



CITY OF NEWBURGH  
COUNCIL MEETING AGENDA

May 13, 2013

7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call

Communications:

4. Approval of the minutes of the April 18, 2013 work session and the April 22, 2013 City Council meeting
5. Notice of Claim: Peter Derosé v. City of Newburgh
6. Notice of Claim: Ramona McCallum v. City of Newburgh
7. Notice of Claim: Doris Pacheco City of Newburgh
8. Notice of Claim: Celeste Mays and Carrie Beard v. City of Newburgh
9. Notice of Claim: Robert Boone v. City of Newburgh
10. Notice of Claim: Cornelius Stubbs v. City of Newburgh
11. Notice of Claim: Colleen Guyt v. City of Newburgh
12. Summons & Complaint: Wells Fargo, et al v. City of Newburgh
13. Notice of Claim: Susan Grimm v. City of Newburgh
14. Summons and Verified Complaint: Richard and Linda Diasparra v. City of Newburgh

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

15. Resolution No. 92-2013  
A resolution of the City Council of the City of Newburgh proclaiming Newburgh, New York as a Purple Heart City.
16. Resolution No. 93-2013  
A resolution of the City Council of the City of Newburgh proclaiming the Newburgh Armory Unity Center as a Purple Heart City Center.

17. Resolution No. 94 - 2013  
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 with work for the City of Newburgh for the Summer of 2013.
18. Resolution No. 95 - 2013  
A resolution authorizing the City Manager to enter into a license agreement with St. Luke's Cornwall Hospital to allow use of City-owned property located in the Carter Street pedestrian walkway known as Larkin Park for a farmers market.
19. Resolution No. 96 - 2013  
A resolution of the City Council of the City of Newburgh adopting an Environmental Assessment Form and issuing a negative declaration under the State Environmental Quality Review Act concerning an amendment of Article VII, entitled "Special Use Permits of the Zoning Ordinance of the City of Newburgh.
20. Resolution No. 97 - 2013  
A resolution authorizing the City Manager to grant an extension of time to rehabilitate the premises known as 44 Hasbrouck Street in the City of Newburgh.
21. Resolution No. 98 - 2013  
A resolution authorizing the City Manager to grant an extension of time to rehabilitate the premises known as 128 Dubois Street in the City of Newburgh.
22. Resolution No. 99 - 2013  
A resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to David L. Jadidian to the premises known as 83 Nicoll Street.
23. Resolution No. 100 - 2013  
A resolution to authorize a change order to the contract with Ritter and Paratore Contracting, Inc. in connection with the Johnes Street building demolition project in an amount not to exceed \$38,530.00 and to amend Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$19,265.00 from fund balance to 7-11 Johnes Street ERP Project.2010 in connection with the Johnes Street Building Demolition Project.
24. Resolution No. 101 - 2013  
A resolution reducing the fixed amount to be provided in the form of a Public Improvement Performance Security to be posted by the owner/sponsor of the Sunset Ridge subdivision project.

25. Resolution No. 102 - 2013  
A resolution authorizing the amendment to the terms of a deed to JCL Media, Inc. for the premises known as 67 Liberty Street, to authorize the conveyance of real property to the Folk Museum Hall of Fame and to allow for additional time to rehabilitate the property.
26. Resolution No. 103 - 2013  
A resolution authorizing a request to amend the Environmental Restoration Program State Assistance contract C303486 in connection with the investigation, interim remedial measures and preparation of remedial alternatives for City-owned property located at 350-352 Liberty Street in an amount of \$40,000.00 and to amend Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$4,000.00 from fund balance to Liberty Street ERP On Site.
27. Resolution No. 104 - 2013  
A resolution to authorize a settlement in the matter of Christopher Page against the City of Newburgh in the amount of seven-thousand eight hundred forty one and 76/100 dollars.
28. Resolution No. 105 - 2013  
A resolution to authorize the repurchase of real property known as 72 Hasbrouck Street at private sale to Keith Gifft.
29. Resolution No. 106 - 2013  
A resolution to amend Resolution No. 163-2007, regarding the salary and benefit plan for non-bargaining unit employees and to amend Resolution No. 223-2012, the 2013 Budget of the City of Newburgh and the Personnel Analysis booklet regarding the salary of the Planner.
30. Resolution No. 107 - 2013  
A resolution of the City Council of the City of Newburgh memorializing its intent with respect to the consideration of salary increases for non-bargaining unit positions in connection with the 2014 budget process.
31. Resolution No. 108 - 2013  
A resolution amending resolution No. 223-2012, the Budget for the City of Newburgh, New York and the Personnel Analysis booklet to adjust the salaries of the City Engineer and the Fire Chief.

Agenda - City Council Meeting  
May 13, 2013

Old Business:

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

A regular meeting of the City Council of the City of Newburgh was held on Monday, April 22, 2013 at 7:05 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Dr. Bruce Davis, Pastor of Ebenezer Baptist Church, followed by the Pledge of Allegiance.

Mayor Kennedy pointed out the t-shirt she is wearing tonight of the Horizons-On-the-Hudson School. She is wearing it in solidarity with that school in keeping it open in the City of Newburgh. The school board meeting is also taking place this evening.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilwoman Lee - 4

Absent: Councilman Dillard- 1

#### REPORTS

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

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

CARRIED

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

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

CARRIED

#### PRESENTATIONS

Mayor Kennedy issued Certificates of Appreciation for the partners involved in the 2013 Gun Buy Back Initiative. The City of Newburgh Police Department and Auxiliary Police, Shop Rite, Greater Newburgh Partnership, Orange County District Attorney's Office, Orange County Sheriff's Office, Orange County Executive, NCAC and House of Refuge were some of the partners included in the initiative.

## COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the April 4, 2013 Work Session and the April 8, 2013 City Council Meeting be approved.

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

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notices of Claims be referred to Corporation Counsel with power to act.

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

CARRIED

## PUBLIC HEARING

Mayor Kennedy called a public hearing concerning an ordinance to amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances to add a section related to *large-scale mixed use development special use permit*. She pointed out that this specifically pertains to the mid-Broadway lot.

A power-point presentation of the zoning was made before the council one month ago. The council was previously given draft zoning text amendments to the Tourist/Commercial District regulations to allow a new special use permit for large-scale mixed use developments. What is before us tonight is the zoning text amendment, *not* an actual development site. The new special use permit would only apply to parcels with frontage along Broadway, between Concord and Grand Streets. Any future application for development would still be subject to special permit review and site plan review, as well as site-specific review under SEQRA. This is just a preliminary step in terms of the zoning process. The Special-Use permit would be approved by the City Council, *not* the Planning Board. This zoning text amendment is completely compatible with the future Land Use Plan that was adopted in 2011.

Yakov Sullivan commented that the most important and healthy goal of city government is to distribute the tax levies as widely and as equitably as possible among the largest segments of the population. Newburgh takes pride in promoting itself as a diverse community- racially, economically and socially. People including himself, who have bought homes and invested here, do so on the very basis of that diversity. He has made substantial improvements to the exterior and the interior of his property since he purchased it in 2008. None of us want to see a repeat of the hefty tax levy we experienced in 2011 that reduced city services too. The taxpaying segment of our population will be further reduced with the proposed development of 100 housing units. Also he does not feel that the project is clearly defined. If we do not include a mixed-income housing project, then our chances for economic development in our downtown area would be greatly reduced. Sullivan stated that this project is not what Newburgh needs, as it is unbalanced. It would give the diminishing segment of taxpaying people in our city a heavier tax burden and eventually price people out of their homes. It is incumbent on our elected officials to rethink this project as it is presently conceived.

Stuart Sachs is concerned that the council is considering a bypass of the planning board. Our Master Plan states that Newburgh must increase tax revenue to relieve the burden on real property taxpayers. He feels that this

project will do the opposite. State law declares that land use must be consistent with the Master Plan. He pointed out that the planning board is given special training to meet State requirements. They are far more qualified to comply with a future land use plan than the council members, who do not receive this training. Furthermore it raises an appearance of a conflict of interest for the city to offer a special use permit to one of the developers and not the other. If the special permit was included from the beginning, then we may have received better proposals. He cautioned the council not to hand out special use permits solely based on party talk. All of the proposed units are government-subsidized, which further reduces tax contribution. Also the use of a PILOT will drastically reduce the tax contribution to the tax rolls. He mentioned that Varick Homes used the PILOT when it was built several decades ago. But even today, the total taxes on the site would be over \$312K, but Varick Homes only pays \$125K. This difference of \$187K has to be paid by other taxpayers. When there is a need for affordable housing, sustainable planning includes a mix of affordable and market rate housing in every development. It also should be spread across the County, so that the burden is not just placed on one community. He urged the council to vote against this special use permit process. (SEE COMMENTS ATTACHED)

Barbara Smith stated that the analysis of this says to her, based on the review of the TC-1 zoned lots with frontage along Broadway, only two potential development sites exist and are likely to be developed under the proposed rules. Why are we doing this? And why are we not going through the natural, normal and everyday process that any developer must go through? You have to look at the city on a whole. We are certainly not in need of extra workforce development units in Newburgh. The city is supposedly in *good* shape. What is going to happen when current businesses go out of business, and then we end up with additional empty stores? She does not feel that we have a well balanced idea. We have bodega owners and other owners, who are truly dependent on our community, and it seems as though we are just putting them out of business with the idea of a supermarket. What happened to the possibility of a civic center in Newburgh? The channels of the process we have now actually work. So why are we changing them?

Drew Kartiganer pointed out that he owns buildings located right behind the proposed sites. Most of the apartments he owns are 2,3 and 4-bedroom units. They are constructed for families. It is his understanding that this proposal is for the construction of 91 1-bedroom units. This is a problem that has to stop, because it attracts the dumping of people into our community. The dumping into Newburgh began about 50 years ago. Newburgh is the place that other cities send people they do not want. People released from the jail are placed here. The creation of these 91 housing units is set up for people who really do not have a place to go. Kartiganer said that he would feel differently

if it was set up for senior or family housing. By having the council approve a special use permit, we are subverting the procedure already in place. The parking layout is not good either. If you are unable to provide efficient onsite parking, then we need to question whether this project should be moving forward. He stated that a supermarket is not going to survive at that location. We already had one ten years ago. CDBG monies were used to fund it, and then two years later it closed down. It does not have the parking to sustain a supermarket project. He urged the council to vote this down.

Dick Peterson stated that he is always insulted when people casually throw out figures as if they are accountants with the ledgers in front of them. He has been a landlord in Newburgh for 38 years, and he finds it quite interesting when he hears comments, such as "The PILOT sustained [Varick Homes]" He sees Newburgh as a partner. He is in the business of affordable housing. He sees people charging \$900-1300 per month for a 1-bedroom apartment on Lander Street. These people are in the business of *affordable robbery*. The PILOT is merely an institution that goes out and leans itself to help sustain poor people and help them secure decent and affordable housing. He has a top rating. His housing units are beautiful and they overlook the Hudson River. We have to remind ourselves of the Latin phrase *Quid Pro Quo*. You have to give something for something that is quantitative. You are not going to build Newburgh on a promise. Peterson is against the construction of a supermarket, but we desperately need housing here. Unless we plan on returning government funds that were earmarked for affordable housing, an easy court action would stop all future monies from coming into our city. He has no gripes with anybody here, because he sees City government as his partner. If we do not start developing housing for poor people who live here, then they will be living on our streets. The motto at Varick Homes is *We Do Housing Right*.

Timothy Hayes-el spoke in favor of building a supermarket and housing unit on Broadway. He does not know why these landlords are saying that there is more than enough housing, because there is not. We have some landlords that come in and get houses dirt cheap with a promise of offering affordable housing. Then when you turn around they are charging anywhere from \$1500-1800 per month for their apartment units. Yet some people have the audacity to come to City Hall and speak out against anyone else wanting to offer affordable housing projects.

Kippy Boyle urged the council to strongly consider postponement until it digests all public input. She was informed that the agenda was not even made available until after 6 P.M. this evening. She would like for us to look at the process. An RFP went out, and we now have a Memorandum of

Understanding with the developers. Now you are supposed to be finalizing the dollar amounts of a PILOT program. All three segments are underway before we have even had a chance to discuss the Special Permit use. How is this *not* spot-permitting? Also she is unclear of what type of housing we are discussing. Are we going to have low-income housing in our lower Broadway business district? She would like to see a map illustrating all of the low and moderate income housing throughout the City. The process is totally out of order. It looks questionable.

There being no further comments in favor of or in opposition to this public hearing, this portion of the meeting was closed.

Stuart Sachs  
28-30 Lander Street  
Newburgh, NY 12550

04/22/13

### Comments for Public Hearing on the Large Scale Mixed Use Development Special Permit

Dear Mayor and City Council Members,

I am concerned with this proposal, and the Special Permit this Council is considering to bypass the Planning Board. Our Master Plan states that Newburgh must increase tax revenue to relieve the burden on Real Property taxpayers. This project will do the opposite both because of the PILOT and because the project fails to mix market rate with affordable housing as is considered to be best practice.

The Sustainable Master Plan was adopted by the Council in '08. State law declares that land use must be consistent with this plan. The Planning Board is given special training to meet State requirements, and thus they are far more qualified to comply with the Future Land Use Plan than Council Members who do not receive this training. Further, it raises an appearance of conflict of interest for the City to offer a Special Permit for ONLY ONE of the developers, and not the others. If the Special Permit was included from the beginning we might even have received more and better proposals.

The MU2 zone includes residential upstairs with commercial downstairs. This proposal fails to provide a secured commercial tenant. They hope a supermarket might move from the mall, but there is no actual agreement. This Council should not give out Special Use Permits based on party talk.

Our Plan guides the City to development that will spur vitality and ease the tax burden on residential property. This project will do the opposite:

- Without commercial property, taxes will be based on the lower residential rate,
- The project density is lower than the MU2 zone reducing tax revenue, and
- All of the units are government subsidized which further lowers their tax contribution, and
- The use of a PILOT will drastically reduce the contribution to the City Tax rolls.

This development will use more City services than it will pay for in taxes. It will lead to more layoffs of City workers, and more homeowners losing their homes to tax lien foreclosure. I live down the block from this site. Over the last year, at least 4 buildings on my block have been taken over by the City for tax lien foreclosure. One building occupied by its owner who put on the uniform of the US Air Force every day and went to work at Stewart AFB as a mechanic. He was proud of his house, but he could not make the tax payments. His home is now boarded up and vacant.

The PILOT, trades a one time payment for long term tax income. For example, the Varick Homes used a PILOT when it was built several decades ago, but even today, the total taxes on the site would be \$312,164, but it pays only \$125,000. This reduction of \$187,164 has to be paid by other taxpayers.

When there is a need for affordable housing, sustainable planning includes a mix of affordable and market rate housing in every development. It also spreads out affordable housing across the county so that we can help meet the real needs of our neighbors without placing the entire burden on any one community. A typical mix for a sustainable economy is 80% market rate, 20% affordable in any given

development.

This permit violates the letter and intent of our Future Land Use Plan, it violates the fairness of a blind proposal process, and it increases the burden of real property taxpayers. I urge you to vote against the Special Permit.

Respectfully Submitted,

Stuart Sachs  
28-30 Lander Street

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Kippy Boyle commented about Ord. #5-2013. She stated that the council concentrated on the fee schedule and the penalty for an absentee landlord at the work session. She would like the wording in the ordinance changed. We should include a tangible and measurable number to the 'radius' requirement. She would like the ordinance to read that *any property owner living outside of a 25-mile radius should then have a local contact who resides within a 10-mile radius*. This would be better stated than just using the 'more than 1 hour away' standard. If there is any dispute later, then at least we would have that number in place. And we will be covered.

Timothy Hayes-el remarked about Res. #81-2013. He stated that City Hall does not reflect the City of Newburgh. He feels that Richard Herbek's work does not reflect this city. When it is time to call people for jobs, the people of his community are not called. A lot of money comes into this city, but it is not reaching the residents. He is not going to support a workforce development. Who gets to say that people are qualified or not? Hayes-el does not trust City Hall one bit when it comes to jobs. There is a high record of nepotism and people hiring their friends.

Ben Weiss spoke about the very first agenda item- The Prayer. He did not want to offend anyone tonight. He fully recognizes that everyone has their own beliefs, yet he does think it is inappropriate to begin a public meeting with a prayer of that type. It is inappropriate to ask the general public, who may or may not share in the same beliefs, to stand up and engage in a prayer. Second, he supports the council's opposition of the CH Energy Group merger in Resolution #24-2013. The history of the energy provider is well documented, and it is not a very good one in terms of the rates and services it provides.

Yakov Sullivan seconded Mr. Weiss' comments. He stated that he is Jewish and he has the highest respect for Christians. But in a secular civic meeting, to state a prayer that is so clearly denominational, is inappropriate. He hopes that the council will make it clear to the clergyperson that it be something that can address all faiths.

Mary Ellen Korchinsky stated that as a Christian she would feel ashamed if she did not speak out in support of the speakers. We need to encourage ourselves to find our commonalities, and not our differences. She hopes that our future spiritual meditations, if we choose to have that segment at the meeting, would incorporate all beliefs, and realize that *that* is our strength.

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

## COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilman Brown spoke about Res. #81-2013. He stated that he supports Workforce Development moving forward because of the change in direction, in terms of finding real jobs to support the residents of this city. He is going to be looking at WDI very closely going forward. He hopes that the \$50K, plus the efforts that WDI intends to put into the project as a real partner with the city, will help develop some real jobs in this city. Second, he spoke about Ord. #5-2013. It is a good idea to rethink the radius element worded in the ordinance. It would be better if people are closer to the City of Newburgh. An hour ride is a significant amount of time, and he wished that he heard the idea prior to the last work session. He suggested that the council table the matter and possibly changing it.

Mayor Kennedy commented on Res. #81-2013. We have pushed for WDI to change the course of direction and to really be focused on working with employers versus training people to do jobs that do not exist. We are working toward a \$50K contract, and WDI has agreed to put in over \$50K of its own effort to make it work. We talk about PILOTS all the time, but this is different. It is a PILOT in developing a new kind of service that has not been out there before. It is an opportunity to see this in a new way. She supports it completely, and we are going to be working closely with WDI to ensure we are making progress. She is cautious, but optimistic that we are moving in the right direction. Second, she agreed that the radius element in Ord. #5-2013 should be looked at further. But she does support the whole concept of the Vacant Building Registry.

\*\*\*Corporation Counsel Michelle Kelson stated for the record that the ordinance reads "*45-mile radius.*" \*\*\*

Kennedy stated that she has heard a lot of good information and comments about the zoning ordinance. We can discuss it more when we reach the actual ordinance. There are a lot of things that she needs to ponder over as we think about it. Specifically, she is concerned that the matters are not going to go before the planning board. Developers have always done so in previous situations.

City Manager Richard Herbek commented that we can not act on it tonight, because we do not have the comments back from Orange County. The main purpose of having it on the agenda is for the public hearing. It would be

ill-advisable for the council to take this up without at least reviewing all of the comments.

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

## CITY MANAGER'S REPORT

Herbek reminded everyone that next Saturday (4/27) is Newburgh Cleanup Day sponsored by Safe Harbors. There is a final preparatory meeting scheduled to take place tomorrow at 5 P.M., at Safe Harbors. He and DPW Superintendant George Garrison will be in attendance. Anyone interested in participating and helping with the overall coordination and follow through on Saturday is welcome to attend the meeting.

RESOLUTION NO.: 81 - 2013

OF

APRIL 22, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
CONTRACT WITH WORKFORCE DEVELOPMENT INSTITUTE  
TO DEVELOP A BUSINESS ADVISORY COUNCIL OF LOCAL EMPLOYERS TO  
PROVIDE EMPLOYMENT OPPORTUNITIES FOR QUALIFIED CITY OF  
NEWBURGH RESIDENTS AT A COST TO THE CITY OF \$50,000.00

WHEREAS, by Resolution No. 185-2011 of September 12, 2011, the City Council of the City of Newburgh authorized the City Manager to execute a contract with the Workforce Development Institute (hereinafter "WDI") to recruit and hire a Program Coordinator, establish a specific selection and assessment criteria within the Newburgh population, review caseloads and establish enrollment, engagement and reporting requirements and protocols with community organizations; and

WHEREAS, the term of the initial contract for the first phase of such services was effective through December of 2011 and by Resolution No. 18-2012 of February 14, 2012, the City Council extended the term of this contract to April 30, 2012; and

WHEREAS, WDI completed the initial phase of the project and by Resolution No. 52-2012 of April 23, 2012, the City Council authorized the City Manager to execute a contract with WDI to provide the next phase of services; and

WHEREAS, WDI has completed the second phase of its services and now proposes to assist the City of Newburgh in developing a Business Advisory Council of local employers to provide employment opportunities for qualified City of Newburgh Residents as set forth in the "Scope of Services" of the contract annexed hereto and made part hereof; and

WHEREAS, this Council has determined that entering into a new contract with WDI for the purpose of developing a Business Advisory Council is in the best interests of the City of Newburgh and its residents and citizens alike;

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 a contract

with Workforce Development Institute to provide assistance in the development of a Business Advisory Council at a cost to the City of \$50,000.00.

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.: 82 - 2013

OF

APRIL 22, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO NATURAL GAS AND ELECTRIC CONTRACTS WITH HESS  
CORP. THROUGH THE MUNICIPAL ELECTRIC AND GAS ALLIANCE  
("MEGA")  
FOR A TWO (2) YEAR TERM AT A FIXED RATE

WHEREAS, by Resolution No. 276-2010 of December 13, 2010, the City Council of the City of Newburgh authorized the City Manager to execute contracts for the provision of natural gas and electric for a two (2) year term at a fixed rate with Hess Corporation as the Municipal Electric and Gas Alliance's ("MEGA") endorsed supplier for the Central Hudson Utility Service; and

WHEREAS, , Municipal Electric and Gas Alliance ("MEGA") has been promoting utility savings to Municipalities across New York State and the purpose of entering into the contracts with Hess Corporation for the supply of natural gas and electric was to lower the City's utility costs; and

WHEREAS, pursuant to the last twelve (12) months of the initial two-year contract with Hess Corporation, the City of Newburgh has realized a savings of \$28,735.00; and

WHEREAS, this Council finds that continuing to maintain the City's utility cost savings through the renewal of such contracts 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 contracts for the provision of Natural Gas and Electric for a two (2) year term at a fixed rate to the City of Newburgh in the general form attached hereto with Hess Corporation, with all such terms and conditions as may be required by the Corporation Counsel.

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.: 83 - 2013  
OF  
APRIL 22, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,  
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO TRANSFER \$1,004,000.00 FROM  
GENERAL "FUND BALANCE" TO CAPITAL FUND  
FOR THE PURPOSE OF PURCHASING VEHICLES

WHEREAS, by Resolution No. 24-2013 of January 28, 2013, the City Council of the City of Newburgh authorized the issuance of bond anticipation notes to finance the purchase of replacement vehicles for the Fire Department and the Department of Public Works; and

WHEREAS, the City of Newburgh has the opportunity to purchase the replacement vehicles through a New York State contract; and

WHEREAS, the purchase orders for the replacement vehicles must be submitted prior to the closing of the bond financing; and

WHEREAS, the funds for the purchase of the vehicles is available from the General Fund and will be replaced when the bond anticipation notes have been issued; and

WHEREAS, this Council finds that it is in the best interests of the City of Newburgh to make the funds available to purchase the replacement vehicles from the New York State contract.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0911 Fund Balance	\$1,004,000.00	
H1.3412 Fire Department		
.0202.8101.2013 Motor Equipment		\$ 465,000.00

H1.5132	DPW-Garage	
	.0202.8101.2013 Motor Equipment	\$ 144,000.00
H1.5133	DPW-Police Garage	
	.0202.8101.2013 Motor Equipment	\$ 175,000.00
HS.8160	Sanitation	
	.0202.8101.2013 Motor Equipment	\$ 220,000.00

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.: 84 - 2013**

**OF**

**APRIL 22, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN AGREEMENT WITH  
INTERNATIONAL DATA BASE CORP D/B/A  
INTERACTIVE PROCUREMENT TECHNOLOGIES BY BIDNET  
TO PROVIDE FOR WEB-BASED SOLICITATION AND BIDDING SERVICES**

**WHEREAS**, the City of Newburgh wishes to enter into the attached Agreement with International Data Base Corp., d/b/a Interactive Procurement Technologies by BidNet ("iPT"); and

**WHEREAS**, this agreement will authorize iPT to provide web-based solicitation and bidding services, including maintenance and support services; and

**WHEREAS**, these services will expand the City's vendor base for competitive bidding and streamlining some of the documents for the solicitations; and

**WHEREAS**, there is no subscription fee for the services with the exception of reimbursement for postage fees incurred to produce the mailing to suppliers and a programming fee if customized work is requested at a rate of One Hundred and Twenty-Five (\$125.00) Dollars per hour; and

**WHEREAS**, this Council has reviewed such agreement and has determined it to be in the best interest of the City;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into and execute the attached agreement to provide for web-based solicitation system, providing on-line bidding services, including maintenance and support services in the general form attached hereto, with such other terms and conditions as may be required by Corporation Counsel and the City Manager, same as being in the best interest of the City of Newburgh.

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.: 85 - 2013**

**OF**

**APRIL 22, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A LICENSE AGREEMENT WITH PRECISION PIPELINE  
SOLUTIONS TO ALLOW ACCESS TO CITY-OWNED PROPERTY AS A  
STAGING AREA FOR PIPE, EQUIPMENT AND RELATED MATERIALS FOR  
VARIOUS PROJECTS DURING THE 2013 CONSTRUCTION SEASON**

**WHEREAS**, the Precision Pipeline Solutions has requested access to City-owned property located at 207 Carpenter Avenue and identified as Section 17, Block 5, Lot 6, on the tax map of the City of Newburgh for the purpose of temporary storage of pipe, equipment and related material for various projects during the 2013 construction season; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with Precision Pipeline Solutions to allow access to City-owned property for the purpose of temporary storage of equipment and materials as a staging area for work to be performed during the 2013 construction season.

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

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

**ADOPTED**

## LICENSE AGREEMENT

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_, two thousand and thirteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and PRECISION PIPELINE SOLUTIONS, a private business organization having an address at 617 Little Britain Road, New Windsor, New York 12553 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

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

Property identified as lands of the City of Newburgh, 207 Carpenter Avenue, Section 17, Block 5, Lot 6 on the tax map of the City of Newburgh;

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

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

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property identified as 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary and for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed during the 2013 construction season.

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

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability

insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

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

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

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

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said staging work shall be performed in substantially the location of 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

\_\_\_\_\_  
Richard F. Herbek, City Manager

PRECISION PIPELINE SOLUTIONS

LICENSEE

By:

\_\_\_\_\_  
Name:

Title:

**RESOLUTION NO.: 86 - 2013**

**OF**

**APRIL 22, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A LICENSE AGREEMENT WITH KISKA CONSTRUCTION TO  
ALLOW ACCESS TO CITY-OWNED PROPERTY AS A STAGING AREA AND  
FOR PURPOSES RELATING TO MAINTENANCE AND REPAIR OF THE  
ROUTE 9W BRIDGE BY THE NEW YORK STATE DEPARTMENT OF  
TRANSPORTATION**

**WHEREAS**, the New York State Department of Transportation has commenced a maintenance and repair project for the Route 9W Bridge; and

**WHEREAS**, KISKA Construction has requested access to City-owned property in between the north side of Quassaick Creek and south side of the CSX Rail Road line that runs east to west below the above subject bridge identified as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, Block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh for the purpose of temporary storage and management of equipment and materials as a temporary staging area for work to be performed on the Route 9W Bridge and adjacent property; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with KISKA Construction to allow access to City-owned property for the purpose of storage and management of equipment and materials as a staging area for work to be performed on the Route 9W Bridge and adjacent property.

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

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

**ADOPTED**

## LICENSE AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, two thousand and thirteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and KISKA CONSTRUCTION, a private business organization having an address at 110 W. Crooked Hill Road, Pearl River, New York 10965 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

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

### SCHEDULE "A":

Properties identified as lands of the City of Newburgh as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh;

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

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

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties as indicated in Schedule "A", and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform certain tasks on property owned by Licensor, for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed on adjacent and nearby properties for the purposes of and to perform maintenance, repairs and improvements to the Route 9W bridge in accordance with NYSDOT D261778.

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

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

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

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

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

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

Eighth: Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Richard F. Herbek, City Manager

KISKA CONSTRUCTION

LICENSEE

By:

\_\_\_\_\_  
Name:

Title:

**RESOLUTION NO.: 87 - 2013**

**OF**

**APRIL 22, 2013**

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

**WHEREAS**, the Newburgh Illuminated Festival will be held in June 2013; and

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

**WHEREAS**, there is funding from donations available in a Trust and Agency Account; and

**WHEREAS**, such agreements shall not exceed the funds in the Trust and Agency Account;

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

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. 88- 2013

OF

APRIL 22, 2013

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
OPPOSING THE PROPOSED MERGER OF CH ENERGY GROUP, INC. WITH  
FORTIS, INC.

WHEREAS, Fortis, Inc. ("Fortis"), a multinational corporation with headquarters in Canada made an offer to purchase CH Energy Group, Inc. ("Central Hudson"), a publicly traded utility located in the Hudson Valley; and

WHEREAS, there are approximately 375,000 Central Hudson customers, representing approximately 680,000 persons, many of whom live in the City of Newburgh; and

WHEREAS, the Public Service Commission (PSC) must approve of this merger and in order to be approved the applicant must prove a net public benefit; and

WHEREAS, the PSC held only two hearings, on the same day, one of which was held at 3:30 in the afternoon, when much of the population was still at work; and

WHEREAS, the PSC staff recommended \$85 million in community benefit funds for areas covered by Central Hudson, to which Fortis initially offered only \$20 million before ultimately settling for less than \$50 million in aid to our area; and

WHEREAS, Fortis has only guaranteed a rate freeze for 12 months; and

WHEREAS, Fortis is not committed to expanding its Alternative Energy portfolio and has publicly said they will continue to rely on natural gas; and

WHEREAS, Fortis has not committed to increase the resilience of the region's electricity system to major storms like Irene, Lee and Sandy, including through investment in a distributed generation network; and

WHEREAS, the public benefits offered by Fortis are not only one-time and short-term, and are outweighed by the future risks to Hudson Valley residents of achieving an affordable, sustainable and reliable supply of power; and

WHEREAS, the possible use of the North American Free Trade Agreement ("NAFTA") to override the PSC and New York State requirements to modernize energy should be of major concern to our State; and

WHEREAS, Assemblyman Kevin Cahill, former chair of the Assembly Energy Committee, has highlighted the possible use of NAFTA as a way to severely restrict the ability of the PSC to fully regulate merged Fortis/Central Hudson; and

WHEREAS, Fortis partner, Abitibi, initiated a NAFTA claim against Canada when Newfoundland expropriated property there, including some belonging to Exploits Hydro Partnership, in which Fortis owns 51% and Abitibi 49%; and

WHEREAS, Central Hudson workers would only be guaranteed jobs for a two year period, after which Fortis can begin to outsource work; and

WHEREAS, IBEW Local 320 is strongly opposed to this merger due to the loss of long term local jobs, which would devastate the Hudson Valley;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, at this time, cannot support the proposed merger of Central Hudson and the multinational corporation Fortis, Inc. as it has been proposed; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh urges the Public Service Commission to extend the period for public comment so that the City Council and other interested parties can have time to assess the full implications and potential impacts of the Central Hudson/Fortis merger; and

BE IT FURTHER RESOLVED, that the City Council urges the PSC to have a Public Recommended Decision, which will provide for a more transparent decision; and

BE IT FURTHER RESOLVED, that the City Clerk of the City of Newburgh be and hereby is directed to forward copies of this resolution to Governor Andrew Cuomo, members of the Public Service Commission c/o Jeffrey C. Cohen, Acting Secretary, Public Service Commission, New York State Senator William Larkin, Jr. and New York State Assemblyman Frank Skartados.

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.: 89-2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO WATANABE STUDIO LTD  
TO THE PREMISES KNOWN AS 1 EDWARD STREET  
(SECTION 46, BLOCK 2, LOT 11)**

**WHEREAS**, on March 15, 2005, the City of Newburgh conveyed property located at 1 Edward Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 46, Block 2, Lot 11, to Watanabe Studio Ltd.; and

**WHEREAS**, the owner, by his attorney, has requested a release of the restrictive covenants contained in said deed; and

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

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

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

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

ADOPTED



**Ordinance #4-2013**

*\*\*\* Postponed until the council receives comments from Orange County, and until the council has the time to digest public comments heard this evening \*\*\**

Ordinance #5-2013 (Renumbered as Ordinance #4-2013)

ORDINANCE NO.: 4-2013

OF

APRIL 22, 2013

AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN  
CHAPTER 121 ENTITLED "BUILDINGS, VACANT"  
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH AND  
AMENDING CHAPTER 121 ENTITLED "BUILDINGS, VACANT" TO REQUIRE  
THE MAINTENANCE OF VACANT PROPERTIES IN THE CITY OF  
NEWBURGH, ESTABLISHING REGISTRATION REQUIREMENTS, AND  
LEVYING A REGISTRATION FEE ON OWNERS OF VACANT PROPERTIES

BE IT ORDAINED, by the Council of the City of Newburgh, New York that the language contained in Section 121, Buildings, Vacant, be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

§ 121-1 Findings and purpose.

The City of Newburgh contains many structures that are vacant in whole or large part; and in many cases the owners or other responsible parties of these structures are neglectful of them and are failing to maintain them or secure them to adequate standard or restore them to productive use. Many of these structures are in violation of state and local housing and property maintenance codes. It has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulations of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk, and the City of Newburgh incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to police calls, fire calls, and property inspections. It is in the public interest for the City of Newburgh to establish minimum standards of accountability for the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety, and general welfare of the residents of the

City of Newburgh, and it is in the public interest for the City of Newburgh to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the City by the presence of these structures.

§ 121-2        Definitions.

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

**EVIDENCE OF VACANCY** - Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown or dead vegetation; accumulation of debris or abandoned personal property; and statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

**MUNICIPAL OFFICER** - The Fire Chief, Director of the Code Compliance Bureau, and the Building Inspector or such official within that department as may be designated by the Director in writing.

**OWNER** - The title holder, any agent of the title holder having authority to act with respect to a vacant property, and any foreclosing entity that has obtained a judgment of foreclosure and sale (RPAPL S. 1307).

**VACANT PROPERTY** - Any building or structure that is not at present legally occupied or at which all lawful business or construction operations or residential inhabitation, or other occupancy have substantially ceased and that is in such condition that it cannot legally be re-occupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property; however, any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and [or] which is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

§ 121-3        Registration.

(1)    a.        Effective on June 1, 2013, the owner of any vacant property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, file a registration statement for such vacant property with the municipal officer on forms provided for that purpose by the municipal officer along with any fee required by Chapter 163. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

      b.        Each property having a separate section block and lot number shall be registered separately.

c. The registration shall include the information required under section (2) of this section, the insurance certificate required under section (5) of this section unless a bond is provided, as well as any additional information that the municipal officer may reasonably require.

d. The registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Chapter 163 for each vacant property registered.

e. The municipal officer may establish for purposes of efficient administration that all registrations shall be renewed by a single date in each year. The municipal officer shall establish this date in which case the initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.

f. (i.) Any owner of vacant property who plans to restore the property to productive use and occupancy during the twelve month period following the date of the initial registration of the property shall file a detailed statement of the owner's plans for restoration of the property with the registration statement and shall be exempt from payment of the registration fee but shall comply with all other provisions of this ordinance. In the event that the property has not been restored to productive use and occupancy at the end of the twelve month period, the owner shall be liable for any fee waived. The municipal officer may extend the waiver of the registration fee for not more than one additional year in response to a written request by the property owner where the municipal officer finds that compelling conditions outside the owner's control made it impossible for the owner to restore the property within the initial twelve month period.

1. In addition, the statement of the owner's plans, at a minimum, must contain one of the following for the property:
  - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition; or
  - (b) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. Implementation of the rehabilitation plan shall not exceed twelve months. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and must be secured during the rehabilitation.
2. The Building Inspector shall provide the owner with a written referral to the Planning Department for information outlining programs available that may be useful in developing the owner's rehabilitation plan.

(ii.) Where the owner is an entity experienced in rehabilitation or redevelopment of vacant properties, and where the property subject to this ordinance is being held for a project of rehabilitation or redevelopment consistent with municipal plans and ordinances, and where by virtue of financing, market, or other conditions that project may require more than one year for realization, the municipal officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the owner, as long as the municipal officer finds that the owner is making reasonable progress toward completion of the project. The owner shall provide the municipal officer with documentation of such progress, which may include plans, financing applications, applications for land use approval, or other evidence of progress.

g. The owner shall notify the municipal officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the municipal officer for such purpose.

h. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the building.

(2) a. The registration statement shall include:

(i) The name(s), residences and business addresses, e-mail address, telephone numbers, and birth date(s) of the principal officers if the applicant is an individual, partnership, or firm, or the names, residences and business address, e-mail address, telephone numbers, and birth dates of the principal officers if the applicant is an association or corporation.

(ii) The name, street address, e-mail address, and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code. The agent for service of process must maintain offices or reside in the State of New York.

(iii) The name, street address, e-mail address, and telephone numbers of the firm or individual responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property must maintain offices within 45 miles of the City and shall be available by telephone or in person on a 24-hour-per-day, seven-day-per-week basis.

(iv) A description of the premises, including street address, section block and lot, and type of building;

(v) The date the building became vacant and the period of time the building is expected to remain vacant;

(vi) A description of what will be done to secure the structure so that it will not become open to the general public; and

(vii) The status of water, sewer, natural gas, and electric utilities.

b. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the municipal officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

c. Any owner who fails to register a vacant property under the provisions of this ordinance shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

(3) a. The registration and renewal fee for each building is set forth in Chapter 163.

b. All funds collected from registration and renewal fees under this section shall be deposited in a dedicated trust fund to be used exclusively for municipal activities with respect to vacant and problem properties in the municipality, including but not limited to inspection, nuisance abatement, securing and boarding, maintaining property information systems, and reasonable administrative and legal costs associated with any of the above.

(4) The owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within 30 days of the structure becoming vacant or 30 days of the owner taking title to the property:

(i.) Enclose and secure the structure as provided in the applicable codes of the City of Newburgh and the State of New York or as set forth in rules and regulations adopted by the municipal officer to supplement those codes.

(ii.) Ensure that the grounds of the structure, including yards, fences, sidewalks, walks, and driveways, are well-maintained and kept free from trash or debris.

(iii.) Post a sign affixed to the structure with the name, address, and telephone number of the owner and the owner's authorized agent for the purpose of service of process and the name, address, and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. If the structure is set back from the street, the sign may be posted on a well-secured post or stake in the front yard of the property. The sign shall be at least 18" x 24" in dimension, shall include the words "to report problems with this building,

call...", and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer; and

(iv.) Maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

(5) The owner of any vacant property shall acquire or otherwise maintain liability insurance in an amount of not less than \$300,000.00 for buildings designed primarily for one- and two-unit residential use and not less than \$1,000,000.00 for any other building, including but not limited to, buildings designed for multifamily, manufacturing, storage, or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the municipal officer within 30 days of any lapse, cancellation, or change in coverage and the owner shall provide such written notice of any lapse, cancellation or change in coverage to the municipal officer. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration. Alternatively, an owner can choose to provide a cash bond acceptable to the municipal officer, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking, or making such building safe.

(6) a. The City of Newburgh shall establish an on-line registry of all properties registered with the City under this ordinance, which shall include a procedure by which citizens can provide the municipal officer through electronic means with information on unregistered properties that may be subject to this ordinance.

b. The City of Newburgh may enter into agreements with qualified non-profit entities and neighborhood associations to assist the City to enforce this ordinance, including but not limited to identification of unregistered properties that may be subject to this ordinance.

#### § 121-4 Rules and Regulations.

The municipal officer may issue rules and regulations for the administration of the provisions of this ordinance.

#### § 121-5 Enforcement.

Any person who violates any provision of this ordinance or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for

each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

For purposes of this section, failure to file a registration statement within 30 days after a building becomes vacant property or within 30 days after assuming ownership of a vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of § 121-3 (4) or (5) of this ordinance, or such other matters as may be established by the rules and regulations of the municipal officer shall be deemed to be violations of this ordinance.

§ 121-6      Effective Date.

This ordinance shall become effective upon publication as provided by law.

§ 121-7      Severability.

If any of the provisions of this chapter shall be held invalid, the remainder shall remain valid and enforceable as provided by law.

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

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

ADOPTED

Ordinance #6-2013 (Renumbered as Ordinance 5-2013)

ORDINANCE NO.: 5 - 2013

OF

APRIL 22, 2013

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

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

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

Code Section	Type of Fee	Amount
Chapter 121, Buildings, Vacant		
§ 121-3B (1)	Vacant building annual-registration and renewal fee	\$900 <u>250.00</u>
<u>initial fee</u>		
<u>renewal</u>		<u>\$500.00 first</u>
<u>second renewal</u>		<u>\$1,000.00</u>
<u>subsequent</u>		<u>\$2,000.00 any</u>
		<u>renewal</u>

Section 2. This ordinance shall take effect on June 1, 2013.

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

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

ADOPTED

**RESOLUTION NO.: 90 - 2013**

**OF**

**APRIL 22, 2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL  
QUALITY REVIEW ACT (SEQRA) FOR A STORMWATER AND DRAINAGE  
EASEMENT IN CONNECTION WITH SETTLEMENT OF LITIGATION IN  
THE MATTER OF  
CITY OF NEWBURGH V. MARK SARNA, SARNA ENTERPRISES, INC., MT.  
AIRY/AIRE ESTATES INC., NEW WINDSOR DEVELOPMENT CO., LLC AND  
DRAINAGE DISTRICT #6 – MT. AIRY ESTATES (THE RESERVE),  
TOWN OF NEW WINDSOR, NEW YORK,  
DECLARING THE EASEMENT TO BE AN UNLISTED ACTION,  
ADOPTING THE ENVIRONMENTAL ASSESSMENT FORM,  
ISSUING A NEGATIVE DECLARATION AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE ALL SEQRA DOCUMENTS**

**WHEREAS**, by Resolution No. 177-2009 of November 16, 2009, the City of Newburgh ratified authorizing sending Notice under the Clean Water Act, commencing litigation under the Clean Water Act for the protection of Brown's Pond, a secondary water supply and reservoir for the City of Newburgh; and

**WHEREAS**, by Resolution No. 235-2012 of December 10, 2012, the City of Newburgh authorized the City's attorneys to prepare a stipulation of settlement and settle the claim of the City of Newburgh against Mark Sarna, Sarna Enterprises, Inc., Mt. Airy/Aire Estates Inc., New Windsor Development Co., LLC And Drainage District #6 – Mt. Airy Estates (The Reserve), Town of New Windsor, New York under certain terms and conditions and further authorized the City Manager to execute documents as the City's attorney may require, to effectuate the settlement; and

**WHEREAS**, the City of Newburgh is the present owner in fee of the Newburgh Water Supply, Section 32, Block 2, Lot 53; a portion of which is located on the westerly side of Mt. Airy Road in the Town of New Windsor, County of Orange, State of New York, originally described in the deed recorded in the Orange County Clerk's Office in Liber 682 at Page 170, and more particularly depicted on that certain map entitled "Survey of the Property for City of Newburgh Brown's Pond Town of New Windsor Orange County, New York," dated August 25, 2008, by Roger J. Ferris Engineering and Land Surveying, P.C.; and

**WHEREAS**, by Indenture, dated May 28, 1975, filed in the Orange County Clerk's Office and recorded on June 2, 1975, in Liber 2008, page 783, the City of Newburgh conveyed to Mt. Airy Estates, Inc. a stormwater and drainage easement ("Easement"); and

**WHEREAS**, the stipulation of settlement requires an amendment to the Easement by an "Agreement Amending the Stormwater and Drainage Easement" ("Agreement"), a copy of which is attached here to, and review preceding execution of the Easement must comply with New York State Environmental Quality Review Act ("SEQRA") and the regulations contained within 6 NYCRR Part 617 (the "Regulations") with respect to the Easement; and

**WHEREAS**, pursuant to the SEQRA Regulations, the City has considered the significance of the potential environmental impacts of granting the Easement by (a) using the criteria specified in Section 617.7 of the SEQRA Regulations, and (b) examining the EAF for the Easement, including the facts and conclusions in Parts 1 and 2 of the EAF, together with other available supporting information, to identify the relevant areas of environmental concern and wishes to establish itself as Lead Agency for the granting of the Easement.

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

1. The City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6;
2. the Project constitutes an "Unlisted" action, as that term is defined in the SEQRA Regulations;
3. The Council hereby adopts Part 1 of the Environmental Assessment Form;
4. The Council hereby determines, based upon an examination of the EAF and other available supporting information and considering the magnitude and importance of each area of environmental concern, and based on the City's knowledge of the area surrounding the Easement, that the granting of the Easement will not have a significant adverse environmental impact, will not require the preparation of a Draft Environmental Impact Statement;
5. Having determined that there are no areas of potentially large impact of environmental concern, the Council hereby issues a Negative Declaration

pursuant to SEQRA with respect to the impact of the Easement upon the environment;

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to sign and file any/and all other documents that may be necessary to complete the SEQRA process for the Project.

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.: 91- 2013

OF

APRIL 22, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,  
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO TRANSFER \$ 40,911.00 FROM CONTINGENCY TO CODE ENFORCEMENT  
TO FUND A CODE ENFORCEMENT OFFICER  
DEDICATED TO BROADWAY FOR THE REMAINDER OF 2013

**BE IT RESOLVED**, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900 Special Items		
.1990 Contingency	\$ 40,911.00	
A.3620 Code Enforcement Department		
.0101 Salary		\$ 29,532.00
.0107 Longevity		\$ 1,600.00
.0810 Retirement		\$ 6,507.00
.0830 Social Security		\$ 2,382.00
.0835 MTA		\$ 106.00
.0880 CSEA EBF		\$ 784.00

Mayor Kennedy remarked that this a piece of a much bigger picture of us trying to figure out how we are going to tackle some of the issues with codes enforcement, and our clean up efforts. She is happy to be able to support this.

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

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

ADOPTED

## CITY MANAGER'S REMARKS

Two vacancies have recently been filled. The City Manager welcomed Jason Morris, who was hired to the Assistant City Engineer position. He is a licensed professional engineer who has over ten years of civil engineering work experience, as well as extensive experience with planning and zoning boards. Morris was chosen from a pool of over 90 applicants for the position.

Also Keith Douglas was hired as the Director of Parking Violations. Douglas has a degree in Public Administration, with an undergraduate degree in accounting and finance. He has over 20 years work experience managing private industry. Douglas was chosen from a pool of 25 applicants for the position.

Herbek announced that we are close to making a decision for the Director of Planning and Development.

The final deadline for the acceptance of applications for City Comptroller is the 26<sup>th</sup> of this month. Shortly after that date, we will start the interviewing process for that key position.

*\*\*\*Councilman Brown asked if either two hires are city residents.\*\*\**

Herbek responded in the negative. However, we have been making outstanding progress in hiring city residents. With respect to these two critical positions for the city, unfortunately we were not able to hire any city residents.

There being no further discussion, the City Manager's Report was concluded.

## OLD BUSINESS

Mayor Kennedy moved into an audio recording of a work session discussion of November 19, 2012, at the request of Councilman Brown. The recording was during a time when the council was discussing the budget. In preparation for the discussion, Mayor Kennedy reviewed and excerpted sections of the Charter and City Code to provide some background information. She made it clear that the council is not going to make any decisions tonight. They are simply gathering the information and trying to understand it in a way that shows respect toward each other.

Councilman Brown pointed out that when you listen to the recording, you need to listen to specific directions that the Mayor gives the City Manager, particularly the raises that were considered in the budget, and the taking back of salaries. Brown wants the process to be transparent. His argument is that the City Manager gave raises without the council's authority. He was supposed to take back raises in the budget. Yet when he received the budget, the alleged changes were done well *after* the adoption of the budget. Brown feels that the council did not have a chance to make any adjustments, because he did not see the changes until *after* the budget was adopted.

Herbek remarked that this is not 100% accurate. A stapled copy of the personnel book was in the council's hand the night it voted on the budget. This has been confirmed to him by the former Comptroller and her administrative assistant. Herbek stated that Mayor Kennedy even confirmed that to him this morning.

Brown stated Herbek's statement is not true. He did not have a stapled copy of the personnel book on the day that *he* voted on the budget. He stated that he can say this with confidence. The first thing he would have noticed was any raises in the payroll book.

Kennedy stated that what she said was that she was trying to remember when she had that book. To be honest, she does not remember, because it was a span of days almost four or five months ago. She stated that when she did receive the book, she looked through the first few pages and saw that the wages had been rolled back to the 2012 salary schedule for several of the non-bargaining employees. She stated that she *assumed* that *all* of those salaries had been rolled back. At the heart of this discussion, two salaries had not been rolled back. This is why we need to hear the tape, so that we can understand what actually happened, on what grounds it happened and what our Charter and Code says about it.

Herbek remarked that he does not intend to get into a debate on it tonight. He knows that he and Brown have had their debates in the past. We can listen to the tape tonight. They are probably going to need further discussion about it at the next work session.

*\*\*\* The audio recording of Nov. 19, 2012 was played and entered into the official record\*\*\**

Herbek commented that you almost have to listen to the entire conversation. You can not just take one or two sentences from it, because it is not presenting the entire picture.

Brown stated that he had asked for a copy of the recording to be placed in his mailbox last Friday. It was not there on Friday and it was not there today.

Herbek stated that he was unable to get to it, and that he would get a copy to him.

Brown stated that Kennedy received a copy of it, but not him.

Herbek remarked that Kennedy had requested a copy of it a few days ago.

*\*\*\* The audio recording was fast-forwarded and then played some more \*\*\**

Brown commented that he did not want to hold up the meeting any further. He felt that if he was provided with a copy of the tape as he requested, then he would have had that part of the tape ready to be played tonight. He stated that this is just an attempt for the City Manager to derail this whole thing. Brown stated that he is not going to allow this to go away. There is a portion of the tape in which Mayor Kennedy states that all of the raises go back to the 2012 salaries. It was further stated that the City Engineer would get to keep half of his raise. That is the portion of the tape that he wanted played tonight.

When he received the budget and the new payroll book for 2013, City engineer received \$13K, which is more than half of his raise. Brown stated that the fire chief kept his entire raise, which was not supposed to happen. It was not what they agreed upon. Brown stated that the City Manager and the former comptroller got it wrong. Even if the fire chief's raise was not rolled back, they certainly did not give the City Engineer half of his raise. Brown stated that this is the real issue.

Brown says when he receives his copy of the tape he will address it at the next council meeting, along with a few resolutions to roll back those raises and set the budget back to the way that *he* voted for it. In its current form, the budget and payroll is *not* what he voted for.

Kennedy highlighted excerpts from the Charter, particularly officers of the city, which include both the engineer and fire chief. She pointed out Section C3.51 *Compensation of Appointive Officers* and C5.05 *Duties of the City Manager*. She stated that it appears by Charter that the City Manager is to appoint all the officers and that the Council is to regulate the compensation of the said appointed officers.

Herbek cautioned that you need a little more information than what is provided here.

Kennedy pointed out that the two raises, in question, actually occurred in August of 2012 versus the time that was stated they occurred. So they are an anomaly to the rest of the raises. She feels that the council has to resolve this.

Herbek feels that Section C3.51 was adhered to. The council did, by ordinance, set a salary scale for the non-bargaining employees. In his opinion, step increases can be provided. It is one of the tools that the Manager can use in order to regulate the workforce. It has been a practice in the city for many years. He does not feel that he deviated from that. He simply provided the step increases on the basis that the engineer was made a promise by the appointing authority, which was a former City Manager, in that his salary level was going to be at a certain point. The former authority had reneged on that. Herbek feels that all he did was make a salary adjustment.

Herbek stated that the fire chief was hired by him at \$109K. We were very lucky to get a person of his caliber at that point in time. Again, it was a salary adjustment to bring his salary back to the level that he had been promised when he came to the city. It was purely an issue of fairness and equity. Herbek said he looked at the salaries for all of the department heads. It is a management tool that the city manager can use to recruit people to the City of Newburgh into the top level positions. It is not easy. Herbek pointed out that this is the third time that we are recruiting for a planning and development director, as well as a city comptroller. We are trying to do the best that we can to try to bring in the best people at the lowest price that we can get them here. Everything that he did was in the best interest of the City of Newburgh.

Brown stated that promises are not contractual. He feels that Herbek was given clear direction *not* to give raises. He feels that the raises were given out illegally. Clearly, the authority was overstepped. No one in the State or Federal Government is receiving 6% and 13% raises in this day and time. We have taxpayers who are hollering about their tax bills every chance they get. To give anyone more than a 2% raise is ridiculous. It should have never been done.

Herbek stated that he did not want to get into a debate tonight, but he disagrees with Brown.

Councilwoman Lee stated that she heard on the tape that Mayor Kennedy asked for a resolution that rolled back the salaries. There is no resolution though. Lee pointed out that Brown discussed the fairness of it at that work session. She requested that the comptroller provide her with the total number of non-bargaining employees. She would like to receive this information by the next work session. Lee would like to know what it would look like if we gave each non-bargaining employee a \$2500 check, so that we can make this fair. Lee pointed out that non-bargaining employees were denied their raises, and they had not had an increase. It may not matter if the employee making \$100K a year does not receive a 2% increase. But if a person is making \$30K-40K per year, and he or she is a single parent, then 2% matters. If we are going to talk about fairness, then we need to give the raises across the board.

Councilwoman Angelo asked Herbek how much money is it between the two raises in question.

Brown replied that it is roughly \$20K. But if we are going to start talking about handing out checks to people, then let's start cutting checks to the property owners too. Give them back something too. The taxpayers of this City should not be holding the bill of a 6% and 13% raise.

Lee stated that she agrees with Brown 100%. All of the property owners, 30% of the population of this city, should get back at least \$1K each year until they are caught up on what was done to them in 2010. We should promise it to them, and stick to it. No behind-closed-doors business. Keep the tax increase at 2%, and how we survive is how we survive. The taxpayers have done enough.

Brown stated that the top of the issue is that you have a city manager that is consistently insubordinate to the council. When he comes to the meetings, he votes the way he wants to vote. His vote should count for something. But when his vote is not counted for what it was supposed to be

counted for then he has a problem with that. He needs to address it and fix it. Brown stated that if we are going to allow the city manager to do what he wants without any repercussions, then why does he continue to come to the meetings?

Kennedy stated that the heart of the discussion is that the three of them were under the belief that when they voted, they would roll back the wages to the 2012 salaries prior to the increases that occurred in August 2012. She believes there is a different perception by the city manager. The corporation counsel can walk us through it and look at all of the legal pieces. The next step is looking at the thing to make this better. She has heard a lot of ideas tonight. Somewhere in this discussion is a rational solution to this conflict. They are going to discuss it further at the next work session.

This portion of the meeting was closed.

Submitted:

at City Council Meeting held Monday April 22, 2013

Background notes for Salary discussion on Monday, April 22, 2013

### Article III – Section C3.00

The officers of the city or municipality shall be as follows:

- A. One Mayor, four Councilmen and one city judge, elected by the qualified voters of the City.
- B. One City Manager, three civil service commissioners, one city clerk and members of the Traffic and Parking Advisory Committee, appointed by the Council
- C. One corporation council, one city comptroller, one city assessor, one city collector, one purchasing agent, one city engineer, one superintendent of public works, one superintendent of water, one police chief, one fire chief, one building inspector, one plumbing inspector, "etc."

### Section C3.01 – pg

The council may, by ordinance, authorized the appointment by the city manager of deputies or assistants to any appointive office.....

### Section C3.50 – Powers and duties of Appointive Officers

In additions to the powers conferred and the duties imposed upon the respective appointive officers of the City by this charter, each officer shall perform such duties, exercise such functions and have such powers as are conferred and imposed by law upon such officers generally and shall have such additional powers, exercise such additional functions and perform such additional duties as may be conferred or imposed upon them respectively by order of the city manager or by ordinance of the council

### Section C3.51 – Compensation of Appointive officers

The council shall by, by ordinance, determine and regulate the compensation of all appointive officers

### Article IV – City Council

#### C4.00 – Legislative Powers fixed in the Council

All the legislative powers of the City, however conferred or possessed by it, are hereby fixed in a board to be known as the Council of the City of Newburgh.

#### C4.30 – Council powers exercised by ordinance. Pg 20

The powers enumerated in sec C2.02 and Sec C2.02 hereof shall be exercised by ordinance of the council. ( City shall have specific powers enumerated in sec. 20 article 2-A of the General City Law.)

#### C5.05 – Duties of the City Manager

B. To appoint and to remove the heads of all departments, the members of all boards and commissions and all subordinate officers and employees of the City except as otherwise provided herein.

*From Codes;*

Chapter 10-1

\*Budget and Finance

“Transfers of budget appropriations may be made by order of the City Manager within each department”.

“Transfers of budget appropriations from one department to another may be made by the City Council.

Code: Sec. 95-1

Increases during fiscal year authorized

“The City Council of the City of Newburgh shall have the power and authority by ordinance or resolution to increase the salary or compensation of any City officer or employee at any time during any fiscal year of the City, either before or after the appointment of any such officer or employee and whether or not such salary or compensation shall have been fixed or provided for in the budget of said City for said fiscal year.

Code: Sec. 95-2

SUPERCESSION

“Supercedes any provision of Charter or Code to the extent that the same are inconsistent with this chapter”.

## NEW BUSINESS

There was no new business at this time.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY  
BUSINESS

Timothy Hayes-el has heard that that WDI is changing the course of its direction. He stated that we have been through this before. Now we are going to get people trained for jobs that won't exist at the end of the training. Are we going to hire people from the City of Newburgh or not? The people need to know. *Hiring qualified people* is a vague statement. What about the programs in place, such as Section 3 and HUD. Newburgh has the highest unemployment rate in New York State. Newburgh also has one of the highest crime rates in the state. It seems like we care nothing about the people that live here.

Barbara Smith stated that she did some research on the new hire for the the Parking Tribunal. She stated that when he was running for office in another area, he listed part of his work experience as working as *the Assistant to the City Manager for the City of Newburgh*. Smith did not recall when he was ever employed in that position. And if there is any embellishment then has he ever embellished about anything else as to his qualifications. Third, she had asked for exemption forms for legalized gun owners to be able to exempt themselves from publications. She has not seen a resolution. She has not seen the forms in the City Clerk's Office either. Every other municipality has them, why don't we have them? She does not feel that she should have to go to the County Clerk's Office for them. Next, why are we concerned with giving across-the-board raises to non-bargaining employees? Don't our bargaining employees, who have not had raises in several years, count for something? If you do not have any money, then the money you do have should be spent wisely. The taxpayers have very little of anything.

*\*\*\* Herbek responded that he was never employed as the assistant. He was here in an intern capacity. \*\*\**

Janet Gianopolous stated that some of the confusion we saw regarding the work session can be resolved. The public should have access to all recordings/and or minutes from the council meetings and work sessions. She implored the council to ensure that the minutes are placed online in a timely manner. Second, she has not noticed the availability of monthly reports from the fire dept. Gianopolous stated that she has seen monthly reports online from the police department. Third, in looking at best practices in hiring, ICMA (the professional City Manager's Association) indicates that a *City Manager Agreement* includes provisions for progress and evaluation. This form should also apply to people seeking employment with the City of Newburgh, who come from elsewhere.

Next, she applauded the council for mobilizing to keep Horizons School open. She wished that we also looked at alternate ways to help save money. With all the technological advances today, kids don't walk anymore. She grew up in a city where she walked to where she needed to go. Last, regarding WDI, where is the \$50K going to go? Is it going to go for someone in Newburgh to be employed with WDI? She mentioned that the Post Office is hiring. What about those jobs?

Natasha Cotton stated she attended the November work session. She is disappointed about what she heard on the recording, because she feels that the City Manager is not telling the truth. She stated that he should stop lying about many things since he became permanent city manager. It is getting redundant and it is making the city look bad. There was no discussion about hiring any extras. The most that was discussed was \$5K. Second, low income housing should not be situated downtown. We will never be able to make any money like that. There needs to be some high rises and an overall upgrade in the downtown district. We need to be *keeping up with the Jones'*. As it is now, this is not a city. Real cities have things going on in them.

Kippy Boyle reminded us that today is Earth Day. She is surprised that the map for the ward system is not clearly accessible. Finally she had to seek the help of the GIS department, in which the person in the department stated that it was "hidden". Next, she asked that the minutes for the re-zoning that is taking place be placed in a visible location. Third, it is lucky for Broadway that its area is gaining a new code enforcement officer. But what about the other neighborhoods which are bordering on destabilization? The city can not afford to lose any more tax base. Property values are decreasing, which means our taxes are steadily rising. What is the fine line between strategic enforcement on Broadway and deliberate disregard for the rest of the city? Last, at Clinton and Grand Streets there are seven buildings located around the corner from a bodega that is a repeat offender for all types of police activity. The properties are vacant, abandoned or just laden with code violations. She is concerned about the destabilization in her neighborhood.

Pastor Bruce Davis stated that we live in a great country. We respect each other's rights and we have different races, creeds, nationalities and religions. What he loves the most about the United States is that we respect each others' religions. He would like someone to explain to him what a *denominational* prayer is. He has conducted services at Ebenezer Baptist Church, in which persons of *all* religions have attended. We respected everyone's prayers, because a prayer of faith is essentially what *you* believe in. Second, EBC has over 600 members on its roll, and he is concerned about the welfare of every single member. Over the past year the church has tried its

best to go about bringing healing- first within EBC then within the community. He can only do so much to bring about a spirit of healing. But we need more jobs and housing. Davis stated that he respects all of the leaders because the Bible teaches him and commands him to respect his leaders. But there needs to be leadership on one accord.

Roxie Royal stated that she has to stand with the pastor on respecting one another. She has been in most of the churches in Newburgh. Although she has not been in a Jewish service before, that is not the only type of religious service she has not attended. She knows that she has to give respect in order to receive it. Second, we already have a building with 1-room apartments on Broadway. The addition of 91 one-bedroom apartments will do nothing for the housing needs of the families in this community.

Brenda McPhail remarked that everyone knows that we need revenue in the city. It is affecting everybody, whether one pays rent or whether one owns. We have to start learning to work together. Also we have to start avoiding the lawsuits. In the City of Newburgh, there is always a lawsuit waiting to happen. She implored the council to have some caution signs erected at the waterfront. People do not supervise their children. She has had to chase kids playing on the fishing pier. The pier needs to be repaired, as there are several areas that contain large gaps. God forbid if one of those kids get loose from their parents and fall into the river. Also dog-walkers do not clean up after their dogs. Often times you do not know what you are stepping into when you walk into the grass. Loitering signs need to be put up too. A lot of times people get caught up with saying to themselves, "*Well I'm not going to pick it up because I did not put it on the ground.*" She reminded us that it takes the efforts of the whole community. If we say that we love Newburgh, then we are going to do what we need to do to make Newburgh the city it needs to be. We do not get anywhere because everyone is on an ego trip instead of being on a *Newburgh* trip.

Pastor Austin stated that she is going to join McPhail on the *Newburgh* trip. She commended the council. It is not easy to be a public servant, especially considering the salaries that they receive for their work. She quoted a scripture in the Old Testament in which *Righteousness exalts a nation and Sin brings a reproach*. She commends the council for having this city covered in prayer. She has had a Buddhist, a Rabbi and a person of a different persuasion pray over her in the past. But since we have had prayer at the meeting, we have had no major public incidences in the city. A little research will show one thing: Jesus was born a Jew, he lived a Jew and he died a Jew. She urged us to ponder that statement.

Richard Peterson remarked that he has not attended a lot of council meetings. This meeting is being taped, and certainly there will be newspaper retorts of how the agitation is at the council meeting. But you have to have agitation in order to make things work. The agitation is good. People are wise and alert, bringing back facts from previous meetings. You can not do that haphazardly. It means that a person is using some harking recollection to be able to go back and say that he disagrees with something. It shows that people are actually thinking.

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

## PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

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Kippy Boyle reminded us that today is Earth Day. She is surprised that the map for the ward system is not clearly accessible. Finally she had to seek the help of the GIS department, in which the person in the department stated that it was "hidden". Next, she asked that the minutes for the re-zoning that is taking place be placed in a visible location. Third, it is lucky for Broadway that its area is gaining a new code enforcement officer. But what about the other neighborhoods which are bordering on destabilization? The city can not afford to lose any more tax base. Property values are decreasing, which means our taxes are steadily rising. What is the fine line between strategic enforcement on Broadway and deliberate disregard for the rest of the city? Last, at Clinton and Grand Streets there are seven buildings located around the corner from a bodega that is a repeat offender for all types of police activity. The properties are vacant, abandoned or just laden with code violations. She is concerned about the destabilization in her neighborhood.

Pastor Bruce Davis stated that we live in a great country. We respect each other's rights and we have different races, creeds, nationalities and religions. What he loves the most about the United States is that we respect each others' religions. He would like someone to explain to him what a *denominational* prayer is. He has conducted services at Ebenezer Baptist Church, in which persons of *all* religions have attended. We respected everyone's prayers, because a prayer of faith is essentially what *you* believe in. Second, EBC has over 600 members on its roll, and he is concerned about the welfare of every single member. Over the past year the church has tried its

best to go about bringing healing- first within EBC then within the community. He can only do so much to bring about a spirit of healing. But we need more jobs and housing. Davis stated that he respects all of the leaders because the Bible teaches him and commands him to respect his leaders. But there needs to be leadership on one accord.

Roxie Royal stated that she has to stand with the pastor on respecting one another. She has been in most of the churches in Newburgh. Although she has not been in a Jewish service before, that is not the only type of religious service she has not attended. She knows that she has to give respect in order to receive it. Second, we already have a building with 1-room apartments on Broadway. The addition of 91 one-bedroom apartments will do nothing for the housing needs of the families in this community.

Brenda McPhail remarked that everyone knows that we need revenue in the city. It is affecting everybody, whether one pays rent or whether one owns. We have to start learning to work together. Also we have to start avoiding the lawsuits. In the City of Newburgh, there is always a lawsuit waiting to happen. She implored the council to have some caution signs erected at the waterfront. People do not supervise their children. She has had to chase kids playing on the fishing pier. The pier needs to be repaired, as there are several areas that contain large gaps. God forbid if one of those kids get loose from their parents and fall into the river. Also dog-walkers do not clean up after their dogs. Often times you do not know what you are stepping into when you walk into the grass. Loitering signs need to be put up too. A lot of times people get caught up with saying to themselves, "Well I'm not going to pick it up because I did not put it on the ground." She reminded us that it takes the efforts of the whole community. If we say that we love Newburgh, then we are going to do what we need to do to make Newburgh the city it needs to be. We do not get anywhere because everyone is on an ego trip instead of being on a Newburgh trip.

Pastor Austin stated that she is going to join McPhail on the Newburgh trip. She commended the council. It is not easy to be a public servant, especially considering the salaries that they receive for their work. She quoted a scripture in the Old Testament in which *Righteousness exalts a nation and Sin brings a reproach*. She commends the council for having this city covered in prayer. She has had a Buddhist, a Rabbi and a person of a different persuasion pray over her in the past. But since we have had prayer at the meeting, we have had no major public incidences in the city. A little research will show one thing: Jesus was born a Jew, he lived a Jew and he died a Jew. She urged us to ponder that statement.

Richard Peterson remarked that he has not attended a lot of council meetings. This meeting is being taped, and certainly there will be newspaper retorts of how the agitation is at the council meeting. But you have to have agitation in order to make things work. The agitation is good. People are wise and alert, bringing back facts from previous meetings. You can not do that haphazardly. It means that a person is using some harking recollection to be able to go back and say that he disagrees with something. It shows that people are actually thinking.

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

## FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Angelo thanked Gay Lee and Chris Eachus for their viewpoints in the Record. They are disappointed at US District Court Judge, in which she made demeaning statements about Newburgh. We try not to say bad things about our own city. But Judge McMahon was quoted as saying "Newburgh is most pathetic place in the State of New York" Angelo would like to generate a letter from the City Manager's office, on behalf of the community, addressing the judge's comments. Second, we are moving along with the Memorial Day Parade. Mr Bunora donated a trolley. It will carry the veterans who are unable to walk in the parade. We need to have the churches come back with their applications. Angelo would like the praise dancers to march in the parade and carry the beautiful flag with the white doves on it. We are hoping to prepare some hot dogs at the Activities Center for the participants. We need the community to come out and be a part of it.

Councilman Brown stated that he does not come to the council meetings to make friends. He took an Oath of Office to protect the residents and taxpayers of this city. And when he casts his vote, he expects his vote to count for what he intends it to be counted for. Either we are going to rectify the situation, or we are just going to leave it alone. Second, he has been on the fence about a supermarket coming here. He does not believe that it would work well without being a serious detriment to the business owners. There should be a different idea for that site. But we do have developers who are moving forward and trying to make an effort to develop that site. We all have to agree that the site needs to be developed. We can definitely change some things, but he does not feel that we can turn back at this point in time. We certainly can go back and re-address some things about the (91) one-bedroom apartments. We need to support families. People want to make him out to be a villain. Brown stated maybe he is a villain, but he sits here with a good and honest heart. No one can ever say that what he says at this table is a lie.

Councilwoman Lee pointed out that she is not sure that the housing proposal consists of (91) single bedroom units. They are *mixed-use*. It consists of individuals and families. There are 1, 2 and 3-bedroom apartments with tandem parking. She is not sure how it got so confused. She is very excited about the project. She has seen a lot of work start, and then she has seen the public come out and stop it. We just end up with incomplete projects throughout the city. She agrees that some things about the project can change. Also she does not know if some things *should* change. She does not know how many people shop at the supermarket on Broadway, but she does. A bulk supermarket is a good idea. Also, at least one store in every ward should be open 24 hours. We spend a lot of money in the Town in any given month.

There are some things that she is going to continue to buy from store owners. We have 30K people in our city. There is room for a lot more business.

Mayor Kennedy stated that she has been taking notes voraciously throughout the evening. First she addressed *Prayer*. We ask someone to organize the prayer portion of our meetings on a yearly basis. Deborah Dresser makes certain that we include people of *all* faiths, and that we have diversity. Second, she encourages everyone's participation at the citywide cleanup on Saturday. We will be meeting at the Ritz Theatre at 8:30 A.M. She pointed out that this is not the time to have the city take responsibility for individuals' personal backyards. We have had people in the past use and abuse the cleanups. Third, we need to look at correcting the accessibility of the ward and zoning maps. They need to be visible on the website. Fourth, we are not just going to focus on the strategic codes enforcement of Broadway. Strategic codes enforcement will be occurring throughout the city. We have got a whole thing getting ready to roll out along with the partnership of the Greater Newburgh Partnership.

She stated that the council needs to look at the exact ratio of one-bedroom apartments to multi-bedroom apartments in the housing proposal. She is concerned about the survival of a large grocery store in the city. Perhaps we are in a new place and have a different mix. But she is very concerned about having an empty building in two years. Kennedy commented that we need to start enforcing a lot of things. If we start enforcing the laws on the books, especially the traffic regulations, then we could start generating some real cash for the city. It would bring back some sense of safety to our streets too.

Mayor Kennedy stated that she did issue a statement to the media about the comments that Judge McMahan made publicly. Judge McMahan blamed the City of Newburgh for the bad decisions of one particular individual. Unfortunately a very small minority of the city creates an image that is simply not true. In fact, most of the people of this city are hardworking, law abiding and taxpaying citizens. To judge the City of Newburgh by the criminals that come before Judge McMahan is unfair. Mayor Kennedy agrees with the judge in that the young criminal never really had a shot in life. But that is not because he lived in Newburgh. It is because he had an unstable life fueled by his mother's problems with substance abuse. He was also exposed to violence at home. Ultimately he joined a gang because his family failed him. Kennedy pointed out that violence is a learned behavior that begins at or close to home. If we want to heal the streets of Newburgh, then we have to work on the violence in our homes. She is looking to the churches, schools and youth programs to help the little ones who are having problems. We do not want them to have to face a judge like this young man, has faced, at age 20.

As a last tidbit of information, Mayor Kennedy announced that she had a flyer: *Night of Hope*, a free family night of fellowship at Delano-Hitch Park on April 26<sup>th</sup>, from 4 P.M. to 8 P.M. She urged us to bring the kids, bring the family and have some fun.

# A NIGHT OF HOPE

**FREE**

**FAMILY, FUN &  
FELLOWSHIP NIGHT**



**Where? at Delano Hitch Park**

**When? on April 26th from 4 to 8pm**

ADJOURNMENT

There being no further business to come before the council, the meeting adjourned at 9:40 P.M.

Respectfully Submitted,

KATRINA COTTEN  
DEPUTY CITY CLERK