

Memorandum

To: Mayor Valentine and City Council

From: Richard F. Herbek

Date: January 7, 2010

Re: Status Report

I have served as Acting City Manager since Sept. 1, 2009. Upon my arrival, it became evident that the City had many pressing issues that needed to be addressed in the immediate future, the most serious of which was, and still remains, the City's financial status. This report provides a synopsis of those issues as well as progress to date.

Financial Issues:

- Consolidated Iron –
Court-mandated settlement payment of \$300,000 due by the end of September, 2009, with another \$1,300,000 to be paid by January 4, 2010. This was in addition to a previous payment the City had made in the amount of \$300,000 earlier in the year.
- Courthouse Construction Cost Overruns –
I was told that the original bond was in the amount of \$12,400,000 and that the overages would be in the vicinity of \$5,000,000. As it turned out the cost of the Courthouse Project will be in the \$20,000,000 to \$21,000,000 range.
- Outstanding Invoices from former Engineer Bill Hauser –
These costs were in the range of \$150,000 to \$200,000.
- Outstanding Invoices from Outside Counsel Zarin & Steinmetz
These costs were in the range of \$75,000.
- IDA Lawsuit against the City-
In the \$300,000 range
- Payroll-
In the range of \$450,000 weekly as the City still practiced a weekly payroll.
- Other Issues-
 - The Fiscal Year 2007 Audit Report from the independent auditors Nugent & Haeussler resulted in a disclaimer of opinion
 - Unreconciled fixed asset records.
 - No Annual Update Document for FY 2008 as required by the NYS Comptroller.
 - Problems with Community Development Funds accounting

To make the situation even worse I was told that there was approximately only \$1,000,000 in the City's checking and investment accounts. Essentially the City was

broke and could not continue to meet its financial obligations including payroll payments to the City employees.

Action Taken:

I took immediate steps to correct these critical conditions by doing the following:

- Contacting Chris Ellis of the NYS Comptroller's Office, Ken Bond, the City's bond counsel, Dominick Consolo of the Bennett, Kielson Accounting Firm, and a number of other key finance individuals. City employees Anna Marie Calli and Marie Gida and their staffs provided much needed assistance utilizing their many years of experience in working for the City.
- We began looking at funding options including issuing a \$5.22 million bond for Courthouse overages which was approved by the City Council as a Bond Anticipation Note in 2008 and never implemented
- I sought assistance from the NYS Division of the Budget to receive advanced AIM funding payments from New York State
- We also began investigating the use of Tax Anticipation Notes for uncollected taxes in years 2005 through and including 2009.
- We stopped paying most bills which eventually amounted to more than \$5,000,000 by December and focused on making payroll payments, paying the utilities and our debt service payments.
- The City Council engaged the accounting firm of Vanacore, DeBenedictus to help with analyzing the financial issues, assisting with the preparation of the 2010 budget and preparing a cash flow analysis for the remainder of 2009 and all of 2010.
- I also began a recruitment process for a new Comptroller and engaged Michael Genito, well-known for his extensive municipal accounting and managerial experience, as a consultant to assist the City with financial issues.

Of utmost importance we began to immediately work on the Budget for FY 2010 which needed to be filed with the City Council on October 13. We knew we had a serious problem because of a shortfall of more than \$5,000,000 in General Fund revenues for 2009, and plans to use \$2.1 million in fund balance which did not exist.

Personnel Issues:

I was also faced with the retirement of the Fire Chief the day I arrived, no Comptroller, the resignation of the City Corporation Counsel in November, and the decision to terminate the Director of Human Services.

Capital Projects:

Craig Marti, John Platt and I also began to review all the ongoing capital projects which include the Brown's Pond and Silver Stream Dam rehabilitations, Sewer Treatment Plant aeration conversion, belt filter press replacement, combined sewer overflow and north sewer interceptor studies, Robinson Avenue reconstruction, brownfield opportunity area study, remediation of contaminated sites including Provan, Jonas, Liberty St., Johnes Street, and West Street Med Tech, improvements to First Street, Tyrone Crabb Park, Liberty Street, Newburgh Landing Park, and a future land use study.

We knew we needed to have a financing mechanism to advance these projects and with Ken Bond, Jeff Hyman, Sal Penini and our staff we began to prepare a financial plan to finance these projects.

Other Steps:

A team of key employees was put together and with the help of the Vanacore, DeBenedictus firm we crafted a structurally sound budget, however, this involved a very hefty property tax increase in order to achieve a balanced budget.

We also decided to undertake an additional BAN to fund the Courthouse overages, the Consolidated Iron payments, capital projects, and the issuance of the TAN.

We managed to get through the end of 2009 paying most but not all of our bills, however, we will need the auditor's complete reports for 2008 and 2009 to fully understand the City's financial situation going into 2010. We expect Bennett, Kielson, Storch Desantis, a division of the firm of O'Connor, Davies, Munns & Dobbins, to begin the 2008 audit next week.

I also sought to identify and meet with City stakeholders as quickly as possible:

Key Meetings:

- Chris White of Congressman Hinchey's Office – numerous meetings.
- Allison Epstein of Governor Paterson's Regional Office.
- Senator William Larkin – numerous meetings
- St. Luke's Hospital – Alan Atzrott and Rob Ross
- Wayne Booth, Supervisor of Town of Newburgh.
- George Green, Supervisor of Town of New Windsor.
- Colored Burial Ground Advisory Committee
- Fr. Kevin Mackin, Mount St. Mary College
- Bill Kaplan – numerous meetings
- Principals of Leyland Development Corporation

- Isaac Faison and Pastor Byron Williams on NAACP issues. (Met with all DPW employees.)
- Superintendent of Schools Dr. Annette Saturnelli and Deputy Superintendent of Finance Mike Pascella.
- Malcolm Pirnie re: various ongoing projects.
- Denise Ribble, Waterfront Advisory Committee, on the LWRP.
- Jenny Loeb, Community Voices Heard.
- Patterns for Progress – Jonathan Drapkin
- Downing Park with Chris Tripoli and Karen McCarthy.
- CDAG – 2010 Consolidated Plan.
- Newburgh Area Transportation and Land Use Study.
- Numerous meetings with all employee unions.
- Tour of the Water Department Operations to include supply and distribution with John Platt.
- Tour of Records Holding Site at Carter Street with Betsy McKean.
- Orange County Land Trust and OSI re: watershed protection with George Green, Senator Larkin and others. (Harold Baxter Farm)

Important Priorities for 2010

1. Improving fiscal stability
 - a. Identification and review of revenue enhancement options.
 - Parking fees
 - Sanitation fees
 - Vacant Building Registry – increase from \$900 to \$1200
 - Increase facility and City property usage fees to cover costs:
 - Delano Hitch Pool – we should try to bring in \$60,000 - \$70,000 annually.
 - Downing Park user fees – (100 events per year)
 - Permitted events on City property
 - Recreation events such as Newburgh Nukes and Soccer.
 - Activity Center Usage
 - b. Completion of 2008 and 2009 audits by Bennett, Kielson et al and 2010 City budget audit by NYS Comptroller's Office.
 - c. Institute multi-year financial planning and review of deficit financing as an alternative for the City's financial problems.
 - d. Appointment and beginning work of Fiscal Advisory Committee
2. Planning & Development strategies and economic development options-
 - a. Develop 2010 Property Disposition Methods
 - b. Possible acquisition of former National Guard Armory
 - c. Possible joint meetings with Council & IDA.
 - d. Review of Newburgh Community Development Agency, LDC, IDA and interrelationships with the City Government.
 - e. Environmental Restoration- Brownfield Studies and work. (Provan & Others)

- f. Planning Efforts-
 - Land Use Plan.
 - LWRP amendments
 - BOA- Census Tract 5
 - g. Development of Mid-Broadway Property
 - h. Re-negotiate Ferry Lease agreement which costs the city more than \$55,000 annually
 - i. Support private development projects
3. Create innovative approaches to personnel and related issues
- a. Recruit Key Personnel including the Comptroller and Corporation Counsel
 - b. Begin collective bargaining negotiations with 3 of the 4 employee unions – need to develop management proposals.
 - c. Review of health insurance alternatives.
 - d. Retirement incentive program.
 - e. Exploration of creation of a Human Resources Director position for the City.
 - f. Formation of Risk Management Committee to work with Regent Consulting Corp.
 - g. Possible acquisition of former National Guard Armory to consolidate City departments
 - h. Facilities Management review.
 - i. Staff Training, Team Building to make the City function as a “high performance organization.”

Other Goals & Priorities:

- Quarterly meetings with key City leaders.
- Website changes to make it more interactive and to provide for a better communications process with City residents, more calendars, more utilization by City departments.
- Charter Review Committee – appointments and startup of work.
- Newburgh Ferry Lease Agreement – costing City over \$55,000 annually. Needs to be renegotiated.
- Review of 21st Century Program with Joy Pitman. (\$899,803 in allocated funding.)
- Relocation of Records from Carter Street to new location. Lease of property to St. Luke’s Hospital.
- Civilianize Court Officers.
- Water Supply Agreement with Town of Newburgh.
- Meeting with City Judges re: adjudication of code violation cases.
- Courthouse Forensic Audit.
- Closeout McGoey, Hauser & Edsall invoices
- Resolve sidewalk issues on Renwick Street.

Accomplishments to Date:

- Adoption of 2010 City Budget
- Institution of Bi-weekly payroll.

- Successful sale of BAN's and TAN.
- Settlement of IDA Lawsuit.
- Successful Property Auction.
- Payment of Consolidated Iron settlement with EPA.
- Return of funds from Marina Ops settlement to HUD, Section 108 Account.
- Successfully negotiating advance of AIM funding
- Utilizing Asst. Chiefs Gary Ferguson and Jeff Barrett in the role of temporary Fire Chief and recruitment of Michael Vatter as Fire Chief
- Consolidation of Codes Department back to Fire Department.
- Staff reductions
- Reorganization of Dept. of Human Services to Dept. of Recreation and Youth Services.

Recommendations

I recommend that we, the City Council and City Manager, schedule a goal setting meeting as soon as possible to discuss and prioritize the issues we need to address in 2010 and to establish a priority rating process to guide the City staff.