



CITY COUNCIL AGENDA

October 25, 2010

7:00 pm

Mayor:

Prayer
Pledge of Allegiance

City Clerk:

Roll Call
Approval of the minutes of the Special meeting of October 14, 2010
Approval of the minutes of the regular meeting of October 18, 2010
City Clerk's Report for September
Registrar of Vital Statistics Report for September
Civil Service Administrator's Report for September

Communications:

1. Notice of Claim: Anthony Carfizzi v. City of Newburgh
2. Notice of Claim: Jamell T. Coleman v. City of Newburgh
3. Notice of Claim: Jerome Flannery v. City of Newburgh
4. Notice of Claim: Nikki Johnson v. City of Newburgh
5. Summons and Verified Complaint: Michael Ruckdeschel v. City of Newburgh

Public Hearings:

6. Local Law - Amending Local Law No. 9-2010 to extend the time by which an eligible employee may participate in the 2010 Early Retirement Incentive Part A from September 30, 2010 to November 29, 2010.
7. Local Law - Amending City Charter Section C9.33 entitled "User Fees to be Charged for Collection," Section 9.35 entitled "Application for Reductions or Elimination of Service Charge" and Section 9.36 entitled "Duties of Property Owner to Report Changes in Occupancy" within the code of the City of Newburgh. (see associated fee code amendment; Ordinance No. 17)
8. Amending City Charter Section 8.16 entitled "Combining of State, County and City Taxes for Collection" of the Code of the City of Newburgh.
9. City of Newburgh's proposed actions with respect to the Community Development Block Grant program for the consolidated plan for housing and community development for fiscal year 2011.

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

10. Resolution No. 237 - 2010
A resolution authorizing the amendment to the terms of a deed to JCL Media, Inc. for premises known as 65 Liberty Street (Section 39, Block 5, Lot 15.1) to provide for a change of use referenced in the original deed and to allow for additional time to rehabilitate the property.
11. Resolution No. 238 – 2010
A resolution approving a budget in connection with the Twenty First Century Community Learning Centers Grant for the period of July 1, 2010 to June 30, 2011.
12. Resolution No. 239 – 2010
A resolution authorizing the City Manager to execute an agreement with the County of Orange confirming City of Newburgh participation in the Stop DWI Program for the period of October 9, 2010 to January 1, 2011 providing the City with an amount not to exceed \$3,387.00.
13. Resolution No. 240 – 2010
A resolution requesting an exemption from County taxes for the City's reservoir and filter plant properties for the year 2012.
14. Resolution No. 241 – 2010
A resolution to implement a city-wide curfew for minors 16 years of age and under on October 29, 30, and 31 from 9:00 pm to 6:00 am.
15. Resolution No. 242 – 2010
A resolution accepting and rejecting bids received at the City of Newburgh October 14, 2010 property auction.
16. Resolution No. 243 – 2010
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 63 Liberty Street (Section 39, Block 5, Lot 16).
17. Local Law No. 11 – 2010
A local law amending Local Law No. 9-2010 of July 12, 2010 electing a retirement incentive program as authorized by Chapter 105, Laws of 2010 for the eligible employees of the City of Newburgh.

18. Local Law No. 12 – 2010

A local law amending City Charter Section 8.16 entitled “Combining of State, County and City Taxes for Collection” of the Code of the City of Newburgh.

New Business:

Old Business:

19. Ordinance No. 15 -2010

An ordinance rescinding the language contained in Chapter 226, entitled “Performance of Work by City; Abatement” of the Code of Ordinances and amending Chapter 226, “Performance of Work by City; Abatement” in its entirety.

20. Ordinance No. 16 – 2010

An ordinance amending certain sections of the Code of Ordinances within Chapters 119, “Brush, Grass and Weeds”; 121, “Buildings, Vacant”; 122, “Building Construction”; 129, “Buildings, Unsafe”; 190, “Housing and Property Standards”; 234, “Property Damage” and 279, “Trees and Shrubs” (Abatement by City).

21. Local Law No. 11 – 2010

A local law amending Local Law No. 9-2010 of July 12, 2010 electing a retirement incentive program as authorized by Chapter 105, Laws of 2010 for the eligible employees of the City of Newburgh.

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

RESOLUTION NO.: 237-2010

OF

OCTOBER 25, 2010

A RESOLUTION AUTHORIZING THE AMENDMENT TO
THE TERMS OF A DEED TO JCL MEDIA, INC.
FOR PREMISES KNOWN AS 65 LIBERTY STREET
(SECTION 39, BLOCK 5, LOT 15.1)
TO PROVIDE FOR A CHANGE OF USE REFERENCED
IN THE ORIGINAL DEED AND TO ALLOW FOR ADDITIONAL
TIME TO REHABILITATE THE PROPERTY

WHEREAS, by Resolution No. 155-2004 of August 9, 2004, the Council of the City of Newburgh authorized the City Manager to execute a Land Disposition Agreement with JCL Media, Inc. regarding the sale and proposed development of real property known as 63 Liberty Street (Section 39, Block 5, Lot 16); 65 Liberty Street (Section 39, Block 5, Lot 15.1); 67 Liberty Street Section 39, Block 5, Lot 14; and 65 Liberty Street Rear (Section 39, Block 5, Lot 15.2) with a purchase price of \$15,000.00;

WHEREAS, JCL Media, Inc. has requested that the provisions for use of 65 Liberty Street (Section 39, Block 5, Lot 15.1) outlined in covenant (1) of the original deed be amended to provide for a permitted commercial use on the first floor as opposed to a Firemen's Museum as originally authorized; and to provide for residential use on the second and third floors as opposed to Office, Publishing & Media Production as originally authorized; and

WHEREAS, said deed included a provision requiring the subject properties be rehabilitated within eighteen (18) months of the date of the deed which were to be completed on or about December 8, 2007; and

WHEREAS, JCL Media, Inc. has also requested an extension of time to rehabilitate the property located at 65 Liberty Street (Section 39, Block 5, Lot 15.1) until December 8, 2011; and

WHEREAS, the City Council of the City of Newburgh has determined that the proposed amendments of the terms of sale and granting said extension is in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Council of the City of Newburgh hereby consents to and approves the request to provide for a permitted commercial use on the first floor; and to provide for residential use on the second and third floors in the property located at 65 Liberty Street (Section 39, Block 5, Lot 15.1) and further authorizes an extension of time to rehabilitate said premises until December 8, 2011, by Correction Deed therefor.

RESOLUTION NO.: 238 - 2010

OF

OCTOBER 25, 2010

A RESOLUTION APPROVING A BUDGET IN
CONNECTION WITH THE TWENTY FIRST CENTURY
COMMUNITY LEARNING CENTERS GRANT
FOR THE PERIOD OF JULY 1, 2010 TO JUNE 30, 2011

BE IT RESOLVED, by the Council of the City of Newburgh, New York that the budget for the Twenty First Century Community Learning Centers Grant for the period of July 1, 2010 to June 30, 2010 be and is hereby approved as set forth on the spreadsheet attached hereto.

GRANT FUND
 RESOLUTION #
 STATE EDUCATION DEPARTMENT
21st Century Community Learning Centers
 Dates: 7/1/10 - 6/30/2011
 Year 3 of Five Year Grant

BUDGET AS APPROVED BY SED

	EXPENDITURES	REVENUES	FUND	DEPT	ITEM	PROJECT	YEAR
PROFESSIONAL STAFF - Salaries	\$183,734		CG	7319	101	3008	2010
Project Director	J. Pitman 75% \$43,098						
After School Coordinator - High	O. Spearman 1 FTE 33,181						
After School Coordinator - Middle	L. Henderson 1 FTE 33,181						
After School Coordinator - Elementary	D. Walters 1 FTE 34,647						
Data Entry Specialist	K. Fabiano 1 FTE 35,685						
	\$179,792						
SUPPORT STAFF - Part-time	59,400		CG	7319	102	3008	2010
Group Leaders (J. Green, B. Melendez, T. Pinckney, C. Smith, A. Torres)	\$18/hr						
PURCHASED SERVICES	519,901		CG	7319	448	3008	2010
Newburgh Enlarged School District	429,120						
Clean Associates - Program Evaluation	9,000						
Arts & Cultural/Healthy Lifestyles & Recreation	62,331						
Family Literacy	5,250						
Technology Specialist	5,200						
Youth Development	9,000						
SUPPLIES AND MATERIALS	4,000		CG	7319	413	3008	2010
Promotional							
TRAVEL/TRANSPORTATION EXPENSES	13,200		CG	7319	461	3008	2010
Project Director	1,200						
Site Coordinators/Group Leaders	2,000						
Transportation	10,000						
EMPLOYEE BENEFITS	106,506		CG	7319	830	3008	2010
Social Security	18,600		CG	7319	835	3008	2010
MTA	0		CG	7319	810	3008	2010
NYS - Employee Pension System	26,089		CG	7319	860	3008	2010
Health Insurance	58,608		CG	7319	892	3008	2010
Workers' Compensation	3,209		CG	7319			
INDIRECT COST - OPERATING TRANSFER	13,031		CG	7319	0003	3008	2010
NY STATE EDUCATION DEPARTMENT	\$ 889,772	\$ 889,772	CG	7319	4289	3008	2010
TOTAL	<u>\$ 889,772</u>	<u>\$ 889,772</u>					
GENERAL FUND							
Operating Transfer	13,031	13,031	A	9901	5031		
Contingency	13,031		A	1900	1990		
TOTAL	<u>\$ 13,031</u>	<u>\$ 13,031</u>					

RESOLUTION NO.: 239 - 2010

OF

OCTOBER 25, 2010

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AGREEMENT WITH THE COUNTY OF ORANGE
CONFIRMING CITY OF NEWBURGH PARTICIPATION
IN THE STOP-DWI PROGRAM
FOR THE PERIOD OF OCTOBER 9, 2010 TO JANUARY 1, 2011 PROVIDING
THE CITY WITH AN AMOUNT NOT TO EXCEED \$3,387.00

WHEREAS, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an agreement, to provide for the funding of the STOP-DWI Program within the City of Newburgh for the period of October 9, 2010 to January 1, 2011; and

WHEREAS, the County shall reimburse the City of Newburgh for increased patrol and court time in connection with enhanced enforcement of laws prohibiting driving while intoxicated; and

WHEREAS, this Council has determined that entering into such agreement would be 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 Manger be and he is hereby authorized to execute an agreement with the County of Orange confirming the City's participation in the STOP-DWI Program in order to fund the additional cost of stepped-up police patrols and related court appearances for the period of October 9, 2010 to January 1, 2011 not to exceed \$3,387.00.

RESOLUTION NO.: 240 - 2010

OF

OCTOBER 25, 2010

A RESOLUTION REQUESTING AN EXEMPTION FROM COUNTY
TAXES FOR THE CITY'S RESERVOIR AND FILTER PLANT
PROPERTIES FOR THE YEAR 2012

BE IT RESOLVED, by the Council of The City of Newburgh, New York, that the City Manager be and she is hereby authorized and directed to request a real property tax exemption from real property taxes to be levied by the County of Orange on all of the City's reservoir and filter plant properties, and the buildings and improvements thereon, and to be constructed thereon in the Town of Newburgh and the Town of New Windsor, pursuant to the provisions of Section 406, subdivision 3, of the Real Property Tax Law of the State of New York.

The requested exemption would include exemption from all taxation, special ad valorum levies and special assessments through December 31, 2012, so long as the subject premises are used for the aforesaid purposes.

The specific properties involved are as follows:

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
TOWN OF NEWBURGH		75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44

RESOLUTION NO.: 241 - 2010

OF

OCTOBER 25, 2010

A RESOLUTION TO IMPLEMENT A CITY-WIDE
CURFEW FOR MINORS 16 YEARS OF AGE AND UNDER
ON OCTOBER 29TH, 30TH AND 31ST
FROM 9:00 P.M. TILL 6:00 A.M.

WHEREAS, the City of Newburgh has a general obligation to ensure the safety and welfare of the general population of the City including minors, along with protection of private property; and

WHEREAS, October 29th, 30th and 31st are associated with Halloween related activities, including "Trick or Treating" and other related outdoor activities, some of which might be prejudicial to the safety and welfare of the population and protection of private property; and

WHEREAS, the City of Newburgh determines that the passage of a curfew resolution for Halloween and the preceding night will assist in protecting the welfare of minors by reducing the likelihood of their involvement in inappropriate behavior, while aiding parents or guardians of minors entrusted in their care;

NOW THEREFORE, BE IT RESOLVED:

THIS COUNCIL HEREBY DECLARES a city-wide curfew for minors from 9:00 P.M. until 6:00 A.M. each day, starting Friday, October 29, 2010, and ending Monday, November 1, 2010; and

BE IT FURTHER RESOLVED, this Council urges all parents to inform their children and supervise the implementation of this City-wide curfew so that we may avoid problems and promote the safety, health and welfare of our City's young people and property owners; and

BE IT FURTHER RESOLVED, that it shall be a defense to a violation of this curfew that the minor was accompanied by the minor's parent or guardian, engaged in an employment activity, or involved in an emergency or other legally justifiable activity.

RESOLUTION NO.: 242 - 2010

OF

OCTOBER 25, 2010

A RESOLUTION ACCEPTING AND REJECTING
BIDS RECEIVED AT THE CITY OF NEWBURGH
OCTOBER 14, 2010 PROPERTY AUCTION

WHEREAS, this Council, by Resolution No.: 186-2010 of August 9, 2010, authorized a public auction of City owned properties; and

WHEREAS, such auction was duly held on the 14th day of October, 2010; and

WHEREAS, this Council has reviewed all bids and has determined that the following bids are accepted:

<u>Lot #</u>	<u>Property Address</u>	<u>S-B-L</u>	<u>Purchaser</u>	<u>Purchase Price</u>
#7	37 City Terrace	29-4-14	Stardust Realty, LLC	\$4,000.00
#8	48 City Terrace	29-5-38	Stardust Realty, LLC	\$3,750.00; and

WHEREAS, this Council has further determined that all other bids received are rejected;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following properties to the indicated purchasers be and hereby is confirmed and the City Manager is hereby authorized and directed to execute and deliver a deed to said purchasers upon receipt of the indicated purchase price in cash, money order or bank check, made payable to THE CITY OF NEWBURGH, on or before December 17, 2010, subject to the annexed Terms and Conditions of the Auction:

<u>Lot #</u>	<u>Property Address</u>	<u>S-B-L</u>	<u>Purchaser</u>	<u>Purchase Price</u>
#7	37 City Terrace	29-4-14	Stardust Realty, LLC	\$4,000.00
#8	48 City Terrace	29-5-38	Stardust Realty, LLC	\$3,750.00; and

BE IT FURTHER RESOLVED, that all other bids received at the City of Newburgh October 14, 2010 property auction be and are hereby rejected; and

BE IT FURTHER RESOLVED, that the Acting City Comptroller be and she is hereby authorized to refund all deposits and buyers premiums paid by each bidder for all bids herein rejected.

Terms and Conditions of the Auction

DATE: October 14, 2010

TIME: 11:00 AM

LOCATION: Homewood Suites

Newburgh-Stewart Airport

180 Breunig Road

New Windsor, NY 12553

INTERNET TERMS (in addition to standard terms below):

1. **Registration.** All bidders are required to register and provide suitable I.D. (photo copy acceptable) prior to the auction. Auctioneer reserves the right to decline registration if I.D. produced is not sufficient. A copy of the bidder's valid driver's license or passport with the bidder's notarized signature on the same page must be provided to the auctioneer. **NO EXCEPTIONS.**
2. **Bidder approval for internet.** Download the "Internet Bidder Registration Packet" by visiting the following webpage, <http://www.NYSAuctionsBids.com/IBidReg/Newburgh.pdf>. Complete all required information areas where indicated by printing or signing legibly and return with funds described in paragraph three to auctioneer/broker no later than 4:00 PM on Tuesday, October 12, 2010, eastern standard time. **NO EXCEPTIONS.**
3. **No Recourse.** Internet bidding through our Provider is offered as a service to our customers, and bidders shall not hold the City of Newburgh and/or Haroff Auction & Realty, Inc. and/or Absolute Auctions & Realty, Inc., responsible for any failure due to the loss of the internet connection supplied to Absolute Auctions & Realty, Inc. and Haroff Auction & Realty Inc., by the Provider.

STANDARD TERMS:

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) 2008-2009, 2009-2010 and 2010-2011 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 2008-2009, 2009-2010 and 2010-2011, 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 2008-2009, 2009-2010 and 2010-2011, 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. **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 either: obtain

a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. 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.

6. Properties identified as 63 Beacon Street, Section 48, Block 6, Lot 3; 440 Carpenter Avenue, Unit 1-9, Section 56, Block 1, Lot 1.9; 440 Carpenter Avenue, Unit 1-20, Section 56, Block 1, Lot 1.2; 408 Carpenter Avenue, Unit 3-24, Section 56, Block 1, Lot 1.74; 87 Carson Avenue, Section 45, Block 8, Lot 10; 34 Carter Street, Section 22, Block 2, Lot 26; 206 City Terrace, Section 17, Block 8, Lot 22; 64 Clinton Street, Section 10, Block, 2 Lot 19.2; 15 Ellis Avenue, Section 33, Block 2, Lot 2.1; 14 Elm Street, Section 17, Block 7, Lot 16; 387 First Street, Section 28, Block 1, Lot 12; 16 Hudson View Terrace, Section 7, Block 8, Lot 10; 21 Leroy Place, Section 4, Block 8, Lot 20; 70 Leroy Place, Section 4, Block 10, Lot 4; 29 Maple Street, Section 25, Block 4, Lot 9; 3 Marne Avenue, Section 7 Block 7, Lot 8.1; 47 Overlook Place, Section 48, Block 2, Lot 8; 26 Pine Street, Section 7, Block 1, Lot 17, 322 Robinson Avenue, Section 3, Block 9, Lot 25; 162 South Street, Section 11, Block 3, Lot 21; 791 South Street, Section 13, Block 2, Lot 10; 241 Washington Street, Section 38, Block 2, Lot 12; 167 West Parmenter Street, Section 38, Block 3, Lot 4; and 61 William Street, Section 39, Block 2, Lot 29 will be sold subject to an owner-occupancy restriction. Successful bidders that have agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish their domicile and principal residence at said premises and maintain their domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.
7. Property identified as 162 South Street, Section 11, Block 3, Lot 21, will be sold as a package and together with 187 Lander Street, Section 11, Block 3, Lot 26. The successful bidder shall combine the premises herein, identified as 162 South Street, Section 11, Block 3, Lot 21 and 187 Lander Street, Section 11, Block 3, Lot 26, as one lot of record within one (1) year of the date of conveyance.
8. 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.
9. 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.
10. Notice is hereby given that the properties identified as 63 Beacon Street, Section 48, Block 6, Lot 3; 87 Carson Avenue, Section 45, Block 8, Lot 10; 37 City Terrace, Section 29, Block 4, Lot 14; 48 City Terrace, Section 29, Block 5, Lot 38; 64 Clinton Street, Section 10, Block 2, Lot 19. 2; 197 Lander Street, Section 11, Block, 3 Lot 1; 21 Leroy Place, Section 4, Block 8, Lot 20; 70 Leroy Place, Section 4, Block 10, Lot 4; 47 Overlook Place, Section 48, Block 2, Lot 8; 162 South Street, Section 11, Block 3, Lot 21; 187 Lander Street, Section 11, Block 3, Lot 26, and 61 William Street, Section 39, Block 2, Lot 29 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.

11. 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.
12. 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.
13. 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.

AT THE AUCTION

14. 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,
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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.
22. 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.
23. The terms "bidder", "highest bidder" and "successful bidder" shall all have the same meaning.
24. \$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 19 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

25. 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.
26. 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 17, 2010. *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.
27. 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 auction. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.

28. If the successful bidder fails to tender such amount due by the close of business on December 17, 2010, 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.
29. 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.
30. 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.
31. 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.**
32. 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.
33. 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.
34. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
35. The successful purchaser on each auction parcel must remove the auction sign within seven (7) days after the recording of the deed.
36. 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.: 243-2010

OF

OCTOBER 25, 2010

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 63 LIBERTY STREET
(SECTION 39, BLOCK 5, LOT 16)

WHEREAS, on June 8, 2006, the City of Newburgh conveyed property located at 63 Liberty Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 16, to JCL Media, Inc.; and

WHEREAS, JCL Media, Inc. President James A. Sollami 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, with respect to 63 Liberty Street, Section 39, Block 5, Lot 16, of the aforementioned deed.

LOCAL LAW NO.: 11 - 2010

OF

OCTOBER 25, 2010

A LOCAL LAW AMENDING LOCAL LAW NO.: 9-2010 OF JULY 12, 2010
ELECTING A RETIREMENT INCENTIVE PROGRAM
AS AUTHORIZED BY CHAPTER 105, LAWS OF 2010 FOR THE ELIGIBLE EMPLOYEES
OF THE CITY OF NEWBURGH

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

- Section 1. The City of Newburgh hereby elects to provide all of its eligible employees with a retirement incentive program, as authorized by Part A of Chapter 105, Laws of 2010.
- Section 2. The commencement date of the retirement incentive program shall be September 1, 2010.
- Section 3. The open period, during which eligible employees may retire and receive the additional retirement benefits, shall be ninety days in length up to and including November 29, 2010.
- Section 4. The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this local law shall be paid as one lump sum, or in five installments. The amount of the annual payment shall be determined by the Actuary of the State of New York and Local Employees' Retirement System, and it shall be paid by the City of Newburgh for each employee who receives the retirement benefits under this local law.
- Section 5. This local law shall take effect on its filing with the Secretary of State.

LOCAL LAW NO.: 12 - 2010

OF

OCTOBER 25, 2010

A LOCAL LAW AMENDING CITY CHARTER SECTION 8.16 ENTITLED "COMBINING
OF STATE, COUNTY AND CITY TAXES FOR COLLECTION"
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 Amending Charter Section C.8.16 entitled "Combining of state, county and city taxes for collection" of the Code of the City of Newburgh".

SECTION 2 - AMENDMENT

City Charter Section C.8.16 entitled "Combining of state, county and city taxes for collection" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C8.16. Combining of state, county and city taxes for collection.

A. The Council may, by ordinance, combine the taxes levied for state and county purposes and the taxes levied for general city purposes and provide for the collection thereof at such time or times and in not more than ~~three (3)~~ four (4) installments as it may determine; provided, further, however, that such installments must be paid in the order in which they become due.

SECTION 3 - 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 4 - EFFECTIVE DATE

This Local Law shall take effect on January 1, 2011.