in the year 2012, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 131-2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO JCL MEDIA, INC.
TO THE PREMISES KNOWN AS 65 LIBERTY STREET
(SECTION 39, BLOCK 5, LOT 15.1) AND 65 LIBERTY STREET REAR
(SECTION 39, BLOCK 5, LOT 15.2)**

WHEREAS, on June 8, 2006, the City of Newburgh conveyed property located at 65 Liberty Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.1 and 65 Liberty Street Rear, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.2, to JCL Media, Inc.; and

WHEREAS, on November 23, 2010, the City of Newburgh issued a correction deed to JCL Media, Inc. for the sole purpose of amending the use to allow commercial use on the ground floor, and residential use on the second and third floors of the Premises identified as 65 Liberty Street as provided for in covenant number one (1); and

WHEREAS, JCL Media, Inc., by their attorney, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5 and 6 of the aforementioned deed.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 132 - 2012

OF

AUGUST 13, 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF SECTIONS 300-26 AND 300-80 OF THE ZONING ORDINANCE OF THE CITY OF NEWBURGH AND SECTION 158-2, "ACTIONS REQUIRING AND NOT REQUIRING ENVIRONMENTAL IMPACT STATEMENTS" OF THE CODE OF ORDINANCES, DECLARING THE PROJECT TO BE AN UNLISTED ACTION, CONSIDERING AN ENVIRONMENTAL ASSESSMENT FORM(EAF), REFERRING SAME TO THE ORANGE COUNTY PLANNING DEPARTMENT AS REQUIRED BY SECTION 239 OF THE GENERAL MUNICIPAL LAWS AND SCHEDULING A PUBLIC HEARING

WHEREAS, by Resolution No. 87-2012 of June 18, 2012, the City Council of the City of Newburgh accepted and authorized the City Manager to take other steps necessary and appropriate to implement the recommendations in the Streamlining Newburgh's Land Use Process report and recommendations; and

WHEREAS, in furtherance of the City's goal to streamline its land use process, the City is proposing to adopt an amendments to Chapter 158 and Chapter 300 of the Code of Ordinances, as follows:

1. Section 158-2: to eliminate the requirement for an environmental impact statement for actions which do not exceed certain thresholds set forth in New York State regulations;
2. Section 300-26: to eliminate the requirement of a certificate of appropriateness for certain activities within the City's historic and architectural design districts; and
3. Section 300-80: to eliminate the Architectural Review Commission advisory opinion to the Zoning Board of Appeals for applications for variances within the City's historic and architectural design districts; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the action to be an Unlisted action, proposes to accept as complete an Environmental Assessment Form ("EAF"), refer the proposed ordinance to the Orange County Planning Department pursuant to

General Municipal Law Section 239, and schedule a public hearing in connection with the proposed legislation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. That the City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6; and
2. Classifies the action as an Unlisted Action; and
3. Proposes to accept as complete the Environmental Assessment Form (“EAF”) attached hereto;
4. Refers the proposed Ordinance to the Orange County Planning Department as required by General Municipal Law Section 239; and
1. Schedules a public hearing to receive comments concerning “A Local Law Amending Article 158 Entitled ‘Environmental Quality Review’, Section 158-2, ‘Actions Requiring and Not Requiring Environmental Impact Statements’ of the Code of Ordinances of the City of Newburgh” and “An Ordinance to Amend Chapter 300 entitled “Zoning” of the Code of Ordinances of the City of Newburgh to Exempt Certain Activities from Requiring a Certificate of Appropriateness from the Architectural Review Commission and to Eliminate the Architectural Review Commission Advisory Opinion in Applications for Variances within in the Historic or Architectural Design Districts to the Zoning Board of Appeals”; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 10th day of September, 2012, at the Activity Center, 401 Washington Street, Newburgh, New York.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 133 - 2012

OF

AUGUST 13, 2012

**RESOLUTION AMENDING RESOLUTION NO: 238-2011,
THE 2012 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$53,280.00 FROM POLICE SALARY TO POLICE OVERTIME
TO PROVIDE FOR POLICE OVERTIME OVERAGE**

BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended as follows:

<u>Increase</u>	<u>Decrease</u>
A.3120 Police Department 0101 Salary	\$53,280.00
A.3120 Police Department \$53,280.00 0103 Overtime	

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 134 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION TO AUTHORIZE THE AWARD OF A BID AND
THE EXECUTION OF A CONTRACT WITH PEAK POWER SYSTEMS, INC.
FOR TO MANUFACTURE A BACK UP GENERATOR FOR THE WASTE WATER
TREATMENT PLANT AT A BASE BID COST OF \$131,599.00**

WHEREAS, the City of Newburgh has duly advertised for bids for the Waste Water Treatment Plant back-up generator; and

WHEREAS, bids have been duly received and opened and Peak Power Systems, Inc., is the low bidder; and

WHEREAS, funding for such project shall be derived from HG1.8130.0200.8100;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the Waste Water Treatment Plant back-up generator be and it hereby is awarded to Peak Power Systems, Inc., for the base bid amount of \$131,599.00, and that the City Manager be and he is hereby authorized to enter into a contract for such work in this amount.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 135 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A CONTRACT WITH TAM ENTERPRISES, INC.
AND AMENDING RESOLUTION NO: 238-2011, THE 2012 BUDGET
FOR THE CITY OF NEWBURGH, NEW YORK
FOR THE SOUTH INTERCEPTOR SEWER MAIN REPAIR**

WHEREAS, the South Interceptor Trunk Sewer conveys sewer flows from the City of Newburgh's Combined Sewer System to the City's Waste Water Treatment Facility; and

WHEREAS, the sewer flows transmitted via this pipe constitute approximately sixty (60%) percent of the City's daily sewer flows; and

WHEREAS, approximately 120 linear feet of 52" brick sewer main completely collapsed allowing the discharge of raw sewage to the adjacent Quassaick Creek; and

WHEREAS, the discharge of raw sewage waste is a threat to the health and safety of the City's residents as well as an environmental threat to the Hudson River;

WHEREAS, these discharges could subject the City to violations of its New York State SPDES Permit which regulates the treatment and discharge of the City's sanitary and storm waste; and

WHEREAS, City Charter Section C5.12, entitled "Public emergencies," provides in sum that "In case of public emergency such as conflagration, riot, storm,...the City Manager shall also have the power to summon, deputize and otherwise employ such other persons as he may deem necessary for the purpose of rendering protection to the citizens and the City of Newburgh..."; and

WHEREAS, TAM Enterprises, Inc. has preformed the necessary work to repair the South Interceptor Sewer Main;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby declares that the raw sewage discharge creates an emergency condition under Section 103(4) of the New York State General Municipal Law; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to execute a contract with a TAM Enterprises, Inc. for the South Interceptor Sewer Repair in an amount not to exceed \$850,000.00 which currently threatens the health and safety of the City's residents; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended as follows:

<u>Increase</u>		<u>Decrease</u>
Sewer Fund		
Fund Balance		
	G.0000.0911	\$850,000.00
Sewer Fund		
Equipment/Infrastructure		
	G.8120.0200	
\$850,000.00		

Councilman Brown wanted to clarify the cost.

The City Manager explained that the transfer amount is \$850K from the Sewer Fund. He pointed out that the funds are available.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 136-2012

OF

AUGUST 13, 2012

A RESOLUTION SUPPORTING THE PURSUIT OF INTERMUNICIPAL
AGREEMENTS FOR THE DESIGN AND CONSTRUCTION OF
INFRASTRUCTURE

WHEREAS, by Resolution No. 263-2010 of November 22, 2012, the City Council of the City of Newburgh authorized participation in a joint grant application with the Orange County Water Authority and the Towns Newburgh and New Windsor seeking funding for a regional water project and declared its intention to enter into inter-municipal agreements in connection with the project;

WHEREAS, Article 5-G of the General Municipal Law authorizes municipal corporations to enter into agreements for the performance among themselves on a cooperative or contract basis for the provision of joint services, including, but not limited to, joint water projects and any other municipal service, activity, project or undertaking; and

WHEREAS, the New York City Department of Environmental Protection (NYCDEP), the County of Orange, the Orange County Water Authority (OCWA), the City of Newburgh, the Town of Newburgh, and, the Town of New Windsor, (the "Municipalities") have an interest in water interconnections; and

WHEREAS, the municipalities recognize and appreciate the need to develop a safe, reliable and adequate water supply to serve the inhabitants of the Northeast Orange County region now and for the foreseeable future; and

WHEREAS, the Municipalities through their technical meetings have identified the priority water interconnection projects as:

1. Installation of approximately 7500 linear feet of water main from the City of Newburgh's Water Treatment Plant (WTP) to the Town of Newburgh's distribution system;

2. Installation of approximately 5600 linear feet of water main from the City of Newburgh's WTP to the Town of New Windsor's distribution system;
3. The construction of a pump station or stations necessary to supply said interconnections;
4. An evaluation of the City of Newburgh's water treatment plant's associated operating costs that will result from the implementation of the priority interconnection projects; and

WHEREAS, the OCWA has secured a grant from the State of New York to implement the priority projects; and

WHEREAS, the County of Orange is negotiating with the NYCDEP to enter into an Intergovernmental Agreement to provide the funds to design and build the priority projects;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby:

1. Supports the implementation of the grant procured by the OCWA and authorizes the City Manager to identify a representative who will attend project working group meetings, as well as share data, documents, and drawings with the consultants implementing the grant, and
2. Will work with the other Municipalities to enter inter-municipal agreements detailing the price, terms and conditions of water sharing by December 31, 2012, and
3. Supports the efforts of the County of Orange in advancing

the design of the priority interconnection projects and securing funds from the NYCDEP to design and build the priority projects.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 137 - 2011

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT \$100,000.00 FROM THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT TO FUND THE SALARY AND BENEFITS OF ONE POLICE OFFICER TO BE HIRED TO BACKFILL POLICE DEPARTMENT PERSONNEL CURRENTLY SERVING IN THE CITY'S SECONDARY SCHOOL AS A COMMUNITY RESOURCE OFFICER

WHEREAS, the City of Newburgh and the Board of Education of the Newburgh Enlarged City School District ("NECSD") have agreed to establish the position of Community Resource Officer ("CRO") to be filled by a police officer from the City of Newburgh Police Department at Newburgh Free Academy; and

WHEREAS, the NECSD has offered to reimburse the City for this CRO at the rate of \$100,000.00 so as to continue to have the CRO stationed at Newburgh Free Academy within the City of Newburgh; and

WHEREAS, this Council has determined that accepting such funds is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept funds from the NECSD in the amount of \$100,000.00 Dollars for the assignment of a City of Newburgh Police Officer as CRO in the NECSD.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

COMMUNITY RESOURCE OFFICER AGREEMENT

AGREEMENT MADE THIS _____ DAY OF _____, 2012 by and between the Board of Education of the Newburgh Enlarged City School District, having its principal place of business at 124 Grand Street, Newburgh, New York 12550 (hereinafter “the Board of Education”) and The City of Newburgh having its principal place of business at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as “the City”).

WHEREAS, the City and the Board of Education agree to establish the position of Community Resource Officer (hereinafter “CRO”), to be filled by a police officer from the City of Newburgh Police Department, at the Newburgh Free Academy; and

WHEREAS, the School Board has agreed that they will reimburse the City for its expense in participating in the CRO Program in the amount of One Hundred Thousand (\$100,000.00) Dollars for the period of September 1, 2012 through August 31, 2013 school year and, the City of Newburgh Police Department will assign one officer, at the school specified above, each day that school is open for the hours of 7:30 a.m. – 3:30 p.m. during the school year and during the summer months on such days and times that summer school or the extended year program is being held in the buildings, on the terms and conditions set forth herein;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The School Board and the City of Newburgh by and through the City of Newburgh Police Department have established the following goals and objectives with regard to the CRO Program in the Schools: (a) to maintain a safe campus environment that will be conducive to learning, (b) to create a relationship based upon cooperation and mutual support between law enforcement and school officials; (c) to improve relationships between law enforcement, school, community and the youth of the school; (d) for Police Department officers and command to serve as consultants to school staff, parents, and youth on safety matters and any other matters which will provide a better environment for the students and the teachers in which to pursue their respective tasks; (e) for police officers to serve as role models to students; (f) to provide a continuum of youth services between the school and the community with the support of the Police Department and other City staff and agencies.
2. The City agrees that with the City of Newburgh Police Department shall provide one officer as CROs during the term of this agreement. The CROs shall be subject to the administration, supervision and control of the City of Newburgh Police Department at all times as well as the School Board’s

policies, regulations and procedures when performing functions at the District's schools; unless otherwise provided in this agreement.

3. The officers assigned as the CROs' will be selected by the Chief of Police based upon the Police Chief's judgment and discretion, taking into consideration among other criteria the officer's training, qualifications, experience, interest in the position and the officer's ability to effectuate the goals and objectives set forth in paragraph 1.
4. The Board of Education shall have the right to request the removal of any CRO and have an officer substituted in his or her place by communicating such request to the Chief of Police at any time during the school year, which request will not be unreasonably denied.
5. The City of Newburgh agrees to provide and pay the CROs' salaries and employment benefits in accordance with the current Newburgh PBA contract.
6. It is understood and agreed that the City of Newburgh Police Department, in its sole discretion, shall have the authority to discharge and discipline an officer assigned as a CRO as provided under the terms of any agreement between the City of Newburgh and the applicable collective bargaining unit, and/or by law. The City shall indemnify and hold harmless the Newburgh Enlarged City School District from any claims, suits, or causes of action arising out of allegations of unfair or unlawful employment practice brought by an officer assigned as a CRO.
7. The following named police officer shall be initially assigned by the Chief of Police of the City of Newburgh Police Department to act as CRO's as follows:

Newburgh Free Academy - Officer Thomas Gleeson

It is understood that such assignments may be changed by the Chief of Police or other commanding officers as in their judgment circumstances may require.

8. It is understood and agreed that the Board of Education shall not be responsible for any overtime pay earned by an Officer serving as a CRO in connection with his or her duties as a CRO and that the cost of same shall be borne solely by the City of Newburgh. The entire extent of the obligation of the School District to compensate the City for CRO services

as provided herein shall be as provided hereinabove.

9. It is understood and agreed that, should a CRO be unable to perform his or her duties as a result of illness or injury or other reason causing the CRO to be absent from work, the City of Newburgh Police Department shall assign another officer to fill the CRO position at the affected building on each such day.
10. It is understood and agreed that the CROs to be appointed by the City of Newburgh Police Department shall have the following qualifications:
 - (a) The CRO shall be a full time police officer with a minimum of two (2) years of law enforcement experience;
 - (b) The CRO shall possess sufficient knowledge of applicable Federal, State and County laws and Town ordinances as well as the School Board's policies and regulations;
 - (c) The CRO shall be capable of conducting in depth criminal investigations;
 - (d) The CRO shall possess an even temperament and set a good example for students;
 - (e) The CRO shall possess good communication skills, which would enable the CRO to function effectively within the school environment.
11. The following are the duties of the CRO:
 - (a) Consult with and coordinate activities as requested by a school principal;
 - (b) Abide by School Board policies to the extent that such compliance does not interfere with or impede the CRO in the performance of his or her duties as a law enforcement officer;
 - (c) The CRO shall develop an expertise in presenting various subjects; including in meeting Federal and State mandates in drug abuse prevention education and shall provide these presentations at the request of school personnel in accordance with the established curriculum;
 - (d) Encourage group discussions about law enforcement with students,

faculty and parents;

- (e) Under no circumstances shall a CRO be a school disciplinarian. The CRO will not be involved in the enforcement of disciplinary infractions that do not constitute violations of law;
- (f) Attend meetings with parents and faculty groups to solicit their support and understanding of the CRO school program and to promote awareness of law enforcement functions;
- (g) Where possible, serve as a member of the school student services committee, familiarizing students with all community agencies which offer assistance to youths and their families such as mental health clinics, drug treatment centers, etc. Where necessary, the CRO may make recommendations for referrals;
- (h) To confer with the principal of the school to which the CRO is assigned to develop plans and strategies to prevent and/or minimize dangerous situations on or near campus or involving students at school related activities;
- (i) Perform such duties as determined and requested by a given school principal. However, such duties shall not include things normally assigned to school personnel such as lunchroom or hall duty. Nothing herein shall preclude the CRO from being available in areas where interaction with students is expected;
- (j) The CRO shall familiarize himself/herself with and shall abide by School Board policy and applicable law concerning interviews with students should it become necessary to conduct formal law enforcement interviews with students or staff on school property or at school functions under the jurisdiction of the School Board insofar as same shall be in harmony with standard police practices and standing general orders;
- (k) Initiate law enforcement action as necessary and notify the school principal as soon as possible, and, whenever practicable advise the principal before requesting additional law enforcement assistance on campus and undertake all additional law enforcement responsibilities as required by standard police practices and standing general orders;
- (l) The CRO shall act as a liaison for other law enforcement officers in matters regarding School Board policies while on school grounds;

- (m) The CRO shall affirm the role of law enforcement officer by wearing the City of Newburgh Police uniform, unless doing so would be inappropriate for scheduled school activities. The uniform shall be worn at events where it will enhance the image of the CRO and his/her ability to perform his/her duties;
- (n) The CRO shall patrol and maintain a safe corridor within the ½ mile radius directly surrounding the school to which he or she is assigned, including, but not limited to, other school buildings within that radius. The CRO shall be dispatched, as available, to calls for service emanating from within such a radius related to juvenile criminal activity.

12. It is understood and agreed that while the CRO will be stationed at one of the schools within the School Board's jurisdiction, the CRO shall remain an employee of the City of Newburgh Police Department, adhering to all policies and procedures of the Police Department.

13. The CRO shall report to the Main Office at the start of each work day and shall sign in on a log provided by the school. The CRO shall sign out at the end of each work day using the same log.

- 14. It is understood and agreed that the CRO in pursuing the performance of his/her duties shall coordinate and communicate with the school principal or the principal's designee.
- 15. The City of Newburgh Police Department shall provide the appropriate in-service training for the CRO, to enable the CRO to function efficiently. The School Board may also provide training in school policies, regulations and procedures, or additional training in other matters relating to students and their safety.
- 16. The City of Newburgh Police Department shall provide a standard marked patrol vehicle for the CRO, which vehicle shall be maintained by the City of Newburgh Police Department, providing among other things, fuel, tires, etc. and all expenses associated with the operation of the vehicle including insurance. The Police Department will also provide the CRO with a service weapon and ammunition and the usual and customary office supplies and forms required in the performance of the CRO's duties as a

police officer. The CRO is authorized to carry a service weapon on school grounds.

17. Should the CRO program continue into future school years, it is understood and agreed that the School District shall evaluate annually the CRO Program and the performance of the CRO on forms to be developed jointly by the parties to this Agreement. Such evaluation by the School Board and the City of Newburgh Police Department shall be performed in order to evaluate the performance of the CRO in accordance with the Department rules and regulations and also to ascertain what may be done to improve the CRO Program.
18. The City agrees to maintain at all times during the term of this Agreement a general comprehensive liability insurance policy for a minimum of a \$1,000,000 and agrees to indemnify and hold harmless the School Board and the Newburgh City School District, its agents and employees from and against any and all claims, suits or causes of actions arising from the City of Newburgh and City of Newburgh Police Department from any injuries or losses occasioned to the CRO by the negligence of the City.
19. The School Board agrees to compensate the City for services rendered in connection with the CRO Program, in the amount of \$100,000.00. Such compensation shall be paid by the School Board to the City of Newburgh monthly.
20. The terms of this agreement are for the period commencing with the provision of such services and ending on the 31st day of August, 2013.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above-written:

BOARD OF EDUCATION OF THE
NEWBURGH ENLARGED CITY SCHOOL
DISTRICT

DAWN M. FUCHECK
BOARD OF EDUCATION PRESIDENT

THE CITY OF NEWBURGH

RICHARD F. HERBEK
CITY MANAGER
CITY OF NEWBURGH

APPROVED AS TO FORM:

MICHELLE KELSON
Corporation Counsel

CHERYL GROSS
City Comptroller

RESOLUTION NO.: 138 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND WRIGHT RISK MANAGEMENT COMPANY
LLC
TO PERFORM WORKERS' COMPENSATION CLAIMS RUNOFF SERVICES

WHEREAS, the City of Newburgh wishes to enter into the annexed agreement with Wright Risk Management Company LLC; and

WHEREAS, the agreement is for providing for the Plan Manager, Wright Risk Management, to provide workers' compensation claims runoff management services for the period of January 1, 2012 to December 31, 2012; and

WHEREAS, Wright Risk Management will perform workers' compensation claims runoff services for City claims that arose prior to March 1, 2008, when the City joined the New York State Municipal Workers' Compensation Alliance; and

WHEREAS, the rate for these services is \$500.00 per Claim per year or portion thereof; and

WHEREAS, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Wright Risk Management Company LLC, in substantially the same form as annexed hereto with any other provision that Counsel may require, for providing workers' compensation claims runoff management services.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 139 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
24th ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh will hold its annual International Festival from Friday, August 31, 2012 through Monday, September 3, 2012, dates inclusive; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is \$10,000.00 available in the 2012 Festival Budget; and

WHEREAS, there is additional funding from proceeds from previous festivals available in a Trust and Agency Account; and

WHEREAS, such agreements shall not exceed the 2012 Festival Budget and the funds in the Trust and Agency Account;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into the referenced agreements in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the 24th Annual International Festival, with the net cost to the City of such agreements not to exceed the 2012 Festival Budget and the Trust and Agency Account proceeds.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 140 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND TO ACCEPT IF AWARDED A GRANT IN AN AMOUNT
NOT TO EXCEED ONE MILLION SIX HUNDRED THOUSAND DOLLARS
FROM THE DEPARTMENT OF HOMELAND SECURITY UNDER THE
STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE
PROGRAM (“SAFER”) TO PROVIDE FUNDING TO HIRE FIFTEEN (15)
FIREFIGHTERS
IN THE CITY OF NEWBURGH FIRE DEPARTMENT
WITH NO CITY MATCH REQUIRED**

WHEREAS, the City of Newburgh Fire Department has expressed an interest in applying for funds available from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response (“SAFER”) Program; and

WHEREAS, the Fire Department has proposed an application for said grant in an amount not to exceed One Million Six Hundred Thousand (\$1,600,000.00) Dollars; and

WHEREAS, said grant does not require any funding match by the City of Newburgh; and

WHEREAS, said grant, if awarded, will support the well-being and safety of our community and enhance community protection from fire; and

WHEREAS, if awarded, such funding will be used to hire fifteen (15) firefighters within the City of Newburgh Fire Department for two years; and

WHEREAS, it is deemed to be in the best interests of the City of Newburgh and its citizens to apply for and accept such grant if awarded;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute such documents and to take any necessary and appropriate actions to apply for and to accept if awarded a grant in an amount not to exceed One Million Six Hundred Thousand (\$1,600,000.00) Dollars from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response (“SAFER”) Program to provide funding to hire fifteen (15) firefighters in the City of Newburgh Fire Department with no City match required.

Fire Chief Michael Vatter, Esq., pointed out that we probably have to wait until late October, probably coinciding around Election Day. The grant comes out on a rolling basis. We have not been successful on the last go-round. Roughly 20,000-30,000 cities around the country have applied.

Councilwoman Angelo stated that perhaps we will be lucky this time around.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 141 -2012

OF

AUGUST 13, 2012

**RESOLUTION APPROVING ADDITIONAL BENEFITS PROVIDED FOR
IN SECTION 242 OF THE MILITARY LAW
FOR WATER DEPARTMENT SUPERINTENDENT JEFFREY WYNANS
WHILE SERVING ACTIVE DUTY IN THE MILITARY
EFFECTIVE ON OR ABOUT AUGUST 16, 2012**

WHEREAS, certain employees serving in the military reserve have been or are liable to be called to active duty as a result of the ongoing conflicts overseas to defend American freedom and protect our people from their declared enemies, and will continue to be required to interrupt regular City employment; and

WHEREAS, the City Council of the City of Newburgh wishes to grant certain additional benefits to such employees;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Water Department Superintendent Jeffrey Wynans shall be entitled to receive the following benefits:

- a) Employees who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days for any one continuous period of absence;
- b) Employees who have exhausted their entitlement to the paid leave set forth in paragraph (a) above shall be entitled to military leave at a rate of pay equal to the Employee's rate of pay pursuant to the Non-Bargaining Unit Benefits Plan less the compensation received by the Employee as a result of his active duty. The Employee shall provide the city with an "enlisted pay chart" establishing the applicable military rate of pay;
- c) Employee shall receive the same individual or family health insurance benefits provided, as received by such employee prior to his date of activation;

- d) Employees shall accrue sick leave, personal time and vacation leave at the rate set forth in the Non-Bargaining Unit Benefits Plan during the period they receive benefits pursuant to this Memorandum.
- e) The benefits provided for herein shall be in effect from August 16, 2012 to and including August 16, 2013. The term of this benefit may be extended by resolution in the event that the Employee's active duty status extends beyond August 16, 2013; and

BE IT FURTHER RESOLVED, that the Council of the City of Newburgh hereby extends its esteem, gratitude, appreciation and admiration to Jeffrey Wynans and all others called to active duty on behalf of this Country.

Councilwoman Angelo remarked that our prayers are with him.

The City Manager pointed out that Jeff's last day of work is Wednesday. He is flying to Texas on Sunday for training, prior to his deployment to Afghanistan.

Councilwoman Lee wished him well and a safe return. She thanked him for serving our country.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 142 -2012

OF

AUGUST 13, 2012

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
WITH THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836,
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFL-CIO
TO PROVIDE FOR ADDITIONAL BENEFITS PROVIDED FOR
IN SECTION 242 OF THE MILITARY LAW
FOR ASSISTANT MAINTENANCE MECHANIC RICHARD SMITH
WHILE SERVING ACTIVE DUTY IN THE MILITARY
EFFECTIVE ON OR ABOUT AUGUST 16, 2012**

WHEREAS, the City of Newburgh and the City of Newburgh Unit, Orange County Local 836, Civil Service Employees Association, Inc., Local 1000, (hereinafter “the Union”), are parties to a collective bargaining agreement; and

WHEREAS, certain members of the Union serving in the military reserve have been or are liable to be called to active duty as a result of the ongoing conflicts overseas to defend American freedom and protect our people from their declared enemies, and will continue to be required to interrupt regular City employment; and

WHEREAS, the City Council of the City of Newburgh wishes to grant certain additional benefits to such employees; and

WHEREAS, the City Council has reviewed the terms of the Memorandum of Understanding, a copy of which is annexed hereto, and has consulted with the representatives of the City, who have recommended that the City Council approve the agreement;

NOW, THEREFORE, BE IT

RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute on behalf of the City of Newburgh, the Memorandum of Understanding annexed hereto, or in substantially the same form; and be it further

RESOLVED, that the Council of the City of Newburgh hereby extends its esteem, gratitude, appreciation and admiration to every member of the Union and all others called to active duty on behalf of this Country.

MEMORANDUM OF UNDERSTANDING

**BETWEEN
THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836, CIVIL
SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000,
AND
THE CITY OF NEWBURGH**

WHEREAS, the **CITY OF NEWBURGH (CITY)** and **THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836, CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000**, are desirous of entering into an agreement between the parties to provide for extended military benefits for members who are military reservists and are federally activated to military duty as of the result of the events of September 11, 2001 and the ongoing conflicts overseas beyond the benefits mandated by New York State Military Law.

IT IS HEREBY UNDERSTOOD AND AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Members of the CSEA ordered to active military duty (including ordered service in the reserve force) as a result of the events of September 11, 2001, and the ongoing conflicts overseas, shall be entitled to receive the following benefits:
 - e) Members who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days for any one continuous period of absence;
 - f) Members who have exhausted their entitlement to the paid leave set forth in paragraph (a) above shall be entitled to military leave at a rate of pay equal to the Member's rate of pay pursuant to the Collective Bargaining Agreement less the compensation received by the Member as a result of his or her active duty. The Member shall provide the city with an "enlisted pay chart" establishing the applicable military rate of pay.;
 - g) Members shall receive the same individual or family health insurance benefits provided pursuant to the Collective Bargaining Agreement, as received by such members prior to their date of activation;
 - h) Members shall accrue sick leave, personal time and vacation leave at the rate set forth in the Collective Bargaining Agreement during the period they receive benefits pursuant to this Memorandum.

2. The benefits provided in paragraph 1 of this Memorandum shall be in effect from August 16, 2012 to and including August 16, 2013. The terms of this Memorandum may be extended by resolution in the event that the Member's active duty status extends beyond August 16, 2013.

3. The parties agree and acknowledge that this agreement shall not establish any past practice or precedent for members called for active military duty for any reason other than the events of September 11, 2001, and currently ongoing overseas conflicts in Iraq, Afghanistan and related areas.

Dated: August _____, 2012
Newburgh, New York

AGREED TO:

CITY OF NEWBURGH

By: _____
Richard F. Herbek, City Manager

THE CITY OF NEWBURGH UNIT,
ORANGE COUNTY LOCAL 836,
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
LOCAL 1000,

By: _____
James Smith, President

The City Manager pointed out that Smith's unit is being deployed to Afghanistan too.

The council wished him well and a safe return.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 143 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION MEMORIALIZING THE SUPPORT AND CONTINUATION
OF THE PROPERTY PROPOSAL SUBMITTED BY THE CITY OF
NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY IN CONNECTION
WITH THE HUDSON VALLEY LIGHTING PROJECT**

WHEREAS, the City of Newburgh Industrial Development Agency (“IDA”) has presented a proposal to this Council for the exchange of real property ultimately to be the site for Hudson Valley Lighting; and

WHEREAS, this Council is in general agreement of such exchange of real property; and

WHEREAS, the IDA will assume all liability and responsibility for necessary and required environmental clean-up of such properties; and

WHEREAS, the IDA agrees to defend, indemnify and hold the City of Newburgh harmless against any claims, actions and proceedings brought against IDA due to the negligence of IDA, in connection with and/or relating to IDA’s use of the premises; and

WHEREAS, the IDA shall be responsible for the hiring of a licensed surveyor to prepare meets and bounds descriptions for the proposed properties and to pay for such services; and

NOW, THEREFORE, BE IT RESOLVED, that this Council of the City of Newburgh, New York, hereby memorializes its support of and the continuation of the property proposal submitted by the City of Newburgh Industrial Development Agency in connection with the Hudson Valley Lighting Project; and

BE IT FURTHER RESOLVED, by this Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to negotiate on behalf of the City of Newburgh a land transfer agreement and that such land transfer agreement shall be brought back to this Council for its further consideration.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Mayor Kennedy-3

Noes- Councilman Dillard, Councilwoman Lee-2

ADOPTED

RESOLUTION NO.: 144- 2012

OF

AUGUST 13, 2012

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF
JEAN-CLAUDE FRANCOIS AGAINST THE CITY OF NEWBURGH
IN THE AMOUNT OF THIRTY-EIGHT THOUSAND DOLLARS

WHEREAS, Jean-Claude Francois brought an action against the City of Newburgh; and

WHEREAS, the plaintiff and the City of Newburgh have reached an agreement for the payment of the settlement in the amount of Thirty-eight Thousand (\$38,000.00) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the plaintiff and the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Jean-Claude Francois against the City of Newburgh in the total amount of Thirty-eight Thousand (\$38,000.00) Dollars and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 145-2012

OF

AUGUST 13, 2012

**A RESOLUTION ACCEPTING NINETY THOUSAND DOLLARS FROM
THE GREATER HUDSON VALLEY FAMILY HEALTH CENTER
IN FULL SATISFACTION OF THE AMOUNTS DUE TO
THE CITY OF NEWBURGH AND AUTHORIZING THE CITY MANAGER
TO EXECUTE A SATISFACTION OF JUDGMENT**

WHEREAS, the City of Newburgh and the City of Newburgh Community Development Agency commenced an action on June 8, 2000 to recover money damages in connection with a loan made to Family Health Center of Newburgh, Inc.; and

WHEREAS, the City of Newburgh recovered a total judgment against Family Health Center of Newburgh, Inc. for the sum of \$278,186.51, which was entered in the action on September 18, 2006, in the Supreme Court of the State of New York, County of Orange and docketed on November 2, 2006 in the office of the Clerk of the County of Orange; and

WHEREAS, The Greater Hudson Valley Family Health Center, Inc. (GHVFHC), f/k/a Family Health Center of Newburgh, Inc., has made 6 equal annual payments of \$27,818.65 for a total amount of \$166,911.90 to the City in connection with said judgment; and

WHEREAS, a total of \$111,274.61, in 4 annual installments of \$27,818.65, remains due to the City under said judgment and GHVFHC now proposes to pay to the City \$90,000.00 in a single lump-sum payment to satisfy said judgment in full; and

WHEREAS, the City Council of the City of Newburgh has determined that accepting a lump sum payment in the amount of \$90,000.00 in full satisfaction of the judgment is in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to accept \$90,000.00 in a single lump-sum payment from GHVFMC and to execute a satisfaction of judgment releasing the lien held by the City of Newburgh.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 146 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH
DAILY ORGANIZED MULTI-ACTIVITY EVENTS, LLC TO ALLOW THEM
ACCESS TO ATHLETIC FIELDS, BASKETBALL COURTS AND
ACTIVITY CENTER LOCATED IN DELANO-HITCH RECREATION PARK
FOR THE PURPOSE OF USING SAID PROPERTY
FOR THE ORGANIZATION AND ADMINISTRATION OF SPORTS AND
RECREATIONAL ACTIVITIES**

WHEREAS, Daily Organized Multi-activity Events, LLC wishes to enter onto City-owned property for the purpose of using said property for the organization and administration of sports and recreational activities; and

WHEREAS, such access to the property requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement, in substantially the same form annexed hereto with such other terms and conditions as required by the Corporation Counsel, with Daily Organized Multi-activity Events, LLC to allow them access to athletic fields, basketball courts and Activity Center located in Delano-Hitch Recreation Park for the purpose of using said property for the organization and administration of sports and recreational activities.

Councilwoman Lee stated that we still do not have any documentation as to what the organization wants to do. She did not read the proposal itself. She only read what Corporation Counsel provided her. She asked for the insurance information.

Mayor Kennedy stated that we have an opportunity to provide youth activities. Sterling Ponder is someone who is really putting together a plan to do it.

Councilman Brown stated there were questions about the other sports organizations' use of the field.

Ponder clarified that he will only use the field when it is not in use by other organizations. So there is no overlap and no controversy.

Councilwoman Lee explained that if the organization has no insurance, then she would like to know where it is coming from. She feels that it is a legitimate question. The question should be answered before the council says *Yes*, not after it votes.

The City Manager pointed out that Article V of the agreement requires that the organization have insurance. The insurance has to be in place before the commencement of any activities.

Mayor Kennedy pointed out that this is a resolution to grant a license agreement, with the assurance that the insurance will be in place.

Michelle Kelson remarked that the agreement requires insurance. It is set up like all of the other license agreements. The proposed activities have to be submitted, along with an accompanying schedule, to the City Manager or his designee. The City retains full control of the scheduling of activities at all facilities.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2012, by and between:

THE CITY OF NEWBURGH, a municipal corporation having its principal place of business at 83 Broadway, City Hall, Newburgh, New York 12550, hereinafter called the "City"; and

DAILY ORGANIZED MULTI-ACTIVITY EVENTS, LLC, 296 Carpenter Avenue, Newburgh, New York 12550, hereinafter called "Licensee".

WITNESSETH, that the City and Licensee, for the consideration hereinafter named, agree as follows:

ARTICLE 1: Term.

This Agreement shall run from September 1, 2012 to August 31, 2014.

ARTICLE 2: Obligation of the City.

A. The City shall grant to the Licensee a revocable license to use the athletic fields, basketball courts and Activity Center located in the Delano-Hitch Recreation Park in the City of Newburgh for organization and administration of sports and recreational activities for the period of time set forth above pursuant to a written schedule to be submitted to and approved in writing by the City Manager or his designee and in accordance with all applicable rules and regulations for the use of the facilities.

B. The City shall provide field lighting and maintenance for players/participants for the organized activities in a location in the Delano-Hitch Recreation Park to be determined by the City. The City has sole authority to cancel or delay outdoor sports and/or other recreational activities due to inclement weather. The City will make reasonable attempt to notify Licensee of cancellation of such outdoor games, events or activities due to inclement weather within two (2) hours before game, activity or event is scheduled to begin.

C. The City shall have no obligation to provide personnel, uniforms, sports equipment or other supplies necessary for the sports, games and/or recreational activities organized by Licensee.

ARTICLE 3: Obligation of Licensee.

A. The Licensee shall organize and administer sports leagues, athletic games and other recreational activities at the licensed facilities. During the term of this Agreement, the

Licensee shall provide the City Manager or his designee a written schedule of all sports, games, activities and other uses of the facility for each month at least 30 days in advance and failure to do so may result in City canceling any or all such sports, game(s), activities or uses. The Licensee shall provide the City with 48 hours notice to hold a rescheduled game or activity. All games and activities must start on time except for weather delay as determined by the City. No game or activity may be scheduled to start before 8:00 a.m. or after 8:00 p.m.

B. The Licensee shall provide for all personnel, supplies and equipment necessary and proper for the sports leagues, athletic games or recreational activities as is required by their use of the licensed facilities.

C. The Licensee shall have a representative with authority over all activities present at all sports leagues, athletic games or other recreational activities at all times. The Licensee shall provide for the registration of participants and the collection of fees for all sports leagues, athletic games or other recreational activities conducted during the period of this agreement. Noise levels shall be kept at appropriate decibel levels so as not to disturb neighbors.

D. The Licensee shall, after each day of play, return the licensed facilities to the City on that same day to a clean condition free of all equipment, garbage and debris. All garbage generated shall be deposited in proper trash receptacle. The Licensee shall repair all damage incurred to the facilities during the exercise of the license at its own sole expense. Such repairs shall be performed immediately. Licensee agrees that if such damages are not promptly and completely repaired, Licensee shall remain liable for all consequences, direct and indirect, consequential and incidental, to the City resulting from the damages and from the unavailability of such facilities resulting therefrom.

E. The Licensee shall provide all necessary security and supervision of minors participating in sports leagues, athletic games, recreational activities or present as spectators during the period of this agreement. The Licensee shall be liable for any damage done to the premises by its officers, agents, servant, employees or invitees during the period of this Agreement.

F. Licensee agrees to meet with the City Manager or his designee upon the request of the City Manager during the term of this Agreement to review the Licensee's activities pursuant to its obligations under this Agreement.

G. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City Manager as soon thereafter as possible and not later than three (3) days after the date of such accident.

ARTICLE 4: Payment.

A. The Licensee shall pay to the City, as and for a fee for the use of the facilities during the period of this agreement, FIFTY (50%) PERCENT of the gross fees collected by Licensee in organizing, scheduling and administering the sports leagues, athletic games and other recreational activities. Payment shall be remitted to the City of Newburgh by the Licensee on the last calendar day of each month.

B. The Licensee shall maintain books and records to account for the collections of fees in connection with the organizing, scheduling and administering of the sports leagues, athletic games and recreational activities and shall make such books and records available for the City's review upon ten (10) days notice to review same.

C. It is expressly understood and agreed by the parties hereto that the Licensee is an independent contractor and not an employee of the City and that any persons employed, retained or engaged by the Licensee to perform the services authorized hereunder shall be employees of the Licensee and not of the City. The Licensee shall inform persons so employed, retained or engaged of these facts.

ARTICLE 5: Insurance.

A. The Licensee shall not commence any activities under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the City.

B. The Licensee shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the Licensor. Except for Workers' Compensation, the City of Newburgh shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of Licensee and not those of the Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee irrevocably waives all claims against the City of Newburgh for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 5. The provisions of insurance by Licensee shall not in any way limit Licensee's liability under this Agreement.

Type of Coverage

Limit of Coverage

Worker's Compensation	Statutory
Employer's liability or similar insurance	\$1,000,000 each occurrence
Automobile liability	\$1,000,000 aggregate
Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Comprehensive General Liability, including Broad form contractual Liability, bodily injury and property damage	\$1,000,000 each occurrence/ \$2,000,000 aggregate

Licensee shall attach to this Agreement certificates of insurance evidencing Licensee's compliance with these requirements

C. Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the City of Newburgh with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the City, directed to the City Manager and the Corporation Counsel and the City shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to Licensee. To

the extent it is commercially available, each policy of insurance shall be provided on an “occurrence” basis. If any insurance is not so commercially available on an “occurrence” basis, it shall be provided on a “claims made” basis, and all such “claims made” policies shall provide that:

1. Policy retroactive dates coincide with or precede Licensee’s start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
2. Licensee will maintain similar insurance for at least three (3) years following termination of this Agreement; and
3. If the insurance is terminated for any reason, Licensee agrees to purchase an unlimited extended reporting provision to report claims arising from the services performed under this Agreement.

ARTICLE 6: Representations of Licensee.

The Licensee represents and warrants:

- A. That it is financially solvent and that it is experienced and competent to perform the type of work or to furnish the consideration to be furnished by it; and
- B. That it is familiar with all federal, state, municipal and department laws, ordinances and regulations which may in any way affect the work or play or those employed or engaged therein. It is understood and agreed between the parties that the Licensee shall have no right to control the actions of City employees nor any duty to supervise the actions of City employees.

ARTICLE 7: Permits and Regulations.

The Licensee shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder.

ARTICLE 8: City's Right to Terminate Agreement.

- A. The City shall have the right to stop work or terminate this agreement under the following terms and conditions:
 1. The Licensee refuses or fails to perform any of its obligations under this agreement; or
 2. The Licensee fails to make prompt payment or perform work as required by this agreement; or
 3. The Licensee fails or refuses to comply with all applicable laws or ordinances; or

4. The Licensee is guilty of substantial violation of any provision of this agreement.
- B. In the event the City elects to stop work or terminate this agreement on any ground or grounds set forth in subparagraphs (1) - (4) of paragraph A, the City shall provide the Licensee with written notice, no less than fourteen (14) days prior to such stop work or termination of this agreement, of the City's intent to so stop work or terminate this agreement and the ground or grounds therefore. In the event the Licensee shall cure such ground or grounds prior to the date noticed for stop work or termination of this agreement, the City shall not stop work or terminate the agreement on such grounds.
- C. The City, at its sole discretion and, with or without cause, may, without prejudice to any other rights or remedy it may have, by fourteen (14) days notice to the Licensee, terminate the agreement with the Licensee.

ARTICLE 9: Damages.

It is hereby mutually covenanted and agreed that the relation of the Licensee to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the Licensee, its agents or employees have been negligent. The Licensee shall hold and keep the City free and discharged of and from any and all responsibility and liability of any sort or kind. The Licensee shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by Acts of God or conditions pre-existing this license. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.

ARTICLE 10: Indemnity and Save Harmless Agreement.

- A. The Licensee agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.
- B. The City agrees to indemnify and save the Licensee, its officers, agents and employees harmless from any liability imposed upon the Licensee, its officers, agents and/or employees arising from the negligence, active or passive, of the City.

ARTICLE 11: No Assignment.

In accordance with the provisions of Section 109 of the General Municipal Law, the Licensee is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this agreement or its power to execute this agreement to any other person or corporation without the previous consent in writing of the City.

ARTICLE 12: Required Provisions of Law.

Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this agreement shall be physically amended forthwith to make such insertion.

ARTICLE 13: Notices.

Any and all notices and payments required hereunder shall be addressed as follows or to such other address as may hereafter be designated in writing by either party hereto:

TO: The City of Newburgh
City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

TO: Daily Organized Multi-activity Events, LLC, Licensee
Sterling Ponder
296 Carpenter Avenue
Newburgh, NY 12550

ARTICLE 14: Waiver.

No waiver of any breach of any condition of the agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ARTICLE 15: Modification:

This agreement constitutes the complete understanding of the parties. No modification or any provisions thereof shall be valid unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the day and year first above written.

THE CITY OF NEWBURGH

By: _____

RICHARD F. HERBEK
City Manager

DAILY ORGANIZED MULTI-ACTIVITY
EVENTS, LLC

By: _____

STERLING PONDER

Approved as to form:

MICHELLE KELSON
Corporation Counsel

CHERYL A. GROSS
City Comptroller

RESOLUTION NO. 147 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF
THE HANOVER INSURANCE COMPANY AS SURETY FOR
CANALE ELECTRIC CORPORATION AND THE CITY OF NEWBURGH**

WHEREAS, Canale Electric Corporation (Canale) and the City of Newburgh (City) entered into a contract for electrical services in connection with the construction of a new Courthouse; and

WHEREAS, the City has identified deficiencies in work performed by Canale and withheld the contract balance of \$127,986.07; and

WHEREAS, Canale filed for bankruptcy protection and is no longer in business; and

WHEREAS, The Hanover Insurance Company (Hanover), as Canale's surety, has made a demand for the funds held by the City for payment of claims made by Canale's creditors and subcontractors; and

WHEREAS, both the City and Hanover have claims to the funds held by the City; and

WHEREAS, the parties wish to resolve their respective claims to the funds held by the City and to settle all the disputes among them to avoid the time and expense of further legal proceedings; and

WHEREAS, this Council has determined that a settlement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, the City's attorneys are hereby authorized to settle this matter by releasing the sum of \$63,993.04 to The Hanover Insurance Company, as surety for Canale Electric Corporation and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

The City Manager pointed out that the outstanding balance that the City owes Canale is \$127,986. This resolution would provide for a settlement in the amount of \$63,993.

Corporation Counsel explained that half of the money is used as surety. The City would keep the other half.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Valentine-5

ADOPTED

RESOLUTION NO.: 148- 2012

OF

AUGUST 13, 2012

**A RESOLUTION DIRECTING THE CITY MANAGER
TO TERMINATE THE USE OF CITY OWNED VEHICLES
USED BY THE SUPERINTENDENT OF PUBLIC WORKS, SUPERINTENDENT
OF WATER AND CITY ENGINEER**

WHEREAS, Councilman Cedric Brown has requested that the City Manager terminate the use of on-call City owned vehicles used by the Superintendent of Public Works, Superintendent of Water and City Engineer; and

WHEREAS, the City Manager has made his opposition to such request clear as these vehicles are emergency vehicles required for use to return to work 24 hours per day 7 days a week in order to respond to emergencies such as fires, storm related damages, snow removal, snow and ice emergencies, downed trees, water and sewer main breaks, sink holes, manhole lids off, catch basins off, traffic lights out, recreation activities creating problems in City parks, board ups and securing vacant buildings, towing vehicles involved in incidents on City roads, sewer pump stations down and certain police related incidents; and this will affect the City Manager's ability to manage and operate the City in an effective manner;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby directed to terminate the use of City owned vehicles used by the Superintendent of Public Works, Superintendent of Water and City Engineer.

The City Manager read the entire resolution.

Councilman Dillard stated that the Superintendent of Public Works is out on the job at all times of the night. Often he arrives when no one else is there. He paid the City for the use of his vehicle, as the other department heads do. But George lives in the City of Newburgh, not outside the city, so it is less wear and tear on the vehicle and less expensive for him to get around and perform emergency tasks. Councilman Dillard feels that he should be taken out of the equation.

Councilman Brown countered that if you take out one then you have to take out all. No one should be above it. The department heads pay \$3 per day to use those vehicles. Whether they respond to an emergency in their own vehicle or a city vehicle, they still have to travel at the same rate of speed. We are in a budget crisis, and we are facing serious money issues. That perk should have gone away back when the City was on the verge of bankruptcy. As small an issue that one may think it is, he knows that over the course of time small becomes big. We need to start tightening our belts and start looking towards getting this city back on track financially.

We do not know where we are getting money next month to cover police overtime. Perhaps whatever monies we save in having these vehicles parked, can help offset some of those overtime costs.

The City Manager pointed out that we will be having excess sales tax money this year. It is more than what we anticipated. Our plan is to use some or all of those funds for police overtime. In having these individuals respond to emergencies in their private vehicles, it presents a huge liability to them. He feels that to ask a person to bring his personal vehicle to an emergency job site is going too far. We are only talking about three vehicles. Most municipalities have more than three. The City Engineer may not live in the City of Newburgh, but he is only five minutes away. The Water Superintendent is being deployed. His successor Ray Santiago lives close by to respond to emergencies.

Before the council acts on this he would like for them to understand his firm opposition. He feels that it is going to impede our ability to respond to emergencies. There are emergencies that occur on a regular basis, some of which you are probably not even aware of. The City Manager is aware of them, because he gets the calls from all three of these department heads.

Councilwoman Angelo recollected that this has been a normal procedure over the years.

Mayor Kennedy pointed out that both the police and fire chiefs have vehicles because of the fact that they are first responders. She is really struggling with this. She would like some data. She asked George Garrison for a list of all of the emergency calls that were handled through his department in the last three months. She discovered that 75% of the time George arrived at the scene first to assess the situation. Then he called whatever crew needed to be called in to fix the problem. She agrees that we are in a desperate financial situation and every dollar counts.

She believes that whatever city vehicles that anyone is driving should be marked, have official insignia and flashing lights, and be used appropriately. They should not be used for personal use of any sort.

The City Manager stated that he has no problem with putting official insignia on the vehicles. Also these individuals all know that there is no personal use of the vehicles.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilman Brown-1

Noes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

DEFEATED

RESOLUTION NO.: 149 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF
LITIGATION REGARDING THE IN REM TAX FORECLOSURE
OF LIENS FOR THE YEAR 2010 RELATIVE TO
282 FIRST STREET (SECTION 22, BLOCK 6, LOT 26)**

WHEREAS, The City of Newburgh commenced proceedings for the foreclosure of certain tax liens, such action being designated as Orange County Index Numbers 2010-012561; and

WHEREAS, the first position mortgage holder, by their attorney, have advised the City that they are prepared to settle such action; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to withdraw the lien on the property located at 282 First Street (Section 22, Block 6, Lot 22), in the City of Newburgh, from the List of Delinquent Taxes, provided that the sum of Eleven Thousand Six Hundred Twenty Five And 13/100 (\$11,625.13) Dollars representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due taxes and charges, including but not limited to all open 2011-2012 school taxes, water charges and sewer charges, are all paid in full by certified or bank check on or before August 27, 2012.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes-Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

RESOLUTION NO.: 150-2012

OF

AUGUST 13, 2012

**A RESOLUTION APPROVING THE CONSENT JUDGMENT AND
AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT
IN CONNECTION WITH THE TAX CERTIORARI PROCEEDING AGAINST THE
CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT
BEARING ORANGE COUNTY INDEX NO. 6996-2011, INVOLVING SECTION 4,
BLOCK 12, LOT 12 (LIBERTY STREET, L.P.)**

WHEREAS, Liberty Street, LP has commenced a tax certiorari proceeding against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2011-2012 tax assessment year bearing Orange County Index No. 6996-2011; and

WHEREAS, it appears from the recommendation of the City Assessor, Joanne Majewski and Richard B. Golden, Esq. of Burke, Miele & Golden, LLP, Special Counsel for the City of Newburgh in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the City would involve considerable expense with the attendant uncertainty of the outcome, and that settlement of the above matters as more fully set forth below is reasonable and in the best interests of the City; and

WHEREAS, Liberty Street, LP is willing to settle this proceedings without interest, costs or disbursements, in the following manner: That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2011-2012 as tax map number 4-12-4 be reduced to a market value of \$ 1,000,000.00.

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above and the attached Consent Judgment is hereby accepted pursuant to the provisions of the General City Law and other related laws.

BE IT FURTHER RESOLVED, that Richard F. Herbek, City Manager of the City of Newburgh; Joanne Majewski, Assessor of the City of Newburgh; and Richard B. Golden, Esq. on behalf of Burke, Miele & Golden, LLP, as Special Counsel, be and they hereby are designated as the persons for the City who shall apply for such approval pursuant to the aforesaid laws.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-5

ADOPTED

OLD BUSINESS

There was no old business to discuss

NEW BUSINESS

Councilman Dillard asked that employee issues be put on the calendar for the next work session. He would like to discuss employee issues in an executive session.

There being nothing else to discuss, this portion of the meeting was closed.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

Tamie Hollins stated that National Night Out was successful. She witnessed many organizations and residents of all ethnicities coming together. She did not see the people that did the real groundwork. People were introduced to the City Manager and our elected officials. But no one mentioned DPW. They did a tremendous job setting up, maintaining the grounds, and breaking down after the event was over. Also she praised Chief Vatter for organizing so many great vendors to come together. She had heard that he and Joy Pittman were the top supporters of the event. Things flowed nicely. Second, we need to erect a traffic light at the Broadway and Lander Street intersection. She heard there was an accident over the weekend, in which two vehicles ended up in front of the House of Refuge. She almost had an accident herself today. Third, she stated that Professor Nolon did answer her questions regarding the Land Bank. Last, she would like an explanation of Resolution #139-2012.

Chief Vatter pointed out that Joy Pittman did most of the work for the event.

Councilwoman Angelo remarked that there was a call for bids for the food tents. Last year the city made in excess of \$15K. We have \$7K to work with. If by chance there is extra money, then we are going to try to pay the bands. As it is now we are not able to pay the bands. Rev. Burks is going to run the Gospel Fest and that is strictly voluntary. This is the way we have to do it right now.

Vern Bell stated she is a resident of the Town of Newburgh, but she is a former resident of the City of Newburgh. She attended an open forum in Newburgh entitled *Recommendations for Improving the Newburgh Police Department*. The forum was hosted by the attorney Michael Sussman. He told the forum that this was not the first time that this issue has come up in the city. Eight recommendations (Copy of Recommendations Submitted) were made to the council in 2007, and then updated in April 2012 following the Lembhard killing. To date, the council has taken no apparent action. She feels that it would help the healing process in this city if we are made aware of the progress that is being made on any of these recommendations.

The City Manager responded to the recommendations.

1) To his knowledge video surveillance has been established in the holding cells. He agrees that video equipment should be placed in the police vehicles. It is a funding issue. It is expensive and must be discussed during the budget process.

2) Today they interviewed seven potential new recruits in the police department, which included an African-American candidate and several Spanish-speaking candidates. They are City of Newburgh residents and have expressed an interest to remain residents. There is no way legally to require officers who are already in the department to reside in the City of Newburgh. We can not impose a residency requirement for new officers either.

3) Some of the candidates that were interviewed had Associate's Degrees. Several candidates hold Bachelor's Degrees in Criminal Justice Studies. Some do not have college studies at all. Nonetheless they appear to be good candidates.

4) There is no way to impose a residency requirement as he stated previously.

5) Community-policing is a staffing issue. You need an adequate number of officers. At one point the City of Newburgh had 104 officers. We are now down to 71 officers. Chief Ferrara would like to implement a community-policing model, but we need a substantial number of officers to do it.

6) There is a Police Advisory Committee that has been re-established that meets on a monthly basis.

7) The City of Newburgh took a firm position to request the Governor to appoint a Special Prosecutor after the Lembhard incident. That request was hand-driven up to Albany by the City Manager on the very next day. Ultimately the Governor decided that he was not willing to appoint the Special Prosecutor.

Mayor Kennedy pointed out that they wrote a letter, copies of which were handed out to the County Legislators and the State Legislature. In the letter they requested that a new State-wide law be passed that when death or serious injury occurs to a citizen or police officer, the County DA in any New York State County recuse himself from the case. By definition it creates a

conflict and a problem in cases like this. We are lobbying for this at the State level.

8) We are fortunate to have Michael Ferrara as our police chief. There is a cultural change that is beginning to happen in the police department because of his leadership. Herbek does not think that Chief Ferrara would have any objections to regular meetings with the public to discuss police-community relations. Herbek commented that he would be more than willing to join Ferrara at the meetings.

Councilman Dillard stated that those are Michael Sussman's eight recommendations. . But he has one that the council has been discussing for the last two to three weeks. He would like a Special Investigator to come in and audit the entire police department.

The City Manager stated that he knows they would like to bring in an outside firm. We have a list of independent firms that do this kind of work. It is going to take a little time, but he is going to bring back some recommendations to the council with regard to that.

Juanita King disagreed with Hollins comments. She attended National Night Out and witnessed six police officers standing in a circle and talking among themselves. She has pictures of all six of them. She thought that the whole idea of the event was for the police department to interact with the youth of the city. If the police are not putting forth an effort to get to know the community, then how do you expect the community to put forth an effort to trust them? Her family came out and supported the function wholeheartedly. They were asked not to rally or protest and they agreed for the sake of the event. Second, tonight was the first night of a vigil that the family has started in memory of the late Michael Lembhard. The family will light one candle each evening for the next fifteen days up until August 27th, which would have been his next birthday. King invited the council to come out and attend. It begins at 6:00 PM. It is a peaceful gathering that anyone is welcome to attend. There will be speakers and the family has been working hard on this. They want to educate the community. The location of the event is on Liberty Street, at the site of the shooting.

John Cappello, Esq., an attorney with the law firm of Jacobowitz and Gubits, LLP spoke to clarify his client's perspective on Resolution # 143-2012. Hudson Valley Lighting operates in the City of Newburgh, and has employed local residents for years. They needed to expand their business and wanted to give the City of Newburgh first option. This option is very complicated. They have other options which are easier, but those are not in the City of Newburgh. This option entails 15 acres of IDA property, which stands vacant and may

well be contaminated. The City also owns property at DPW site that you already know is contaminated. The configuration of the property, due to when Interstate 84 was constructed, is a bit oddly configured. Therefore in order to develop this property appropriately, the IDA would need three acres of the city property to be swapped with three acres of the IDA property. This would be done through the NYS Brownfield Program. It is a wonderful program that is meant to be a partnership between private development and Private Sector.

It is not a pie in the sky program. It requires a real partnership. It allows the parties to take 20% of the cost of the cleanup and the cost of the infrastructure and improvements on the property as tax credits, which they then can sell to make some of the money back to put this redevelopment on a level playing field as if they built a brand new construction. His client is looking for a commitment by the City, not a transfer of the property. The DEC has to approve it.

Omari Shakur asked if the 15 firefighters in Resolution #140-2012 have to be City of Newburgh residents. He feels that everyone that works here should live in our city. He commended the council, because it appears that everyone is working together now. He stated that it is important that the members of the city council be our leaders and not our friends. During the 15-day Vigil community input is sought as to what we all can do to make this a better community. Some community suggestions include videotaping the incidents and bringing love and respect for everybody.

Shakur stated that he spoke with Chief Ferrara earlier. Even though we are on opposing sides, we are men. Shakur apologized for his past transgressions. He hopes that no one took it personally. He stated that he is still going to fight for his son and for Michael Lembhard, but as men, we are taking it to another level and raising the communication bar. As a leader and as a spokesperson for the family, he understands that in order for the work to be done we have to communicate and work together. He invited everyone to come to the vigil and the culminating rally on August 27th. Congresswoman McKinney will be present, along with some other speakers from around the country.

*****Chief Ferrara and Shakur shook hands. The chief stated that this is a major beginning.*****

Sheila Monk stated that it is all about is working together. We are trying to rebuild community relations between the residents and the police department. It is important that we understand that not all cops and not all residents are bad. We can not change what happened, but we can change the future. It is not about us fighting each other. It is about us building up each

other. We need the cops and the cops need us. We need a relationship with them, in which we are not going to be afraid. She announced the upcoming community basketball game between some of the community residents and police staff. She thanked the residents and Chief Ferrara and his staff for working and bringing this together.

Jose Servellon offered his sympathy and prayers to the family of Michael Lembhard. He spoke again on behalf of his nephew. The family is running out of time. He stated he spoke with the mayor, the council and the police department. They are not getting anywhere. His nephew has been here since he was six years old. For him to be deported back to Honduras would be traumatic. The only way he can remain here is if the U Visa form is signed by city officials.

Mayor Kennedy remarked that she tried to send him an email this evening, but it was down. She explained the family's situation. Servellon's nephew was the victim of a crime and suffered concussions in 2010. Under a *U Visa* status, a person can remain in the U.S. for six years if officials sign off on the form documenting that a crime actually occurred. She stated that if her signature would do the job, then she is willing to sign the form.

The sister of Jose Servellon commented that she has lived here in Newburgh for twenty five years. She appreciates anything that can be done for her son. She needs her son here. She has no family in Honduras.

Kippy Boyle thanked everyone for contributing to a respectful meeting tonight. She noticed that Central Hudson is doing a lot of work on the brick areas of Liberty Street. She would like to ensure that when they are done with the work, the brick goes back, not blacktop. She would like for city staff to keep on top of this issue, because everything looks bad right now. Second, several cars suffered smashed windows on her block. She was told by police that it is probably the homeless man living in his car down at the end of the street. If that is the case, then why aren't the policemen out there helping him locate resources and services? Third, she noticed that extensions were granted on the time to close on some of last year's auction properties. She noticed that two of those parcels are back on this year's auction list. When the auction rules are made, an extension fee of \$1000 should be implemented. We have been very lenient.

Janet Gianopolous stated we should be proud that we have a citizens group involved in the LandBank. Second, she emphasized that the people involved in violent crimes in our city is a small percentage compared with the larger number of Newburghers. We always have to balance this. Most of us are law abiding citizens. She read that the City of Flint, Michigan decided to hire a

Public Safety Administrator to oversee all aspects of public safety. She suggested that Newburgh look into this because it seems to be an ongoing concern. Third, there are so many good things occurring in the city. Volunteerism should be a part of our civic duties.

Police Chief Michael Ferrara commented that tonight is the first time that he has seen Michael Sussman's list of recommendations. He has been going over them. Some of the items are expensive budget items. As the police chief, he is going to try to implement them. He may even be able to get things, such as video surveillance equipment through a State grant. The City of Newburgh Police Department happens to be the only community in Orange County that does not require a college education, yet many of our officers do have college backgrounds. Ferrara stated that he is always open to meetings. His door is always open and his phone is always on.

He pointed out that the officers are very busy around the clock. And there is a lot more work than the department can handle. Ferrara stated that community policing is a great philosophy. Ferrara has been in the department for a long time. He has probably been here through at least ten different community policing efforts throughout the city. Last he mentioned that we interviewed seven police officer candidates. We are going to hire three. He is requesting that he be able to interview a few more, just in case.

Roxie Royal stated she witnessed a lady park her vehicle, unlock her trunk and take garbage out to sit on South Street. The lady took off, but Royal was able to capture her license plate number and give the information to the police department. Next she continued to comment about the hazardous intersection at Johnston Street and South Street. There have been accidents there before. She has been told there is nothing that can be done. Yet there is a 4-Way Stop Sign at the intersection of Grand Street and Clinton Street. There is not as much traffic there as there is at Johnston Street and South Street.

George Figueroa discussed concerns about the reform of the City of Newburgh police department. One thing that was not mentioned was the suggestion that when an officer uses fatal force, an alcohol and drug test should be required. Often times we just do not know what feeds into some of these circumstances. And there have been so many of them over the years. Also people need to be aware that there were 21 different lawsuits mentioned at that meeting. Some of the council members that were present have summaries of those lawsuits. Those are only the suits that we know of. He is sure that there are others that he may not be aware of. He believes that part of the problem is there is a failure to enforce discipline within the police department. He stated that the City Manager, the Council and the Chief need to stand up and be strong when it comes to the enforcement of discipline

within the department. He has seen the City Manager take action for other inappropriate things that have occurred in the department. It is far more important that we do that when there is a fatal shooting. Figueroa does not believe all of the circumstances have been fully reviewed.

There being no further comments, this portion of the meeting was closed.

FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Angelo announced that she has applications for the festival. She carries them with her wherever she goes. We are working on it right until the very end. She thanked everyone for coming out and offering their input.

Councilman Brown stated that it is nice to see a good outcome and a positive meeting like this. He looked forward to seeing everyone next month.

Councilman Dillard commented that he would like to further discuss the issue pertaining to 213 North Miller Street. He feels that the entire council is very familiar with it, and he would like for them to take another look at it. Also he pointed out that he would attend the community vigil on Wednesday evening.

Councilwoman Lee commented wanted to clarify some things regarding the statement she made into the record this evening. She remarked that we need policies that look at how we do business in the City. We also need to look at how we have done business in the past. She feels that they need to look into the police department's past practices, and how some of those practices have led to certain permissions for individuals. Everyone makes some type of contribution. Even if you do nothing, then nothing is your contribution. When we work with an investigator on this, she would like to see some policy changes regarding the use of force. Also she agrees that we need more police officers. She feels that all seven of those community police officers should be hired.

Mayor Kennedy applauded Roxie Royal for taking action in the community. We have to ask ourselves, "Whose community is this?" She has been discussing some ways for us to come together in the community. The ideas of crime watch and garbage is part of that. We all need to start taking note and participating. We need to report the garbage dumping activities and other crimes. The new motto: *Not in our city, not any more* should be resonating in the community. Next she stated that she agrees with Omari that what happened did happen. But we have to come together and move forward. Third, the parking tribunal is coming forward. It has gone on to the Governor's office and it represents revenues that will come into the city. Kennedy stated that everybody needs to assist the police department with crime watch. She thanked everyone for participating in a positive way.

There being no further business to come before the council, the meeting adjourned at 10:20 P.M.

Respectfully Submitted,

**KATRINA COTTEN
DEPUTY CLERK**