City of Newburgh Council Work Session
6:00 pm
May 24, 2012

AGENDA

1. Procedural Items Related to the City Council Meeting of May 29

   a. Minutes of the work session meeting of May 10, 2012
   b. Minutes of the City Council meeting of May 14, 2012
   c. Departmental Reports

2. Finance Department:

   a. Cash Report

3. Planning and Development/Real Estate:

   a. Mid-Broadway site
   b. Project Update: City Center – Andy Cavaluzzi

4. Engineering:

   a. Water Tank Repair – Consultant's recommended repairs
   b. Muchattoes Lake Dam – Consultant's assessment
   c. (Res. 73) Scheduling a public hearing for June 18, 2012 to receive public comment on the City's Stormwater Management Regulations
   d. Proposed demolition of 159 Grand and 10 Dubois Street

5. Discussion:

   a. (Res. 74) Acceptance of a $500 grant from the Orange County Historian for the purpose of identifying materials from the City's archives to be used for the Hudson River Valley Heritage website.
   b. Proposed amendment to the Council Rules of Order for 2012
   c. Varick Homes request for new PILOT
   d. Sale of City-owned properties
   e. (Res. 75) Release of Restrictive Covenants to 387 First Street
   f. CDBG Advisory Board
   g. Fund raising coin drop

6. City Manager Updates:

   a. Consolidated Funding Application
   b. Streamlining Land Use Regulations – Information Session will be held on June 6 at 6pm at City Hall.
   c. Art Bus

7. Executive Session:

   a. Pending Litigation

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

Thursday, May 10, 2012

Members Present:	Mayor Judy Kennedy Councilwoman Regina Angelo Councilman Curlie Dillard Councilwoman Gay Lee
Members Absent:	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 6:05 pm.
Executive Session:	At 8:40 p.m. a motion was made by Councilman Dillard and seconded by Councilwoman Regina Angelo to enter into executive session regarding matters of pending litigation. YES: 5 NO: 0 CARRIED
Adjournment:	Upon consensus the Council adjourned the meeting noting the time as 9:25 p.m.

A regular meeting of the City Council of the City of Newburgh was held on Monday, May 14, 2012 at 7:04 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Pastor Evelyn McDonald from Grace United Methodist Church followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilwoman Lee – 4
Absent – Councilman Dillard - 1

Councilwoman Lee moved and Councilwoman Angelo seconded that the minutes of the April 19, 2012 Work Session, the April 23, 2012 City Council meeting and the April 30, 2012 Special City Council meeting be approved.
Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy - 4
CARRIED

COMMUNICATIONS

Councilwoman Lee moved and Councilwoman Angelo seconded that the Notice of Subrogation Claim be referred to Corporation Counsel with power to act.
Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4
CARRIED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 69-2012

OF

MAY 14, 2012

RESOLUTION SCHEDULING A PUBLIC HEARING FOR MAY 29, 2012 TO HEAR PUBLIC COMMENT CONCERNING THE DEVELOPMENT OF THE LONG TERM CONTROL PLAN FOR THE CITY OF NEWBURGH COMBINED SEWER OVERFLOW

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 the development of the Long Term Control Plan for the City of Newburgh Combined Sewer Overflow; 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 29th day of May, 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, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

There were no comments.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

There were no comments.

RESOLUTION NO.: 65 - 2012

OF

MAY 14, 2012

RESOLUTION AMENDING RESOLUTION NO: 238-2011,
THE 2012 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER $9,112.37 FROM CONTINGENCY TO
WATER ADMINISTRATION OTHER EQUIPMENT
TO PROVIDE FOR THE FUNDING TO PURCHASE EQUIPMENT
FOR THE WATER DEPARTMENT PHONE/NETWORK UPGRADE

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:

	Decrease	Increase
F.1900 Water 1990 Contingency-Emergency	$9,112.37	
F.8310 Water Administration 0205 Other Equipment		$9,112.37

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

RESOLUTION NO.: 66 - 2012

OF

MAY 14, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RENEWAL AGREEMENT WITH PAETEC TO PROVIDE TELEPHONIC COMMUNICATIONS AND RELATED SERVICES FOR THE CITY OF NEWBURGH AT A MINIMUM COST OF $1,419.45 PER MONTH FOR A TERM OF THIRTY SIX MONTHS

WHEREAS, by Resolution No. 65 – 2009 of May 11, 2009, the City of Newburgh entered in to an agreement with PAETEC to provide local, switched LD, dedicated LD and point-to-point and related telephone communications services for more efficient conduct of government business; and

WHEREAS, PAETEC was identified by a competitive, comparative process to be the best qualified to provide such services including but not limited to customized and itemized billing procedures, efficient customer service, and that PAETEC is a preferred provider as designated by New York State; and

WHEREAS, such agreement will be expiring and the City of Newburgh wishes to renew such agreement for a term of thirty six (36) months; and

WHEREAS, by renewing said lease the City will be paying $435.08 less per month than the current rate which will be an annual savings of $5,220.96 for the first year, with a total savings over the 36 month term of $15,662.88; and

WHEREAS, such funding for this service will be derived from the following budget lines: A.1670.0421, F.8310.0421, G.8130.421 and G.0000.0380.0080; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, Ne York, that the City Manager be and he is hereby authorized to enter into a renewal agreement with PAETEC to provide telephonic communications and related services to provide for the more efficient conduct of

government business in substantially the form attached hereto with such other provisions as the Information Services Manager and/or the Corporation Counsel may require, at a minimum cost of $1,419.45 per month for a term of thirty six (36) months.

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

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

ADOPTED

10-12

windstream.

600 WillowBrook Office Park
Fairport, NY 14450

Opportunity # 584988, Quote # 706966

SERVICE AGREEMENT

This sets forth the terms of the Service Agreement ("Agreement") made this 13th day of April, 2012, by and between PAETEC, a Windstream company, and the CITY OF NEWBURGH, a New York Corporation ("Customer"). The term of this Agreement is for 36 months ("Term"). Customer agrees to a Minimum Monthly Fee of $1,419.45. All services provided are subject to the terms and conditions below and on the attached Rate Schedule(s).

CUSTOMER INFORMATION

Customer Name: CITY OF NEWBURGH

Service Address: 22 GRAND ST, NEWBURGH, NY 12550-5626

Billing Address: 83 BROADWAY, NEWBURGH, NY 12550-5617

Contact Name: Glenn Kurcon **Contact Phone:** 845-569-7324 **Contact Fax:**

SERVICES BEING PROVIDED BY PAETEC TO CUSTOMER

Access Loop Switched 1+

Trunks

By signing this Agreement, the Customer hereby authorizes PAETEC to provide the Services listed herein and on any/all attachments. Each month Customer shall purchase at least the Minimum Monthly Fee amount set forth above, calculated prior to application of any taxes or surcharges.

This Agreement is subject to and controlled by PAETEC's federal and state tariffs as applicable, and/or by PAETEC's Standard Terms and Conditions of Service and the service specific terms and conditions as located at http://www.paetec.com/about-us/notice, as such tariffs and terms may be modified from time to time and all of which are hereby expressly incorporated by reference.

Information regarding Customer's rights and options pertaining to Customer Proprietary Network Information ("CPNI") is available at http://www.paetec.com/notice/cpni.html.

The individual signing the Agreement on behalf of Customer is duly authorized to do so.

Accepted By Customer		Authorized by PAETEC, a Windstream company	
Signature:		Signature:	
Printed Name:		Printed Name:	
Title:		Title:	
Date:		Date:	

This offer is voidable by PAETEC if not signed and returned to PAETEC by the 12th day of July, 2012.

windstream.
PAETEC, a Windstream company

SERVICE LOCATION SUMMARY

Service Location Listing - Monthly Recurring Charges

Primary Billing Account CITY OF NEWBURGH, #2435037

Quote # 706966

PAETEC Representative Floravanti, Ginger Rep ID 27957

Location Name & Service Address	Access	Voice	Total
CITY OF NEWBURGH 22 GRAND ST, NEWBURGH, NY 12550-5626	$0.00	$1,075.18	$1,075.18
Total	$0.00	$1,075.18	$1,075.18

The information set forth on this Service Location Listing sets forth the total Monthly Recurring Charge(s) ("MRC") for each Service Location covered under the Agreement. For the breakdown of MRC charges for each Service Location, along with site specific Usage Fees and Non-Recurring Fee(s) ("NRC"), please refer to the site specific Rate Schedule for each Service Location. By signing below, Customer acknowledges that it has received and reviewed the site specific Rate Schedule(s) to the Agreement, and agrees to the information set forth therein.

The individual signing the Agreement on behalf of Customer is duly authorized to do so.

Accepted By Customer		Authorized by PAETEC, a Windstream company	
Signature:		Signature:	
Printed Name:		Printed Name:	
Title:		Title:	
Date:		Date:	

windstream.
PAETEC, a Windstream company

RATE SCHEDULE

Opportunity # 584988, Quote # 706966

Location: CITY OF NEWBURGH, 22 GRAND ST, NEWBURGH, NY 12550-5626

Product	Product Category	Monthly Recurring Charge (MRC)	Monthly Recurring Quantity	Monthly Recurring Total	Non Recurring Quantity	Non Recurring Total
PRI T1	Voice	$225.00	2	$450.00	1	$0.00
Direct Trunk Overflow Charge *	Voice	$34.95	2	$69.90	1	$0.00
20 DID Station Numbers *	Voice	$6.00	17	$102.00	0	$0.00
FSLC Charge *	Voice	$6.70	10	$67.00	0	$0.00
On Net T1	Access	$0.00	2	$0.00	1	$0.00
National Access Charge - Multi-Line Business *	Voice	$3.48	111	$386.28	0	$0.00
		TOTAL		$1,075.18		$0.00

Usage Bundles

Bundle	Minute Quantity	Toll In State	Toll Regional	Toll Out of State	Inbound 8xx In State	Inbound 8xx Regional	Inbound 8xx Out of State
Flat Rate LMS *****	50,000						

Usage Rates

Usage Type	Dedicated Rate	Switched Rate	Initial Increment	Additional Increment	Call Rounding
Regional Long Distance Charges	0.0250[1]	0.0500[1]	6 sec	6 sec	2 digit †
In State Long Distance Charges	0.0250[1]	0.0500[1]	6 sec	6 sec	2 digit †
Out of State Long Distance Charges	0.0250[1]	0.0500[1]	6 sec	6 sec	2 digit †
Local Measured Service Charges	0.0100[1]				

Rates listed within the Usage Rates section are applicable for all locations, unless otherwise noted on the individual Service Location listing in the Usage Rates sub-section.

Notes: 1 - Per Minute 2 - Per Call 3 - Per Minute per Participant

* Rates are subject to change on 30 days notice via bill message on customer's invoice.

** Additional charges apply for all local, long distance and 8XX features, network access charge, router maintenance, CPE maintenance and directory listings. For the current features pricing, go to http://www.paetec.com/about-us/notice.

*** Amounts listed are reasonable approximations based on initial proposal. Actual amounts shall depend on final lease amount set forth in the Customer's Lease Agreement.

† Each call is billed to two decimal places and rounds the billed amount for each call up to the nearest whole cent.

***** The monthly recurring charges for Customer's loop access circuit(s) includes LMS usage capped at a cumulative total over all circuit(s) of 50,000 minutes per month. The Local per minute rates set forth in the "Usage Rates" section in this Rate Schedule shall apply to any usage in excess of the cap during a given month.

RESOLUTION NO.: 67 - 2012

OF

MAY 14, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT DONATIONS FOR THE CITY OF NEWBURGH SHADE TREE COMMISSION

WHEREAS, various businesses, firms and individuals have made generous contributions for the Shade Tree Commission; 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 said donations for the Shade Tree Commission with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens.

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

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

ADOPTED

RESOLUTION NO.: 68 - 2012

OF

MAY 14, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORANGE FOR THE SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM TO PROVIDE YOUNG PEOPLE TO WORK FOR THE CITY OF NEWBURGH FOR THE SUMMER OF 2012

WHEREAS, the County of Orange is once again offering a Summer Youth Employment and Training Program for the purpose of providing meaningful work experience for participants; and

WHEREAS, the City of Newburgh Youth Bureau and other City Departments have expressed an interest in using this program to provide summer jobs for young people and service to the City of Newburgh; and

WHEREAS, this Council finds that entering into an agreement with Orange County for this purpose is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement and other necessary documents with the County of Orange in order to participate in the Summer Youth Employment and Training Program which provides young people to work in the City for the Summer of 2012

Councilwoman Angelo asked how many children will be involved.

City Manager, Richard Herbek, said that he imagines it will be similar to past years. It will provide summer employment to approximately twenty to thirty young people.

Mayor Kennedy asked if this will be for internships in various departments in the City.

City Manager, Richard Herbek, said that the bulk of the employment will be at Public Works and Recreation.

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

RESOLUTION NO.: 70 - 2012

OF

MAY 14, 2012

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF CERRONE WASHINGTON AGAINST THE CITY OF NEWBURGH IN THE AMOUNT OF SEVEN THOUSAND FIVE HUNDRED DOLLARS

WHEREAS, Cerrone Washington brought a claim against the City of Newburgh; and

WHEREAS, the claimant and the City of Newburgh have reached an agreement for the payment of the settlement in the amount of Seven Thousand, Five Hundred ($7,500.00) Dollars in exchange for a release to resolve all claims among them; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Cerrone Washington against the City of Newburgh in the total amount of Seven Thousand Five Hundred ($7,500.00) Dollars and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

RESOLUTION NO.: 71 - 2012

OF

MAY 14, 2012

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF SOLOMON RYLES AND ESTELITA RYLES AGAINST THE CITY OF NEWBURGH IN THE AMOUNT OF THREE HUNDRED THOUSAND DOLLARS

WHEREAS, Solomon Ryles and Estelita Ryles brought a claim against the City of Newburgh; and

WHEREAS, the claimants and the City of Newburgh have reached an agreement for the payment of the settlement in the amount of Three Hundred Thousand ($300,000.00) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, such settlement shall be payable in two equal payments as follows:

> One Hundred Fifty Thousand ($150,000.00) Dollars payable on or before July 30, 2012; and
>
> One Hundred Fifty Thousand ($150,000.00) Dollars payable on or before January 30, 2013; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Solomon Ryles and Estelita Ryles against the City of Newburgh in the total amount of Three Hundred Thousand ($300,000.00) Dollars and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that Resolution No.: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended and that the City Comptroller be and she is hereby authorized to transfer funds to effectuate such settlement follows:

	Decrease	Increase
M.1420.4200 Police Liability	$100,000.00	
M.1930.0400 Settlements		$100,000.00

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

RESOLUTION NO.: 72 - 2012

OF

MAY 14, 2012

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION REGARDING THE IN REM TAX FORECLOSURE OF LIENS FOR THE YEAR 2009 AND 2010 RELATIVE TO 250 GRAND STREET (SECTION 12, BLOCK 2, LOT 22) AND 250 GRAND STREET REAR (SECTION 12, BLOCK 2, LOT 23.1)

WHEREAS, The City of Newburgh commenced proceedings for the foreclosure of certain tax liens, such actions being designated as Orange County Index Numbers 2009-12857 and 2010-012561; and

WHEREAS, this Council, by Resolution No.: 14-2012 of February 23, 2012, approved a request to settle the litigation regarding the In Rem Tax Foreclosure Proceedings; and

WHEREAS, certain title issues arose that took several months to correct; and

WHEREAS, the owner of the property Nancy Brens, through her attorney, has advised the City that they are prepared to settle such action; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to withdraw the liens on the property located at 250 Grand Street (Section 12, Block 2, Lot 23.1) and 250 Grand Street Rear (Section 12, Block 2, Lot 23.1), City of Newburgh, from the List of Delinquent Taxes, provided that the sum of One Hundred Two Thousand One Hundred Fifty Three And 25/100 ($102,153.25) Dollars representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due taxes and charges, including but not limited to all open 2010-2011 school taxes, water charges and sewer charges, are all paid in full by certified or bank check on or before May 31, 2012.

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Mayor Kennedy – 4

ADOPTED

OLD BUSINESS

There was no old business

NEW BUSINESS

Mayor Kennedy said that she would like to see a few things on the agenda for the next Work Session. Since we are talking about development in the City, she would like to invite Andy Cavaluzzi and Safe Harbors back to present their projects on the corner of Liberty and Broadway so that when we are making decisions about what we are doing we have the big picture in mind versus taking these individually. She would also like to put on the agenda furthering the job situation and how we can use additional CDBG money that we have to create jobs in the City. She knows that we have to work with a non-profit organization so she would like to get that discussion out in the open and figure out how much money they could have. She thinks that it would be a win for everyone to fix the sidewalks or other issues like that, create jobs and reduce the risk of lawsuits.

There being no further new business this portion of the meeting was closed.

GENERAL PUBLIC COMMENTS

Denise Ribble, Montgomery Street, said that she is not sure if anyone has had a chance to read her editorial in the Mid-Hudson Times so she wished to summarize it a bit. She said that they would like to commend the Council on their priority goals for this budget year in particular it is essential that the Council does the right thing to improve the City's tax base and reduce the tax burden for the taxpayers and residents. Last year the RFQ for mid Broadway was tabled based on two things; First the integrity of how the finalists were selected and secondly a presentation by the City Planner detailing land use of the mid Broadway site that would leverage private development and financing, reduce taxpayers costs of redevelopment and increase tax base and jobs. The citizens and residents of the City of Newburgh would thank the Council for reopening this item and looking at how to move it forward in a fiscally responsible way. Council should consider details like ownership options which would allow for revenue, track records of developers teams including realistic time frames that go with taxpayer funded grant and subsidy applications, infrastructure costs and a transparent governance process that avoids the mistakes of the past. The people will thank the Council for considering what a tax base increase it would be to look at or re-look at the plan to include a police and fire station on or near that site. When the proposal was made it would cost about two million dollars to go on or near that site. If we wait and do the redevelopment on the current site, it will cost the City about twelve and a half million dollars at least. That would be two million versus twelve million to the taxpayers. You could also have a police and fire station, a grocery store, office space and affordable rental housing or a parking garage which might be desperately needed. One opportunity that was presented was for the Newburgh Ministry to actually be able to complete a building project for their transitional housing in the City of Newburgh at no cost to them. This is a project that they have been trying to complete since 2004 and she thinks that before they are spoken for they should be invited to the table to talk about that. She told the Council that they have a second chance to do the right thing at mid Broadway and the people want an RFP.

Janet Gianopoulos, City of Newburgh, thinks that the people need more than one RFP. We can't keep doing things piece meal. We need to look at the properties and assets that we have and figure out how to put them to work for us and to put our people to work. She added that she would like a clarification on why it is that we paid $300,000.00 on resolution #71-2012.

Gary Jeter, Newburgh, said that he runs the Newburgh Pop Warner and we are talking about fixing streets and sidewalks when his program is hurting. He has volunteered with Pop Warner since 1983 and when the Council came to

them they said that they would help them out. The children in the City of Newburgh and Pop Warner are in trouble and we have to do something to help these children out. Freshman football at the High School is done so that is another sixty kids out on the streets to spray paint buildings and break car windows. When the Council came to them for their votes, they said they would help out but he has only seen Councilman Brown at the Recreation Center. He had a meeting with the City Manager about Tag Day because since the City isn't going to give them anything they have to get out and raise some money. He said that he asked the City Manager and they were turned down. What can we do? We have to help these young people. The kids here are more important than fixing the streets. He asked the Council to help them with the youth in the City of Newburgh because they are getting out of hand and we have to save them.

Antonette Brown, City of Newburgh, Women's Empowerment, asked the Mayor what she is going to do for the women in Newburgh as far as them getting a better education and learning jobs skills. She said that she personally knows Dorothy Segal from Rochester who runs From Welfare to Work and she thinks that this would be a good idea for Newburgh so she would like a chance to present a grant on it. From what she can see the women in Newburgh are stagnated and they need to be empowered. There used to be a time where when your children were over five years of age you had to get off of Welfare and get a job. She said that she is a very intelligent woman and she would like a chance to help the women in Newburgh because they need it.

Debra Danzy, said that she is an advocate for people living with HIV and AIDS which is reaching epidemic proportions here in the City of Newburgh. There are a lot of young people walking around with this virus and they don't have too many resources to go to. She announced that there will be a forum sponsored by Councilwoman Gay Lee, Ann Janeski with Gilead Sciences Pharmaceutical and herself on June 8, 2012 here at City Hall from 12:00 p.m. to 2:00 p.m. She asked everyone to come out and support this because where there are homeless and drugs there is also HIV and you cannot continue to overlook this. HIV and AIDS does not discriminate and it has no color so it is time for our City Council, Mayor and other elected officials to get better funding here in Newburgh. We only have one Clinic and one Agency here in the City of Newburgh and nothing is being done positively about it. She said that she is grateful that Councilwoman Lee is supporting her and sponsoring this forum here on June 8th. She added that if anyone would like more information to please see her following the meeting.

Councilwoman Lee added that you don't have to HIV to attend. This is training for everyone and lunch will be provided.

Sheila Monk, City of Newburgh, said that her concern is with resolution #68-12 which discusses jobs for the youth. She feels that the Youth Bureau is doing an excellent job with our youth. On Saturday they will be having a Youth Pride Parade which we all need to support. She added that she is on the Board of prevention policy for the youth and they will be having summer youth employment in which fifty-two kids applied but there are only twenty-seven positions available. Anti-bullying is another problem that we have in our school system where kids area being bullied by their peers. She noted that the Youth Bureau can't do everything but she wanted to thank everyone for the work that they are doing. She thinks that we should have some vans because these kids have opportunities to go to different places so if there is some money available maybe that could be looked into.

Fanett Tallegrand, City of Newburgh, said that she is representing the Hudson Valley School of Counseling which she is attending to become a Substance Abuse Counselor. They are currently located at Life Restoration Church on the corner of First and Chambers Streets so they are looking for a building. She sees many abandoned buildings and properties that she would like to be considered for a school that she feels is very much in need. Many of the students that attend the school are former drug addicts and people that want to work in that field. Living in a City that is riddled with drugs and drug addicts she would think that this would be a necessity. This course was taken out of O.C.C.C. here in Newburgh because they said that there was no need for it. It was put in the Middletown Campus and she did not have the transportation to go but she didn't give up on this because it was something that she wanted to learn about. It was like a blessing when she found out that they put the school right here in Newburgh. She just wants the Council to know that they are looking for a building and that the class is growing.

Barbara Smith, Powell Avenue, said she has a concern with the murals that are beginning to appear in the City of Newburgh with regard to the historic area of our City and the approval of these murals. She feels that we must revive our Art Commission. It may not be the 1% for art that it originally started out to be but it can certainly be an Art Commission that has say over what goes up on our walls, who will be responsible after it goes up and who will maintain it. They will require maintenance as we saw happen on the Waterfront. The only thing the City should be responsible for is what the City authorizes. Since we are now having four or five more murals put up she feels that it is important to look at our buildings and figure out what we want put on these buildings. You may be creating a monster if we don't have some say over what goes on. It has to be appropriate to the community and it should be appropriate to the wall that it is on to beautify the City. In regard to the clean up on Saturday, she said that if she were to carry a sign it would say "Taxation Without Representation" because she feels that she does count for something

in this City other than just a mouth that talks about things every once in a while. If we have a designated area of the city for volunteer cleanup, why isn't the whole City involved in this? Why don't we have the ability to put things out for bulk pick up to keep them from winding up in your empty lots that are scheduled for a bulk pick up?

Usef Belford, 10 Farrington Street, complimented the City of Newburgh for the clean up that was held last week and everyone that participated. He hopes that this is not the end of the clean up. Children do what children do and they think that things that are dangerous are fun so we need to find things for our children to do that they might enjoy doing. Make them feel like they are part of the solution and not the problem. In regard to Michael Lembhard, he would like to find out what is going on with the investigation because they are like part of his family and he feels in his heart that certain things are not being done. They are asking the District Attorney, Mr. Phillips, to step down from this particular case so they can get the right thing going on.

Juanita, 96 Johnson Street, said that she came here tonight to address the Mayor and the Council. She said that Mayor Kennedy asked her for a printout of all of the deaths which she has for her tonight but in return she would like to know if the Mayor has the letter for her. She told the Mayor that she would appreciate her support if she is going to give her the letter now. She added that the way the City came together at the clean up was a beautiful thing and many people addressed her family with condolences. If we could have more of that unity, it will show the City how we can come together. Maybe we can stop our children from dying if we can put a broom or rake in their left hand and take the gun out of their right hand.

Mayor Kennedy said that would be a great slogan.

Juanita continued by saying that if you can show them how to be proud of where they live then maybe they will want to pick up that broom and encourage others to clean up without violence.

Omari Shakur, New Voters Movement, told Mr. Jeter that he understands what he is going through but he has to understand the politics of this community. They don't want anything to happen for these kids because too much money is being made out of sending these kids to jail and keeping them on the streets. On March 7th a young man was killed in the City of Newburgh and someone said to him that he has been making nice statements but then he gets confused and goes off. If your pants were on fire and you stood there and didn't say anything, then he would think you were crazy. Right now our community is on fire so he is on fire which is why he acts like he does. Our children are dying. He is not talking about traffic tickets or

grants. He is talking about our children dying. He lost a child to this police department. No one in this City is accountable or responsible and everyone is pointing a finger. In our community our children are dying and people are coming up here asking for grants. He remembers a time where our communities did for our own kids. These are our kids that are dying and we are the ones who are suffering. He just heard that they gave someone $15,000.00 to do some paintings on the walls but they have no money for Pop Warner. Our children are dying yet there is no money for summer jobs. Last year in the City of Kingston they hired over three hundred children for summer jobs. If they can do it why can't we? He said that he is not going to be nice when he comes up to speak because our children are dying. If people don't like what he is saying, he understands that and he has friends in the Police Department but when they do wrong he is going to talk about it. The City Council are our elected officials and if we can't get accountability from them then how are we supposed to get it from our police department?

Mr. Shakur did not wish to stop talking at the end of his three minute time limit so Mayor Kennedy decided to adjourn the meeting.

Councilwoman Lee moved and Councilwoman Angelo seconded that the meeting be adjourned.

All in favor the meeting adjourned at 7:45 P.M.

LORENE VITEK
CITY CLERK

City Clerk Monthly Report
April 01, 2012 - April 30, 2012

Account#	Account Description	Fee Description	Qty	Local Share
		Docking Fee	2	2,700.00
	Marriage License	Marriage License	27	472.50
	Season Boat Launch Permit	Season Boat Launch Permit	11	1,100.00
			Sub-Total:	**$4,272.50**
1550	Bordatella Booster	Bordatella Booster	1	38.00
			Sub-Total:	**$38.00**
2590	Misc. Fees	Handicap Parking Spaces	3	75.00
			Sub-Total:	**$75.00**
A1255	Conservation	Conservation	15	52.88
			Sub-Total:	**$52.88**
A12550003	Misc. Fees	Certified Copies - Marriage	27	294.00
			Sub-Total:	**$294.00**
A12550008	Misc. Fees	Copies	13	3.25
			Sub-Total:	**$3.25**
A12550012	Thumbprint Fee	Thumbprint Fee	1	10.00
		Thumbrpint Fee	3	15.00
			Sub-Total:	**$25.00**
A1550	Public Pound	Public Pound	1	10.00
			Sub-Total:	**$10.00**
A15500004	Dog Redemption	Redemptions	1	35.00
			Sub-Total:	**$35.00**
A15500010	Vet Bill (rabies)	Vet Bill (Rabies)	1	28.00
			Sub-Total:	**$28.00**
A25010001	Liquor Tax	Liquor Tax	12	1,618.50
			Sub-Total:	**$1,618.50**
A2544	Dog Licensing	Female, Spayed	10	75.00
		Female, Unspayed	2	25.00
		Male, Neutered	8	60.00
		Male, Unneutered	3	37.50
			Sub-Total:	**$197.50**
A25900008	Alarm Permit	Alarm Permit	1	100.00
			Sub-Total:	**$100.00**
A25900020	Taxi Drivers License	Taxi Drivers License	7	700.00
			Sub-Total:	**$700.00**

City Clerk Monthly Report
April 01, 2012 - April 30, 2012

Account#	Account Description	Fee Description	Qty	Local Share
		Total Local Shares Remitted:		$7,449.63
Amount paid to:	NYS Ag. & Markets for spay/neuter program			33.00
Amount paid to:	NYS Environmental Conservation			905.12
Amount paid to:	State Health Dept. For Marr. Licenses			607.50
Total State, County & Local Revenues:	$8,995.25	Total Non-Local Revenues:		$1,545.62

Lorene Vitek
City Clerk

5/2/2012
Date

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MAY 4, 2012

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: REGISTRAR OF VITAL STATISTICS

I RESPECTFULLY REPORT THAT THERE HAS BEEN RECEIVED IN THE OFFICE OF VITAL STATISTICS DURING THE MONTH OF APRIL 2012 THE SUM OF $6,308.00 AS FOLLOWS:

246 CERTIFIED COPIES OF BIRTH CERTIFICATES	$2,460.00
384 CERTIFIED COPIES OF DEATH CERTIFICATES	$3,848.00
TOTAL	$6,308.00

IN ADDITION:

306 BIRTHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

219 DEATHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

Lorene Vitek

LORENE VITEK

PERSONNEL REPORT
CIVIL SERVICE COMMISSION
APRIL 2012

ASSESSOR:	Angela Collery 10 Oakwood Terrace New Windsor, NY	P/T Acct. Clerk Resigned 4/13/12 $19,322
	Kathleen Cunane 300 Teal Court Newburgh, NY	P/T Acct. Clerk Appt. Permanent 4/20/12 $16,244
DPW:	Adonay Aguilar 124 Wisner Avenue Newburgh, NY	Sanitation Worker Suspended w/o pay 4/10/12 $45,230
Water:	Reynaldo Santiago 35 Coach Lane Newburgh, NY	Deputy Water Superintendent Promoted 4/10/12 $77,886

3a

Strengths, Weaknesses, Opportunities, and Threats Analysis

Strengths	M&A	CPC Resources	POKO
What are their business advantages?	Project Mangement, Work Force Developement Experience	can finance difficult-to-finance properties that might not otherwise qualify for standard bank financing	working with local governments to create value as well as contributing to broader revitalization objectives.
What are your their core competencies?	Fulfilling the complience needs of federally funded projects	develop affordable housing in underserved communities	strategic partners pre- and post development and construction services
Where unique resources can they draw on?	Experience in Workforce Development	expertise and deep experience in complex financing strategies and government assistance programs	industry pioneer in understanding the need to positively impact communities and encourage growth not solely by redevelopment, but by revitalization
What are their strengths?	Project Management	sponsored by 70 prominent banks and insurance companies, a not-for-profit mortgage lender	main objective has always been to create attractive, diverse mixed income developments
Weaknesses			
What do others see as weaknesses?	The exercise of eminent domain powers without the benefit of an Urban Renewal Area designation has not been successful in New York State	Financing can be risky in todays markets	Top stringent in their ways
What needs improvement?	overly ambitious, including the acquisition of properties surrounding the city's proposed property	Embrace newer technologies	New thinking in project design concepts
Opportunities			
What trends can they take advantiage of?	Section 3 Hiring	not-for-profit mortgage lender, and for-profit development	comprehensive management services
Niches that competitors are missing?	Experience in Minortiy Comlience	working with government to create an environment that fosters large- scale housing preservation and redevelopment	management properties for low income, elderly and special needs tenants
New technologies?	Management Technologies	created a unique Infill Housing Model -- an efficient, cost effective prototype for affordable housing	Focusing on residential and mixed-use development in urban and suburban areas
Threats			
Obstacles to overcome?	Need to use newer management techniques	New Market Technologies	Synergy
What is their competition doing?	Nurturing the development of rehab and development	Traditional financing avenues	Building without subsidies

RESOLUTION NO.: 73 - 2012

OF

MAY 29, 2012

RESOLUTION SCHEDULING A PUBLIC HEARING FOR JUNE 18, 2012 TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING CHAPTER 248 "SEWERS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH AMENDING ARTICLE IV ENTITLED "STORMWATER MANAGEMENT REGULATIONS"

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 "Amending Chapter 248, 'Sewers', Article IV entitled 'Stormwater Management Regulations' 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 18th day of June, 2012, at the Council Chambers, Third Floor, City Hall located at 83 Broadway, Newburgh, New York.

LOCAL LAW NO.: _____ - 2012

OF

_____

A LOCAL LAW AMENDING CHAPTER 248 "SEWERS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH AMENDING ARTICLE IV ENTITLED "STORMWATER MANAGEMENT REGULATIONS"

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 248, 'Sewers', Article IV entitled 'Stormwater Management Regulations' of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to comply with New York State Department of Environmental Conservations related to Stormwater Management/Control and Prohibition of Illicit Discharges and Connections to City MS4 System.

SECTION 3 - AMENDMENT

Chapter 248 entitled "Sewers", Article IV entitled "Stormwater Management Regulations" of the Code of the City of Newburgh is hereby amended by to read as follows:

§ 248-58. Definitions and word usage.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board, inspect stormwater management practices and enforce the provisions of this Local Law in conjunction with other City officials and departments and other municipal agencies. Unless otherwise designated, the City Stormwater Management Officer shall be the City ~~Consulting~~ Engineer.

~~STORMWATER MANAGEMENT PLAN~~

~~The detailed analysis of stormwater and drainage as described in and required by these regulations, including standards, criteria, requirements and enforcement thereof.~~

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities, and as described in and required by these regulations, including standards, criteria, requirements and enforcement thereof.

§ 248-59. Applicability.

A. This Local Law shall apply to all water and other substances and materials entering the MS4 generated on any developed and/or undeveloped lands unless explicitly exempted by law, statute, rule or regulation or by an authorized enforcement agent or agency.

B. A ~~stormwater management plan~~ and stormwater pollution prevention plan developed in compliance with the New York State Stormwater Management Design Manual dated latest revision and prepared in accordance with the specifications herein must be submitted by the Owner and/or by his agent as authorized hereunder for review and acceptability to all City agencies and officials having jurisdiction over approval of a ~~project~~ land development activity, as defined in this Local Law, including any one or more of the following:

(1) A subdivision of land.

(2) The approval of a site plan.

(3) Issuance of a building permit where greater than one acre of property will be impacted.

(4) Construction or extension of an existing City street or property, or private roadway.

(5) Alteration of an existing drainage system or watercourse.

(6) Redevelopment of existing sites.

(7) Such other project undertaken within the boundaries of the City or on or adjacent to property in which the City has an interest which poses an impact upon such property and which in the opinion of the City Engineer requires the creation and implementation of such plan or plans as necessary to satisfy the Purpose and Objectives of this Law.

§ 248-60. Exemptions.

The following development activities are exempt from the ~~Stormwater Management and~~ Stormwater Pollution Prevention Plan Requirements.

A. Developments which disturb less than one acre of land and which in the professional opinion of the ~~City Engineer and/or~~ Stormwater Management Officer will not cause or may be reasonably anticipated to not cause stormwater accumulation, discharges, or flows equivalent to or greater than such as are regulated under and restricted or prohibited hereunder, or which will not cause or may be reasonably anticipated to not cause prohibited discharges, pollution, erosion, sedimentation, flooding or other impacts intended to be regulated, restricted or prohibited by this Local Law, regardless of the size of the parcel of land being developed or re-developed.

B. Agricultural land management activities.

C. Maintenance or improvement of an existing structure which will not have an impact on the quantity and/or quality of surface water discharge from the site, and which are performed in such manner as to maintain pre-existing grade, facilities, boundaries, hydraulic capacity and/or function and purpose.

D. Repairs to any stormwater management practice or facility deemed required by the Stormwater Management Officer ~~and/or City Engineer~~.

E. Cemeteries, graves, and plots therein which existed prior to the enactment of this law and/or which are exempt under State law, rule or regulation.

F. Emergency activities undertaken to protect the life, health and safety of any person(s), or property or natural resources, as same may be deemed an emergency by the City Manager or by the Stormwater Management Officer.

G. Home gardening undertaken for the personal benefit of the owner which does not generate the impacts intended to be regulated hereby.

§248-61. Prohibitions of illegal discharges.

No private or corporate person, owner, developer, contractor, site operator or other party or entity or agent shall discharge or cause to be discharged into any stormwater collection or conveyance system, natural watercourse or water body within the City of Newburgh or the MS4 any materials other than stormwater except as provided in Subsection A(1) hereinbelow. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

A. The following discharges are exempt from discharge prohibitions established by this article, unless the Department or the municipality has determined them to be substantial contributors of pollutants or the cause of impacts prohibited hereunder: water line flushing or flushing of other portable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street washwater, water from fire-fighting activities, and any other water source not containing pollutants or causing impacts prohibited hereunder. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants or mitigating or eliminating prohibited impacts. With the exception of the discharges identified herein, no discharge piping from any floor drain, sanitary drains, process piping or other similar source shall be connected to any City-owned or -maintained stormwater collection and conveyance system. The Building Inspector and/or Code Enforcement Officer shall be authorized to enforce the provisions of this section.

B. Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

C. Dye testing in compliance with applicable state and local laws is an allowable discharge but requires a verbal notification to the SMO prior to the time of the test.

D. This prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

E. Violations of this section shall be punishable by the penalties set forth in § 248-77 herein. Every new day, measured from 12:00 midnight, during all of part of which a violation is found to exist shall constitute a separate violation hereof. In addition to such penalty, the City may bring a separate civil action in any court of competent jurisdiction to recover from any violator(s) the cost of any damages caused by such violation plus the cost of remediating such damage, plus any legal and attorneys' fees and costs associated with such action, including the right of the City to compel compliance or to restrain by injunction

any such violations of this section. This shall be in addition to any other penalties or remedies provided by any other law, regulation, or rule or section hereof.

§248-68. Access and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has ~~probable~~ cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.

B. Access to Facilities.

1. The SMO shall be permitted to enter and inspect facilities subject to regulation under this Law as often as may be necessary to determine compliance with this Law. If a person who is the owner or is in control of or is responsible for such premises or who is a discharger has security measures in force which require proper identification and clearance before entry into its premises, such person(s) shall make the necessary arrangements to allow access to the SMO.

2. Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.

3. The municipality shall have the right to set up on any facility subject to this Law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The municipality has the right to require the facilities subject to this Law to install monitoring equipment at the expense of the owner, operator or responsible person(s) or discharger(s) as is reasonably necessary to determine compliance with this Law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by such person(s) at their own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Unreasonable delays in allowing the municipality access to a facility subject to this Law is a violation of this Law. A person who is the owner, operator, person responsible for or discharger of a facility subject to this Law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this Law. Such offense shall be

considered a Class A Misdemeanor and may be prosecuted as set forth in §248-77 ~~§248-66B and as set forth in §248-65A(2) hereinabove~~.

6. If the SMO has been refused access to any part of the premises from which is stormwater discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction in addition to all other remedies as set forth in this Chapter.

§ 248- 70. Contents of a stormwater ~~management~~ pollution prevention plan

The ~~stormwater management and~~ stormwater pollution prevention plan shall fully document compliance with the requirements of NYSDEC construction SPDES permit and New York State Stormwater Management Design Manual. All sites requiring a ~~stormwater management plan and/or a~~ stormwater pollution prevention plan to be implemented must document a zero increase in peak discharge from the predevelopment conditions as compared to postdevelopment conditions.

§ 248- 71. Components of a ~~stormwater management~~ pollution prevention plan

A. Stormwater ~~Management~~ Pollution Prevention Plans shall be prepared by a professional licensed by the State of New York to prepare such documents. Plans shall consist of an analysis of the predevelopment runoff rates, versus post development runoff rates with engineering controls implemented to assure that predevelopment peak discharge at property lines, streams or water courses are not exceeded in the post development conditions for each design storm event and return frequency. Each stormwater management report shall take into account existing soils, vegetation and cover types, and topography in the analysis. Reports shall identify engineering computations and variables utilized in all calculations. Any assumptions utilized in the calculations shall be clearly identified. Stormwater management reports shall comply with the requirements of the New York State Stormwater Management Design Manual, (year of latest revision), and appropriate regulatory guidelines and standards. Additional information shall be provided as requested by the Planning Board, Building Inspector, Stormwater Management Officer ~~or City Engineer~~. Stormwater management reports will address both water quantity control as well as water quality control including storage requirements for water quality and/or volume, stream, brook and other water and watercourse protection, ten-year peak runoff control and a 100 year flood control. Detention ponds shall be analyzed for a 25 year return frequency storm event for pre and post development runoff analysis. This local law by reference will utilize the New York State Stormwater Management Design Manual (year of latest revision) as a basis for stormwater management and design

guidelines for stormwater management practices; and shall include such other and further provisions as the ~~City Engineer and/or~~ Stormwater Management Officer may reasonably require as being in the best interests of the City and as are required or defined in all applicable laws, rules and regulations.

B. Such Plans shall include but not be limited to the following:

(1) Background information and erosion and sediment controls:

(a) Background information about the scope of the project, including location, type and size of project.

(b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges; *Site map should be at a scale no smaller than 1" = 100.*

(c) Description of the soil(s) present at the site.

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved Stormwater ~~Management~~ Pollution Prevention Plan.

(e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.

(f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

(g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.

(h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

(i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.

(j) Temporary practices that will be converted to permanent control measures.

(k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.

(l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.

(m) Name(s) of the receiving water(s).

(n) Delineation Plan implementation responsibilities for each part of the site.

(o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

(p) Any existing data that describes the stormwater runoff at the site.

(2) Conditions A, B and C. In addition to the foregoing, land development activities as defined in this Law and meeting conditions "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth below as applicable and as may be required by the Stormwater Management Officer ~~and/or City Engineer~~.

(a) Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(b) Condition B: Stormwater runoff from land development activities disturbing five (5) or more acres.

(c) Condition C: Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

(3) SWPPP Requirements for Condition A, B and C:

(a) All information in §248-71(B) (a-p) of this Local Law.

(b) Description of each post-construction stormwater management practice.

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

(d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.

(e) Comparison of post-development stormwater runoff conditions with pre-development conditions.

(f) Dimensions, material specifications and installation details for each post-construction stormwater management practice.

(g) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

(h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easement shall be recorded on the plan and shall remain in effect with transfer of title to the property.

(i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with the provisions of this local law.

C. Plan certification.

(1) The Stormwater ~~Management~~ Pollution Prevention Plan shall be prepared by a landscape architect, certified professional or professional engineer and must be

signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this local law.

(2) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards." The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

D. Other environmental permits. The applicant shall assure that all other applicable environmental or legal permits and other approvals have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

§ 248- 73. Maintenance.

A. The Applicant or Developer

(1) Stormwater management and stormwater pollution prevention plans shall address maintenance of all stormwater related improvements on subdivisions and site plans. Maintenance activity shall be the responsibility of the Owner and/or responsible party as defined herein of the site. Erosion control plans, in compliance with NYSDEC standards and as approved by the Planning Board, Zoning Board of Appeal, Building Department, Office of Code Compliance, ~~City Engineer~~ or Stormwater Management Officer, or any office, department, agency or officer charged with enforcement of law, codes or regulations, shall be implemented prior to construction activities commencing on a site. Soil erosion control methods and techniques shown on the approved plans and any additional controls required by the Code Compliance Supervisor, Building Inspector, Stormwater Management Officer and/or City Engineer shall be implemented and maintained throughout the project construction phase. Erosion and sediment control devices shall remain properly maintained on the site until the site has been stabilized. Maintenance of stormwater management appurtenances on site plans shall continue to be the responsibility of the site Owner and/or responsible party as defined herein. Periodic maintenance of stormwater management control is

required to assure their functions. Maintenance shall be performed in accordance with the stormwater pollution prevention plan and sound environmental practices, and as may be reasonably required by the Stormwater Management Officer ~~and/or City Engineer~~. Maintenance activities shall include, but are not limited to, mowing of vegetation, removal of debris, removal of sediment, cleaning of catch basins and pipes, repair and replacement of defective structures, equipment, or devices. During construction, sediment shall be removed from sediment traps, sediment ponds and other sediment collection facilities and points as soon as and whenever their total design capacity has been reduced for any reason or cause by fifty (50%) percent.

(2) Post development maintenance of stormwater management facilities designed and constructed on a residential subdivision shall be performed by a Homeowners Association, or other individual, partnership, association, corporation, Owner or other legally-responsible party, or a drainage district established by the City Council in order to provide for required maintenance activities. Appropriate easements shall be provided to City and to other parties as necessary, for access to and maintenance of all stormwater management facilities. Costs for maintenance shall be borne either by a Homeowners Association, or other individual, partnership, association, corporation, Owner or other legally-responsible party, or a drainage district. Cost associated with maintenance within a district shall be assessed to each individual property annually on an ad valorem basis, as same is approved by the State Comptroller and as is assessed and administered under law.

(3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

B. Maintenance Easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at all reasonable times for periodic inspection by the City of Newburgh to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Corporation Counsel for the City of Newburgh.

C. Stormwater Management and Maintenance after Construction.

(1) Owners and/or other responsible parties are hereby made responsible for the continued operation and maintenance of all stormwater management facilities on properties, construction sites and subdivisions. The policy of the City of Newburgh is to reduce negative impacts associated with construction activities, including reducing impacts to receiving water quality as well as to maintain appropriate erosion, run-off and flood control from developed sites. All temporary soil erosion and sediment control devices and appurtenances required during the construction phase shall be maintained until sites become stabilized either through the provision of impervious surfaces or the establishment of vigorous vegetative growth, or the permanent establishment of such facilities and controls as the Stormwater Management Officer ~~and/or City Engineer~~ may reasonably require. All areas disturbed during construction shall be revegetated sufficiently to control erosion from all disturbed areas. Prior to issuance of a Certificate of Occupancy for a site plan or the first residential structure on a subdivision, the involved engineer shall certify to the ~~City of Newburgh Engineer and Code Compliance Supervisor and~~ Stormwater Management Officer ~~and/or Building Department official~~ that all stormwater management facilities have been constructed in conformance with the applicable stormwater pollution prevention plan. All appropriate and necessary elements of the stormwater pollution prevention plan shall become part of the approved site plan/subdivision and shall be enforceable by the City code enforcement officer. The City of Newburgh hereby recognizes that the stormwater management and soil erosion sediment control plans are an important part of site development plans and therefore require enforcement of the implementation of said plans as part of the site development building permit process, as well as of such other and further legal procedures as may be proper under applicable law, rules and regulations. All site plans and subdivisions which are subject to this stormwater management Local Law shall contain appropriate notes under seal of the authorized and licensed professional responsible therefor requiring ongoing maintenance of all stormwater management facilities and devices during construction. Annual review and inspection of the stormwater management facilities by the Owner, homeowners association, or other responsible party, or district as may be applicable, shall be required; and such other further and more frequent reviews, inspections and reports thereupon shall be performed as the ~~City Engineer and/or~~ Stormwater Management Officer may reasonably require.

(2) The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. Proper operation and maintenance shall include as a minimum, the following:

(a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.

(b) Written procedures for operation and maintenance and training and qualification of new maintenance personnel.

(c) Discharges from the SMP's shall not exceed design criteria or cause or contribute to water quality standard violations.

D. Maintenance Agreements. The City of Newburgh may approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of this local law and all applicable provisions of local or State code, rules and regulations. The City of Newburgh, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

E. Maintenance Bonds; Required documents and filing

~~(1) The Planning Board and/or City Council shall have authority to require a maintenance bond be posted to meet the construction, improvement and/or maintenance obligations for stormwater management facilities. The bonds if required shall be posted prior to final approval of a plan before the Planning Board or the issuance of a building permit by the Building Inspector, or the issuance of formal final City Council approval, as may be required, whichever occurs first. Maintenance bonds shall cover the estimated cost of maintaining the system for five years after issuance of the final certificates of occupancy on a site plan, subdivision or building permit. Ownership and responsibility for operational maintenance of stormwater management appurtenances of residential subdivisions shall be determined by the terms and provisions of this and/or other applicable laws, rules and regulations, or by the City Council or Planning Board, with the advice and recommendations of the City Engineer and/or Stormwater Management Officer. Owners, developers and/or their authorized agents shall execute necessary agreements, documents, deed restrictions, covenants or easements, and any and all other required documents required to comply with this and other provisions of this local law, and shall be responsible for satisfying all filing and certification requirements prior to final approval of a residential subdivision by the City Planning Board.~~

~~(2)~~ Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the City in its approval of the Stormwater Pollution Prevention Plan, the City may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City of Newburgh as the beneficiary. The security shall be in an amount to be determined by the City based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the City. Per annum interest on cash escrow deposits if any shall be reinvested in the account until the surety is released from liability.

~~(3)~~ (2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required in the City's discretion to provide the City with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the City may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs. Owners, developers and/or their authorized agents shall execute necessary agreements, documents, deed restrictions, covenants or easements, and any and all other required documents required to comply with this and other provisions of this local law, and shall be responsible for satisfying all filing and certification requirements prior to final approval of a residential subdivision by the City Planning Board.

~~§ 248-75. Prohibited discharges; penalties; civil action and other remedies.~~

~~A. Prohibited discharges.~~

~~(1) No private or corporate person, owner, developer, contractor, site operator or other party or entity or agent shall cause to be discharged to any stormwater collection or~~

~~conveyance system, natural watercourse or water body within the City of Newburgh any substance other than naturally occurring surface water discharges, naturally occurring melted snow and ice, uncontaminated groundwater discharges from foundation footing drains, air conditioning or other uncontaminated nontoxic condensate, irrigation waters, springs, water from crawl space and basement sump pumps, lawn watering, individual residential car washing, dechlorinated swimming pool discharges, street washwater and fire fighting water.~~

~~(2) The above discharges must be free from any hazardous or toxic chemicals or substances, petroleum products, sanitary sewage, pesticides, herbicides or other noxious, dangerous or harmful chemicals, pollutants or substances.~~

~~(3) With the exception of the discharges identified above, no discharge piping from any floor drain, sanitary drains, process piping or other similar source shall be connected to any City-owned or maintained stormwater collection and conveyance system. The Building Inspector and/or Code Enforcement Officer shall be authorized to enforce the provisions of this section.~~

~~B. Violations of this section shall be punishable by the penalties set forth in § 248-77 herein. Every new day, measured from 12:00 midnight, during all of part of which a violation is found to exist shall constitute a separate violation hereof. In addition to such penalty, the City may bring a separate civil action in any court of competent jurisdiction to recover from any violator(s) the cost of any damages caused by such violation plus the cost of remediating such damage, plus any legal and attorneys' fees and costs associated with such action, including the right of the City to compel compliance or to restrain by injunction any such violations of this section. This shall be in addition to any other penalties or remedies provided by any other law, regulation, or rule or section hereof.~~

§ 248-~~76~~ 75. Fees for services.

The City of Newburgh may require any person undertaking land development or other activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SWP maintenance performed by the City or performed by a third party for or on behalf of the City. The City may require the payment of such fees and/or the establishment of an escrow account in an amount to be determined by the City upon the recommendation of the ~~City Engineer and/or~~ Stormwater Management Officer to provide a fund sufficient to pay the reasonably anticipated costs thereof.

§ 248-~~77~~ 76. Enforcement; penalties for offenses; civil action and other remedies.

A. Notice of violation.

(1) The City shall have the right to gain access to and to inspect any stormwater sewer or other collection system or conduct, whether man-made or natural or combination of both, in the same manner and with the same authority as provided by this article or by any law, code, rule or regulation which provides the City with the authority to gain access to and inspect property and structures to ensure and enforce compliance with all state and local building, fire, safety and health codes, rules and regulations, including but not limited to this article. When the City determines that a land development activity is not being carried out in accordance with the requirements of this article or that a person has violated a provision hereof, it may issue a written notice of violation to the landowner, operator, person responsible for same or the discharger. The notice of violation shall contain:

(a) The name and address of the landowner, developer, applicant, operator, discharger and/or responsible party.
(b) The address, when available, or a description of the building, structure or land upon which the violation is occurring.
(c) A statement specifying the nature of the violation.
(d) A description of the remedial measures required of the owner, operator, person responsible or discharger necessary to bring the land development activity and/or to eliminate any illicit or illegal connections or discharges and to bring such premises and persons into compliance with this article, and a time schedule for the completion of such remedial action.
(e) A statement of the penalty or penalties that are, shall be or may be assessed against the person to whom the notice of violation is directed.
(f) A statement and description of any monitoring, analysis and reporting requirements to be imposed.
(g) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation with the Code Compliance Office.
(h) The description of the required implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(2) Cease and desist/stop-work orders. The City may issue a cease and desist and/or a stop-work order for violations of this article. Persons receiving a cease and desist or stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the order as the City may allow. The order shall be in effect until the City confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to obey an order

in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

(3) Injunctions. Any land development or other activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law. The City may recover from the violator(s) any and all of its costs and expenses, including attorneys' fees incurred in securing injunctive relief, fines or other relief or remedies.

(4) Withholding of certificate of occupancy or other approval or permit. If any building or land development or other activity is installed or conducted in violation of this article, the City Engineer, Stormwater Management Officer and/or Code Enforcement Officer may prevent the occupancy of said building or land by withholding, suspending or rescinding a certificate of occupancy or other permit issued by any City agency or official.

(5) Restoration of lands. Any violator may be required to restore land and related facilities to its undisturbedcondition and to remove or to require corrections of defective or noncompliant or illegal connections to any storm sewer system or other system or conduit, whether man-made or natural or any combination thereof. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid. If said cost remains unpaid, it shall become a tax upon the premises and may be enforceable by the City in the same manner as provided by law for the enforcement of unpaid taxes, as provided for and as described in § 248-65A(2) hereinabove.

(6) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the SMO to the City Manager within 15 days of its issuance, who shall hear the appeal within 30 days after the filing of the appeal, and within five days of making a decision, shall file such decision in the office of the Municipal Clerk and mail a copy of the decision by certified mail to the violator(s).

B. Alternative remedies.

(1) Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the City Manager and/or SMO and/or Director of Code Compliance, where:

(a) The violation was unintentional.
(b) The violator has no history of previous violations of this article.
(c) Environmental damage was minimal.
(d) The violator acted quickly to remedy the violation.
(e) The violator cooperated in investigation and resolution.
(f) Other significant mitigating factors exist.

(2) Alternative remedies may consist of one or more of the following:

(a) Attendance at compliance workshops.

(b) Storm drain stenciling or storm drain making.

(c) River, stream or creek cleanup activities.

(d) Any other activity deemed by the City to be a significant contribution to the health, safety and welfare of the City of Newburgh, its citizens and/or the environment.

C. Penalties. Any person who commits any act in violation of any provision of this article shall be deemed to have committed an offense and shall be liable for penalties imposed herein for such violation. Each act committed in violation of any provision of this article shall constitute a separate offense. Each day a violation continues shall be deemed a separate act.

(1) Except as otherwise provided in this article, for every violation of every provision of this article, a person shall be subject to a fine of not less than $200 but not more than $1,000 or imprisonment not exceeding 15 days, or both.

(2) Any person violating this article shall be subject to a civil penalty enforceable and collectable by the City in the amount of $500 for each such offense.

(3) In addition to the above-provided penalties, the City also may bring an action or proceeding in the name of the City in the City Court of the City of Newburgh, or other court of competent jurisdiction, to compel compliance with, or to restrain by injunction or otherwise, the violation of this article, or of the New York State Department of Environmental Conservation Rules and Regulations, notwithstanding that a penalty or other enforcement measure for such violation has otherwise been provided or imposed.

(4) In addition to the foregoing and at the City's discretion, after due notice and opportunity to correct any violation(s) have been given by the City, the City may undertake any and all necessary and proper actions to correct such violation(s). The City may, then seek full reimbursement for all of its costs and expenses, including attorneys fees and court costs, which the City has incurred for such corrections and any legal action brought hereunder, as provided in § 248-65A(2) hereinabove.

D. Remedies not exclusive. The remedies listed in this article are not exclusive of any other remedies available under this article; under any other local law, regulation, rule, code or ordinance; or under any applicable federal, state, county or regulatory law, code, rule or regulation, and it shall be within the discretion of the City and its enforcement officers to seek individual or cumulative or any combination of such remedies.

RESOLUTION NO.: 74 -2012

OF

MAY 29, 2012

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT IN THE AMOUNT OF $500.00 FROM THE ORANGE COUNTY HISTORIAN FOR THE PURPOSE OF IDENTIFYING MATERIALS IN THE CITY'S ARCHIVES RELATED TO THE CIVIL WAR AND TO THE WAR OF 1812 TO BE INCORPORATED INTO AN E-EXHIBIT ON THE HUDSON RIVER VALLEY HERITAGE WEBSITE

WHEREAS, the City has an extraordinary collection of primary historic 19th century Village of Newburgh and City of Newburgh materials such as minutes and documents; and

WHEREAS, many of the materials have been photocopied, scanned and transcribed through a National Park Service grant; and

WHEREAS, the Orange County Historian recognizes the significance of the City's archives and has offered the City a grant in the amount of $500.00 to identify materials relating to the current nationwide recognition of the anniversaries of the Civil War and the War of 1812; and

WHEREAS, the City is willing to match the grant solely with Records Management Officer, City Historian, volunteer and intern hours, totaling 69 hours, in the identifying, scanning, and interpreting of the materials, and in the creating of the e-exhibit; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be authorized to accept a grant from the Orange County Historian in the amount of $500.00 for the purpose of identifying materials in the City's archives related to the Civil War and to the War of 1812 to be incorporated into an e-exhibit on the Hudson River Valley Heritage website.

RESOLUTION NO.: _____- 2012

For Discussion

OF

MAY 29, 2012

A RESOLUTION AMENDING
RULES OF ORDER AND PROCEDURE
FOR THE COUNCIL OF THE CITY OF NEWBURGH
FOR THE YEAR 2012

BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby amends Resolution No. 4-2012 of January 9, 2012 adopting for use during the year 2012 the Rules of Conduct and Procedure: By Laws, a copy of which is attached hereto and made a part of this Resolution; and

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

City of Newburgh City Council
Rules of Order and Procedure

Rule I: General Rules of Procedure

A. The presiding officer shall preserve order and decorum and shall decide questions of order, subject to an appeal by motion to the City Council; the appeal to be taken without debate. The presiding officer may, if (s)he so desires, present motions and resolutions to the City Council, and (s)he may debate on any question which is being considered by it.

B. When a question is under consideration, no motion shall be entertained except as herein specified, which shall have precedence in the following order:

1. Motion for clarification, or to request reversal of ruling of the presiding officer, or limiting or extending discussion;
2. Recess the session;
3. Lay on table;
4. Postpone to a meeting of a certain date;
5. Refer to work session;
6. Amend;
7. Call the previous question, to be asked as follows: "Shall the main question be put now?" If answered in the negative, the main question remains before the Council.

C. A motion to lay a question on the table shall be decided without amendment or debate, and a motion to postpone shall be decided without debate.

D. A motion to adjourn shall always be in order and shall be decided without debate.

E. Every member desiring to speak shall address the presiding officer. All council members shall confine him/herself to the question under debate and avoid personalities. A member once recognized shall not be interrupted when speaking.

F. No question or motion shall be debated or put, unless it is seconded. It shall then be stated by the presiding officer.

G. A motion to reconsider any action taken by the Council may be made on the day such action was taken, either immediately during the session or at a recessed or adjourned session. Such motion must be made by a member on the prevailing side, but may be seconded by any member. The motion is subject to debate. This rule shall not prevent any member of the Council from making or re-making the same or any other motion at a subsequent meeting of the Council.

H. No member of the Council shall by conversation or otherwise delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking or refuse to comply with these rules, or the orders of its presiding officer. The Presiding Officer, subject to appeal by motion to the Council, may direct a member who is acting in violation of this section to leave the meeting or call for a recess or adjournment.

I. As the sergeant-at-arms of the meetings, the Police Chief shall carry out all order and instructions given by the presiding officer, for the purpose of maintaining order and decorum at the meetings, subject to an appeal by motion, to the Council.

J. Any motion may be withdrawn by the maker before it has been amended or voted upon, but in such case any other member may renew the motion at that time.

Rule II. Order of Business

A. The Order of Business shall be in conformity with section 20-3 of the Code of Ordinances.

B. The Order of Business may be departed from by majority vote of the members present.

Rule III. Voting

A. The order of voting shall be by alphabetical order of the last name of each Council member with the Mayor voting last.

B. All votes shall be by roll call. It shall be the duty of the City Clerk to enter on the minutes the names of the members voting for or against the question. Once a question has been put and the vote is being taken, the members of the Council shall confine themselves to voting and shall not resume discussion or make further comments on the question.

C. Every resolution or motion must be seconded before being put to a vote. An abstention, silence or absence shall be considered a negative vote for the purposes of determining the final vote on a matter.

D. No resolution, ordinance or local law may be introduced at a meeting unless the resolution, ordinance or local law has been considered at a work session of the Council prior to the Council meeting or is listed on the written agenda for said meeting. Notwithstanding the foregoing, by majority vote, an item not discussed at work session or appearing on the written agenda may be introduced, considered, and voted upon.

Rule IV. Executive Session

Whenever the Council shall determine to transact business in an executive session, it shall do so in accordance with the provisions of Open Meetings Law. All executive sessions shall be commenced at the public meeting. Proposals, discussions, statements and transactions in executive session are intended to be and shall be held and maintained in confidence and shall not be disclosed. The presiding officer shall direct all persons except members and designated officers and employees of the City to withdraw.

Rule V. Participation of City Manager and Staff

The City Manager shall be permitted to address the Council and participate in discussions. Heads of Departments shall be permitted to address the Council. Any other City officer or employee shall be permitted to address the Council with permission of the presiding officer, subject to an appeal by motion to the City Council, the appeal to be taken without debate.

Rule VI. Suspension of the Rules

In order to hear persons other than members of the City Council, the Mayor, and members of City staff, it shall be necessary to pass a motion suspending the rules of order. A motion to suspend the rules may be made at any time during the meeting and shall be decided without debate. Any such person speaking shall confine himself-herself to the subject and shall spend not longer than three (3) minutes, unless the time is extended by the presiding officer. This rule shall not apply to public hearings.

Rule VII. Guidelines for Public Comment

A. The pubic shall be allowed to speak only during the Public Comment period of the meeting regarding the City Manager's Report or at such other time as the presiding officer may allow, subject to appeal by motion to the Council.

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B. Speakers must adhere to the following guidelines:

1. Speakers must be recognized by the presiding officer.
2. Speakers must step to the front of the room.
3. Speakers must give their name, address and organization, if any.
4. Speakers must limit their remarks to 3 minutes on a given topic. The City Clerk shall keep a record of the time and shall inform the presiding officer when the 3 minutes has expired.
5. Speakers may not yield any remaining time they may have to another speaker.

6. Council members may, with the permission of the presiding officer, , interrupt a speaker during their remarks, but only for the purpose of clarification or information.
7. All remarks shall be addressed to the Council as a body and not to any specific member or to staff.
8. Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. No profanities shall be used. No personal, slanderous, boisterous remarks shall be made. Council members, the Mayor and staff shall be treated with respect. The presiding officer, subject to appeal by motion to the Council, or the Council, may, by majority vote, request that the presiding officer direct that a speaker violating this provision or any other rule yield the floor and in the event the speaker fails to obey, (s)he may be escorted from the meeting by the sergeant-in-arms.
9. Interested parties or their representatives may address the Council by written communications. Written communications shall be delivered to the Clerk or their designee. Speakers may read written communications verbatim.

C. Members of the public may address the Council regarding general matters of City business by written communication. Written communication shall be delivered to the City Clerk or his/her designee.

D. Members of the public not speaking shall observe commonly accepted rules of courtesy and decorum. They shall not annoy or harass others or speak when another speaker is being heard by the Council.

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Rule VIII. Use of Recording Equipment

All members of the public and all public officials are allowed to audio or video record public meetings. Recording is not allowed during executive sessions. The recording should be done in a manner which does not interfere with the meeting. The presiding officer, subject to appeal by motion to the Council, may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the deliberations of the Council, size of the equipment, and the ability of the public to still participate in the meeting. If the presiding officer makes the determination that the recording is intrusive and has the effect of interfering with the meeting, (s)he may request an accommodation to avoid the interference and if not complied with, may ask the individual to leave the meeting room.

Rule IX. Rules for Public Hearings

The following rules shall apply to a legally required public hearing held before the City Council:

(a) Speakers shall register in writing prior to the beginning of the hearing by providing their name, address, and organization, if any. Individuals arriving after the commencement of the hearing shall be permitted to register upon arrival as long as the Chairperson has not closed the hearing.

(b) The Presiding Officer shall recognize each speaker, in the order registered, when the hearing is commenced. Speakers shall identify themselves, their address and organization, if any, prior to the remarks.

(c) Speakers must limit their remarks to five (5) minutes. Remarks shall be addressed only to the hearing issues. Speakers may not yield any remaining time they may have to another speaker. The City Clerk shall time speakers and advise the presiding officer when the time has expired.

(d) All remarks shall be addressed to the Council as a body and not to any individual member thereof.

(e) Speakers shall observe the commonly accepted rules of courtesy, decency, dignity and good taste. Any loud, boisterous individual shall be asked to leave by the Presiding Officer and may be removed at the request of the Presiding Officer, subject to appeal by motion to the Council. Speakers addressing issues outside the scope of the hearing shall be asked to cease their comments.

(f) Interested parties may address the Council by written communication. The statements may be read at the hearing, but shall be provided to all Council members and entered in the minutes of the hearing by the City Clerk.

(g) The City Clerk shall include in the minutes of the hearing the name, address and organization, if any, of each speaker, a summary of the remarks, and written statements submitted to the Council.

Rule X. Work Sessions

There shall be regular work sessions of the Council to be held each Thursday preceding a Monday evening Council meeting. The work sessions shall be held at 6:00 p.m. in City Hall, 83 Broadway, Third Floor Council Chambers, unless the Council by majority vote cancels or changes the time or place of such session. The Rules IV, V, VI, and VIII of the Rules of Order of the Council shall apply to all work sessions.

Rule XI. Robert's Rules of Order

In the event any question in procedure shall arise that is not provided for by these rules, then, in that event, Robert's Rules of Order, Newly Revised, 10th Edition, shall be followed.

Rule XII. Adoption of Ordinances

Provided the proposed adoption of an ordinance has been placed on an agenda for a meeting of the Council at which the public is afforded the opportunity to comment on agenda items before Council action, a formal public hearing will not be conducted prior to the adoption of such ordinance, unless otherwise required by federal, state, or local law, ordinance, rule or regulation.

This rule shall not be construed to prevent the Council from holding a public hearing on any ordinance at its discretion, provided a majority of the members of the Council in attendance at a meeting, upon a motion or resolution duly introduced, vote to conduct such public hearing.

Date Adopted: May 14, 2001
Amended: February 25, 2002 (Rule XII added)

AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT)
BY AND AMONG
THE CITY OF NEWBURGH
AND
VARICK HOMES HOUSING DEVELOPMENT FUND CORP.

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (the "PILOT Agreement" or "Agreement"), dated _____, 2012, by and among the **CITY OF NEWBURGH, NEW YORK,** a municipal corporation organized and existing under the laws of the State of New York, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City"), **VARICK HOMES HOUSING DEVELOPMENT FUND CORP.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law of the State of New York, having its principal office located at 121-A Varick Street. Newburgh, New York 12550 (the "HDFC").

WHEREAS, the HDFC is the record owner of certain improved real property located at 69 South Street, City of Newburgh, Orange County, New York, Tax Map No. Section 19, Block 2, Lot 1 (the "Property"); and

WHEREAS, the HDFC is a corporation established pursuant to section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law ("PHFL"); and

WHEREAS, the HDFC has been formed for the purpose of providing residential rental accommodations for low income families and senior citizens; and

WHEREAS, the HDFC will continue to own, redevelop, rehabilitate, renovate, maintain and operate a housing project on the Property consisting of approximately 122 dwelling units; and

WHEREAS, the HDFC's plan for the use of the Property constitutes a "housing project" as that term is defined in the PHFL; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, the City Council members of the City of Newburgh, New York, by resolution adopted_____, approved and authorized the execution of this Agreement,

NOW, THEREFORE, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by the State of New York, Orange County ("County"), the City of Newburgh ("City"), the Newburgh City School District ("School District") or other taxing jurisdiction. Exclusions from the exemption described herein (in addition to assessments for local improvements) shall include special tax and/or special assessment districts, if any.

2. This tax exemption will operate for a period of forty (40) years from _____. This Agreement shall not limit or restrict the HDFC's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

3. So long as the exemption hereunder continues, the HDFC shall make annual payments in lieu of taxes ("PILOT") in the amount of the greater of Fifteen Thousand and 00/100 Dollars ($15,000.00) or Eight Percent (8%) of the effective gross rents ("PILOT Payment") to cover all Local and Municipal Taxes owed in connection with the Property and the Project. All Tax bills shall be sent to the HDFC c/o 4 Executive Boulevard – Suite 100, Suffern, NY 10901. Annual PILOT Payments shall be due on June 30th of each calendar year for the preceding year. PILOT Payments shall be mailed via First Class mail through the United States Postal Service to the City of Newburgh, Attention Tax Collector at 83 Broadway, Newburgh, New York 12550. So long as the tax exemption remains in effect, tenant rental charges for restricted units shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL. Any amounts due pursuant to this Section 3 for a period that is less than a full 365 days (366 days in leap years) shall be pro-rated for each PILOT Year for such shorter period of time.

4. The tax exemption provided by this Agreement will continue for the term described above provided that the Property continues to be used as housing facilities for families and senior citizens of low income, provided that if the project should no longer serve the purposes set forth in subsection (a) above, then this agreement shall terminate on sixty (60) days notice by any party to this agreement. In the event an action is brought to foreclosure a mortgage upon the Property, and the legal and beneficial interest in the Property shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest shall operate the Property in conformance with Article XI of the PHFL.

5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes and assessment of interest and penalties to the extent permitted by law. In the event the City commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the City shall be entitled, it shall have the right to award reasonable attorney

fees. Notwithstanding the above, the City may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof.

6. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 5 above or in an event of default as follows:

(a) Failure of the HDFC to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the City stating that said payment is past due.

(b) The intentional and knowing failure of the HDFC to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than sixty (60) days after mailing of written notice by the City of such failure to comply or perform, or such longer period as may be necessary provided that the Owner shall diligently pursue such cure.

(c) the intentional and knowing failure of the HDFC to operate the Project in compliance with all applicable rules and regulations of Article 11 of the Private Housing Finance Law of the State of New York if such failure continues in whole or in part for more than sixty (60) days after mailing of written notice by the City of such failure to comply or perform, or such longer period as may be necessary provided that the Owner shall diligently pursue such cure.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the City may exercise any and all rights or remedies permitted by law.

Notwithstanding any provision hereof to the contrary, the mortgagees of record with respect to the Property (the "Lender") shall have an additional period of thirty (30) days after the cure periods of the Borrower set forth in this Section 6 to cure any monetary defaults and an additional period of up to one hundred twenty (120) days to cure non-monetary defaults provided that the Lender shall diligently pursue such cure.

7. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the City at the address stated above and to the HDFC c/o 4 Executive Boulevard – Suite 100, Suffern, NY 10901 (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery. Copies of notices to the Company shall be provided to the Lender for the Project at such address as may be designated in writing by the HDFC.

8. This Agreement shall inure to the benefit of and shall be binding upon the City, and the HDFC and their respective successors and assigns, including the successors in interest of the HDFC. There shall be no assignment of this Agreement except in accordance with Section 4 hereof or with written consent of the other party, which consent shall not be unreasonably withheld, provided however that the foregoing prohibition on Assignment shall not apply to a transfer of the equitable title to the Project pursuant to a Nominee Agreement or any similar document, in which event the City agrees to amend this Agreement in order to reflect the interests of such transferee.

9. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

10. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

11. In the event that the Project is declared to be subject to taxation by an amendment to the PHFL, other legislative change, or by a final judgment of a court of competent jurisdiction, the obligation of the Owner hereunder to pay amounts hereunder with respect to the Project shall to such extent be null and void. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

12. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the Property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

13. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the City and the HDFC have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: _____, 2012

CITY OF NEWBURGH, NEW YORK

By:_____
Name: Richard Herbek
Title: City Manager

DATED: _____, 2012

VARICK HOMES HOUSING DEVELOPMENT FUND CORP.

By:_____
Name:
Title:

STATE OF NEW YORK)
) SS.:
COUNTY OF)

On the ____ day of _____ in the year 2012, before me personally appeared Richard Herbek, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

STATE OF NEW YORK)
) SS.:
COUNTY OF)

On the _____ day of _____ in the year 2012, before me personally appeared_____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

RESOLUTION NO.: 45 -2012

OF

MAY 29, 2012

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO MIGUEL CHAVEZ
TO THE PREMISES KNOWN AS 387 FIRST STREET
(SECTION 28, BLOCK 1, LOT 12)

WHEREAS, on June 17, 2011, the City of Newburgh conveyed property located at 387 First Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 28, Block 1, Lot 12, to Miguel Chavez; and

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

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

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN ($10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 387 First Street, Section 28, Block 1, Lot 12, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated June 17, 2011, from the CITY OF NEWBURGH to MIGUEL CHAVEZ, recorded in the Orange County Clerk's Office on June 29, 2011, in Liber 13193 of Deeds at Page 1542 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2012

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

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

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

_____