



CITY OF NEWBURGH COUNCIL MEETING AGENDA

November 26, 2012
7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call
4. Approval of the minutes of the November 8, 2012 Work Session meeting
5. Approval of the minutes of the November 13, 2012 City Council meeting

Executive Session:

6. City of Newburgh v. Mark Sarna, Sarna Enterprises, Inc., New Windsor Development Co., LLC and Drainage District No. 6, Mt. Airy Estates (the Reserve), Town of New Windsor, New York

Communications:

7. Purchased Summons and Verified Complaint: Anthony Iemma, Jr. et al v. City of Newburgh
8. Notice of Intention to File a Claim: Victor Koltun v. City of Newburgh
9. Notice of Summons & Verified Complaint: Angela Bloomer and Bragg LLC v. City of Newburgh
10. Complaint and Order of Service: James Earl Evans v. City of Newburgh

Presentation:

11. Newburgh Community Land Bank - Acquisition Strategy Recommendation, John R. Nolon, Professor, Pace Land Use Law Center and Madeline Fletcher, Director Newburgh Community Land Bank

Public Hearings:

12. A public hearing to receive comments concerning the 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 2013.
13. A public hearing to receive comments concerning a local law enacting Chapter 70, entitled "Parking Violations Bureau" of the Code of the City of Newburgh.

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

14. Resolution No. 211 – 2012
A resolution authorizing an amendment to the grantee on the property located at 13 Locust Street sold at the October 3, 2012 property auction.
15. Resolution No. 212 – 2012
A resolution authorizing an amendment to the grantee on the property located at 304 First Street sold at the October 3, 2012 property auction.
16. Resolution No. 213 – 2012
A resolution amending Resolution No. 238-2011, the 2012 Budget for the City of Newburgh, New York to transfer funds from contingency to provide for tax bill payments to the Newburgh Enlarged City School District.
17. Ordinance No. 7 - 2012
An ordinance amending Chapter 163 entitled "Fees" of the Code of the City of Newburgh.
18. Resolution No. 214 - 2012
A resolution appointing Elder Dextro Tiller to the City of Newburgh Human Rights Commission.
19. Resolution No. 215 - 2012
A resolution appointing Nancy Billman to fill a vacancy on the board of directors of the City of Newburgh Industrial Development Agency.
20. Resolution No. 216 - 2012
A resolution appointing Janet Gianopoulos as a member of the Board of Ethics.

21. Resolution No. 217 - 2012
A resolution authorizing the City Manager to enter into an agreement with BFJ Planning for professional planning services at a cost of \$10,000.00 to prepare mixed-use special permit text amendments to the zoning code in connection with the Mid-Broadway Redevelopment project.
22. Resolution No. 218 - 2012
A resolution to authorize the re-purchase of real property known as 268 Grand Street at private sale to Elizabeth Kong.
23. Resolution No. 219 - 2012
A resolution to authorize the re-purchase of real property known as 47 Lander Street at private sale to Paten of Orange County, Inc.
24. Resolution No. 220 - 2012
A resolution to authorize the re-purchase of real property known as 72 Hasbrouck Street at private sale to Keith Giff and Heather Giff.
25. Resolution No. 221 - 2012
A resolution to authorize the re-purchase of real property known as 49 Henry Avenue to Franklin Jacobs and Shirley Jacobs.
26. Resolution No. 222 - 2012
A resolution authorizing the City Manager to accept donations in support of the City of Newburgh's Gun Buy Back Program.
27. Local Law No. 6 - 2012
A local law adding Chapter 70 entitled "Parking Violations Bureau" to the Code of the City of Newburgh.
28. Ordinance No. 8 - 2012
An ordinance amending Section 297-22 "Towing of Vehicles by City" of Chapter 297 entitled "Wreckers and Towers" of the Code of Ordinances of the City of Newburgh.
29. Ordinance No. 9 - 2012
An ordinance amending Chapter 288, "Vehicles and Traffic" with respect to Article III "Parking, Standing and Stopping"; Article IV "Snow Emergency Parking"; Article V "Parking Meters"; Article VI "Removal and Storage of Vehicles" and Article VII "Miscellaneous Provisions" of the Code of Ordinances of the City of Newburgh.
30. Resolution No. 223 - 2012
A resolution adopting the Budget for fiscal year 2013 as amended by the City Council and as reflected in the column identified as 2013 recommended stage.

Agenda - City Council Meeting
November 26, 2012

Old Business:

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

City of Newburgh, Newburgh New York
Work Session of the City Council

Thursday, November 8, 2012

Members Present: Mayor Judy Kennedy
Councilwoman Regina Angelo
Councilman Curlie Dillard
Councilwoman Gay
Councilman Cedric Brown

Also Present: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel

Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 5:00 pm.

Executive Session: At 5:05 p.m. a motion was made by Mayor Kennedy and seconded by Councilwoman Lee to enter into executive session regarding matters of pending litigation.

YES: 5
NO: 0
CARRIED

Adjournment: Upon consensus, the Council returned to the regular work session noting the time as 6:20 p.m.

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

The Prayer was led by Father Bill Scafidi and 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 Work Session of October 18, 2012 and the minutes of the City Council Meeting of October 22, 2012 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 October be approved 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 October 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 EEOC Charge and Verified Complaint be referred to Corporation Counsel with power to act.

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

CARRIED

MESSAGE FROM THE MAYOR

Mayor Kennedy performed a slide presentation reviewing the *Rules of Conduct for City Council Meetings*. She remarked that we have had some meetings that have reeled out of control. Many citizens have expressed to her that they are afraid to bring their children to the meetings. Others have watched the televised version, and they have expressed that they are not going to attend the meetings. Even businesses have expressed that they are not going to work with us until we get our acts together.

This council meeting is a place to conduct business, and it is a place where we need to have honor and respect. She reviewed the rules of conduct to ensure that we have a clear understanding of what they are. They are going to be enforced to the Letter of the Law from this day forward.

PROPOSED PUBLIC HEARINGS

RESOLUTION NO.: 196 - 2012

OF

NOVEMBER 13, 2012

A RESOLUTION SCHEDULING A PUBLIC HEARING FOR
NOVEMBER 26, 2012 TO RECEIVE PUBLIC COMMENT ON THE
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 2013

BE IT RESOLVED, by the Council of the City of Newburgh, New York that there is scheduled a public hearing to receive public comment on the 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 FY 2013; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 26th day of November, 2012 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, 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.: 203 - 2012

OF

NOVEMBER 13, 2012

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR NOVEMBER 26, 2012
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW ENACTING
CHAPTER 70 ENTITLED "PARKING VIOLATIONS BUREAU"
OF THE CODE OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law enacting Chapter 70, entitled "Parking Violations Bureau" of the Code of the City of Newburgh 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 26th day of November, 2012, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, 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

PUBLIC HEARING

Mayor Kennedy called a public hearing to receive comments concerning the adoption of the 2013 Budget for the City of Newburgh.

City Manager Richard Herbek introduced the budget hearing and presented a Statement on the Proposed Budget Changes. (SEE STATEMENT ATTACHED)

Barbara Smith asked the council what is in the 2013 Budget for the people. She could care less about the raises being given amongst the staff, but bring some economic development to this city to support the raises. She has not seen one street repair. There is nothing in this budget for the people who pay the taxes. That is not what city business is all about.

Virginia D'Orio stated she bought her home in the City of Newburgh in 2000 with HUD assistance. It was at a time when the city was full of corruption, employees were getting fired and the money was so mismanaged. The monies that came into the city did not go to her, the children or to anything to combat the poverty here. She sees that the City Manager and the employees work tirelessly and extremely hard. Yet the taxes are too high. She has had a loan modification just to be able to keep her house. She pleaded with the council to balance the budget.

Timothy Hayes-el commented about planning and development. Millions of dollars have come through that program. He has not seen one job go to the residents of the City of Newburgh. He is glad to see that the council is trying to change the way things are being run in the city.

Denise Ribble explained why she supports the proposed changes to the 2013 Budget which were discussed at the last Work Session. Her taxes and water and sanitation fees have increased. There was surplus in the Water fund to repair our water tanks without having to go to bonds. Yet now our Water Fund is in the red. She asked the council what happened. Furthermore we have a fragmented Capital Plan and Land use plan that does not have teeth in it. She does not feel that the City Manager has lived up to his performance, and she does not feel that the council has lived up to its oversight responsibilities this year. Both of these things need to occur with the FY 2013. (SEE COMMENTS ATTACHED)

Andrew Marino stated that he sees \$63K sitting on the council's side of the table. And he questions whether that \$63K is going to become part of the

tax levy or not. Does this mean that we are moving in the direction of a strong mayoral form of government or perhaps a City administrator? He reads the paper. He knows that no one is going to admit that a closed meeting occurred. Yet the two council members who support the City Manager were not involved.

Janet Gianopolous remarked that we should adhere strictly to the recommendations of the NYS Comptroller. We need a list of Capital Projects. Per NYS the 2011 budget could have cost the taxpayers 9% less than it actually did. The taxpayers are in a crunch. She requested that the council roll back this money that rightfully belongs to the taxpayers. All revenue-generating opportunities need to be explored, including the existence of cable television franchises and the parking tribunal that was signed back in mid August.

Michelle Basch commented that she loves the City of Newburgh. Yet it is extraordinarily expensive to run a business in this city. She cautioned that if we continue to increase payroll taxes for businesses, then people are not going to want to work here. She only employs residents of the City of Newburgh. It is important to have an education component to help the youth become employable. She would like to see a plan implemented similar to the WPA of the 1930s. It taught people how to work in companies, and it was extremely successful. She believes that the State would help us if we reached out to it. We can fix the budget but we need to get the other entities involved so we can work together on it.

Nelson McAllister stated he would like to see the council go back to the table and re-crunch the numbers. It is a minimal increase this year, but it is still more than most people can afford to pay. Second, creating another top-heavy level of government is not going to work. Our national government is top-heavy. We need funds to repair our homes so that we can be able to sell them. He commended the Mayor for reviewing protocol for meetings. When we show people the professionalism in our city, then people will want to come and invest in the City of Newburgh.

Steve Ruelke stated that he got a hold of the proposed changes to the budget. He wanted to know when that meeting occurred. Had he known about the meeting he could have listened to the deliberations that go into creating public policy. He wondered if it was time for another lawsuit due to breach of the Open Meetings Law. He feels that the creation of a Super Department Head is unnecessary given the quality of the people who do extraordinary things with the limited resources they have. We can have all the rules and regulations that we want, but transparency in government is what is really going to bring law and order. He pointed out that the voters are the ones who decided that a super majority vote would be required to remove a City

Manager. He feels that Herbek's salary is being cut as a means to remove him from his position. It is disconcerting and it breeds distrust on the people who are being served by the city. He hopes there is a clear explanation before the budget is adopted.

Tim Hagar spoke on behalf of the Newburgh Firefighters Local 589. He stated that over the past two years the firefighters have given back almost \$1.2 Million to the City. They gladly did so to save 12 members' jobs. Nobody else did what they did. They all try to stick together. Even though they have it hard, he understands how hard it is for the taxpayers too. In previous years the Deputy Fire Chief position was a \$96K position. At the last civil service test it was posted at \$86K. The union is willing to negotiate an agreement, in which the person in the job now will get a \$5K raise. Members have taken classes and furthered their education to make themselves of better service to the City. Also when we delay making capital purchases, such as a water pumper, it only gets worse in the long run because the machine increases in price every few years. He asks the City not to deplete their numbers. This makes it unsafe for them to do their jobs and it makes it unsafe for the public.

There were no other public comments at this time.

CITY MANAGER'S STATEMENT
ON PROPOSED BUDGET CHANGES

11/13/12

Since 2009, when I was asked to consider the position of City Manager by both Councilwoman Marge Bell and Mayor Nick Valentine, I have worked long and hard to turn things around in the City. A report on our accomplishments over the last three years is on the table at the back of the room tonight. I noted in that report that my main priority when I came here was to identify and correct the financial issues plaguing the City over a 10 year period of governmental mismanagement and poor decision-making.

Since then we have stabilized the City's finances, enhanced revenue opportunities, recovered revenues from past grants, PILOTs etc., achieved numerous cost-saving and revenue-increasing measures and laid the groundwork for economic recovery and a more stable future for the City.

The report states that the City of Newburgh has long been plagued with an unstable government, with a revolving door for City Managers and key department heads. It is no wonder that developers and residents are reluctant to invest here, with the City's negative image and serious credibility problems. I further stated that the only way to overcome this negative perception is by demonstrating that the City of Newburgh can support long-term stability in government. Only then can the City make lasting progress.

The only way we have made any progress to date is by employing a key cadre of professional department heads and staff who have the level of experience and dedication to their jobs and the City to provide governmental services despite cutbacks to budgets and staff, while creating a strategy for the future economic growth of the City.

In addition to being fiscally unsound, the Mayor's proposed changes to the 2013 Budget will turn the City back in time, as key department heads are indicating their intention of leaving City employment for positions in other governmental agencies or the private sector. Their departures will represent additional costs for severance pay. And, if the changes prevail morale will be destroyed throughout the City organization. We have worked so hard these past three plus years and our efforts will be in vain.

Adding another layer of senior management at a six-figure salary is not a "bold" plan, but one, along with other changes, that will ultimately create further financial devastation. For example, the proposed budget changes combine the General Fund with an Enterprise Fund and two Federal Grant programs which all must exist on their own. The budget also did not take into account the cost of benefits the city is required to pay. The Commissioner of City Services' salary of \$105,992 is an actual budget expense of \$159,541, a police officer's \$41,073.00 salary would be a budget change of \$77,248 and removing the position of Deputy Fire Chief would not save the city \$85,894 because the employee would still remain an Assistant Chief at \$78,394.00. When you take into consideration all the proposed position changes and salaries, the difference is not merely \$4,677 as the mayor has stated, but the City taxpayers would have to fund an additional \$137,670.

It is also important to note that the Mayor's plan fails to consider the cost of ancillary staff, office space, furnishings, etc. to support the Commissioner of City Services.

With regard to the proposed consolidation of three City departments it is important to remember that each of the department heads has certain Civil Service protections. The City Engineer, Superintendent of Water and Superintendent of Public Works are all in protected civil service positions. They all had to take competitive Civil Service positions and were hired from competitive Civil Service lists. There is no need to consolidate these positions. I have already given the City Engineer responsibility for the Water and Sewer departments, and

Craig Marti works very closely with them and with their superintendents. I have given some thought to also giving the City Engineer responsibility for Public Works, but put that on hold until the Engineer's office can be more adequately staffed. The salary level I proposed for the City Engineer is in line with other similar department head level personnel. The 2013 Manager's Proposed Budget allocates \$100,692- the proposed changes allow only \$86,889, which is considerably less than he is making now.

I am opposed to the proposals for the part-time HR Specialist and the part-time legal counsel for the City Council. These positions are unnecessary. We have been making great strides with Michelle Mills assuming more of the Human Resources role that the City needs. She is now heavily involved in training of the work force, tracking personnel who are out for various reasons, and handling workers compensation issues. The charts at the end of the report on City Manager accomplishments show the decreasing trends in loss and claim experience.

Also, while I am not opposed to performance reviews, such a program needs to be negotiated with the various labor unions before it can be implemented.

I also refer the Mayor to section C6.10 of the City Charter which states very clearly that the Council does not get to choose its legal advisor for the City Council or the City. That is clearly the responsibility of the Corporation Counsel.

I am in favor of adding additional police officers but not at the expense of the other City employees whose salaries the Mayor has proposed reducing. If this can be done within the constraints of a structurally balanced budget and with the approval of the New York State Comptroller I am for it. We do need more police and we also need concessions from the PBA in the next contract so that we can better control our overtime costs.

With regard to the proposed positions being eliminated I am not in favor of any of these deletions. We need an Assistant City Engineer to provide help and support to the City Engineer. There are more capital projects current and pending than one person can oversee. We will be presenting a five year capital improvement

program to the City Council in December which will provide a pretty complete picture of all of the infrastructure and other work that needs to be tackled. I remind the City Council that before a full time City Engineer was hired the City had a long term relationship with the engineering firm of McGoey, Hauser and Edsall. Work was farmed out to as many members of the firm as required. Now we are down to one person.

The Deputy Fire Chief will assist with the nuts and bolts of running the Fire Department in order to allow Fire Chief Mike Vatter to tackle more of the code enforcement and distressed property needs of the City. Chief Vatter, who has a law degree, also serves as Chair of the Newburgh Community Land Bank and is working in partnership with the Pace University Land Use Law Center to position the City for further economic development. Also, eliminating the Deputy Fire Chief position would not save \$61,472. The individual slated for this position would revert to Assistant Fire Chief. The only savings would be \$5,000.

I am completely opposed to other proposed position changes which reflect salary decreases, i.e.: decreasing the Fire Chief's salary from \$110,483 to \$103,839. The City made a commitment to Chief Vatter on November 2, 2009 to have him assume the position of Fire Chief at \$109,304. The City Manager has the authority to grant step increases and his salary should be \$112,809. Again we need to recognize the value we have in human capital and the importance to the City of having a former Deputy Fire Chief in this key role in the City.

Also, my agreement with the City as spelled out in resolution 12 of 2012 clearly provides that "This agreement will continue on a month-to-month basis after January 23, 2013 until December 31, 2013 unless either party notifies the other of its intent in writing to terminate this agreement." Numerous attorneys have indicated to me that this means the salary of \$150,000 is a portion of this agreement and to change it requires the vote of four Council members. I am prepared to litigate this if need be.

I am opposed to making the Community Development Director part time. This is an important position in the City both with respect to the Community

Development Block Grant (CDBG) program and all the other aspects of community development in the City. Courtney Kain is working very closely with the IDA and the Distressed Property Task Force and in managing all City owned properties. Ms. Kain has worked hard to restore credibility with the federal Department of Housing and Urban Development, (HUD) to resolve the Section 108 Loan issue, the IG report on CDBG funding, and the West Med Tech grant, and she demonstrates a knowledge of regulations and procedures necessary to administer the CDBG program. Most importantly, HUD officials demand that CDBG funding recipients demonstrate a level of capacity to run their programs. If HUD thinks that the City does not have the capacity to do so, it could have a negative impact on future funding.

I recommended increasing the Economic Development Specialist position to full time as we are beginning to lay the groundwork for economic recovery and there is much to do in our work with Pace, the Center for Community Progress, the Land Bank, Codes related issues, the Mid-Broadway project among others.

With regard to the non-bargaining unit employees I included salary adjustments of 2% in accordance with the 2009 City Council promise of returning the 5% salary decreases which were imposed for the 2010 City Budget. The clear intent of the City Council was to return the imposed reductions in the following fiscal year. We were not able to do that in 2011 or in 2012 but we can in 2013 and I believe we have a moral and ethical commitment to do that. The firefighters also took a 5% cut and those salaries will be brought back over the next two years as provided for in their union contract.

One of the Mayor's proposals is to add \$15,000 into the Budget for Council Travel. I find it incredulous in light of all the proposed reductions that this is even being brought up. Personally I have paid for my own travel expenses the last few years as have many other staff members.

With regard to the proposed BAN I am in agreement that computer needs should be part of the 2013 operating budget and we should find a way to incorporate them into it. I do feel strongly that the DPW needs to replace the various vehicles

that we recommended and that the Fire Department pumper should be kept in the BAN. To put these off is just kicking the can down the road. The New York State Comptroller recommended that the City evaluate its capital and infrastructure needs and we are doing that. With the deletion of these items, the Mayor would be advised to add quite a bit to the repair lines.

Lastly and most importantly Deputy New York State Comptroller Steven J. Hancox in his October 15 letter to the members of the City Council wrote that the City Council is required to make adjustments to the proposed budget consistent with the State Comptroller's recommendations. The recommendations that the New York State Comptroller will be making are based on the Manager's Proposed Budget not on the Mayor's recommendations. Therefore, I do not believe that any of these changes can be made to the 2013 budget until and unless they have been determined to be consistent with the State Comptroller recommendations.

Comments submitted by Denise Ribble re: Public Hearing on 2013 budget

Support proposed changes to the Budget discussed on 11/8/12 for the following reasons:

The Budget must be balanced, support strategic goals and structurally address the strategic direction set by the Council yielding desired outcomes. In Spring 2012, the City Manager listed the top strategic goals set by the City Council. These included -revenue generation; increased economic, business and work force development, quality of life improvements (Clean and safe City), improved customer services for all residents (especially youth and seniors) and an evaluation and accountability system for Council to oversee City Manager performance measures to monitor progress toward these outcomes.

The Council is responsible to establish sufficient processes to maintain oversight of the finances and operations of the City

- 1) In the absence of a capitol plan for Council review, it is premature to commit to using borrowed money for computers, trucks and other equipment. Agree with removal of these items and further request the City Manager provide the Council with a capitol plan for review. The Council should also consider requesting an analysis of purchase verses lease of such equipment.

The Council is responsible for establishing the strategic direction of the City and ensuring that the strategic direction and goals lead the City to desired outcomes.

- 2) Agree to delineating salary lines for new positions, so those new positions are funded in the budget. This will allow for the personnel and operational structure needed to achieve the desired outcomes in 2013.
- 3) Agree with salaries for non-bargaining unit employees held at 2012 levels and other proposed changes to salaries.

COUNCIL INPUT ON THE BUDGET HEARING

Councilwoman Angelo stated that the City Manager has presented them with a good, balanced budget for 2013. There were some good proposals that came from the Mayor and the councilmen, but unfortunately she and the City Manager were not present to discuss it. She is disturbed about an article she had clipped out of the newspaper. She feels that the five of them should have sat down together to discuss it. We do not have a lot of time left since the budget has to be approved at the next regular council meeting.

Councilman Brown commented that at least three council members are not into the rubber-stamping budgets. It is a different time now. They looked over the budget and discussed amongst each other, not together, about changes that would be good for this city. There was no violation of Open Meetings Law. He has sat at this table for almost a year, and he has seen no change. People come to the microphone and lament about jobs, housing and revenue-generation, none of which has been done in 2012. If you are going to try to initiate any change, sometimes you have to change the people in power. That is just the basics of it.

The creation of a new department is not in line with trying to *Super-size* the government. It is for the creation of more jobs. He feels that Herbek's cited accomplishments are past accomplishments, not for 2012. Much of our monies have been outsourced in the past to pay for things like water and sewer line repairs and asbestos abatement. If we had a department that could do the in-house work, then we would be able to hire residents for full-time and year-round positions, thus keeping the money right here in our own economy. These changes have a ton of possibilities, but we have to be able to implement them. If we do not implement them, then it is going to be the same *tax and spend* type of government. The taxpayers are saying "Get your hand out of our pockets." He is committed to doing that. That is why the 2% Tax Cap was put in place by the Governor. They are looking at new revenue sources so that they can leave the taxpayers alone. If the money is managed right, then we can get it to work right. But you have to have a team of people. The proposed changes are not to hurt the city. He believes the changes will help the city in moving forward.

Councilman Dillard stated that he and his fellow council members never met. He urged the audience member who felt that there was a violation of the Open Meetings Law, to bring it to court. He thought that individual went to court before and lost. Also in response to any alleged corruption on the council, Councilman Dillard stated that he has witnessed corruption in the three years that he has sat on the council. In the past, he witnessed a

Republican Majority sit in Executive Session and made a deal to give an employee a raise that was not deserved. That raise was decided by only three persons. He now has two persons with the same thought pattern as him to elevate this city in terms of jobs and self sufficiency. This plan would train minority persons for jobs.

Councilwoman Lee stated she would not offer any long-winded and drawn out explanations of any revenue-generating ideas she has presented in the past. If you would like to know her ideas, then perhaps you should review the past council minutes. She read a statement by the Mayor, allegedly written to draw criticism of many of Lee's proposed revenue-generating ideas. Lee stated that it is always nice to know when the Mayor is sending people out to attack her. Lee clarified that the imposition of a City Tax was an option, like the option of asking for PILOTS. She does not believe there is any harm in asking the larger institutions to pay a PILOT. The harm occurs when we flat out deny that there is a need for it in the community. If we are getting enough PILOTS from the not-for-profits that can afford them, then some of our city services should be free.

The idea is that that taxpayers and the legislative body look at it together. But that did not occur. She is not offended as a councilmember that only three people have put together a proposed plan and attached 'We' to it, but she is offended by it as a city resident. Three persons have decided that this is a Go budget. If there was sincerity in the proposed plan, then this should have come up in the public. She stated that she is an old-fashioned girl and things have to be documented. This plan does not say that anyone will get a job except the person who is going to be hired at a six-figure salary. If you are going to cut a fire chief's salary and put the money somewhere then you should inform us where you going to put it. She entered a copy of the proposed plan into the official minutes.

Lee stated that they have a good plan and she thinks that some of it is a doable plan. But let's come to the table to talk about it. Do not tell the people what she is *not* going to do, because it was never introduced to her in the first place. It was put together without her input.

Mayor Kennedy remarked that the allegations of a secret meeting being held, is a big deal. Over the last year there have been various discussions about consolidating the three city departments. In August they discussed in Executive Session that city employees would not receive wage increases. Then it was discovered that two people did, in fact, receive wage increases by the City Manager despite the council's discussion opposing them. This is really when things started to unravel. The idea of wage increases tied directly to

performance was discussed since her election. No progress on the implementation of performance reviews has been made whatsoever.

We have talked all summer long on making this city a safe place to live. We discussed the notion of creating a construction team inside of the city that is able to work on sidewalks, demolitions and rehabilitation of property. Yet nobody has received a job. It is tied up in CDBG funds. All of these things are really not new things, and she is quite frustrated. She mentioned that as a former consultant for a large corporation, she was paid well to assess problems and consolidate ideas into a strategic plan. She acknowledges that there are some wrinkles to iron out. Yet it is a strategic, high-level plan of how we could approach some goals. She mentioned that she has been asked why she did not include two fellow council members. She stated that she has struggled with it. When you get your hand bitten enough times, then you do not hold it out there again. In a way she wished there was a secret meeting, because it could have been done a whole lot faster. But they were diligent in ensuring that there was not a secret meeting of any sort.

She is willing to have another meeting, but we need best practices in this city. We need to do proactive economic development. All she keeps hearing people mention is the need for jobs. Jobs need to come from business. We are looking to create a new idea. It is an idea that has been tried in other places. We need to use our money more wisely and stop putting it in consultants. Our city is falling apart. She is looking for some actual results.

As far as our anchor institutions go, the best thing that we could do is sit down and talk to them. We do not need to make enemies with them by attacking them. Also concerning the City Manager's salary it is written in the proposal as a reduction in the salary. But she pointed out that is *An Invitation to the City Manager* to contribute part of his salary back in an effort to help the taxpayers and in an effort to build solidarity with the rest of the non-bargaining employees. He can decline the invitation if he chooses to do so. We can not keep taxing the taxpayers. Increasing water, sewer and garbage collection fees is just another way to tax the people. We have to get much more creative to get some of these other problems solved.

Councilwoman Lee moved and Councilwoman Angelo seconded that the public hearing be closed.

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

CARRIED

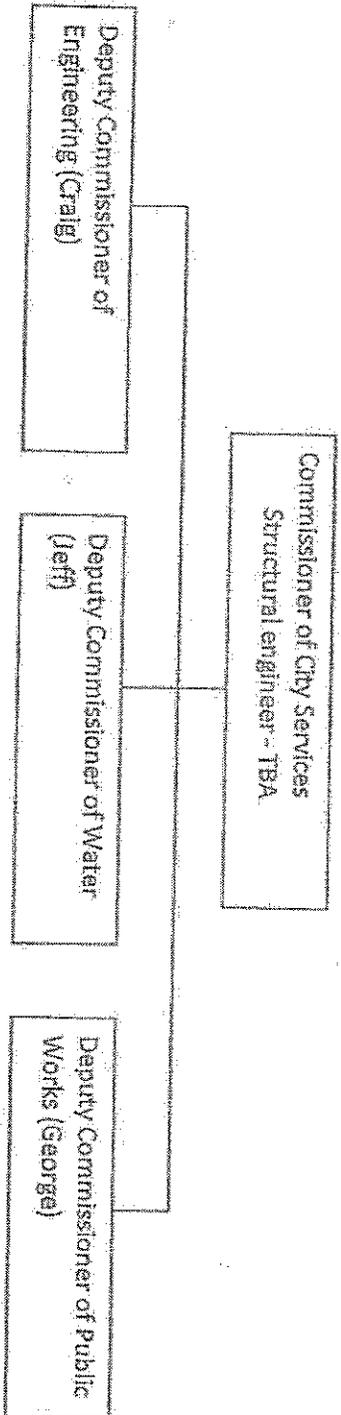
Proposed Changes to 2013 Budget

We propose to create a new City department called City Services by consolidating 3 current city departments. The purpose of this change is to create a department that can implement an Internal construction/demolition team as well as create greater efficiencies in engineering services across all three departments. The three departments we propose to consolidate are the Water Department, the Engineering department and the Department of Public Works. To implement, we propose to create a new position called Commissioner of City Services with all 3 current Superintendents becoming Deputy Commissioners of their respective departments.

Additional positions that we propose be created are 2 additional police officers, a part-time Human Resource person and part-time legal counsel that is dedicated to the members of the Council. We must get more officers if we are going to bring this city under control and create more safety for both our officers and our citizens. We need a Human Resource person that can oversee the implementation of performance reviews across the city as well as support our current civil service employee who is carrying the burden by herself. The Council members need legal council that does not report to the City Manager. There exists too much opportunity for conflict of interest.

Additional changes to the budget as described in the charts below. In essence, we propose that all wages are returned to the 2012 level.

Proposed New Positions



Dept Name	New Position	Employee Name	Grade or Depart. Code	Mgrs Budget	Proposed Salary Chng	Difference
City Services	Commissioner of City Services	TBA -- structural engineer	Grade 8 Step 2	\$0.00	\$105,992.00	-\$105,992.00
City Services	Deputy Comm. of Engineering	Craig Marti	Grade 7-1 (previous salary)	\$100,692.00	\$86,889.00	\$13,803.00
City Services	Deputy Comm. of Water	Jeff Wilman	Grade 7-1	\$88,718.00	\$86,889.00	\$1,829.00
City Services	Asst. Deputy Comm. of Water	Reynaldo Santiago	Grade 5-4	\$82,375.00	\$80,736.00	\$1,639.00
City Services	Deputy Comm. of Public Works	George Garrison	Grade 7-2	\$90,645.00	\$90,995.00	-\$350.00
Police	Officer	TBA		\$0.00	\$41,073.00	-\$41,073.00
Police	Officer	TBA		\$0.00	\$41,073.00	-\$41,073.00
HR Specialist:	Part-time	TBA		\$0.00	\$30,000.00	-\$30,000.00
Legal	Part-time legal counsel for council	TBA -- on contract by RFP process		\$0.00	\$30,000.00	-\$30,000.00
Totals:						-\$231,217.00

Proposed Positions Deleted

Title	Comments	Mgrs Budget	Proposed Salary Chng	Difference	Dept. Code
City Engineer	Noted in table above				
Superintendent of Public Works	Noted in table above				1440
Superintendent of Water	Noted in table above				5010
Deputy Superintendent of Water	Noted in table above				8310
Asst Engineer		\$61,472.00	\$0.00	\$61,472.00	8910
Deputy Fire Fighter		\$85,894.00	\$0.00	\$85,894.00	1440
Firefighter		\$40,000.00	\$0.00	\$40,000.00	3412
Totals				\$187,366.00	3412

Proposed Positions Changes

Title	Comments	Mgrs Budget	Proposed Salary Chng	Difference	Dept. Code
City Manager	Salary five back	\$150,000.00	\$130,000.00	\$20,000.00	1230
Fire Chief	Keep 2012 salary	\$110,483.00	\$103,839.00	\$6,644.00	3412
Assistant Fire Chief - restore to 2012	Keep 2012 salary	\$0.00	\$76,999.00	-\$76,999.00	3412
Community Dev. Director	Move to part time	\$75,340.00	\$37,670.00	\$37,670.00	CD118686
Economic Develop Spec	Remain Part time	\$52,982.00	\$25,945.00	\$27,037.00	CD118686
				\$14,352.00	

Positions for Salary Roll-back

Employee Name	Barg. Unit	Position	Mgrs Budget	2012 Salary	Difference	Depart. Code
	non-barg.	Police Chief	\$124,493.00	\$124,493.00	\$0.00	3120
	non-barg.	exec. Admin	\$64,799.00	\$63,162.00	\$1,637.00	1230
	non-barg.	admn assist	\$57,892.00	\$56,740.00	\$1,152.00	1230
	non-barg.	comptroller	\$88,718.00	\$86,889.00	\$1,829.00	1315
	non-barg.	comptroller sec.	\$58,242.00	\$57,090.00	\$1,152.00	1315
	non-barg.	Jr. accountant	\$52,982.00	\$51,890.00	\$1,092.00	1315
	non-barg.	City Collector	\$64,741.00	\$63,497.00	\$1,244.00	1330
	non-barg.	Assessor	\$71,132.00	\$69,665.00	\$1,467.00	1355
Vacant - DPW - does this job really need filled?	CSEA	motor equip. oper - Prop. Maintenance	\$43,533.00	\$42,207.00	\$1,326.00	1365
	non-barg.	City clerk/registrar	\$65,274.00	\$63,987.00	\$1,287.00	1410
	non-barg.	Deputy city clerk	\$58,592.00	\$57,440.00	\$1,152.00	1410
	non-barg.	Deputy city clerk	\$48,304.00	\$47,350.00	\$954.00	1410
	non-barg.	Corp. counsel	\$114,834.00	\$112,508.00	\$2,326.00	1420
	non-barg.	Assist. Corp counsel	\$88,128.00	\$86,311.00	\$1,817.00	1420
	non-barg.	secretary	\$58,242.00	\$57,090.00	\$1,152.00	1420
	non-barg.	secretary	\$48,304.00	\$47,350.00	\$954.00	1420
	non-barg.	Civil service admin	\$74,717.00	\$73,236.00	\$1,481.00	1430
Temp	part time	Recreation Attend. (3)	\$15,120.00	\$12,600.00	\$2,520.00	7140
Temp	part time	pool Security (3)	\$7,560.00	\$5,040.00	\$2,520.00	7181
Temp	part time	Camp Counselors	\$26,400.00	\$21,120.00	\$5,280.00	7320
	non-barg.	prin. Steno.	\$48,304.00	\$47,350.00	\$954.00	3120
	non-barg.	Code Compl. Super.	\$69,176.00	\$67,778.00	\$1,398.00	3620
	non-barg.	DPW sen. Typist	\$48,304.00	\$47,350.00	\$954.00	5010
	non-barg.	senior typist	\$57,892.00	\$56,740.00	\$1,152.00	8310
	non-barg.	City Planner	\$71,143.00	\$69,705.00	\$1,438.00	8684
	non-barg.	Crime analyst	\$78,173.00	\$76,589.00	\$1,584.00	CG:3120:3303:2012
				\$39,822.00		

Summary of dollars associated with Position changes:

Additional money to the Budget -231,247.00
 Savings from position deletions \$187,366.00
 Savings from position changes \$14,352.00
 Savings from salary roll back to 2012 \$39,822.00
 Total Saving in Salary changes \$10,923.00
 Additional money to the Budget for Council Travel -\$15,000.00

Grand Total -\$4,677.00

Department	Item(s)	Comments	Dollars saved
City Clerk's office	4 computers	Computers should not be in a BAN; an account for these types of items should be setup and money set aside for cash payments. There should be a 3-4 year rotation cycle for updating computers through out the city. Part of long-term planning.	\$4,300.00
Corporate Counsel	4 computers		\$4,300.00
	1 printer		\$683.00
Data Processing	3 computers		\$3,600.00
Executive office	2 computers		\$2,150.00
	1 laptop		\$1,400.00
Records Mgmt	1 computer		\$1,075.00
Fire Department	New Pumper Truck	We need to keep current trucks going for now.	\$400,000.00
DPW	2 Pickup trucks	We need to keep current trucks going for now.	\$64,000.00
DPW	1 Flatbed truck	We need to keep current tow truck going for now.	\$80,000.00
DPW	1 Sanitation truck	We need to keep current sanitation truck for now.	\$222,000.00
			\$783,508.00
		Current BAN total	\$1,845,627.60
		Minus deductions	-\$783,508.00
		Revised BAN total	\$1,062,119.60

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Denise Ribble recommended that the council table Resolution #198-2012 until there is some further discussion about property disposition. This grant was awarded in March 2012. The agreement is supposed to offer expedited assistance to companies seeking to relocate or expand within the city. However what it appears to be doing is providing forms and recommendations for streamlining processes. She would like the council to add some outcome measures and to shorten the term of the agreement. Second, she asked the council if it received the Cover Letter concerning Resolution # 204-2012. She is available to answer any questions the council may have.

Janet Gianopolous commented about Resolution #204-2012. This is the only appointment she sees regarding civilians being appointed to city boards. She knows there are plenty of volunteers out there to fill up seats. Having those committees running and active is going to help the government operate smoothly with citizen input.

Tammy Hollins commented about agenda item # 31. She read the resolution, pointing out the words "*designated council member*" instead of *designated council*. She asked how the designated council member going to be chosen. She asked if the entire council is going to decide who the designated council member will be.

Mayor Kennedy responded that they have not decided how the council is going to designate the council member referred to in the resolution. But that decision is going to be made by the entire council.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Angelo, Councilman Brown, Councilman Dillard and Mayor Kennedy did not comment at this time.

Councilwoman Lee remarked that she did not realize that the council is searching for a City Manager. We already have a City Manager. Since they are not voting to remove him, she does not understand why we are spending money to search for a replacement. Second, she would assume that any prospective candidate for City Manager would have to come to the table and sit before all five members of the council.

Mayor Kennedy commented that she explained last week that as of January 2013 the contract for our current City Manager goes from a yearly contract to a month-to-month basis. On a month-to-month basis we do not have that security that we need. This is a first step in terms of just having names on record to ensure that when we are ready everything will be in place. We do not know what could happen and we almost lost the City Manager a few weeks ago. The city would have been caught flat-footed without a City Manager. We would have had to hire someone temporary. This is a step in preparation of the future.

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

RESOLUTION NO.: 197 - 2012
OF
NOVEMBER 13, 2012

A RESOLUTION AUTHORIZING THE ASSIGNMENT OF
THE SEPARATION AND SETTLEMENT AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND LEYLAND ALLIANCE LLC
TO LEYLAND NEWBURGH ASSOCIATES, LLC AND
THE RELEASE OF EASEMENTS AND RESTRICTIONS

WHEREAS, by Resolution No. 107-2012 of June 18, 2012, the City Council authorized the City Manager to execute a Settlement and Separation Agreement ("Separation Agreement") with Leyland Alliance, LLC terminating prior agreements regarding the proposed redevelopment of approximately thirty (30) acres of City-owned lands located on and in close proximity to the Newburgh waterfront on the Hudson River; and

WHEREAS, by Resolution No. 151-2012 of September 10, 2012, the City Council granted to Leyland Alliance, LLC a sixty (60) day extension of the due diligence period from August 27, 2012 to October 26, 2012 and a corresponding sixty (60) day extension of time to close title from October 26, 2012 to December 24, 2012; and

WHEREAS, Leyland Alliance LLC is seeking to assign the Separation Agreement to Leyland Newburgh Associates, LLC, a wholly-owned subsidiary; the release of certain deed easements and reservations; and the cooperation of the City of Newburgh regarding the development of the real property to be transferred under the terms of the Separation Agreement; and

WHEREAS, the requests of Leyland Alliance require an amendment to the Separation Agreement; and

WHEREAS, this Council has determined that granting the requests of Leyland Alliance, LLC and entering into an amendment to the Separation Agreement is 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 execute an amendment to the Separation and Settlement Agreement as annexed hereto and made part hereof with other provisions as Corporation Counsel may require permitting the assignment of the Agreement from Leyland Alliance, LLC to Leyland Newburgh Associates, LLC, releasing deed easements and restrictions, and providing cooperation regarding the redevelopment of the real property subject to the Separation Agreement.

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

AMENDMENT
TO
SEPARATION AND SETTLEMENT AGREEMENT

THE CITY OF NEWBURGH, NEW YORK
AND
LEYLAND ALLIANCE, LLC

WHEREAS, the City of Newburgh, New York ("City") and Leyland Alliance LLC ("Leyland") entered into an agreement entitled "Separation and Settlement Agreement" ("Agreement") dated June 28, 2012, regarding the termination of prior agreements and the transfer of certain properties more particularly described in the Agreement, and

WHEREAS, the City and Leyland are desirous of amending the Agreement as herein provided, and

WHEREAS, the City has authorized this Amendment by Resolution No.151-2012 of September 10, 2012 and Resolution No. 197-2012 of November 13, 2012, and further authorized the City Manager to execute this Amendment on behalf of the City, the parties acknowledging adequate consideration therefor in the form of the mutual promises and conditions stated herein,

NOW, THEREFORE, the City and Leyland hereby amend the Agreement as follows:

1. The "Due Diligence Period" shall be extended from August 27, 2012 to October 26, 2012 and the time to close title shall be extended from October 26, 2012 to December 24, 2012.

2. Leyland may assign its rights and obligations under the Agreement to Leyland Newburgh Associates, LLC, a wholly owned subsidiary of Leyland Alliance, LLC.

3. The deed from the City to Leyland will provide:

A. The Party of the first Party hereby affirms that the rights of way, easements, rights, privileges and reservations set forth in the following instruments have merged with the fee estate and are no longer of any force or effect:

1. Right of way and reservations to alleyway contained in the deed from Mary E. Coyle to the City of Newburgh, dated February 29, 1936 and recorded in Liber 767 page 400

2. Rights and privileges contained in an agreement dated

March 10, 1846 between Minard Harris and the Trustees of the Village of Newburgh as disclosed in the deed from Olga M. Constantine to the City of Newburgh, dated March 2, 1936 and recorded in Liber 767 page 356

3. Sewer and drainage rights set forth in deeds recorded in Liber 340 page 334 and Liber 373 page 271

4. Reservation and right of way to alleyway contained in the deed from the City of Newburgh to the Newburgh Urban Renewal Agency dated April 24, 1973 and recorded in Liber 1940 page 544

5. Sewer and drainage rights contained in the deed recorded in Liber 298 page 159

6. Drainage rights contained in the deed recorded in Liber 340 page 334

7. Rights contained in the deed recorded Liber 373 page 271 and re-recorded in Liber 383 page 274.

8. Right of way contained in the deed from Henry Karmel to James C. Lavery and Catharine J. Lavery dated January 1, 1918 recorded in Liber 578 page 7

9. Right of way contained in a deed from the City of Newburgh and Newburgh Savings Bank dated August 25, 1936 recorded in Liber 774 page 327

10. Drain and sewer rights contained in a deed from Mamie M. Page to the Newburgh Urban Renewal Agency recorded in Liber 1884 page 459

Notwithstanding the foregoing, the Party of the First Part shall retain the right to maintain existing utility infrastructure on said premises, with the proviso that the Party of the First Part will cooperate reasonably in the event the Party of the Second Part, its successors or assigns, wishes to relocate any of said infrastructure so as to facilitate development of said premises.

B. With respect to the easement set forth in the deed from the City of Newburgh to the Newburgh Community Development agency dated August 22, 1986 recorded in Liber 2591 page 311, the Party of the First Part agrees (i) to terminate said easement in the event the Party of the Second Part demonstrates to the reasonable satisfaction of the Party of the First Part that no utility infrastructure is located within the former High Street that affects any property outside of the premises conveyed in this deed; and (ii) in the event that there is utility infrastructure within the former High Street that affects property outside of the premises conveyed in this deed, the Party of the Second Part, its successors and assigns, shall have the right to relocate such utility infrastructure to facilitate development of said premises, provided that such relocation shall be carried out in a manner that is in all respects reasonably satisfactory to the Party of the First Part.

C. The Party of the First Part also agrees to act reasonably upon the request of the Party of the Second Party, its successors and assigns, to provide cooperation regarding future development of said premises, including acting reasonably to permit the Party of the Second Part to relocate utility lines and other facilities owned by the Party of the First Part, provided that all conditions reasonably proposed by the Party of the First Part are adhered to by the Party of the Second Part.

4. Except as specifically provided above, all of the terms, conditions, obligations and duties set forth in the Agreement dated June 28, 2012 shall remain as so provided in that Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment and date this Amendment as the _____ day of November, 2012.

THE CITY OF NEWBURGH

By: _____
Richard F. Herbek, City Manager

LEYLAND ALLIANCE LLC

By: _____
Howard Kaufman, Managing Member

RESOLUTION NO.: 198 -2012

OF

NOVEMBER 13, 2012

A RESOLUTION AUTHORIZING AN AGREEMENT WITH PACE
UNIVERSITY LAND USE LAW CENTER AS A SUB-RECIPIENT OF THE TSEC
GRANT FUNDS TO PROVIDE EXPEDITED ASSISTANCE TO COMPANIES
SEEKING TO RE-LOCATE TO OR EXPAND WITHIN THE CITY OF
NEWBURGH

WHEREAS, by Resolution No. 33-2012 of March 12, 2012, the City of Newburgh applied for and was awarded a grant from the Solar Energy Consortium ("TSEC") in the amount of \$50,000.00 for the purposes of developing a database of industrial and commercial properties that would be appropriate for partners in the New York Renewable Energy Cluster Program; and

WHEREAS, the City of Newburgh has engaged the Pace University Land Use Law Center to inventory and develop a database of industrial properties and to assist manufacturers seeking help with building code and other issues pertaining to starting or expanding operations in the City; and

WHEREAS, the City of Newburgh wishes to enter into a sub-recipient agreement with Pace University Land Use Law Center to undertake such work; and

WHEREAS, this Council has determined that entering into the sub-recipient agreement is in the best interests of the City of Newburgh and its residents;

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 a sub-recipient grant agreement in substantially the same form as annexed hereto with other provisions as Counsel may require with Pace University Land Use Law Center to undertake the scope of work set forth in Schedule "A" of the agreement.

Councilman Dillard recommended that the council table the resolution. He does not feel there is enough forthcoming information, and he sees this as a delay tactic.

Mayor Kennedy would only want to table this for one meeting. There needs to be some clarity about the outcomes. It is not that Pace has not done anything. She feels that the City has not done anything with the grant. She believes it can be fixed quickly if the council just sits down and says what they want Pace to do in the agreement. The whole concept is a good one. She would just like to update Page 9 of the agreement clarifying the outcomes. We can pass this with the stipulation that we are going to put these anticipated outcomes in the agreement.

Herbek asked the council to clarify if it is looking to craft specific outcomes.

Corporation Counsel Michelle Kelson explained that this resolution has been before the council at least twice before. They are trying to allocate the grant funds so that work that the IDA has done is not also being duplicated by the Pace University Land Use Law Center. We could go back and redo the *Scope of Services* so that you would have more measurable outcomes. But there have been several misstatements that have been made tonight. It is frustrating not to be able to move forward with it.

Councilwoman Lee asked Kelson if the council has to take any action on it tonight. Can't we just say *Yea or Ne* and just move forward with it. She is clear about the resolution.

Councilman Brown moved and Councilman Dillard seconded to table the resolution.

Ayes- Councilman Brown, Councilman Dillard-2

Noes- Councilwoman Angelo, Councilwoman Lee, Mayor Kennedy-3

TABLE DEFEATED

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

Ayes- Councilwoman Angelo, Councilwoman Lee, Mayor Kennedy-3

Noes- Councilman Brown, Councilman Dillard-2

ADOPTED

RESOLUTION NO.: 199 - 2012

OF

NOVEMBER 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A
GRANT
IN COORDINATION WITH THE COUNTY OF ORANGE
FOR PARTICIPATION IN THE YOUTH AND POLICE INITIATIVE
FOR AN AMOUNT NOT TO EXCEED \$4,200.00**

WHEREAS, Youth and Police Initiative ("YPI") is an opportunity for Police Departments to increase their visibility in their communities and to bring about positive changes in the relationships with local at-risk youth; and

WHEREAS, YPI focuses on reducing crime and preventing gang involvement while also placing a strong emphasis on community safety; and

WHEREAS, the City of Newburgh wishes to accept a grant in coordination with the County of Orange for the participation in the Youth and Police Initiative; and

WHEREAS, the County shall reimburse the City of Newburgh for overtime costs associated with the project in an amount not to exceed \$4,200.00; and

WHEREAS, this Council has determined that accepting said grant 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 accept a grant in coordination with the County of Orange for the City's participation in the Youth and Police Initiative for an amount not to exceed \$4,200.00.

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.: 200 - 2012

OF

NOVEMBER 13, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT A GRANT OFFERED BY THE
ORANGE COUNTY YOUTH BUREAU AND TO ENTER INTO CONTRACTS
WITH ORANGE COUNTY THROUGH THE ORANGE COUNTY YOUTH
BUREAU
FOR FUNDING TO PROVIDE RECREATION AND SERVICE PROGRAMS
FOR THE CITY OF NEWBURGH YOUTH BUREAU IN THE AMOUNT OF
\$9,411.00 FOR 2013 RECREATION FUNDING AND \$8,438.00 FOR 2013
SERVICE FUNDING**

WHEREAS, the Orange County Youth Bureau has advised the City of Newburgh that a grant for funding is available to support recreation and service funding to provide recreation and service programs; and

WHEREAS, the City of Newburgh Youth Bureau has applied for said grant offered by the Orange County Youth Bureau for 2013 funding; and

WHEREAS, the City of Newburgh has been advised that the Orange County Youth Bureau has awarded such grant in the amount of \$9,411.00 for 2013 Recreation Funding and \$8,438.00 for 2013 Service Funding; and

WHEREAS, Orange County, through the Orange County Youth Bureau will enter into contracts with the City of Newburgh for the amounts awarded; and

WHEREAS, this Council has determined that accepting said grant and into contracts with the Orange County Youth Bureau is in the best interests of the City of Newburgh and its youth;

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 a grant offered by the Orange County Youth Bureau and enter into contracts with Orange County through the Orange County Youth Bureau for funding to provide recreation and service programs for the City of Newburgh Youth Bureau in the amount of \$9,411.00 for 2013 Recreation Funding and \$8,438.00 for 2013 Service Funding; and

BE IT FURTHER RESOLVED, that the City Manager is further authorized to execute the necessary documents as may be appropriate and necessary to accept such funds and administer the program funded thereby.

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: 211 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION AUTHORIZING AN AMENDMENT
TO THE GRANTEE ON THE PROPERTY LOCATED AT
13 LOCUST STREET (SECTION 25, BLOCK 5, LOT 21)
SOLD AT THE OCTOBER 3, 2012 PROPERTY AUCTION

WHEREAS, this Council, by Resolution No.: 182-2012 of October 22, 2012, confirmed the sale of 13 Locust Street (Section 25, Block 5, Lot 21) to Richard Massimi; and

WHEREAS, the purchaser, by his attorney, has submitted a request to amend the grantee to his company entitled Wisner Newburgh Realty, LLC; and

WHEREAS, this Council has determined that authorizing the amendment to the grantee 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 grantee for the property located at 13 Locust Street (Section 25, Block 5, Lot 21) is hereby amended from Richard Massimi to Wisner Newburgh Realty, LLC.

RESOLUTION NO: 212 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION AUTHORIZING AN AMENDMENT
TO THE GRANTEE ON THE PROPERTY LOCATED AT
304 FIRST STREET (SECTION 22, BLOCK 6, LOT 34)
SOLD AT THE OCTOBER 3, 2012 PROPERTY AUCTION

WHEREAS, this Council, by Resolution No.: 182-2012 of October 22, 2012, confirmed the sale of 304 First Street (Section 22, Block 6, Lot 34) to Ivan Miller; and

WHEREAS, the purchaser, by his attorney, has submitted a request to amend the grantee to his company entitled Jordan NY, LLC; and

WHEREAS, this Council has determined that authorizing the amendment to the grantee 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 grantee for the property located at 304 First Street (Section 22, Block 6, Lot 34) is hereby amended from Ivan Miller to Jordan NY, LLC.

RESOLUTION NO.: 213 -2012

OF

NOVEMBER 26, 2012

RESOLUTION AMENDING RESOLUTION NO: 238-2011,
THE 2012 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER FUNDS FROM CONTINGENCY TO PROVIDE
FOR TAX BILL PAYMENTS TO THE SCHOOL DISTRICT

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>Decrease</u>	<u>Increase</u>
A.1900.1990		
Contingency	\$35,000.00	
A.1365.0490		
Property Acq/Taxes & Search		\$35,000.00
F.1900.1990		
Contingency	\$13,000.00	
F.1900.1950		
Taxes on City Property		\$13,000.00

ORDINANCE NO.: 7 - 2012

OF

NOVEMBER 26, 2012

AN ORDINANCE AMENDING CHAPTER 163
ENTITLED "FEES" OF THE CODE
OF THE CITY OF NEWBURGH

BE IT ORDAINED by the City Council of the City of Newburgh that:

Section 1. Chapter 163 entitled "Fees" of the Code of the City of Newburgh be and hereby is amended as follows:

§ 163-1. Applicability.

Notwithstanding any other provision in this Code, the following schedule of fees is hereby established with respect to licenses, permits, registrations, applications, subscriptions and activities required or regulated under the provisions of the Code of the City of Newburgh. Specific requirements and regulations shall be as set forth in the chapter to which reference is made below. The following schedule of fees shall remain in effect until rescinded or amended.

Code Section	Type of Fee	Amount
	Charter	
§ C9.33	Sanitation stop fee	<u>\$2.75</u> per stop 20 per month per tax lot, whether or not a building is erected thereon
	Dwelling unit fee	<u>\$15</u> 16.50 per month per dwelling unit

Underlining denotes additions

| ~~Strike through~~ denotes deletions

§ 293-38 Quarterly metered water rates

Quarterly metered rates per 1,000 gallons

First 1,000 gallons	Inside City: \$5.570 <u>6.127</u> Outside City: \$8.360 <u>9.196</u>
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Additional usage will be charged at a flat rate of ~~\$5.570~~ 6.127 (~~\$8.360~~ 9.196 outside City) per 1,000 gallons.

Minimum quarterly charge.

Meter Size (inches)	Gallons Allowed	Inside City	Outside City
+5/8	6,000	\$33.42 <u>36.76</u>	
+5/8	9,000		\$75.24 <u>82.76</u>
3/4	4,000	\$77.98 <u>85.78</u>	\$117.04 <u>128.74</u>
1	24,000	\$133.68 <u>147.05</u>	\$200.64 <u>220.70</u>
1 1/2	42,000	\$233.94 <u>257.33</u>	\$351.12 <u>386.23</u>
2	83,000	\$462.31 <u>508.54</u>	\$693.88 <u>763.27</u>
3	120,000	\$668.40 <u>735.24</u>	\$1,003.20 <u>1,103.52</u>
4	180,000	\$1,002.60 <u>1,102.86</u>	\$1,504.80 <u>1,665.28</u>
6	315,000	\$1,754.55 <u>1,930.01</u>	\$2,633.40 <u>2,896.74</u>
8	675,000	\$3,759.75 <u>4,135.73</u>	\$5,643.00 <u>6,207.30</u>

Underlining denotes additions
~~Strikethrough~~ denotes deletions

RESOLUTION NO.: 214 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION APPOINTING ELDER DEXTRO TILLER
TO THE CITY OF NEWBURGH HUMAN RIGHTS COMMISSION

WHEREAS, the City of Newburgh has created the City Human Rights Commission pursuant to Section 239-q of the General Municipal Law; and

WHEREAS, this City Council deems it to be in the best interests of the City of Newburgh to appoint members to serve as Commissioners to fill vacancies and to carry on the important work of such Commission;

NOW, THEREFORE, BE IT RESOLVED, that the following person be and is hereby appointed to serve as a Commissioner of the City of Newburgh Human Rights Commission:

Elder Dextro Tiller, to complete the term of former member who resigned, which term shall expire on April 27, 2013; and

BE IT FURTHER RESOLVED, that said appointment shall take effect as of the date of this Resolution and be for the term stated hereinabove.

RESOLUTION NO.: 215 -2012

OF

NOVEMBER 26, 2012

A RESOLUTION APPOINTING NANCY BILLMAN TO FILL
A VACANCY ON THE BOARD OF DIRECTORS OF THE
CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

BE IT RESOLVED, by the Council of the City of Newburgh, New York that Nancy Billman be and hereby is appointed as a member of the Board of Directors of the City of Newburgh Industrial Development Agency.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

RESOLUTION NO.: 216 -2012

OF

NOVEMBER 26, 2012

A RESOLUTION APPOINTING A MEMBER OF
THE BOARD OF ETHICS

BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Ethics for a term of two (2) years commencing on November 26, 2012.

Janet Gianopoulos

RESOLUTION NO.: 217 - 2012

OF

NOVEMBER 26, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH BFJ PLANNING
FOR PROFESSIONAL PLANNING SERVICES AT A COST OF \$10,000.00
TO PREPARE MIXED-USE SPECIAL PERMIT TEXT AMENDMENTS TO
THE ZONING CODE IN CONNECTION WITH THE MID-BROADWAY
REDEVELOPMENT PROJECT**

WHEREAS, by Resolution No. 194-2012 of October 22, 2012, the City Council of the City of Newburgh, New York authorized the City Manager to execute the attached Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site; and

WHEREAS, the Development Agreement obligates the City to adopt modifications to the Zoning Code to permit the proposed development; and

WHEREAS, it is necessary and appropriate to retain professional consultant services to assist the City in preparing and adopting amendments to the Zoning Code; and

WHEREAS, after due consideration and evaluation the firm of BFJ Planning has been identified as qualified, able and cost-effective and the preferred firm to provide said services;

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 an agreement with such terms and conditions as Corporation Counsel may require as necessary and appropriate under law, same as being in the best interests of the City of Newburgh with BFJ Planning for professional consulting services in connection with the preparation and adoption of mixed-use special permit text amendments to the City's Zoning Code at a cost of Ten Thousand (\$10,000.00) Dollars.

RESOLUTION NO.: 218 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 268 GRAND STREET
(SECTION 12, BLOCK 2, LOT 26.1)
AT PRIVATE SALE TO ELIZABETH KONG

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, Elizabeth Kong, the former owner of 268 Grand Street, being more accurately described as Section 12, Block 2, Lot 26.1 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 268 Grand Street, Section 12, Block 2, Lot 26.1, to Elizabeth Kong be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of \$3,165.43, no later than December 31, 2012; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

RESOLUTION NO.: 219 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 47 LANDER STREET
(SECTION 30, BLOCK 4, LOT 1)
AT PRIVATE SALE TO PATEN OF ORANGE COUNTY, INC.

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, Patrick Navas of Paten of Orange County, Inc., the former owner of 47 Lander Street, being more accurately described as Section 30, Block 4, Lot 1 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 47 Lander Street, Section 30, Block 4, Lot 1, to Paten of Orange County, Inc. c/o Patrick Navas be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of \$23,429.55, no later than December 31, 2012; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

RESOLUTION NO.: 220 -2012

OF

NOVEMBER 26, 2012

A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 72 HASBROUCK STREET
(SECTION 38, BLOCK 3, LOT 61)
AT PRIVATE SALE TO KEITH GIFFT AND HEATHER GIFFT

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, Keith Giff and Heather Giff, the former owners of 72 Hasbrouck Street, being more accurately described as Section 38, Block 3, Lot 61 on the official tax map of the City of Newburgh, have requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 72 Hasbrouck Street, Section 38, Block 3, Lot 61, to Keith Giff and Heather Giff be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of \$18,257.16, no later than December 31, 2012; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

RESOLUTION NO.: 221 - 2012

OF

NOVEMBER 26, 2012

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF
REAL PROPERTY KNOWN AS 49 HENRY AVENUE
(SECTION 48, BLOCK 10, LOT 10)
TO FRANKLIN JACOBS AND SHIRLEY JACOBS

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, Franklin Jacobs and Shirley Jacobs, the former owners of 49 Henry Avenue, being more accurately described as Section 48, Block 10, Lot 10 on the official tax map of the City of Newburgh, by their attorney Warren Greher, Esq., have advised that a bankruptcy proceeding was filed and has requested that the property be re-conveyed to the former owners; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to re-convey the premises herein to the former owners, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 49 Henry Avenue, Section 48, Block 10, Lot 10, to Franklin Jacobs and Shirley Jacobs be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

RESOLUTION NO.: 222 -2012

OF

NOVEMBER 26, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE
CITY OF NEWBURGH'S GUN BUYBACK PROGRAM

WHEREAS, the City of Newburgh will be coordinating a gun buyback program; and

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support this event; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations;

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 donations with the appreciation and thanks of the City of Newburgh.

LOCAL LAW NO.: 6 - 2012

OF

NOVEMBER 26, 2012

A LOCAL LAW ADDING CHAPTER 70 ENTITLED "PARKING VIOLATIONS BUREAU"
TO 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 Chapter 70 entitled 'Parking Violations Bureau' to the Code of Ordinances of the City of Newburgh."

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to create the Parking Violations Bureau to adjudicate parking violations in the City of Newburgh.

SECTION 3 - AMENDMENT

The Code of Ordinances is hereby amended to add Chapter 70 entitled "Parking Violations Bureau" to read as follows:

§ 70-1. Purpose.

The City Council of the City of Newburgh creates a Parking Violations Bureau to adjudicate parking violations in the City of Newburgh.

§ 70-2. Definitions

The following terms and words, when used in this Chapter, shall have the meaning and effect as follows:

OPERATOR – Any person, corporation, firm, partnership, agency, association, organization or lessee that uses or operates a vehicle with or without the permission of the owner and an owner who operates his own vehicle.

OWNER – Any person, corporation, partnership, firm, agency, association, lessor or organization who at the time of the issuance of a notice of violation in any city which a vehicle is operated:

1. Is the beneficial or equitable owner of such vehicle ; or

2. Has title to such vehicle; or
3. Is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or
4. Uses such vehicle in its vehicle renting and/or leasing business; or
5. Is an owner of such vehicle as defined by section 128 of the New York State Vehicle and Traffic Law or section 2100(a) of the New York State Vehicle and Traffic Law.

LESSOR – Any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement or otherwise, wherein the said lessee or bailee has the exclusive use of said vehicle for any period of time.

LESSEE – means any person, corporation, firm partnership, agency, association or organization that rents, bails, leases, or contracts for the use of one or more vehicles and has the exclusive use thereof for any period of time.

RESPONDENT – Any person, corporation, firm, agency, association or organization charged with a parking violation.

VEHICLE – A vehicle as defined in section 159 of the New York State Vehicle and Traffic Law.

VIOLATION – The violation of any law, rule, regulation or ordinance providing for or regulating the parking, stopping or standing of a vehicle within the City of Newburgh.

§ 70-3. Terminology.

For the purposes of this Article, the term "Commissioner", unless specifically designated otherwise, shall refer to the City Manager who is charged with the specific responsibilities or duties referred to in this article.

§ 70-4. Establishment of Parking Violations Bureau.

There is hereby created an administrative tribunal as authorized by Chapter 408 of the Laws of 2012 to be known as a "Parking Violations Bureau" to have jurisdiction of traffic infractions which constitute a parking violation as herein defined. Such Parking Violations Bureau shall hear and determine complaints of traffic infractions constituting parking, standing or stopping violations with the functions, powers and duties herein stated.

§ 70-5. Officers and employees of Bureau.

- A. The head of such parking violations bureau shall be the Director, who shall be appointed and serve at the pleasure of the City of Newburgh's City Manager, who has and possesses the authority of a Commissioner of Traffic pursuant to Section 236 of the Vehicle and

Traffic Law of the State of New York. The director may exercise or delegate any of the functions, powers and duties conferred upon him or the Bureau by the Commissioner to any officer or employee of the Bureau deemed qualified by the director.

- B. The City Manager may appoint such number of deputy directors as he may deem necessary, but in no event to exceed four (4), who shall serve at the pleasure of the Commissioner; and said Commissioner may employ such officers and employees as may be required to perform the work of the Bureau, within the amounts available therefor in the City budget.

§ 70-6. Hearing Examiners.

- A. The Commissioner shall appoint supervising hearing examiners not to exceed six (6) in number and senior hearing examiners not to exceed six (6) in number. Every supervising hearing examiner shall have been admitted to the practice of law in the State of New York for at least seven (7) years and every senior hearing examiner for at least six (6) years. The duties of each supervising hearing examiner and senior hearing examiner shall include but not be limited to:
 - (1) Presiding at hearings for the adjudication of charges of parking violations.
 - (2) The supervision and administration of the work of the Bureau.
 - (3) Membership on the appeals board of the Bureau, as herein provided.
- B. The Commissioner shall appoint hearing examiners who shall preside at hearings for the adjudication of charges of parking violations. Hearing examiners shall be appointed and shall serve for such number of sessions as may be determined by the Commissioner and shall receive therefor such remuneration as may be fixed by the Council. Such hearing examiners shall not be considered employees of the City of Newburgh; and every hearing examiner shall have been admitted to the practice of law in New York State for at least five (5) years and shall be appointed from a list of eligible candidates who have satisfied the standards established by a duly constituted committee of the Orange County Bar Association. All such hearing examiners shall have a minimum of two (2) years' experience in the trial of issues in courts of record in the State of New York, exclusive of special term, or four (4) years of quasi-judicial experience appearing before governmental agencies. Such hearing examiners shall be bona fide residents of the City of Newburgh.

§ 70-7. Powers and duties of Bureau.

The Parking Violations Bureau shall have the following functions, powers and duties:

- A. To accept pleas to and to hear and determine charges of parking violations.
- B. To provide for penalties other than imprisonment for parking violations in accordance with a schedule of monetary fines and penalties; provided, however, that monetary

penalties shall not exceed the maximum amount allowed by the New York State Vehicle and Traffic Law for each parking violation.

- C. To adopt rules and regulations, not inconsistent with any applicable provision of law, to carry out the purposes of Article 2-B of the Vehicle and Traffic Law of the State of New York, including but not limited to rules and regulations prescribing the internal procedures and organization of the Bureau, the manner and time of entering pleas, the conduct of hearings and the amount and manner of payment of penalties.
- D. To issue subpoenas to compel the attendance of persons to give testimony at hearings and to compel the production of relevant books, papers and other things.
- E. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the State of New York.
- F. To compile and maintain complete and accurate records relating to all charges and dispositions and to prepare complete and accurate transcripts of all hearings conducted by the Bureau and to furnish such transcripts to the person charged at said person's own expense upon timely request and upon said person complying with the regulations of the Bureau.
- G. To remit to the Comptroller, on or before the 15th day of each month, all monetary penalties or fees received by the Bureau during the prior calendar month, along with a statement thereof, and, at the same time, to file duplicate copies of such statement with the City Comptroller.
- H. To answer within a reasonable period of time all relevant and reasonable inquiries made by a person charged with a parking violation or his attorney concerning the notice of violation (summons) served on that person. The Bureau must also furnish within a reasonable period of time to the person charged, on his request and upon complying with the regulations of the Bureau, a copy of the original notice of violation (summons), including all information contained thereon. Failure of the Bureau to comply with the provisions of this subsection or any part of the provisions of this subsection within forty-five (45) days of such inquiry, forwarded to the bureau by certified or registered mail, return receipt requested, will result, upon the request of the person charged, in an automatic dismissal of all charges relating to and only to that notice of violation (summons) to which the inquiry was made.
- I. To prepare and issue a notice of violation in blank to members of the Police Department, parking enforcement officers and to other officers as the Bureau by regulation shall determine. The notice of violation (summons) or duplicate thereof, when filled in and

sworn to or affirmed by such designated officers and served as provided in this Chapter, shall constitute notice of the parking violation charged.

§ 70-8. Notice of violation (summons).

- A. The notice of violation (summons) shall contain information advising the person charged of the manner and the time in which he may plead either guilty or not guilty to the violation alleged in the notice. Such notice of violation (summons) shall also contain a warning to advise the person charged that failure to plead in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. The form and wording of the notice of violation (summons) shall be prescribed by the Director. A duplicate of each notice of violation (summons) shall be served on the person charged in the manner hereinafter provided. The original or a facsimile thereof shall be filed and retained by the Bureau and shall be deemed a record kept in the ordinary course of business and shall be prima facie evidence of the facts contained therein.
- B. A notice of violation (summons) shall be served personally upon the operator of a motor vehicle who is present at the time of service, and his name and address, together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date; the make or model and the body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapters and where appropriate the work ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date and a particular place of occurrence of the charge violation, shall be inserted therein. The notice of violation (summons) shall be served upon the owner of the motor vehicle or, if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted, to be followed by the plate designation and plate type as shown by the registration plates of said vehicle, together with the expiration date, the make or model and the body type of said vehicle. Service of the notice of violation (summons) or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was personally served with the name of the person charged with the violation inserted therein.
- C. For the purposes of this Chapter, an operator of a vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive notice of violation (summons), whether personally served on such operator or served by affixation in the manner

aforesaid, and service made in either manner as herein provided shall also be deemed to be lawful service upon such owner.

§ 70-9. Answering parking violation notices.

- A. The owner of a vehicle that has had a notice of parking violation attached or affixed to his/her vehicle may, within the time specified in such notice, answer at the parking violations bureau to the charges set forth therein, either in person or by power of attorney, by paying a prescribed fine and applicable surcharge, in writing, waiving a hearing, pleading guilty to the charge and giving power of attorney to the person in charge of the bureau to make such a plea and pay such fine to the bureau. Acceptance of the fine and surcharge and power of attorney by the bureau shall be deemed complete satisfaction of the violation and violator shall be given a receipt.
- B. A plea shall be entered within eight (8) days after service of the notice of violation. A plea may be entered in person or by representative or by ordinary mail at such location of the bureau as from time to time shall be fixed by the Commissioner. Any plea entered by mail, if mailed in proper form within eight (8) days after service of the notice of violation shall be accepted by the bureau.
- C. Pleas by mail shall be made by:
 - 1. Entering the desired plea on the plea form on the back of the notice of violation;
 - 2. Entering the name and address in the space provided on the plea form;
 - 3. Signing the plea; and
 - 4. Mailing the notice of violation with the plea form completed, by appropriate form of mail, to the mailing address stated on the notice of violation.
- D. A plea of guilty shall be accompanied by a check or money order for the payment in full of the appropriate fines set forth on the notice of violation for the subject violation(s).
- E. A person pleading not guilty may request a hearing. This shall be done at the time of the pleading by completing the reverse side of the notice of violation in accordance with the instructions thereon.
- F. Whenever a person charged with a parking violation enters a plea of not guilty, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he/she must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.
- G. Whenever a plea of not guilty has been entered by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall

not issue any notice of fine or penalty relative to the subject parking violation to that person prior to the date of the hearing.

- H. Where an operator or owner fails to enter a plea to a charge of a violation or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this chapter or by rule or regulation of the bureau, such failure to plead, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provide by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall, pursuant to applicable provisions of law, notify operator or owner, by such form of first class mail as the bureau may direct:
1. Of the violation charged;
 2. Of the impending default judgment;
 3. That such judgment will be entered in the city court of the city of Newburgh or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York; and
 4. That a default judgment may be avoided by entering a plea or making an appearance within thirty (30) days of the sending of such notice.
- I. Pleas entered within thirty (30) days of the mailing of such notice shall be in the manner prescribed in the notice and not subject to such penalty or fee. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two (2) years after the expiration of the time prescribed for entering a plea.
- J. Failure to plead or respond.
1. Whenever a person has been issued a notice of violation and has not responded in the manner prescribed, a second notice of violation shall be provided by the bureau by regular first class mail in accordance with the following time periods:
 - a. Within forty (40) days of the issuance of the first notice of violation if the motor vehicle is registered in New York State; or
 - b. Within forty (40) days of the time when the bureau received information on the ownership of the vehicle of the motor vehicle is registered in another state.
 2. The second notice shall include, at a minimum, the following information:
 - a. The owner has twenty (20) days from the issuance of the second notice in which to respond to the notice of violation for a parking violation.
 - b. Failure to respond to the notice of violation for a parking violation may result in the suspension and non-renewal of the owner's registration.
 - c. Failure to respond to the notice of violation for a parking violation may subject the owner to additional penalties.
 - d. Failure to respond to the notice of violation for a parking violation shall subject the owner to a default judgment and additional penalties.

- e. Submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine and additional penalties.
- 3. Whenever a person has been issued a second notice of violation for a parking violation and has not responded in a manner prescribed, a third notice shall be provided by the bureau by regular first class mail.
- 4. The third notice shall include, at a minimum, the following information:
 - a. The owner has twenty (20) days from the issuance of the third notice in which to respond to the notice of violation for a parking violation;
 - b. In addition to those penalties imposed after the first and second notices are issued, failure to respond to the notice of violation of a parking violation may subject the owner to one or more of the following:
 - i. Default judgment;
 - ii. Impounding and/or immobilizing the owner's motor vehicle; and
 - iii. Any additional penalties prescribed by the New York State Vehicle and Traffic Law.
- 5. Additional penalties:
 - a. The failure to respond to the notice of violation for a parking violation may subject the owner to the additional penalties as follows:

Penalties for Failure to Respond to a Notice of Parking Violation	
Number of Days from Issuance of First Notice of Violation	Penalty in Addition to Initial Fine
1 through 20 days	No penalty; liable for initial fine only
21 st day	Initial Fine, plus first penalty of \$5.00
31 to 75 days, if third notice of violation mailed	Total of above, plus second penalty of \$10.00
75 days or more	Total of above, plus third penalty of \$20.00
90 days	Total of above, plus deemed admission of liability, subject to default judgment; and/or towing or immobilization and fees.

§ 70-10. Hearings.

- A. All hearings will be held and payments are to be made in the City of Newburgh, New York, at such place as the Director shall designate from time to time, except that within nine (9) months from the date the Parking Violations Bureau is operative, the Director is to designate not more than four (4) decentralized locations where hearing will be held at least once per month.
- B. All hearings shall be held daily from 9:00 a.m. to 4:00 p.m., except on Saturdays, Sundays and legal holidays, or at such other time designated by the Director.
- C. Every hearing for the adjudication of a charge of a violation shall be held before a Hearing Examiner, Senior Hearing Examiner or Supervising Hearing Examiner. All hearings shall be public. A respondent may be represented by legal counsel. The Hearing Examiner shall

not be bound by the rules of evidence in the conduct of the hearing except rules relating to privileged communications. No charges may be established except upon proof by substantial evidence. All testimony shall be given under oath or affirmation.

- D. A record shall be made of every hearing either by stenographic recordings or by mechanical or electronic methods as the Director shall determine. A transcript of such record shall be supplied to a respondent on application and the payment of a fee as provided in Chapter 163, Fees, and the cost of such transcript. The Hearing Examiner may, in his discretion or at the request of the respondent, on a showing of good cause and need thereof, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation (summons) or of other persons to give testimony, and he may issue a subpoena duces tecum to compel the production for examination or introduction into evidence, of any book, paper or other thing relevant to the charges alleged.
- E. In the case of a refusal to obey a subpoena, the Bureau may make application to the Supreme Court pursuant to Section 2308 of the Civil Practice Law and Rules for an order requiring such appearance, testimony or production of evidence.
- F. The Bureau may, with or without the respondent's request or consent, consolidate for hearing or appeal one (1) or more charges pending against such respondent. An adjournment may be requested by the respondent [up to twenty-four (24) hours] prior to the hearing, but not more than two (2) adjournments shall be granted except under extraordinary circumstances.

§ 307-11. Decisions and judgments.

- A. The Hearing Examiner shall make a determination of the charges, either sustaining or dismissing them. After a determination has been made sustaining the charges, the Hearing Examiner may examine respondent's prior violations record prior to rendering a final determination.
- B. A final determination of the charges shall be entered on a judgment record maintained by the Bureau, together with the records showing payment or nonpayment of penalties. A copy of such judgment record, or a transcript thereof, may be filed in the office of the Clerk of the City Court of Newburgh and/or in the office of the Clerk of the County of Orange and/or in such other county wherein the respondent resides or is employed.

§ 307-14. Appeals.

- A. There shall be an Appeals Board within the Bureau, which shall consist of three (3) or more persons duly qualified as Hearing Examiners, excluding from the panel the hearing officer whose decision is the subject of the appeal.

- B. An appeal from a determination of any hearing officer after a hearing on a plea denying a motion to reopen any matter shall be submitted to the Appeals Board, which shall have the power to review the facts and the law and shall have power to reverse or modify any determination appealed from for error of fact or law.
- C. A party aggrieved by a final determination of a Hearing Examiner may obtain a review thereof by serving, either personally, in writing or by certified or registered mail, return receipt requested, upon the Bureau, within thirty (30) days of the entry of such final determination, a notice of appeal setting forth the reasons why the final determination should be reversed or modified. Upon receipt of such notice of appeal, the Bureau shall furnish to the appellant, at his request and at his own expense, a transcript of the original hearing. No appeal shall be conducted less than ten (10) days after the mailing of the transcript to the appellant or his attorney. The notice of appeal shall be in such form as the Director may prescribe. No appeal may be had where a plea of guilty or guilty with an explanation was entered by the respondent at the hearing.
- D. Appeals shall be conducted in the presence of the appellant or his attorney, or both, if such right of appearance is expressly requested by the appellant in his notice of appeal and upon his complying with the regulations of the Bureau and paying of fee as outlined in Chapter 163, Fees. If the appellant elects to appear, the Bureau, within thirty (30) days after the receipt of the notice of appeal, shall advise the appellant, either personally or by ordinary first class mail, of the date on which he shall appear. No appeal shall be conducted less than ten (10) days after the mailing of such notification. The appellant shall be notified in writing of the decision of the Appeals Board.
- E. The service of a notice of appeal shall not stay the enforcement of a judgment upon the determination appealed from unless the appellant shall have posted a bond in the amount of such determination at the time of or before the service of such notice of appeal unless the enforcement of such judgment shall have been stayed by the Appeals Board.
- F. The order of the Appeals Board shall be the final determination of the Bureau. Judicial review may be sought pursuant to Article 78 of the Civil Practice Law and Rules.

§ 307-15. Towing.

- A. Pursuant to the authority conferred upon the City of Newburgh by the provisions of Section 1640(a)14 of the Vehicle and Traffic Law of the State of New York, whenever a motor vehicle is parked or abandoned on the public streets of the City of Newburgh during snowstorms, floods, fires or other public emergencies or is found unattended where it constitutes an obstruction to traffic or where any such motor vehicle has been parked or abandoned in any place where stopping, standing or parking is prohibited, any police officer or parking enforcement officer of the City of Newburgh is hereby authorized to cause such vehicle to be removed and conveyed by means of towing the same, or otherwise, in accordance with the provisions of Chapter 288, Vehicles and Traffic, and Chapter 297,

Wreckers and Towers, of the Code of Ordinances of the City of Newburgh. Such towing shall be at the risk of the owner of such vehicle, and the City of Newburgh shall assume no responsibility for the same.

- B. An abandoned vehicle shall be defined and, if unclaimed, disposed of in accordance with Section 1224 of the Vehicle and Traffic Law of the State of New York and the provisions Chapter 288, Vehicles and Traffic, and Chapter 297, Wreckers and Towers, of the Code of Ordinances of the City of Newburgh.
- C. Towing and storage charges.
 - 1. The owner or person entitled to possession of such vehicle shall pay a towing charge and storage charge for each day or fraction thereof after the first twenty-four (24) hours that such vehicle is in the custody of the City of Newburgh as provided in Chapter 163, Fees.
 - 2. These charges shall be in addition to the fines and penalties, if any, hereinafter provided within this Chapter for vehicles that are left standing, stopped or parked illegally.
 - 3. Such towing charges shall be paid to the Parking Violations Bureau at a place designated by such Bureau, during the hours such Bureau is open.
- D. Before the owner or person in charge of such vehicle shall be permitted to remove the same from the custody of the City of Newburgh, he shall furnish evidence of his identity and ownership or right to possession of such vehicle and shall sign a receipt and release in such form as the Parking Violations Bureau shall prescribe; provided, further, that such owner or person entitled to possession of such vehicle may not obtain the release of such vehicle before paying the towing, storage, outstanding parking summonses and related penalties and other fees hereinabove mentioned.

§ 70-16. Liability.

- A. The operator of a vehicle shall be primarily liable for the penalties imposed pursuant to this Article. The owner of the vehicle, even if not the operator thereof, shall also be liable therefor, if such vehicle was used or operated with his permission, express or implied, but in such case, the owner may recover any penalties paid by him from the operator.
- B. Notwithstanding any inconsistent provision of this Chapter or of any other provision of law, any person, corporation, firm, agency, association or organization that is the renter or lessor of a vehicle shall not be liable for penalties in excess of the schedule of fines imposed pursuant to this Article if upon an appropriate fixing of liability upon said renter or lessor there be due and timely payment made of all scheduled fines.
- C. A renter or lessor of a vehicle shall not be liable for penalties imposed pursuant to this Article if, at the time the notice of violation (summons) or a duplicate of such notice is

served, the registration plate number of the vehicle for which said notice of violation (summons) or duplicate was served and the address of the renter or lessor has been filed by the renter or lessor with the Bureau and notice of the service of a notice of violation (summons) or a duplicate of such notice for a parking violation has not been given to the renter or lessor or by the Bureau within ninety (90) days after such service. Such notice shall be given by ordinary mail to the address on file with the Bureau.

§ 70-17. Schedule of fines and penalties.

The schedule of fines and penalties shall be as follows:

Violation	Fine
Failure to deposit required coins in a parking meter, overtime parking in a metered space or other meter violation	\$15.00
Parking prohibited beyond time limit allowed, other than parking meter	\$10.00
Parking over lines	\$10.00
Improper Angle Parking	\$10.00
Parking on the sidewalk	\$10.00
Parking prohibited upon publicly or privately owned premises without permission	\$10.00
Parking in City lot without permit	\$10.00
Restricted Parking near Newburgh Free Academy and St. Luke's Cornwall Hospital	\$10.00
Stopped, standing or parked facing wrong direction	\$10.00
Stopped, standing or parked more than 12 inches from curb	\$10.00
 <i>Parking prohibitions:</i>	
Parking prohibited at any time	\$10.00
Parking prohibited during certain hours	\$10.00
Parking prohibited on alternate days	\$25.00
Parking prohibited on alternate days - snow emergency	\$50.00
Parking prohibited on alternate days - street cleaning	\$50.00
Parking prohibited on snow emergency routes	\$50.00
Parking prohibited in a taxi stand	\$10.00
Parking prohibited in a bus stop	\$10.00
Parking prohibited in a loading zone	\$10.00
Parking prohibited in boat trailer parking zone	\$10.00
Violation	Fine
<i>Standing prohibitions:</i>	
Standing prohibited at any time	\$10.00
Standing prohibited during certain hours	\$10.00
Standing prohibited from here to corner	\$20.00

<i>Stopping prohibitions:</i>	
Stopping prohibited at any time	\$10.00
Stopping prohibited during certain hours	\$10.00
Stopping prohibited from here to corner	\$20.00
Stopped, standing or parked on a sidewalk	\$20.00
Standing or parked in front of a public or private driveway	\$25.00
Expired certificate of inspection or registration	\$20.00
Stopped, standing or parked within 15 feet of a fire hydrant	\$25.00
Double parking	\$25.00
Obstructing traffic	\$25.00
Interfering with snow removal	\$50.00
Public Safety Reserved Parking	\$10.00
Parking/Standing within 50 ft of Firehouse	\$10.00
Handicapped parking violations per § 1203-c of the Vehicle and Traffic Law	\$100.00
NOTE: In addition, a surcharge of \$30 has been levied by the state of New York for handicapped parking violations pursuant to § 1809-b of the Vehicle and Traffic Law.	

ORDINANCE NO.: 8 -2012

OF

NOVEMBER 26, 2012

AN ORDINANCE AMENDING SECTION 297-22 "TOWING OF VEHICLES BY CITY"
OF CHAPTER 297 ENTITLED "WRECKERS AND TOWERS"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Section 297-22, "Towing of Vehicles by City" of Chapter 297, entitled "Wreckers and Towers" be and is hereby amended as follows:

SECTION 297, WRECKERS AND TOWERS

Section 1. § 297-22. Towing of vehicles by City.

- A. In the event that a vehicle is towed by the employees and agents of the City itself, using tow vehicles, equipment and facilities owned and/or controlled by the City, then the City of Newburgh shall charge such fees against the owner and/or party responsible for such towed vehicle and for winching, cleaning the scene, storage and all other applicable charges equivalent to the schedule of fees charged by private licensees as authorized under § 297-3 of this chapter for such services. Such towing and related services shall be performed and provided by the City generally in accordance with the protocols set forth in this chapter as are applicable to private licensees, subject to such specific provisions and commands as may be issued by the City Manager and the Chief of Police or their designee(s).
- B. Persons or entities reclaiming vehicles from the City shall comply with the following before such vehicle shall be released by the City:
- (1) Satisfactory proof of ownership and/or entitlement to physical possession of such vehicle shall be provided to the Parking Violations Bureau ~~designated officer of the City of Newburgh Police Department.~~
 - (2) Payment of all outstanding fines, violations, parking tickets and all other offenses and fees shall be made to the Parking Violations Bureau ~~City Clerk.~~ The Parking Violations Bureau ~~City Clerk~~ shall issue a receipt for such payment, which receipt must be provided to the designated officer or agent of the Police Department prior to such release. If the vehicle is

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designated as an "abandoned vehicle," then in addition to the foregoing the City shall charge an additional fee as set forth in Chapter 163, Fees, of this Code prior to releasing same.

(3) If a vehicle is towed by a private licensee to a City storage facility at the request of the City, in addition to the foregoing, the City shall charge the owner or responsible party a sum equivalent to the towing cost charged to the City by such private licensee plus a storage fee as set forth in Chapter 163, Fees, of this Code.

(4) Abandoned vehicles.

(a) If the vehicle towed by or at the request of the City is designated by the City as an "abandoned vehicle," and the value of such vehicle is established by the City is less than \$1,250, the City shall pay to a private licensee for such tow a fee of \$50. If such vehicle is stored at a private facility, the City will not be liable to such private licensee for any storage charges; and the City will take or accept possession of such vehicle from such private licensee within a reasonable time.

(b) If an abandoned vehicle towed pursuant to Subsection B(4)(a) above has a value as established by the City of \$1,250 or more, the private licensee in physical possession of such vehicle may retain possession of same for further handling and disposition in compliance with the New York State Vehicle and Traffic Law and applicable rules and regulations, or may turn over such physical possession of same to the City upon notice to the City and acceptance by the City of same. If a vehicle is turned over to the City pursuant hereto, the licensee shall also provide to the City at such time all documentation and available history regarding said vehicle.

Section 2. This ordinance shall take effect upon the adoption of Local Law No. x-2012 of _____, 2012.

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ORDINANCE NO.: 9 - 2012

OF

NOVEMBER 26, 2012

AN ORDINANCE AMENDING CHAPTER 288, "VEHICLES AND TRAFFIC" WITH RESPECT TO ARTICLE III "PARKING, STANDING AND STOPPING"; ARTICLE IV "SNOW EMERGENCY PARKING"; ARTICLE V "PARKING METERS"; ARTICLE VI "REMOVAL AND STORAGE OF VEHICLES" AND ARTICLE VII "MISCELLANEOUS PROVISIONS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 288, "Vehicles and Traffic" of the Code of Ordinances be and is hereby amended as follows:

SECTION 288, VEHICLES AND TRAFFIC

Section 1. Article III, Parking, Standing and Stopping

§ 288-36.1. Parking prohibited during street cleaning operations.

F. Penalties for offenses. ~~Any person violating § 288-36.1 of this chapter shall be guilty of a traffic infraction and, upon conviction thereof, shall be subject to a fine of \$50. Any person who is charged with a violation of § 288-36.1 who has been served according to law with a summons or appearance ticket and who fails to appear or enter a plea in response thereto within 15 days from service shall, upon conviction for the offense charged and conviction of failure to appear or plead, be subject to an additional fine of \$ 50.~~ For the purposes of § 288.36.1, each twenty-four-hour period any violation of this section shall continue a separate offense. Notwithstanding any other provision of the City Code of Ordinances and in addition to any other fine or penalty, any costs or expenses incurred by the City of Newburgh in connection with the towing or storing of a vehicle shall be paid by the owner or person entitled to possession of such vehicle prior to the release of such vehicle to the person entitled thereto.

~~G. Notwithstanding the provisions of Subsection F of this section, the penalty for violating this section shall be satisfied by the payment of \$ 30 if such payment is made within 48 hours of the time of the issuance of such notice of violation, summons and/or appearance ticket.~~

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Section 2. Article IV, Snow Emergency Parking

§ 288-46. Citation on vehicle parked or left in violation of article.

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this article and is not removed and impounded as provided for in this article, the officer finding such vehicle shall ~~take its registration number and any other information displayed on the vehicle which may identify its user and shall~~ conspicuously affix to such vehicle a notice of violation traffic ticket on a form provided by the City for the driver to answer to the charge against him in accordance with the provisions of Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh within 15 days during the hours and at a place specified in the ticket.

~~§ 288-47. Failure to comply with traffic ticket attached to vehicle.~~

~~If a violator of this article does not appear in response to a traffic ticket affixed to such motor vehicle in accordance with this article within a period of 15 days, the Traffic Violations Bureau shall send the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him of the violation and warning him that, in the event such letter is disregarded, a warrant of arrest may be issued.~~

~~§ 288-48. Evidence of violations.~~

~~In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this article, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this article, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this article.~~

§ 288-497. Snow emergency routes designated.

The streets or portions of streets within the City set forth in Schedule XXX (§288-88), attached to and made a part of this chapter, are hereby designated as snow emergency routes.

Section 3. Article V, Parking Meters

§ 288-53. Violations and enforcement.

D. Enforcement.

(1) Reports of violations. It shall be the duty of the police officers of the city, or Parking Enforcement Officers, acting in accordance with instructions issued by the Chief of Police, to report:

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(a) The number of each parking meter which indicates that the vehicle occupying the parking space adjacent to such parking meter is or has been parked or standing in violation of any of the provisions of this article.

(b) The state license number of such vehicle.

(c) The time during which such vehicle is parked or standing in violation of any of the provisions of this article at the time of his inspection.

(d) Any other facts, or knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(2) Notices of violations. Each such police officer or parking enforcement officer shall also attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this article and instructing and summoning such owner or operator to respond in accordance with the provisions of Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh report at police headquarters or at the City Court of the City in regard to such violation.

(3) Penalties. The penalty for such parking meter violations shall be set forth in Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh \$15. ~~Each owner or operator may, within 15 days of the time when such notice was attached to such vehicles, pay, as a penalty for and in full satisfaction of such violations, the sum of \$15. or, in the alternative, enter a plea of not guilty to such charge. Failure to pay said sum within 15 days or enter a plea of not guilty shall increase the penalty for such violation to \$30.~~

(4) ~~Notwithstanding the provisions of Subsection D(3) of this section, the penalty for such parking meter violations shall be satisfied by the payment of the sum of \$10 if such payment is made within 48 hours of the time of issuance of such notice, exclusive of Saturdays, Sundays or legal holidays.~~

Section 4. Article VI, Removal and Storage of Vehicles

§ 288-56. Redemption of property; charges.

A. The owner of any such vehicle or other property removed from any public highway or municipal parking area under any provision of this article may redeem such property at any time after its removal, but prior to the sale or destruction thereof, upon payment to the Parking Violations Bureau in accordance with the provisions set forth in Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh ~~to the Comptroller or his designated representative, who shall be a City employee, of such sum as he may fix and determine for the actual or estimated reasonable cost and expense of removal and any preliminary sale advertising expenses, not to exceed \$100, plus storage, for each article removed.~~

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Section 5. Article VII, Miscellaneous Provisions

§ 288-57. Penalties for offenses.

Any person violating the provisions of Articles II, III, IV, V or VI of this Chapter shall be guilty of a traffic infraction and, upon conviction thereof, shall be subject to a fine as set forth in Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh. Any person who is charged with a violation of a provision of this Chapter who has been served according to law with a summons or appearance ticket shall enter a plea in response as set forth in Chapter 70, Parking Violations Bureau, of the Code of Ordinances of the City of Newburgh.

- ~~A. Except as otherwise herein provided, any person violating any of the provisions of Articles II and III of this chapter shall be guilty of a traffic infraction and, upon conviction thereof, shall be subject to a fine of \$10 for the first offense or, for a second or subsequent offense, to a fine of \$25.~~
- ~~B. Any person who is charged with a traffic infraction subject to the penalties provided for in Subsection A hereof who has been served according to law with a summons or appearance ticket and who fails to appear or enter a plea in response thereto within 15 days from service shall, upon conviction for the offense charged and conviction of failure to appear or plead, be subject to an additional fine for the violation of this section of \$30 for the first offense or, for a second or subsequent offense, to a fine of \$75.~~
- ~~C. Any person violating § 288-36 of this chapter shall be guilty of a traffic infraction and, upon conviction thereof, shall be subject to a fine of \$25 or, if a snow emergency was in effect as of the time of commission of said traffic infraction, a fine of \$50. Any person who is charged with a violation of §288-36 who has been served according to law with a summons or appearance ticket and who fails to appear or enter a plea in response thereto within 15 days from service shall, upon conviction for the offense charged and conviction of failure to appear or plead, be subject to an additional fine of \$50, or if a snow emergency was in effect as of the time of the commission of said traffic infraction, to an additional fine of \$100.~~
- ~~D. Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.~~

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~~E. Notwithstanding anything to the contrary contained in this section, any person charged with the violation of any of the provisions of Articles III, IV, V and VI of this chapter for violations which took place on or before March 31, 2009, upon entering a plea of guilty to the infraction charged in the summons, may fully discharge his obligation to the City under such summons by paying to the City of Newburgh, no later than September 30, 2009, the amount due thereon as if the summons had been fully paid within 15 days from the original service thereof, without any other interest, penalties or surcharges which would be imposed in the absence of this chapter.~~

~~F. Any person violating § 1203-b or 1203-c of the Vehicle and Traffic Law of the State of New York or §288-34 of this chapter shall be guilty of a traffic infraction and, upon conviction thereof, shall be subject to a fine of \$100 for the first offense or, for a second or subsequent offense, to a fine of \$250.~~

Section 6. This ordinance shall take effect upon the adoption of Local Law No. x-2012 of _____, 2012.

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RESOLUTION NO.: 223 - 2012

OF

NOVEMBER 26, 2012

**A RESOLUTION ADOPTING THE BUDGET
FOR THE FISCAL YEAR 2013**

WHEREAS, the City Manager, on October 9, 2012, submitted to the City Council of the City of Newburgh, New York, a detailed estimate, including the "Manager's Proposed Fiscal Year 2013 Budget" and the "Manager's Proposed Personnel Analysis Book" of same date, of *revenues* and expenditures necessary and proper for all municipal activities accounted for in the General, Water, Sewer, Sanitation and Self-Insurance Funds during the fiscal year of 2013; and

WHEREAS, such detailed estimates has been filed in the City Clerk's Office as required by the Charter of the City of Newburgh so that said estimates may be inspected by anyone interested, and a public hearing was held on November 13, 2012 in reference to said estimates for any item thereof; and

WHEREAS, the Council has made such changes, alteration, corrections and amendments to the said budget as it appears to said Council to be proper, including incorporating such changes as deemed necessary in response to the New York State Office of the State Comptroller's budget review report #B6-12-23 dated November 16, 2012.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York does hereby approve, determine and adopts the budget for the year 2013 as appears in the annexed "City Council Adopted Fiscal Year 2013 Budget" dated November 26, 2012; and

BE IT FURTHER RESOLVED, that the sum of \$19,862,564 be levied and raised on account of City taxes for the year 2013 on all the taxable property in the City of Newburgh according to the valuation of the last assessment roll of said City for State, County and City purposes, being \$607,974,483 for Homestead Properties and \$393,974,612 for Non-Homestead Properties, including special franchise assessments, in accordance with the Real Property Tax Law of the State of New York; and,

BE IT FURTHER RESOLVED, that the City Collector is authorized and directed to cause said amount of \$19,862,564 to be extended and apportioned on said assessment roll at \$17.9435 for Homestead properties and \$22.7256 for Non-Homestead Properties on every \$1,000 of taxable real property, including special franchise assessments; and,

BE IT FURTHER RESOLVED, that the required sewer, water and sanitation fees for the taxable and non-taxable properties for the year 2013 is as set forth in Section 163-3 of the City Code of Ordinances; and,

BE IT FURTHER RESOLVED, that the City *Collector* is authorized and directed to cause any and all amounts reported as omitted taxes to be levied against the real property subject to said omitted taxes and to cause the amounts reported by the City Collector as overdue and unpaid water rents, sewer rents and sanitation user fees, and unpaid charges of property abatement, with the interest and penalties thereon, to be added to the tax levied against the real property for which or in connection with which such water, sewer and sanitation was provided; and,

BE IT FURTHER RESOLVED, that said City tax roll shall be delivered to the City Collector on the 3rd day of January 2013, signed by the City Manager and under the seal of the City, directing and commanding said City Collector to receive and collect in the manner provided by the law for the levying and collecting of County taxes by City Collectors, these several amounts in the roll specified as against the persons or property therein mentioned and described, and that said warrant shall direct the City Collector to collect said assessments in four equal installments as follows:

The first installment commencing on the 3rd day of January 2013, and collect up to and including the 7th day of February 2013, without fees, and to add 5% from the 8th day of February 2013, up to and including the 10th day of April 2013.

The second installment commencing on the 1st day of March 2013, and collect up to and including the 6th day of April 2013, without fees, and to add 5% from the 7th day of April 2013, up to and including the 31st day of May 2013.

The third installment commencing on the 1st day of May 2013, and collect up to and including the 7th day of June 2013, without fees, and to add 5% from the 8th day of June 2013, up to and including the 1st day of August, 2013.

The fourth installment commencing on the 1st day of July 2013, and collect up to and including the 8th day of August 2013, without fees, and to add 5% from the 9th day of August 2013, up to and including the 30th day of September, 2013.

In addition thereto, for all late payments remaining unpaid for ninety (90) days after the first date designated for the collection of same, there shall be added an additional penalty in the amount of 10% per annum computed from said first date of collection; and

BE IT FURTHER RESOLVED, that the amounts, when collected, be deposited daily with the Key Bank of NY, N.A., Bank of America, TD Bank, Citizens, or in any of the said banks in compliance with the requirements set forth in the Newburgh Fiscal Recovery Act by said City Comptroller and credited and applied to the several respective funds and accounts as stated in the Adopted Budget for taxes now confirmed and approved by said City Council, including credit balances heretofore appropriated.