

A regular meeting of the City Council of the City of Newburgh was held on Monday, May 24, 2010 at 7:00 P.M. in the Council Chambers, City Hall, 83 Broadway, Newburgh, NY 12550

The Prayer was led by Rev. McAllister and the Pledge of Allegiance was led by Councilwoman Bell.

Present: Mayor Valentine, presiding; Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard-5

Councilwoman Angelo moved and Councilwoman Bello seconded that the minutes of the regular meeting of May 10, 2010 be approved.

Ayes-Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine-5

CARRIED

Councilwoman Angelo moved and Councilwoman Bello seconded that the City Clerk's Report, the Registrar of Vital Statistics Report and the Civil Service Administrator's Report for the month of April be received, filed and made available to the Press.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

CARRIED

PRESENTATION

The City Council presented Certificates of Recognition to Richard Peterson, Pamela Krizek, Dr. Benilda Armstead-Jones, Father Bill Scafidi and Ed McCarthy for their dedicated service on the Colored Burial Ground Advisory Committee

COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Bello seconded that the Notices of Claim, Notice of Verified Statement of Claim, Verified Detailed Statement of Claim and Notice of Potential Liability be referred to Corporation Counsel with power to act.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

CARRIED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: #110-2010

OF

MAY 24, 2010

**RESOLUTION SCHEDULING A PUBLIC HEARING
FOR JUNE 14, 2010 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW ADDING NEW CHAPTER 60,
ENTITLED "LOCAL AND FIRST SOURCE HIRING ORDINANCE"
TO THE CODE OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law adding new Chapter 60, entitled "Local and First Source Hiring Ordinance" to the Code of the City of Newburgh; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 14th day of June, 2010, in the third floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

LOCAL LAW NO.: _____ - 2010

OF

JUNE 14, 2010

A LOCAL LAW ADDING NEW CHAPTER 60, ENTITLED "LOCAL AND FIRST SOURCE HIRING ORDINANCE" TO THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding New Chapter 60 entitled "Local and First Source Hiring Ordinance" of the Code of the City of Newburgh.

SECTION 2 - PURPOSE AND INTENT

The City Code of the City of Newburgh is hereby amended to add a Chapter 60, Local and First Source Hiring Ordinance, to read as follows:

CHAPTER 60: LOCAL AND FIRST SOURCE HIRING ORDINANCE

§ 60-1 - Findings

The City Council of the City of Newburgh ("City") finds that the following statistics indicate that unemployment levels for the citizens of the City of Newburgh are higher than for the remainder of Orange County. Statistics also indicate that the higher unemployment rate in the City correlates to a higher number of families living in poverty, eligible for or receiving public assistance and a higher crime rate:

(a) An analysis of income and poverty conditions suggests large and growing disparities between the City and surrounding areas. The Median Family income in Orange County was 60 percent higher than in the City in 2000; the disparity grew even further to 124 percent in 2007. In 2000, the per-capita income for residents of Orange County was 62 percent more than in the City. By 2007,

the disparity between the County and the City had grown to 82 percent (Source: CDBG Five Year Consolidated Plan 2010-2014).

(b) Unemployment in the City is substantially higher than both the neighboring Towns of Newburgh and New Windsor, and Orange County as a whole (10.5% in April 2009, compared to 5.5% for Orange County). However, the majority of unemployed in the City are not included in this official measure of unemployment because they are long-term unemployed and out of the system that is used to provide this statistic. Only 60% of the City's population age 16 and older is in the work force. Therefore, many families (11.8% in 2000) rely on public assistance. The number of families in the City living below the poverty line was 25% in 2007, having increased from 23% in 2000. One of the major root causes of crime is lack of economic opportunity. (Source: CDBG Five Year Consolidated Plan 2010-2014 and City of Newburgh Master Plan)

(c) Income disparities are also clearly drawn in regards to race and gender - with women and people of color having the least economic opportunities within the City. Census tracts 4 & 5 suffer from the highest levels of unemployment and poverty. These tracts also consist of the largest populations of Black and Hispanic residents - 80% and 74%, respectively. The City has a substantially higher rate of female-headed households (25%) than Orange County (11%). National data shows that female-headed households are far more likely to suffer from poverty and hunger. (Source: City of Newburgh Master Plan)

(d) According to the City's Master Plan, "even though the employment available locally has been increasing the beneficiaries are not among the city's poorest residents."

(e) A high number of City residents are long-term unemployed, public assistance recipients, and ex-offenders. Most of these individuals lack recent or substantial work experience, skills, and education and would benefit from training programs.

(f) Many of the largest employers in the City have workforces made up primarily of individuals who live outside the City.

(g) Due to a lack of local, living wage employment opportunities for adults and youth, many parents have to work two or three jobs and work long hours leaving children and teenagers alone and unsupervised until the parents return from work. Lack of after school employment opportunities for youth 14 to 18 further compounds this situation.

(h) Absentee parents and unsupervised youth can result in increased problems for families, communities and the City as a whole, including but not limited to increased crime, increased gang activity, increased violence, poor homework accomplishments, failing grades and decreased educational attainment (increased high school drop out rates).

(i) The City suffers from a declining tax base that would likely be bolstered by policies promoting local jobs and local hiring preference.

(j) According to the City's Master Plan, based on an analysis of the occupational breakdown, there is a need to increase jobs in the construction field. The Plan notes that one of the strategies to reduce unemployment is to encourage employment of City residents in construction projects, and give priority to applicants who live in the City. In addition, in the current economic climate, the City could benefit by attracting new industries such as green technology, as well as careers associated with health care, institutions of higher learning and commercial or industrial ventures.

(k) The City's Master Plan includes a goal for the City to reduce the number of families living below the poverty level by 50% by 2020.

(l) The City's Master Plan promotes "A sustainable economic strategy will embrace development that is equitable, has strong local ties, and respect for environmental conditions. Components of this strategy include fostering the creation of new opportunities that support and utilize existing businesses and hiring locally."

§ 60-2 Declaration of Policy and Purpose

(a) It is the policy of the City to promote non-discrimination and Equal Employment Opportunity for construction contracts and land disposition and development agreements.

(b) It is the policy of the City to ensure full and equitable opportunity for City residents to participate in the employment opportunities that arise from construction contracts land disposition and development agreements to which the City is a party.

(c) It is also the policy of the City to increase the number of skilled workers and employed persons living in the City in an attempt to counteract the grave economic and social ills associated with the high unemployment levels that exist within the City.

(d) In furtherance of this policy, the City hereby establishes a Local and First Source Hiring program to encourage the training, hiring, and retention of City residents for the work to be performed under construction contracts and land disposition and development agreements to which the City is a party.

§ 60-3 Definitions

"APPRENTICESHIP PROGRAM" shall mean a training program sponsored by a union that accepts trainees and designed to enable a trainee to become a skilled union member.

"CONTRACT OR AGREEMENT" shall mean any Construction Contract with a face value of Fifty Thousand (\$50,000) Dollars or more or any Land Disposition or Development Agreement to which the City is a party, not including the rehabilitation of a one or two-family owner-occupied residential dwelling.

"CONTRACTOR " shall mean a for-profit or not-for-profit entity which contracts with the City through a Construction Contract or Land Disposition and Development Agreement.

"CITY" shall mean the City of Newburgh.

"CONSTRUCTION CONTRACT" shall mean any contract for construction work to which the City is a party.

"ECONOMICALLY DISADVANTAGED PERSON" shall mean any person with annual income in the preceding calendar year below Two Hundred (200%) Percent of the Federal Poverty Level.

"LAND DISPOSITION AND DEVELOPMENT AGREEMENT" shall mean any memorandum of understanding, option agreement, contract of sale, or other agreement by which the City agrees to sell or lease real property owned by the City with conditions for development of such property.

"RESIDENT" shall mean a person who has resided within the boundaries of the City of Newburgh for at least six (6) months immediately preceding the date of City Council approval of the Contract or Agreement and who can verify his or her residence by producing appropriate documentation.

§ 60-4 Scope and Goals

§ 60-5 Local and Targeted Hiring Goals

§ 60-5.1.1 Non-State and/or Non-Federally Funded Contracts and Agreements For any Contract or Agreement which does not include any State and/or Federal funding, there are hereby established the following hiring goals for employment:

a. Employment During Construction:

A minimum of Fifty (50%) Percent of the total paid construction work hours under the Contract or Agreement shall be performed by Residents. A minimum of Twenty-Five (25%) Percent of the total construction work hours under the Contract or Agreement shall be performed by Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Resident women in the workforce during construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

b. Employment Following Construction:

For any Contract or Agreement resulting in permanent employment, a minimum of Forty (40%) Percent of the total permanent paid workforce shall be Residents. A minimum of Twenty (20%) Percent of the total permanent workforce shall be Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Resident women in the workforce following construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

c. Apprenticeship Agreements In order to promote apprenticeship training as authorized by Section 816-b of New York Labor Law, the following goals shall apply:

- 1) Each Contractor, its successors, assigns, and subcontractors shall employ in its regular work force

Residents who are enrolled and participating in an Apprenticeship Program.

2) Each Contractor, its successors, assigns, and subcontractors shall have an apprenticeship agreement, appropriate for the type and scope of work to be performed, which has been registered with, and approved by, the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law, notwithstanding anything in Section 103 of the New York General Municipal Law to the contrary.

§ 60-5.1.2 State and/or Federally Funded Contracts and Agreements For any Contract or Agreement which includes State and/or Federal funding, there are hereby established the following hiring goals for employment:

a. Hiring Requirements:

A minimum of Fifty (50%) Percent of the total paid work hours during and following construction under the Contract or Agreement shall be performed by Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Residents and Resident women during and following construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

b. Apprenticeship Agreements

In order to promote apprenticeship training as authorized by Section 816-b of New York Labor Law, all projects receiving Federal and/or State funding will be required to follow requirements for apprenticeship agreements as set forth in Section 60-5.1.1.c herein, and for Construction Contracts involving transportation improvements, will be required to follow Special Training Provision requirements as outlined in Appendix 12, Page 12-12.A.67 of the Procedures for Locally Administered Federal Aid Projects, Department of Transportation.

§ 60-6 Powers and Duties

§ 60-6.1 Powers and Duties of the City

§ 60-6.1.1. The City shall include notice of the requirements of this Ordinance in Bid documents, Requests for Proposals (RFP), and Requests for Qualifications (RFQ) for Contracts and Agreements. The requirements of this Ordinance shall be incorporated into Contracts and Agreements.

§ 60-6.1.2. The City shall conduct an information session for each Bid, RFP or RFQ subject to this Ordinance to inform potential bidders of the requirements of the Ordinance. The City shall review the requirements of this Ordinance with each Contractor before awarding any Contract or Agreement.

§ 60-6.1.3. The City shall require Contractors to abide by the provisions of this Ordinance.

§ 60-6.1.4. The City shall require Contractors to cause their subcontractors, successors, and assigns to abide by the provisions of this Ordinance.

§ 60-6.1.5. The City shall monitor compliance with this Ordinance and will submit a Quarterly report to the City Council on the status of the implementation of this Ordinance on active Contracts and Agreements.

§ 60-6.2 Powers and Duties of the Local and First Source Hiring Advisory Committee ("LFSHAC")

§ 60-6.2.1. The City Council shall appoint a Local and First Source Hiring Advisory Committee led by the City Director of Planning and Development and consisting of representatives from the City, Orange County Department of Social Services (DSS), Employment Training Administration (ETA), City CDBG Advisory Committee, Area Labor Federation, Contractors Association, Community Members and Professionals with Relevant Experience.

§ 60-6.2.2. The LFSHAC shall be responsible for oversight of this Ordinance.

§ 60-6.2.3. The LFSHAC shall assist the City and Contractors in developing and implementing a hiring plan to meet the goals of this Ordinance.

§ 60-6.2.4 The LFSHAC shall plan and coordinate the establishment of a "Newburgh Builds Newburgh Hiring and Training Center" to serve as a conduit between Contractors who are subject to this Chapter and prospective employees who are Residents including Resident women; to facilitate the screening, interview, and referral of potential employee candidates to Contractors; to form partnerships with other existing employment services; and to facilitate the training and other preparation of prospective employees.

§ 60-6.2.5 Based on quarterly reports prepared by the City, with the assistance of the LFSHAC, the compliance of each Contractor shall be evaluated against the goals set forth in this Ordinance. For Contractors found to be in violation of such goals, the City shall enforce penalties as outlined in Section VI herein.

§ 60-6.3 Powers and Duties of Contractors

§ 60-6.3.1. In addition to incorporating the requirements of this Ordinance in each Contract and Agreement, each Contractor shall enter into a Local and First Source Hiring Rider as part of its Contract or Agreement. The Local and First Source Hiring Rider shall establish the hiring process to be followed by the Contractor to achieve the goals of this Ordinance.

§ 60-6.3.2. Each Contractor shall attend any pre-bid meeting conducted by the City for any Contract or Agreement subject to this Ordinance.

§ 60-6.3.3. Each Contractor shall make employment records available to the City which are relevant to monitoring and enforcing this Ordinance, including contracts with other entities. The City shall not use such employment records for any purpose other than monitoring or enforcing this Ordinance. Each Contractor shall cooperate fully and promptly with any inquiry or investigation the City deems necessary in order to monitor compliance with this Ordinance, including allowing access to construction and employment sites and employees. Contractors may remove names and social security numbers from employment records to protect the privacy of individual employees; however, the City may require the Contractor to provide addresses of individual employees to determine if they are Residents if their actual place of residence is at issue.

§ 60-7 Non-Compliance

§ 60-7.1 Each Contract or Agreement shall contain additionally contain a provision in which the Contractor agrees to be liable to the City for liquidated damages as provided in this Ordinance.

§ 60-7.2 The City, with the assistance of the Local and First Source Hiring Advisory Committee may investigate possible violations of this Ordinance. Where the City determines that a Contractor has failed to abide by the provisions in this Ordinance, the following steps shall be taken:

§ 60-7.2.1. The City shall inform the Contractor of the alleged violation by written notice and shall provide the Contractor the opportunity to respond to the alleged violation and to request a hearing before the City Manager within ten (10) days of such notice. In such response, the Contractor may submit documentation as to the reasons, if any, for noncompliance which shall be taken into account in the determination by the City Manager.

§ 60-7.2.2. If the City Manager decides the violation stands, the City Manager shall provide written notice to the Contractor, including the factual basis for the determination and the corrective action that the Contractor must take to remedy the violation. The Contractor will then have Fifteen (15) days from the date of such written notice to perform the corrective action.

§ 60-7.2.3. If the Contractor does not correct the violation within such Fifteen (15) days, it will be subject to liquidated damages of not less than \$1,000 and not more than Five (5%) Percent of the face value of the Contract or Agreement, to be determined by the City Manager based on the gravity of the violation and the Contractor's history of prior violations, if any.

§ 60-7.2.4. If the violation is still not corrected within thirty (30) days from the City Manager's assessment of liquidated damages, the City may pursue all available remedies including breach of contract and, where applicable, filing a civil action to recover such liquidated damages.

SECTION 3. This Local Law shall take effect on its date of filing with the Secretary of State, according to and as provided in the Municipal Home Rule Law. This Local Law shall not apply to Contracts or Agreements, as defined herein, which have been fully executed prior to such effective date.

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 111-2010

OF

MAY 24, 2010

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR
JUNE 14, 2010 TO HEAR PUBLIC COMMENT CONCERNING
A LOCAL LAW AMENDING CITY CHARTER SECTIONS
C9.03 ENTITLED "DUMPSTER USER FEES" AND C9.33
ENTITLED "USER FEES TO BE CHARGED FOR COLLECTION"
OF THE CODE OF THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law amending City Charter Sections C9.03 entitled "Dumpster User Fees" and C9.33 entitled "User Fees to be Charged for Collection" of the Code of the City of Newburgh; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 14th day of June, 2010, in the third floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

LOCAL LAW NO.: _____ - 2010

OF

JUNE 14 2010

**A LOCAL LAW AMENDING CITY CHARTER SECTIONS C9.03 ENTITLED
"DUMPSTER USER FEES" AND C9.33 ENTITLED "USER FEES TO BE
CHARGED FOR COLLECTION" OF THE CODE OF THE CITY OF
NEWBURGH**

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending User Fees to be Charged for Sanitation Collection as Set Forth in City Charter Sections C9.03 entitled "Dumpster User Fees" and C9.33 entitled 'User Fees to be Charged for Collection' of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The City Council finds that it is necessary to have a consolidated schedule of fees and to bill refuse collection fees at the beginning of the collection calendar quarter to promote proper governmental administration. Accordingly, the City Council finds it is in the best interests of the City of Newburgh to amend City Charter Sections C9.03 and C9.33 to provide that the fees for the collection and disposal of garbage, trash, refuse and recyclables be removed from the City Charter and be relocated in Chapter 163, entitled "Fees", and that the billing schedule be amended for these purposes. This local law is enacted under the authority granted to municipalities under the Municipal Home Rule Law of the State of New York.

SECTION 3 - AMENDMENTS

Subsections A and D of City Charter Section C9.03 entitled "Dumpster User Fees" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C9.03. Dumpster User Fees

A. The owners of all properties where dumpsters are serviced by the city,

within the City of Newburgh, shall be charged for the removal of wastes generated by such properties at a rate [of one hundred twenty dollars (\$120.) per month per dumpster for waste generated at said property] as set forth in Chapter 163, "Fees" of this Code. A dumpster is defined as having a volume not exceeding two (2) cubic yards. Dumpsters exceeding two (2) cubic yards will not be serviced by the city.

- D. The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services [offered to commercial properties] together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund [the] collection operations [related to commercial properties], all under the Sanitation Fund.

Subsections D and E of City Charter Section C9.33 entitled "User fees to be charged for collection" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C9.33. User fees to be charged for garbage collection.

- D. Fees defined and set.

(1) Stop fee. A stop fee is the fee for the garbage truck making a stop in front of a property. The stop fee shall be computed as set forth in Chapter 163, Fees, of this Code. [is set at ten dollars (\$10) per month for each tax lot within the city, whether or not a building is erected thereon.]

(2) Dwelling unit fee. A dwelling unit fee is the fee charged for collection of garbage from one (1) dwelling unit for a period of one (1) month. The dwelling unit fee shall be computed as set forth in Chapter 163, Fees, of this Code. [twelve dollars (\$12.) per month per dwelling unit.]

(3) The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund.

E. Bills for sanitation user fees. Bills for sanitation user fees shall be prepared and sent to each owner on a quarterannual basis, starting on August 1, 1991, in the same manner as water and sewer charges are now billed and distributed, except that sanitation user fees shall be billed and paid during the first month of the calendar quarter in which sanitation removal services are performed, in the months of January, April, July and October. Bills for user fees shall be payable within the same time limits as may be prescribed in the Charter for the payment of water bills.

SECTION 4 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 5 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law, except that sanitation fee billings for the months of May through August 2010 shall be billed in August 2010 and sanitation fee billings for the months of September through December 2010 shall be billed in November 2010.

[Brackets] denote deletions

Underlining denotes additions

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 124-2010

OF

MAY 24, 2010

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR
JUNE 14, 2010 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW RESCINDING
CHAPTER 163 ENTITLED "FEES" OF THE CODE OF
THE CITY OF NEWBURGH**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law rescinding Chapter 163 entitled "Fees" of the Code of the City of Newburgh; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 14th day of June, 2010, in the third floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

PUBLIC HEARING #1

Mayor Valentine called a public hearing that was advertised for this meeting to receive public comment concerning a local law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.85, "Water Rents" within the Code of the City of Newburgh.

Michael Curry, 8 Grand Street asked if the proposed language was posted.

Mayor Valentine said that he believes it is on the website.

There being no one else wishing to speak, the public hearing was closed.

PUBLIC HEARING #2

Mayor Valentine called a public hearing that was advertised for this meeting to receive public comment concerning a local law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.00, "Annual Assessment Rolls" within the Code of the City of Newburgh.

There being no one wishing to speak, this public hearing was closed.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Loretta Manning, Lander Street, Community Voices Heard said in regard to resolution #119-2010 that they came here tonight to plead for help. They don't want to see any more people in Newburgh die and our young men taken away. In order to change thing in our community, we need jobs and training opportunities. Without that, Newburgh will continue to die. We are the second poorest City in the State with the highest crime rate. With no jobs there is idle time which creates situations. She is a mother of six and she wants to see the streets cleaned up as much as everyone else. One problem is that there are jobs here in the City of Newburgh but they are not available to us. The first source hiring ordinance that is being proposed will change that. She thanked the Council for considering this ordinance but also asked that they pass it.

Timothy Hayzill, City of Newburgh thanked the City Council for making this action possible. The City of Newburgh is a very impoverished city and he feels that it is about time that the City Council does something to assist the people who live in this community.

A City of Newburgh resident said in regard to resolution #117-2010 that what ever the City decides to do with that property we need more recreational fields for our children. He has a soccer league and he needs fields. Right now if they go to New Windsor to use their fields they are charged \$120.00. If they go to Plattekill, the fields are free but they are too far to go. We need a place for our kids to go to keep them busy so they are too tired to roam the streets at night.

A resident at 113 Lander Street questioned resolution #118-10. He wants to know if we are transferring this to make money for other things or what because it does not tell what the true benefit of this is.

Mayor Valentine responded that we have been given the opportunity to acquire the property and we have to come up with a plan on how we are going to use it. The State has guidelines. More than 50% has to be for the citizens with something like recreation, a Park or job training. We have a three phase plan with phase one being to get it open. There are basketball courts in there and both indoor and outdoor soccer fields that could be developed with just a little bit of work. We will have to do some fixing up and install a handicapped accessible restroom. Once we get title, then we can work with the different organizations to see how we can get this up and running with the minimum amount of money for this first year and then develop a more long term approach for the rest of the building. We can't get it from the State and then

sell it to a developer. Even in these tough financial times they feel it is so important to not lose this opportunity for both open space and recreation so close to our Recreation Park.

A Community Voices Heard member said that the Local and First Source Hiring Ordinance is very important to have. Newburgh can be beautiful again. This is their chance to go down in History as the first to do this so she asked the Council to think very carefully about this and to please pass this ordinance.

Kippy Boyle, 400 Grand Street said that there are many important issues on the agenda tonight and she doesn't want resolution #103-10 to get lost because it is very important. She was hoping that there would be a presentation by Mr. Hadley and the Bond Counsel because the Council's vote on this will be bringing in a state authority that will place a freeze on hiring, salaries and union negotiations. Before they vote on it she would like this to be explained to the audience. She added that if resolution #113-10 is regarding bringing in EMS under the Fire Department she would like to have a professional opinion from our economic people as to if they have analyzed the cost and benefits of this and what have they recommended to the Council.

A City of Newburgh resident said in regard to resolution #123-10 that we just had the vote on the School Budget and we know that the school system is suffering so why would we allow the City Manager to accept money from the Newburgh City School District when they are already in bad shape. Why do we need more personnel in the Police Department? We need jobs and when we get them and things for the children to do in this community then we won't need the police officers.

Jonathan Jacobs, City of Newburgh said that he has spoken with the City Council and he has called phone numbers he was been given twice and he still doesn't have a job. He wants them to know that he is still here and he needs a job.

Denise Ribble, Montgomery Street encouraged the City Council to vote for resolution #119-10 for lead agency. In regard to resolution #103-10, there was an excellent presentation made with a comparison between doing deficit financing and getting a fiscal advisory board. She asked the Council to consider what are the things that we need to do differently that will help us make our community safe, secure, clean and prosperous for all citizens. She referred to a 2005 EMS report which recommended community policing and she thinks that this is a very important issue to consider as you get ready to go into deficit financing and have a control board. Our children are very important and we need opportunities for them to work and to play in a safe,

clean and healthy environment. She asked for some clarification on resolution #123-10 because there was no discussion of numbers.

MaryAnn Prokosch, Galloway Ave. said in regard to resolution #103-10 that the presentation on Thursday night was excellent and she wishes that they could do it again tonight. If not, perhaps they could tape it later and put it on the website. In regard to resolution #113-10, she is not sure what this is about and she knows that there was talk about EMS. The City of Newburgh has an excellent Ambulance service with Mobile Life and the last thing we need is to incur any additional taxes by having EMS service in the Fire Department. In regard to resolution #123-10 she asked what the dollar amount will be.

Michael Curry, 8 Grand Street said in regard to resolution #103-10 that he has asked the Council many times to seat a Chief Financial Officer as the Charter allows and if they had done so then they might not be doing the action that they are doing tonight. He agrees, however, that this is the thing to do. If resolution #113-10 is for EMS service this is not the time to be taking on extra duties. The City is talking about scaling back sanitation service and in our next financial crises we will be cutting back ambulance service. He heard that the potential revenue number was approximately \$185,000.00 and if there are any problems it will be the City that will receive the lawsuit and held responsible and that \$185,000.00 can be eaten up quickly in a lawsuit. He also noted that it takes several months for the insurance companies to make payment.

Marietta Curry, 8 Grand Street said in regard to resolution #113-10 that she understands the taxpayers will be taxed at possibly 35% but if this EMS goes through another 7 ½% will be tacked on making it 42%. Why would the City contemplate EMS when it would be incurring lawsuits? She had mentioned a revenue generating idea in the past where there is three million dollars in outstanding tickets. She thinks that the Council needs to look at revenue generating ideas before this is passed.

Barbara Smith, Powell Avenue said that this resolution is very vague and why doesn't it state exactly what it is? Why at a time of fiscal crunch are we considering taking on a potential debt? It makes no sense because we are already broke and asking for help and now we are going to take on additional liability with regard to this type of service when we are already utilizing a decent service that we already have. How can you vote on something that has not been researched? There are too many other things that we can do with money than to buy Ambulances and hire people.

Michael Vatter, Fire Chief explained that this is something that needs to be investigated further. The MOU is to allow the firefighters and the City

Manager to work together to see if this plan is feasible. We have a generic outline and a preliminary business plan where there is no cost to the City with some revenue but that could change. If we are successful in obtaining some grants it could become free to the City and the revenue stream would increase. He wanted to make it clear that the Council is not voting on anything to start the first of the year. All this is doing is giving the Fire Department and the City the opportunity to work on its proposal up until around September 1st when we have to start putting Budget numbers together. If it doesn't work, it doesn't work. Also in that package would be taking on additional codes responsibilities. Everything has a cost and has to be evaluated and certain bargaining agreements have to be addressed. This is not a job security plan other than to make sure that we have adequate staffing to protect the City. The numbers floating around is that there may be a 10% or 20% cut from the Fire Department which would be devastating. If he can do this and make it work, then we will have a revenue stream to keep all of the fire trucks in service. Nothing is set in stone. This is just research.

Brigidanne Flynn, City of Newburgh asked in regard to resolution #123-10 if this is for this school year or the upcoming school year and will this be an annual thing? Security at the schools is important but how much are they giving us and for how long?

Mayor Valentine said that this is for this school year and the next calendar year will be negotiated as a separate contract because the school system is changing its alignment. They are reimbursing us the dollar amount that it will cost to have a full-time police officer there for the days that they want them. The school system has said that they don't want this substituted with just security and it is important to have an officer there. That is the arrangement that we have right now.

Michael Gabor, Grand Street said in regard to resolution #113-10 that it seems like this is happening tonight because if the Newburgh Fiscal Stability Authority is put in place then they aren't going to be able to do this anymore. He thinks that if this is genuine then it needs to be tabled if it is truly something that could be used in a positive way for the City until after this Fiscal Stability Authority is in place. One of the problems here is that things are hidden behind closed doors. There isn't anything in this resolution that says anything about this EMS proposition. In regard to resolution #119-10, he asked if they had read this ordinance. What it does is take money that is spent from inside the City of Newburgh. The City of Newburgh is a poor city and he doesn't know how they think they can get money from the City of Newburgh. It is illegal at the State and Federal Level to do this kind of thing. If this is put in place, we are talking about maybe four to five people possibly getting jobs after three years. There are more urgent things that need to be

done. We have a transportation system that doesn't start until 8:00 in the morning which is too late for people to get to work. We need a bus service to get people around which could be done by changing the schedules of these buses. They are not dependable because people can't get to their jobs on time. Jobs are available outside the City of Newburgh and there isn't even a sidewalk from the City to the Town. He has seen people risking their lives every day walking up 17K to shop or get to work. He feels that this is not the proper way to do things.

Kevin Barrett, City of Newburgh said that the City has an excellent Fire Department and that they are very efficient. He heard about this proposal and there is a time when you have to say "no" because it doesn't make sense. They are moving forward with an idea or a concept to sit down to see how they can do this but they already have a lot of problems that need to be addressed. There is not a good track record or history of dealing with things of this nature in a very efficient manner. We have a private industry that is already efficiently taking care of people in emergency situations. He doesn't think that we have the time for this right now because we have bigger fish to fry. We are a municipality that is on the brink of disaster and he advised the Council to be very careful and not pass this resolution now.

Janet Gianopoulos, City of Newburgh said in regard to resolution #119-2010 that she is concerned because the public hearing is not scheduled until June 14th.

Adam Roscoe, City of Newburgh resident said that he has done some research and found out that the Town of Newburgh had \$15,000 for a skate park in 2008 or 2009. He submitted to the Council a list of names of people that are interested in a skate park as well an organization that helps build these types of parks. He asked if the Council thinks that this will be possible to do.

Mayor Valentine said that the Armory is a possibility.

Karen Mejia, Montgomery Street thanked the City Council for their services and said that they should follow the ABC's of program evaluation and when looking at all of the resolutions to take into consideration if they are Achievable, Believable, and Cost Effective. If the Council would follow that criteria for all of the resolutions in front them, she thinks that they can go a long way in terms of bridging the transparency gap that many people seem to have. Also the ABC's of leadership: Aggressive, Bold and Caring leadership. She applauded the Department Heads and City staff who are going boldly where no one has gone before. She is pleased to see the room so full of people

tonight voicing their opinions and they should continue to be here every other Monday as well as at every Work Session.

There being no one else wishing to speak, this portion of the meeting was closed.

COMMENTS FROM COUNCIL REGARDING THE AGENDA

Councilman Dillard said that at the Work Session he had asked for some information to go on the agenda tonight regarding past CDBG funding and he doesn't see it. He asked who creates the agenda.

Corporation Counsel, Bernis Nelson said that the agenda is created by the City Manager's Office but she was not instructed to create any legislation on that item.

Mayor Valentine said that this is about the reprogramming and the funds that we did not use in the previous calendar year.

Councilman Dillard said that it is his understanding that there are open accounts of money that was never used and he may be wrong but they may go back to the year 2000 or 1995.

Corporation Counsel, Bernis Nelson said that she is not familiar with that and does not know exactly what money is available. That report she believes was just for money available in the current year.

Mayor Valentine said that we could put this on for June 10th and get everything on any left over open accounts.

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

RESOLUTION NO.: 103 - 2010

OF

MAY 24, 2010

**A RESOLUTION REQUESTING THE STATE LEGISLATURE
TO AMEND THE PUBLIC AUTHORITIES LAW AND THE TAX LAW
IN RELATION TO CREATING THE NEWBURGH FISCAL STABILITY
AUTHORITY**

BE IT RESOLVED, by the Council of the City of Newburgh, New York that State Legislature is hereby requested to amend the Public Authorities Law and the Tax Law in relation to creating the Newburgh Fiscal Stability Authority in the form attached hereto; and

BE IT FURTHER RESOLVED, that the City Clerk be and she is hereby directed to send a certified copy of this Resolution to the State officials whose jurisdiction includes the City of Newburgh.

Dwight Hadley, Consultant explained that we will submit drafted legislation to the State for their consideration. There will be seven members on this Board and under this proposed legislation the City Manager will be required to submit a four year fiscal plan with the City Budget being the first year of that plan. The Board will be required to seek public comment on that plan and they will have the authority to reject the Budget if they do not think that it is realistic and they can propose changes. This authority would be enacted sometime this summer because the City has a series of debts outstanding that it must refinance this year. The Board will have the power to have a hiring freeze and hold wages. They can review and approve agreements, contracts and bonds.

Todd Miles of the Bond Counsel added that this Authority is not a magic trick. This Authority will be brought in here as a vehicle by the State to make sure that your city government runs a balanced operation. The purpose of this is to restore confidence in the capital markets of people who lend the City money. The people who invest in the City of Newburgh need to understand how the City is going to manage and feel confident that it is being managed properly and appropriately. This Board won't solve the problems of the City but it will make sure that the City government solves the problems.

Mayor Valentine said that people also need to know that we are not unique. There was a Conference of Mayors held two weeks ago which he attended and in one room there were six municipalities in the State of New York that were at deficit financing and four of the six were looking to do a Control Board. He noted that as a municipality we are not allowed to go bankrupt. We can't close because the City performs a service to the community. No matter how bad it gets we can't close so we have to refinance and restructure. He added that people might think it is bad here but it is worse someplace else. He noted that Springfield, Massachusetts was in debt by more than forty million dollars and a State appointed finance board took over. Within five years they balanced their budget, erased the debt, managed to invest in technology and attract some urban development. Another community in Pennsylvania had a debt more than their total budget of sixty-seven million dollars which was caused by a huge capital project that they were forced to build and it ended up costing them two hundred and eighty eight million dollars. So even though we are doing this and it is necessary and important it is going to be a tremendous amount of work. This doesn't mean that the Council is off the hook. They are still in control of doing the Budget and how the City runs. This Board will be the overseer. He added that although the Governor has the power to appoint four of these members, in most cases he will look for people that are familiar with Newburgh.

Councilwoman Bell said that she is very happy to vote for this Board because for her it ends the era of the disappearing dollar in Newburgh. We have people who are no longer here that when they left we don't know where the money went. We don't know if the money went with them but when it was time to make the books right no one could find where the money had gone because the records were completely upside down. We have a fantastic financial department now with a new Comptroller and Mr. Hadley. They are people who she feels are competent and trustworthy and their efforts along with this Board will end the disappearing, evaporating dollar in Newburgh.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

103-10

**AN ACT to amend the public authorities law and the tax law, in relation to creating the
Newburgh fiscal stability authority**

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2. Legislative findings. The legislature hereby finds and declares that a condition of fiscal difficulty existed in the city of Newburgh, as a result of a weakened local economy and a decrease in real estate values. The city is facing the economic reality that it cannot provide basic police, fire, public works and other essential services without increasing property taxes by such an amount that they will only further contribute to the economic deterioration of the city. The city's fiscal condition has been further weakened by inadequate regard for proper financial accounting and budgeting procedures, improvident budgeting and taxing practices, and other disregard for prudent management of its financial affairs. These factors have led to a substantial structural imbalance between revenues and expenditures which, when combined with the city's limited ability to increase taxes on its residents, has resulted in a downgrade below investment grade of Newburgh's bonds by independent bond rating services.

It is hereby found and declared that the city is in a state of fiscal crisis, and that the welfare of the inhabitants of the city is seriously threatened. The city budget must be balanced and economic recovery enhanced. Actions should be undertaken which preserve essential services to city residents, while also ensuring that taxes remain affordable. Actions contrary to these two essential goals jeopardize the city's long-term fiscal health and impede economic growth for the city, the region, and the state.

It is, therefore, further found and declared that a combination of enhanced budgetary discipline and short-term budgetary relief is necessary to assist the city in returning to fiscal and economic stability, while ensuring adequate funding for the provision of essential services and for the maintenance, expansion, and rebuilding of the infrastructure of the city. If the city financial plan can achieve the annual targets required by this act for recurring years of revenues exceeding expenditures, the Newburgh fiscal stability authority shall make savings available to the city through a restructuring of a portion of the city's outstanding debt, and/or through limited borrowing for operating costs, in either case, secured by an intercept of sales tax net collections as well as state aid.

It is hereby further found and declared that a control and advisory finance authority should be established to oversee the city's budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability.

Based upon the fiscal crisis in the city of Newburgh, the legislature through this act creates a Newburgh fiscal stability authority with certain control, advisory and borrowing powers, and imposes on the city of Newburgh certain requirements as to budgetary operations and fiscal management, including minimum annual requirements to produce recurring budget savings over the next four years. The agreements for financial and budgetary discipline between the authority and the city shall be for such period as is necessary under the standards set forth in this act to

restore the city of Newburgh to fiscal integrity, with a control or advisory role for the authority continuing until June 30, 2044.

§ 3. Article 10-D of the public authorities law is amended by adding a new title 4 to read as follows:

**TITLE 4
NEWBURGH FISCAL STABILITY AUTHORITY**

Section

- 4050. Short title.
- 4050-a. Legislative declaration of need for state intervention.
- 4051. Definitions.
- 4052. Newburgh fiscal stability authority.
- 4053. Administration of the authority.
- 4054. General powers of the authority.
- 4055. Assistance to the authority; employees of the authority.
- 4056. City fiscal year four thousand three--four thousand four budget modification and four-year financial plan.
- 4057. City financial plans.
- 4057-a. Efficiency incentive grants
- 4058. Control period.
- 4059. Advisory period.
- 4060. Additional provisions.
- 4061. Declaration of need for financing assistance to the city.
- 4062. Bonds, notes or other obligations of the authority.
- 4063. Remedies of bondholders.
- 4064. Intercept of city tax revenues and state aid revenues.
- 4065. Resources of the authority.
- 4066. Agreement with the state.
- 4067. Agreement with the city.
- 4068. Bonds, notes or other obligations legal for investment and deposit.
- 4069. Tax exemption.
- 4070. Actions against the authority.
- 4071. Audits.
- 4072. Effect of inconsistent provisions.
- 4073. Separability; construction.

§ 4050. Short title

This title shall be known and may be cited as the "Newburgh fiscal stability authority act."

§ 4050-a. Legislative declaration of need for state intervention

The legislature hereby finds and declares that the city of Newburgh is facing a severe fiscal crisis, and that the crisis cannot be resolved absent assistance from the state. The legislature

further finds and declares that maintenance of a balanced budget by the city of Newburgh is a matter of overriding state concern, requiring the legislature to intervene to provide a means whereby: the long-term fiscal stability of the city will be assured, the confidence of investors in the city's bonds and notes is preserved, and the economy of both the region and the state as a whole is protected.

§ 4051. Definitions

For the purposes of this title, unless the context otherwise requires: 1. "Advisory period" means that period no earlier than January first, two thousand fourteen, after which the authority has determined that (a) for each of the three immediately preceding city fiscal years, the city has adopted and adhered to budgets covering all expenditures, other than capital items, the results of which did not show a deficit, without the use of any authority assistance, as provided for under section four thousand fifty-seven of this title, when reported in accordance with generally accepted accounting principles and (b) the comptroller and the state comptroller jointly certify that securities were sold by the city during the immediately preceding city fiscal year in the general public market and that there is a substantial likelihood that such securities can be sold by the city in the general public market from such date through the end of the next succeeding city fiscal year in amounts that will satisfy substantially all of the capital and cash flow requirements of the city during that period in accordance with the financial plan then in existence. The joint certification made by the comptroller and the state comptroller shall be based on their separate written determinations which may take into account a report and opinion of an independent expert in the marketing of securities selected by the authority as well as other information available to the comptrollers. Once begun, an advisory period shall continue through December thirty-first, two thousand forty-four unless a control period is imposed.

2. "Authority" or "Newburgh fiscal stability authority" or "NFSA" means the public benefit corporation created by this title.

3. "Bonds, notes or other obligations" means bonds, notes and other evidences of indebtedness, issued or incurred by the authority.

4. "Chief fiscal officer" means the chief fiscal officer of the city as defined in section 2.00 of the local finance law.

5. "City" means the city of Newburgh.

6. "City charter" means the city government law of the city of Newburgh, as amended.

7. "City manager" means the city manager of the city.

8. "City Mayor" means the city mayor of the city.

9. "City tax revenues" means the portion of the county's "net collections", as defined in section twelve hundred sixty-two of the tax law, payable to the city under the agreement among the county, the city and the other cities, towns and villages within the county entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of the tax law. In the event that the city imposes sales and compensating use taxes pursuant to the authority of section twelve

hundred ten of the tax law, "city tax revenues" shall also include net collections from such city taxes.

10. "Comptroller" means the comptroller of the city.

11. "Control period" means that period of time from the effective date of this title, continuing until the authority determines that conditions have been met as provided in subdivision one of this section and the city qualifies for the onset of an advisory period. A control period may be reimposed as determined by the authority in accordance with section four thousand fifty-eight of this title.

12. "Council" means the city council of the city of Newburgh.

13. "County" means the county of Orange.

14. "Director of the budget" means the director of the budget of the state.

15. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to accomplish a refunding, repayment or restructuring of a portion of the city's outstanding indebtedness, (b) cash flow needs of the city, (c) any object or purpose of the city, for which a period of probable usefulness is prescribed in section 11.00 of the local finance law, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, (d) amounts necessary to finance a portion of the operating costs of the city as provided in section four thousand fifty-seven of this title, to the extent approved by the authority, or (e) incidental costs, including, but not limited to, legal fees, fees for printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in subdivisions seven through nine of section four thousand fifty-four of this title or any underwriting or other costs incurred in connection with the financing thereof; provided however that, to the maximum extent practicable, all financeable costs shall not adversely affect the requirements of subdivision two of section four thousand sixty-nine of this title.

16. "Financial plan" means the financial plan of the city to be developed pursuant to section four thousand fifty-seven of this title, as from time to time amended.

17. "Major operating funds" means the city general fund, the city enterprise funds, together with any other funds of the city from time to time designated by the authority.

18. "NFSA assistance" means: (a) the amount of debt service savings in a given city fiscal year generated from the proceeds of bonds, notes or other obligations made available to or for the benefit of the city as determined by the authority; or (b) the proceeds of any deficit financing authorized by the authority, or some combination thereof pursuant to the provisions of section four thousand fifty-seven of this title. Such assistance shall be made available only upon a declaration of need by the city pursuant to section four thousand sixty-one of this title and the approval of the NFSA board.

19. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the city and certified by the authority. For purposes of determining the

projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of NFSA assistance expected to be available for such fiscal year.

20. "Revenues" means revenues of the authority consisting of city tax revenues, state aid revenues, and all other aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority to the extent such amounts are pledged to bondholders.

21. "State" means the state of New York.

22. "State aid" means: all general purpose local government aid; emergency financial assistance to certain cities; emergency financial assistance to eligible municipalities; supplemental municipal aid; and any successor type of aid and any new aid appropriated by the state as local government assistance for the benefit of the city.

23. "State aid revenues" means state aid paid by the state comptroller to the authority pursuant to this title.

24. "State comptroller" means the comptroller of the state.

§ 4052. Newburgh fiscal stability authority

1. There is hereby created the Newburgh fiscal stability authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. The authority shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly during a control period, and annually during an advisory period.

3. The authority shall continue until its control, advisory or other responsibilities, and its liabilities have been met or otherwise discharged, which in no event shall be later than December thirty-first, two thousand forty-four. Upon the termination of the authority, all of its property and assets shall pass to and be vested in the city.

§ 4053. Administration of the authority

1. The authority shall be administered by seven directors, four of which shall be appointed by the governor. Of the four directors, one such director shall be a resident of the city of Newburgh; one such director shall be appointed following the recommendation of the state comptroller; and one such director shall be appointed by the temporary president of the senate and one such director shall be appointed by the speaker of the assembly. The three remaining directors shall be the county executive of county, the city mayor and the city manager of Newburgh. Every director who is otherwise an elected or appointed official of the city or the county, shall be entitled to designate a single representative to attend, in his or her place, meetings of the authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the city of Newburgh. Written notice of such designation shall be furnished prior to any participation by the single designee. Such single designee shall serve at the pleasure of the

representative, and shall not be authorized to delegate any of his or her duties or functions to another person. Each director appointed by the governor shall be appointed for a term of four years, provided however, that one of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand fourteen, one of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand thirteen, one of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand twelve, and one of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand eleven. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter, each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson from among one of his or her appointees. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

3. The directors of the authority shall serve without salary, but each director shall be reimbursed for actual and necessary expenses incurred in the performance of such director's official duties as a director of the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority, nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

5. Four directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least four directors participating in a meeting at which such action is taken. Any one or more directors may participate in a meeting by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

6. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

7. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the authority shall report to the council, comptroller, the director of the budget, and the state comptroller on the amount of financing and the cost savings for the city over the past year.

8. The authority shall cease to exist on December thirty-first, two thousand forty-four.

§ 4054. General powers of the authority

Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;
2. to have a seal and alter the same at pleasure;
3. to make and alter by-laws for its organization and management and subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;
4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;
5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;
6. to borrow money and issue bonds, notes or other obligations, or to refund the same, and to provide for the rights of the holders of its bonds, notes or other obligations;
7. as security for the payment of the principal of and interest on any bonds, notes or other obligations issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;
8. to procure insurance, letters of credit or other credit enhancement with respect to its bonds, notes or other obligations, or facilities for the payment of tenders of such bonds, notes or other obligations or facilities for the payment upon maturity of short-term notes not renewed;
9. to enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may determine, not inconsistent with the general laws of this state and other provisions of this title, including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof; provided, however, that such exchanges or similar arrangements shall be limited to twenty-five percent of the amount authorized in subdivision one of section four thousand sixty-two of this title to pay the financeable costs described in paragraph (a), (c), (d) or (e) of subdivision fifteen of section four thousand fifty-one of this title;
10. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the city, county, state or federal government or any agency or instrumentality thereof, or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;
11. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States

government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked by two nationally recognized independent rating agencies at a rating category that is no lower than the then current rating of the authority's bonds, notes or other obligations, (d) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision, which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian;

12. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; provided that, in taking such actions, the authority shall consider the financial impact on the city and may, with the consent of the city, use such outside counsel, outside auditors and private financial consultants as may have been previously retained by the city, for purposes of rendering such professional, business or technical services and advice to the authority; and

13. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title; provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or

any interest therein other than a lease or sublease of office space deemed necessary or desirable by the authority.

§ 4055. Assistance to the authority; employees of the authority

1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of state or city agencies may be transferred to the authority without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York state and local employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system.

§ 4056. City fiscal year two thousand ten budget modification and four-year financial plan

1. Not later than September first, two thousand ten, the city shall submit to the authority a financial plan which may reflect a declaration of need as provided for in section four thousand sixty-one. The plan shall cover the city's two thousand ten fiscal year and the three subsequent fiscal years.

2. Not later than fifteen days after such submission, the authority shall approve or disapprove the financial plan.

3. In the event the authority shall disapprove such financial plan based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the city of its reasons. Within fifteen days from the receipt of such notification the city shall modify the financial plan, and unless such financial plan modification is approved by the authority, the authority shall impose a financial plan of its own formulation as soon as practicable, as provided for in section four thousand fifty-eight of this title.

§ 4057. City financial plans

1. Commencing with the city's two thousand eleven fiscal year, the city manager shall prepare and submit to the authority a four-year financial plan, and the city manager's proposed city budget, not later than the date required for submission of such budget to the council pursuant to the city charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending December thirty-first, two thousand eleven through two thousand fourteen, such plan may assume receipt by the city of NFSAs assistance in the following collective amounts for each respective fiscal year:

<u>Amount</u>	<u>Fiscal Year Ending</u>
2011 amount	2011
2012 amount	2012
2013 amount	2013
2014 amount	2014

As used in this subdivision:

"2011 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between thirty-five per centum and forty per centum of the projected gap. "2012 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between forty-five per centum and fifty per centum of the projected gap. "2013 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between sixty per centum and sixty-five per centum of the projected gap. "2014 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between eighty per centum and eighty-five per centum of the projected gap.

2. Each financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the city will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

(a) The city manager shall submit to the authority a certificate stating that the budget submitted to the authority is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(a-1) Prior to the approval or disapproval of the financial plan of the city by the authority, the authority shall request community or other entity or entities to seek public input and comment relating to the city's financial plan. Such community, or other entity or entities shall report to the authority on such public input and comment ten days after the city has submitted the financial plan to the authority.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of this section and section four thousand fifty-six of this title and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

(c) Upon the approval by the city of a budget in accordance with the provisions of the city charter, the city manager shall submit such approved budget and financial plan to the authority accompanied by expenditure, revenue and cash flow projections on a quarterly basis and certify

to the authority that such budget is consistent with the financial plan to be submitted to the authority.

(d) If the authority determines that the financial plan or financial plan modification provided pursuant to paragraph (c) or (f) of this subdivision or section four thousand fifty-six of this title is complete and complies with the standards set forth in this subdivision, the authority shall make a certification to the city setting forth revenue estimates agreed to by the authority in accordance with such determination.

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraph (c) or (f) of this subdivision, or section four thousand fifty-six of this title, provide notice thereof to the city, with copies to the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee, if, in the judgment of the authority, such plan: (i) is incomplete; (ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimations; (iii) fails to provide that operations of the city will be conducted within the cash resources available; or (iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the city and the city manager shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the city shall expend funds at a rate that would exceed the aggregate expenditure limitation for the city prior to the expiration of the fiscal year, the city manager shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the city fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding and shall, as soon as practicable thereafter, formulate and adopt a financial plan to be effective until the authority approves a financial plan submitted by the city. All budgets and operations of the city shall be in conformance and compliance with the financial plan then in effect.

(h) The city shall amend its budget or shall submit a financial plan modification for the approval of the authority such that the city's budget and the approved financial plan shall be consistent. In no event shall the city operate under a budget that is inconsistent with an approved financial plan.

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the authority may specify, and shall include the city, and shall, in such detail as the authority from time to time may prescribe, include statements of all estimated revenues and of all expenditures and cash flow projections of the city.

4. The financial plan shall include any information which the authority may request to satisfy itself that (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan, (b) the city is taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period, and (d) the city has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the city, for each fiscal year occurring during a control period, or while bonds, notes or other obligations issued pursuant to this title are outstanding, the city manager shall prepare a quarterly report of summarized budget data depicting overall trends, by major category within funds, of actual revenues and budget expenditures for the entire budget rather than individual line items, as well as updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith, with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the city manager to the council setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the council, the authority, the director of the budget and the state comptroller. For each fiscal year occurring during a control or advisory period or while bonds, notes or other obligations issued pursuant to this title are outstanding, the city manager shall submit a proposed budget or revision thereto to the authority concurrent with submission to the council, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the city manager to the authority pursuant to the provisions of this section, shall submit to the city such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such financial plan or modification as the city manager shall determine.

§4057-a Efficiency incentive grants

6. By November tenth, two thousand ten, the city shall develop and submit to the authority a plan for achieving recurring savings through innovations and reengineering. Subject to appropriations therefor in the state fiscal years two thousand eleven--two thousand twelve through two thousand fifteen--two thousand sixteen, the authority shall provide grants to support such city cost saving activities. State funding during such five year period shall not exceed twenty-five million dollars, or five million dollars annually, for grants provided pursuant to this section. Provided further, copies of such city plan shall be submitted to the director of the budget, the chair of the state senate finance committee and the chair of the state assembly ways and means committee.

§ 4058. Control period

1. A control period shall begin as of the effective date of this title and may be reimposed during an advisory period if the authority determines at any time that a fiscal crisis is imminent or that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the city shall have failed to adopt a balanced budget, financial plan or budget modification as required by sections four thousand fifty-six and four thousand fifty-seven of this title, (b) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due, (c) the city shall have incurred an operating deficit of one percent or more in the aggregate results of operations of any major fund of the city during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title, (d) the chief fiscal officer's certification at any time, at the request of the authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time such officer could not make the certification described in subdivision one of section four thousand fifty-one of this title, or (e) the city shall have violated any provision of this title. A control period shall terminate when the authority has determined that the city qualifies for the onset of an advisory period as provided under subdivision one of section four thousand fifty-one of this title. After onset of an advisory period, the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the chief fiscal officer hereunder shall be based on such officer's written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond December thirty-first, two thousand forty-four.

2. In carrying out the purposes of this title during any control period, the authority:

(a) shall approve or disapprove the financial plan and the financial plan modifications of the city, as provided in sections four thousand fifty-six and four thousand fifty-seven of this title, and shall formulate and adopt its own modifications to the financial plan, as necessary; such modifications shall become effective upon their adoption by the authority;

(b) may impose a wage and/or hiring freeze: (i) During a control period, upon a finding by the authority that a wage and/or hiring freeze is essential to the adoption or maintenance of a city budget or a financial plan that is in compliance with this title, the authority shall be empowered to order that all increases in salary or wages of employees of the city which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the city which will take effect

after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any other suspended payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, this subdivision shall not be applicable to employees of the city subject to a collective bargaining agreement or an employee of the city not subject to a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. Any such agreement to a deferral of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable;

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter;

(c) shall periodically evaluate the suspension of salary or wage increases or suspensions of other increased payments or benefits, and may, if it finds that the fiscal crisis, in the sole judgment of the authority has abated, terminate such suspensions;

(d) shall review and approve or disapprove any collective bargaining agreement to be entered into by the city, or purporting to bind, the city. Prior to entering into any collective bargaining agreement, the city shall submit a copy of such collective bargaining agreement to the authority, accompanied by an analysis of the projected costs of such agreement and a certification that execution of the agreement will be in accordance with the financial plan. Such submission shall be in such form and include such additional information as the authority may prescribe. The authority shall promptly review the terms of such collective bargaining agreement and the supporting information in order to determine compliance with the financial plan, and shall disapprove any collective bargaining agreement which, in its judgment, would be inconsistent with the financial plan. No collective bargaining agreement binding, or purporting to bind, the city after the effective date of this title shall be valid and binding upon the city unless first approved by resolution of the authority;

(e) shall act jointly with the city in selecting members of any interest arbitration panel. Notwithstanding any other evidence presented by the city, or any recognized employee organization, the arbitration panel must, prior to issuing any final decision, provide the authority with the opportunity to present evidence regarding the fiscal condition of the city;

(f) shall take any action necessary in order to implement the financial plan should the city have failed to comply with any material action necessary to fulfill the plan, provided, however, the

authority shall provide seven (7) days notice of its determination that the city has not complied prior to taking any such action;

(g) may review and approve or disapprove contracts or other obligations binding or purporting to bind the city;

(h) shall, with respect to any proposed borrowing by or on behalf of the city on or after July first, two thousand ten, review the terms of and comment, within thirty days after notification by the city of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the city of a proposed borrowing to the city manager, the comptroller, the council, the director of the budget and the state comptroller and indicate approval or disapproval of the proposed borrowing. Notwithstanding the foregoing, the city shall not be prohibited from issuing bonds or notes to pay outstanding bonds or notes;

(i) may review the operation, management, efficiency and productivity of the city as the authority may determine, and make reports thereon; examine the potential to enhance the revenue of the city; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue, and improve services so as to advance the purposes of this title;

(j) may require the city to undertake certain actions to advance serious and in-depth exploration of a merger of services with the county, adjoining towns and the enlarged city school district of the city of Newburgh, including identification and analysis of options; development of a detailed fiscal and programmatic plan; identification of city, county, and state impediments; and fostering of informed public debate;

(k) may review and approve or disapprove the terms of any proposed settlement of claims against the city in excess of one hundred thousand dollars;

(l) may obtain from the city, comptroller, and the state comptroller, as appropriate, all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city as the authority deems necessary or desirable to accomplish the purposes of this title;

(m) may perform such audits and reviews of the city and any agency thereof as it deems necessary; and

(n) may issue, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, to the appropriate official of the city, such orders necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in subdivision three of this section.

3. (a) During any control period (i) no officer or employee of the city shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the city shall involve the city in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in compliance with the approved financial plan as then in effect.

(b) No officer or employee of the city shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employee of the city who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the city manager; and any officer or employees of the city who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the city, the city manager shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.

§ 4059. Advisory period

1. During any advisory period the authority shall:

(a) obtain from the city and the state comptroller, all information, financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city as the authority deems necessary or desirable to accomplish the purposes of this title;

(b) review the operation, management, efficiency and productivity of city operations as the authority may determine, and make reports and recommendations thereon; examine the potential to enhance the revenue of the city; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue and improve services so as to advance the purposes of this title;

(c) comment on the provisions of the budget, the financial plan and the financial plan modifications of the city as the authority deems necessary or appropriate;

(d) review and comment on the terms of any proposed borrowing, including the prudence of each proposed issuance of bonds or notes to be issued by the city; and

(e) assess the impact of any collective bargaining agreement to be entered into by the city and such contracts, that, in the judgment of the authority, may have a significant impact on the city's long-term fiscal condition.

2. During any advisory period, the city shall promptly provide all information requested by the authority, review the comments, assessments, reports and recommendations of the authority and publicly respond thereto, addressing such matters as have been raised by the authority.

§ 4060. Additional provisions

1. Notwithstanding any provision to the contrary in title six-A of article two of the local finance law, the city shall not file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds, notes or other obligations issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the city within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the city that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval thereof.

2. Nothing contained in this title shall limit the right of the city to comply with the provisions of any existing contract within or for the benefit of the holders of any bonds or notes of the city.

3. Nothing contained in this title shall be construed to limit the power of the city to determine, from time to time, within available funds for the city, the purposes for which expenditures are to be made by the city and the amounts of such expenditures, consistent with the aggregate expenditures then permitted under the financial plan for the city.

4. The authority's fiscal year shall be January first through December thirty-first.

5. The authority shall adopt guidelines for procurement contracts in accordance with section twenty-eight hundred seventy-nine of this chapter, subject to the provisions of subdivision 12 of section four thousand fifty-four of this title.

§ 4061. Declaration of need for financing assistance to the city

1. The city shall determine and declare whether it requests the authority to undertake a financing of costs. Any such request shall be made by and through the city manager after approval by the council. Any such financing shall be consistent with the adopted budget and financial plan of the city required under sections four thousand fifty-six and four thousand fifty-seven of this title, as applicable.

2. Upon declaration by the city of such need, the city manager shall request that the authority provide financing in accordance with the provisions of this title.

3. Upon approval by the authority, in its discretion in accordance with the provisions of this title, of such financing request, the authority may enter into agreements with the city, and the city, acting by the city manager, approved by the council, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the

authority, the application of revenues to the authority to secure its bonds, notes or other obligations, and further assurances in respect of the authority's receipt of such revenues and the fiscal affairs of the city, including but not limited to the manner of preparation of budget reports and financial plans as provided for in sections four thousand fifty-six and four thousand fifty-seven of this title, as applicable. The authority's revenues shall not be deemed funds of the city. Any such agreements with the city may be pledged by the authority to secure its bonds, notes or other obligations and may not be modified thereafter except as provided by the terms of the pledge.

4. Such agreements with the city shall (a) describe the particular financeable costs to be financed in whole or in part by the authority, (b) describe the plan for the financing of the costs, (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the city, (d) where appropriate, provide for the payment of such costs by the city under such contracts as shall be awarded by the city or for the city to make a capital contribution of such proceeds as city funds to another entity for the payment or reimbursement of such costs, and (e) require every contract entered into by the city, or another entity receiving funds from the city, for costs to be financed in whole or in part by the authority to be subject to the provisions of the city charter and other applicable laws governing contracts of the city or such entity, as the case may be.

5. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the city manager shall report to the authority, the comptroller, the council, the state comptroller, the chairs of the senate finance committee and the assembly ways and means committee, and the director of the budget on the costs financed by the authority and the amount of such financing over the past year, which report shall describe, by reference to the specific items in the city's budget or financial plan, its compliance therewith.

§ 4062. Bonds, notes or other obligations of the authority

1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in such principal amounts as it may determine to be necessary pursuant to section four thousand sixty-one of this title to pay any financeable costs and to fund reserves to secure such bonds, notes or other obligations, including incidental expenses in connection therewith; provided, however, the aggregate principal amounts of such bonds, notes or other obligations outstanding at any one time shall not exceed sixty million dollars, and such bonds shall be tax exempt to the maximum extent practicable, as provided by section four thousand sixty-nine of this title. Bonds, notes or other obligations issued by the authority to (a) pay reasonable costs of issuance, as determined by the authority, (b) establish debt service reserve funds, or (c) refund or advance refund any outstanding bonds or notes of the city or the authority shall not count against the above limit on outstanding bonds, notes or other obligations of the authority, nor shall any accretion of principal of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, count against such limit.

2. The authority may issue bonds, notes or other obligations to refund bonds, notes or other obligations previously issued, but in no event shall the final maturity of any bonds, notes or other obligations of the authority be later than December thirty-first, two thousand forty-four. No

bond of the authority shall mature more than thirty years from the date of its issue, or after December thirty-first, two thousand forty-four, whichever date is earlier.

3. Bonds, notes or other obligations of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the financial terms of bonds, notes or other obligations.

5. The authority in its sole discretion, upon input and advice from the city, shall determine that the issuance of its bonds, notes or other obligations is appropriate. Bonds, notes or other obligations shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No bonds, notes or other obligations of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the state comptroller where such sale is not to the state comptroller, or (b) the director of the budget, where such sale is to the state comptroller.

6. Any resolution or resolutions authorizing bonds, notes or other obligations or any issue of bonds, notes or other obligations may contain provisions which may be a part of the contract with the holders of the bonds, notes or other obligations thereby authorized as to: (a) pledging all or part of the authority's revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, notes or other obligations, subject to such agreements with bondholders as may then exist; (b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof; (c) limitations on the purposes to which the proceeds from the sale of bonds, notes or other obligations may be applied; (d) limitations on the issuance of additional bonds, notes or other obligations, the terms upon which additional bonds, notes or other obligations may be issued and secured and the refunding of bonds, notes or other obligations; (e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given; (f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section four thousand sixty-three of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and (g) defining the acts or omissions of the authority to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions of the authority to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

7. In addition to the powers conferred upon the authority in this section to secure its bonds, notes or other obligations, the authority shall have power in connection with the issuance of bonds, notes or other obligations to enter into such agreements for the benefit of the bondholders as the

authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds, notes or other obligations of the authority.

8. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed to be valid and binding.

9. Whether or not the bonds, notes or other obligations of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds, notes or other obligations are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

10. Neither the directors of the authority nor any person executing bonds, notes or other obligations shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds, notes or other obligations of the authority shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds, notes or other obligations shall contain on the face thereof a statement to such effect.

11. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds, notes or other obligations of the authority out of any moneys available therefor, which shall thereupon be canceled.

§ 4063. Remedies of bondholders

Subject to any resolution or resolutions adopted pursuant to paragraph (f) of subdivision six of section four thousand sixty-two of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds, notes or other obligations after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, notes, or other obligations, the holders of at least twenty-five per centum in aggregate principal amount of the bonds, notes

or other obligations of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds, notes or other obligations outstanding shall, in his or her or its own name: (a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds, notes or other obligations and to perform its duties under this title; (b) bring an action or proceeding upon such bonds, notes or other obligations; (c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds, notes or other obligations; and (d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, notes or other obligations.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bond holders in the enforcement and protection of their rights.

4. The supreme court of the county shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders.

§ 4064. Intercept of city tax revenues and state aid revenues

1. The state comptroller, in accordance with section twelve hundred sixty-one of the tax law, shall pay at least monthly to the authority, for the period beginning upon the effective date of this title through December thirty-first, two thousand forty-four, the city tax revenues from the county's taxes imposed pursuant to the authority of section twelve hundred ten of the tax law. During such period, the county shall impose such taxes at a rate of no less than three percent. In addition, during such period, the state comptroller shall make such payments of city tax revenues to the authority pursuant to the then current agreement under subdivision (c) of section twelve hundred sixty-two of the tax law among the county and the other cities, towns and villages within the county; provided however, in the event that such agreement shall have expired or been terminated during such period, notwithstanding any other provision of general, special or local law to the contrary, the state comptroller shall make such payments pursuant to the provisions of paragraph two of subdivision (d) of section twelve hundred sixty-two of the tax law.

2. Commencing on the effective date of this title, and until December thirty-first, two thousand forty-four, the state comptroller shall pay state aid revenues to the authority.

3. The city shall have no right, title, or interest in the city tax revenues or state aid revenues paid to the authority pursuant to this section.

§ 4065. Resources of the authority

1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived including (a) city tax revenues; (b) state aid revenues; (c) the proceeds of bonds, notes or other obligations; and (d) any other payments, gifts or appropriations to the authority from any other source.

2. Subject to the provisions of any contract with bondholders, (a) the money of the authority shall be paid to the authority and shall not be commingled with any other money, and (b) all money received by the authority which, together with other money of the authority available for the expenses of the authority, the payment of debt service and payments to reserve funds, exceeds the amount required for such purposes, as determined by the authority, shall be transferred to the city as frequently as practicable, but in no case less than monthly.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the city at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds, notes or other obligations as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds, notes or other obligations or in any way to secure bonds, notes or other obligations, and deposits of such money, may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Revenues of the authority shall be applied in the following order of priority: first to pay debt service on the authority's bonds, notes, or other obligations; then to pay the authority's operating expenses not otherwise provided for; and then, subject to the authority's agreements with the city, to transfer the balance of revenues not required to meet contractual or other obligations of the authority to the city as frequently as practicable, but in no case less than monthly.

6. (a) Any such payment of state aid revenues to the authority shall not obligate the state to make available, nor entitle the city to receive, any additional state aid.

(b) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions. Any provision with respect to state aid or state aid revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the state beyond the moneys available for that purpose, and any

such payment by the comptroller of state aid revenues is subject to annual appropriation of state aid by the state legislature.

(c) Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any provision relating to state aid to municipalities. The authority shall include within any resolution, contract, or agreement with holders of its bonds, notes or other obligations a provision which states that no default occurs as a result of the state's exercising its right to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any other provision relating to state aid to municipalities.

§ 4066. Agreement with the state

1. The state does hereby pledge to and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations for so long as such bonds, notes or other obligations are outstanding and until all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid, or (b) statutes imposing or relating to taxes or fees, or appropriations relating thereto.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid or (b) such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 4067. Agreement with the city

The city hereby covenants and agrees with the holders of bonds, notes or other obligations issued by the authority pursuant to this title, that the city will not take actions which limit, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations while such bonds, notes or other obligations are outstanding.

§ 4068. Bonds, notes or other obligations legal for investment and deposit

The bonds, notes or other obligations of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians,

executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds, notes or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds, notes or other obligations are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds, notes or other obligations of the state is now or may hereafter be authorized.

§ 4069. Tax exemption

1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon income or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds, notes or other obligations issued pursuant to this title, and the income therefrom shall, to the maximum extent practicable, be exempt from taxation.

§ 4070. Actions against the authority

1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer

or employee thereof designated for such purpose, concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, notes or other obligations, shall not exceed the maximum rate of interest on judgments and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds, notes or other obligations in default shall accrue at the rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be the supreme court in the county.

6. Neither any director of the authority nor any officer, employee, or agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this title.

7. Indemnification. (a) The state shall hold harmless and indemnify directors, officers and employees of the authority, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, or employee occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of the authority shall be held harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he or she reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that his or her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other

benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 4071. Audits. 1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the city, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

2. For each fiscal year during the existence of the authority, and within one hundred eighty days after the close of the city's fiscal year, the city shall submit its audited financial statements to the authority.

§ 4072. Effect of inconsistent provisions

Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 4073. Separability; construction

If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

§ 4. Subdivision (a) of section 1261 of the tax law, as separately amended by chapter 84 and section 2 of part A of chapter 88 of the laws of 2000, sections 3 and 4 chapter 122 of the laws of 2003, section 13 of chapter 86 of the laws of 2004, section 7 of part C of chapter 58 of the laws of 2005, and sections 4 and 5 of chapter 182 of the laws of 2005, is amended to read as follows:

(a) All taxes, penalties and interest imposed by cities, counties or school districts under the authority of section twelve hundred ten, twelve hundred eleven, twelve hundred twelve or twelve hundred twelve-A of this article, which are collected by the commissioner, shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the state comptroller, to the credit of the comptroller, in trust for the cities, counties or school districts imposing the tax or for (i) the Nassau county interim finance authority or (ii) the Buffalo fiscal stability authority or (iii) the Erie county fiscal stability authority or (iv) the Newburgh fiscal stability authority, created by the public authorities law, (i) to the extent that net collections

from taxes imposed by Nassau county are payable to the Nassau county interim finance authority or (ii) to the extent that net collections from taxes imposed by Erie county are payable to the Buffalo fiscal stability authority or (iii) to the extent that net collections from taxes imposed by Erie county are payable to the Erie county fiscal stability authority or (iv) to the extent that net collections from taxes imposed by Orange county are payable to the Newburgh fiscal stability authority, or for any public benefit corporation to which the tax may be payable pursuant to law. Such deposits and deposits received pursuant to subdivision (b) of section twelve hundred fifty-two of this article shall be kept in trust and separate and apart from all other monies in the possession of the comptroller. The comptroller shall require adequate security from all such depositories of such revenue collected by the commissioner, including the deposits received pursuant to subdivision (b) of section twelve hundred fifty-two of this article. Any amount payable to such authorities pursuant to the public authorities law shall, at the time it is otherwise payable to (i) Nassau county, (ii) Erie county or the city of Buffalo, or (iii) Erie county, or (iv) Orange county, respectively, as specified in this section, be paid instead to such respective authority. Any amount payable to a public benefit corporation pursuant to law shall, at the time it is otherwise payable to the taxing jurisdiction as specified in this section, be paid instead to such public benefit corporation.

§ 5. Subdivision (c) of section 1261 of the tax law, as separately amended by chapter 84 and section 2 of part A of chapter 88 of the laws of 2000, sections 3 and 4 chapter 122 of the laws of 2003, section 13 of chapter 86 of the laws of 2004, section 7 of part C of chapter 58 of the laws of 2005, and sections 4 and 5 of chapter 182 of the laws of 2005, is amended to read as follows:

(c) (1) The comptroller, after reserving such refund fund and such costs shall, on or before the twelfth day of each month pay to the appropriate fiscal officers of the foregoing taxing jurisdictions the taxes, penalties and interest imposed by such jurisdictions under the authority of sections twelve hundred ten through twelve hundred twelve-A, collected by the commissioner pursuant to this article during the next preceding calendar month, provided, however, that the comptroller shall on or before the last day of June and December make a partial payment consisting of the collections made during and including the first twenty-five days of said months to said fiscal officers of the foregoing taxing jurisdictions.

(2) However, the taxes, penalties and interest from the additional one percent rate which the city of Yonkers is authorized to impose pursuant to section twelve hundred ten of this article, after the comptroller has reserved such refund fund and such cost shall be paid to the special sales and compensating use tax fund for the city of Yonkers established by section ninety-two-f of the state finance law at the times set forth in the preceding sentence.

(3) However, the taxes, penalties and interest which (i) the county of Nassau, (ii) the county of Erie, to the extent the county of Erie is contractually or statutorily obligated to allocate and apply or pay net collections to the city of Buffalo and to the extent that such county has set aside net collections for educational purposes attributable to the Buffalo school district, or the city of Buffalo, (iii) the county of Erie or (iv) the county of Orange, is authorized to impose pursuant to section twelve hundred ten of this article, other than such taxes in the amounts described, respectively, in subdivisions one and two of section one thousand two hundred

sixty-two-e of this part, during the period that such section authorizes Nassau county to establish special or local assistance programs thereunder, together with any penalties and interest related thereto, and after the comptroller has reserved such refund fund and such costs, shall, commencing on the next payment date after the effective date of this sentence and of each month thereafter, until such date as (i) the Nassau county interim finance authority shall have no obligations outstanding, or (ii) the Buffalo fiscal stability authority shall cease to exist, (iii) the Erie county fiscal stability authority shall cease to exist, or (iv) the Newburgh fiscal stability authority shall cease to exist, be paid by the comptroller, respectively, to (i) the Nassau county interim finance authority to be applied by the Nassau county interim finance authority, or (ii) to the Buffalo fiscal stability authority to be applied by the Buffalo fiscal stability authority, (iii) to the Erie county fiscal stability authority to be applied by the Erie county fiscal stability authority, or (iv) to the Newburgh fiscal stability authority to be applied by the Newburgh fiscal stability authority as the case may be, in the following order of priority: first pursuant to the Nassau county interim finance authority's contracts with bondholders or the Buffalo fiscal stability authority's contracts with bondholders or the Erie county fiscal stability authority's contracts with bondholders or the Newburgh fiscal stability authority's contracts with bondholders, respectively, then to pay the Nassau county interim finance authority's operating expenses not otherwise provided for or the Buffalo fiscal stability authority's operating expenses not otherwise provided for or the Erie county fiscal stability authority's operating expenses not otherwise provided for or the Newburgh fiscal stability authority's operating expenses not otherwise provided for, respectively, and then (i) pursuant to the Nassau county interim finance authority's agreements with the county of Nassau, which agreements shall require the Nassau county interim finance authority to transfer such taxes, penalties and interest remaining after providing for contractual or other obligations of the Nassau county interim finance authority, and subject to any agreement between such authority and the county of Nassau, to the county of Nassau as frequently as practicable; or (ii) pursuant to the Buffalo fiscal stability authority's agreements with the city of Buffalo, which agreements shall require the Buffalo fiscal stability authority to transfer such taxes, penalties and interest remaining after providing for contractual or other obligations of the Buffalo fiscal stability authority, and subject to any agreement between such authority and the city of Buffalo, to the city of Buffalo or the city of Buffalo school district, as the case may be, as frequently as practicable; or (iii) pursuant to the Erie county fiscal stability authority's agreements with the county of Erie, which agreements shall require the Erie county fiscal stability authority to transfer such taxes, penalties and interest remaining after providing for contractual or other obligations of the Erie county fiscal stability authority, and subject to any agreement between such authority and the county of Erie, to the county of Erie as frequently as practicable; or (iv) pursuant to the Newburgh fiscal stability authority's agreements with the city of Newburgh, which agreements shall require the Newburgh fiscal stability authority to transfer such taxes, penalties and interest remaining after providing for contractual or other obligations of the Newburgh fiscal stability authority, and subject to any agreement between such authority and the city of Newburgh, to the city of Newburgh, as the case may be, as frequently as practicable. During the period that the comptroller is required to make payments to the Nassau county interim finance authority described in the previous sentence, the county of Nassau shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Nassau county interim finance authority, except as provided in such authority's agreements with the county of Nassau. During the period

that the comptroller is required to make payments to the Buffalo fiscal stability authority described in the second previous sentence, the city of Buffalo and such school district shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Buffalo fiscal stability authority, except as provided in such authority's agreements with the city of Buffalo. During the period that the comptroller is required to make payments to the Erie county fiscal stability authority described in the third previous sentence, the county of Erie shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Erie county fiscal stability authority, except as provided in such authority's agreements with the county of Erie. During the period that the comptroller is required to make payments to the Newburgh fiscal stability authority described in the third previous sentence, the city of Newburgh shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Newburgh fiscal stability authority, except as provided in such authority's agreements with the city of Newburgh.

(4) The amount so payable shall be certified to the comptroller by the commissioner or the commissioner's delegate, who shall not be held liable for any inaccuracy in such certificate. Provided, however, any such certification may be based on such information as may be available to the commissioner at the time such certificate must be made under this section and may be estimated on the basis of percentages or other indices calculated from distributions for prior periods.

(5) However, the comptroller shall withhold from the taxes, penalties and interest imposed by the city of New York on and after August first, two thousand eight, and deposit such amounts to the state treasury as reimbursement for appropriated disbursements made by the New York state financial control board established by the New York state financial emergency act for the city of New York and by the state deputy comptroller for the city of New York established by section forty-one-a of the executive law, as the actual, reasonable expenses of that board or that deputy comptroller, incurred on behalf of the city, for quarterly periods commencing July first, two thousand eight, and ending on the date when those expenses are no longer incurred by that board or deputy comptroller; and the comptroller shall pay those withheld amounts immediately into the miscellaneous special revenue fund financial control board account 339-15 and the miscellaneous special revenue fund financial oversight account 339-DI of the state. During the period that the comptroller is required to withhold amounts and make payments described in this paragraph, the city of New York has no right, title or interest in or to those taxes, penalties and interest required to be paid into the above referenced miscellaneous special revenue funds.

(6) Where the amount so paid over to any city, county, school district or the special sales and compensating use tax fund for the city of Yonkers in any such distribution or to any such authority is more or less than the amount then due to such city, county, school district or such fund or to such authority, the amount of the overpayment or underpayment shall be certified to the comptroller by the commissioner or the commissioner's delegate, who shall not be held liable for any inaccuracy in such certificate. The amount of the overpayment or underpayment shall be so certified to the comptroller as soon after the discovery of the overpayment or underpayment as reasonably possible and subsequent payments and distributions by the comptroller to such city, county, school district or the special sales and compensating use tax fund for the city of Yonkers or to such authority shall be adjusted by subtracting the

amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the comptroller and the commissioner shall consider reasonable in view of the amount of the overpayment or underpayment and all other facts and circumstances.

§ 6. Subdivision (d) of section 1262 of the tax law, as amended by chapter 1190 of the laws of 1971, the opening paragraph as amended and the second undesignated paragraph as added by chapter 444 of the laws of 1996, and the closing paragraph as amended by chapter 678 of the laws of 1973, is amended to read as follows:

(d) (1) Where a county and a city therein both impose the same taxes described in sections twelve hundred two, twelve hundred three or twelve hundred ten, the county shall have power to impose or continue to impose such taxes on the area of the county outside such city up to the maximum rate authorized therefor. In such event, the portion of the net collections received by the county by reason of its additional rate on such area, shall be allocated quarterly to the several cities and towns in such area on the basis of the ratio which the full valuation of real property in each city or town bears to the aggregate full valuation of real property in all of the cities and towns in such area provided, however, that, in such event, in Niagara county, such portion of net collections received by Niagara county shall be allocated quarterly to the several cities and towns in such area on the basis of the ratio which the population of each city or town bears to the aggregate population of all of the cities and towns in such area, such populations determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county. The amount allocated to each town shall be applied first to reduce county taxes levied upon real property in such town and any balance remaining shall be applied to reduce general town taxes levied upon real estate; provided, however, that any town or village other than any town or village within a county having a population of one million or more and containing not more than three towns, shall have power, in the manner provided in subdivision (c) of this section, to elect to receive a direct payment of the amounts which would be so applied to reduce county taxes and general town taxes levied upon real property in such town or village. Where any village has elected to be paid directly as provided in this subdivision, the amount to be paid to such village shall be determined by the ratio that the full valuation of real property in the village or portion thereof within the town in which such village is located bears to the full valuation of real property in the entire town. If a village wholly or partially within a town has so elected to be paid directly, but the town in which such village is located has not so elected, the amount allocated to the town in which such village is wholly or partially situated shall be applied to reduce county taxes and general town taxes in the area of the town outside such village or villages. If the amount allocated to a town exceeds the amount of the county taxes and general town taxes levied upon real property in the town, the excess shall be apportioned between the town and each village, if any, wholly or partially situated therein, and paid over or applied in the manner provided in subdivision (c) of this section. The amount allocated to each city in such area shall be similarly applied to reduce county taxes levied upon real property in such city, except that if any such city except any city within a single county having a population of one million or more and containing no more than three towns, shall so provide in the manner provided in subdivision (c) of this section, the amount which would be so applied to reduce county taxes levied upon real property in such city shall be paid directly to the city in lieu of

such tax reduction. If the amount allocated to the city exceeds the amount of the county tax levied upon real property in the city, such excess shall be paid to the city.

Notwithstanding any provision of this section to the contrary, where a municipal assistance corporation has been created under article ten of the public authorities law for a city located in a county, any amount which such county allocates to such city under this subdivision shall be payable directly to such city and shall not be provided by reduction of the county tax levied upon real property in such city for so long as such municipal assistance corporation shall exist.

Any local law, ordinance or resolution enacted by a city, town or village pursuant to this subdivision shall only be effective for the calendar year or years subsequent too to its enactment and, further, shall only be effective if it is mailed by registered or certified mail to the chief fiscal officer of the county in which the city, or town or village is located before the first day of September preceding the calendar year for which the election is made by such local law, ordinance or resolution. Such local law, ordinance or resolution shall remain in effect for subsequent calendar years until rescinded by local law, ordinance or resolution, but the enactment shall rescind the election only if it is mailed, in the same manner already provided for in this subdivision, to the chief fiscal officer of the county in which the city, town or village is located before the first day of September preceding the calendar year for which the rescission rescission to apply. The foregoing provisions of this paragraph notwithstanding, where a county imposes a sales and use tax to be effective on a date after the adoption of its budget but within the fiscal year for which such budget has been adopted, and the estimated revenues from such tax include net collections received by the county by reason of its additional rate on the area of the county outside a city imposing the same taxes, and such net collections have not been included in budget revenues for such fiscal year for allocation in reduction of taxes on real property as provided in this subdivision, a local law, ordinance or resolution enacted by a city, town or village pursuant to this subdivision shall be effective as of the effective date of such tax if mailed by registered or certified mail to the chief fiscal officer of the county in which the city, town or village is located within thirty days after the enactment by the county of the local law, ordinance or resolution imposing such tax.

(2) Notwithstanding any provision of general, special or local law to the contrary, if at any time from the effective date of the Buffalo fiscal stability authority act until June thirtieth, two thousand thirty-seven any city in the county of Erie imposes sales and compensating use taxes described in section twelve hundred ten of this article, then the county of Erie shall not be required to allocate under paragraph one of this subdivision, any net collections from its taxes imposed during such period; instead it shall continue to allocate net collections from its taxes to any city in the county which does not impose such taxes and to the area of the county outside the cities, in accordance with the terms of the most current agreement among such county and the cities in the county entered into pursuant to subdivision (c) of this section.

(3) Notwithstanding any provision of general, special or local law to the contrary, if at any time from the effective date of the Erie county fiscal stability authority act until December thirty-first, two thousand thirty-nine any city in the county of Erie imposes sales and compensating use taxes described in section twelve hundred ten of this article, then the county of Erie shall not be required to allocate under paragraph one of this subdivision, any net collections from its taxes imposed during such period; instead it shall continue to allocate net collections from its taxes to

any city in the county which does not impose such taxes and to the area of the county outside the cities, in accordance with the terms of the most current agreement among such county and the cities in the county entered into pursuant to subdivision (c) of this section.

(4) Notwithstanding any provision of general, special or local law to the contrary, if at any time from the effective date of the Newburgh fiscal stability authority act until December thirty-first, two thousand forty-four any city in the county of Orange imposes sales and compensating use taxes described in section twelve hundred ten of this article, then the county of Orange shall not be required to allocate under paragraph one of this subdivision, any net collections from its taxes imposed during such period; instead it shall continue to allocate net collections from its taxes to any city in the county which does not impose such taxes and to the area of the county outside the cities, in accordance with the terms of the most current agreement among such county and the cities, towns and villages within the county entered into pursuant to subdivision (c) of this section.

(5) Notwithstanding any provision of law to the contrary, for purposes of this subdivision, a county and a city in such county shall not be deemed to impose different taxes because one makes the election described in subdivision (m) of section eleven hundred eleven of this chapter and the other does not make such election.

§ 7. If any section, part or provision of this act shall be adjudged unconstitutional or invalid or ineffective by any court of this state, any party in interest shall have a direct appeal as of right to the court of appeals of the state of New York, and such appeal shall have preference over all other causes. Service upon the adverse party of a notice of appeal shall stay the effect of the judgment or order appealed from pending the hearing and determination of the appeal.

§ 8. Separability. If any clause, sentence, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be unconstitutional, invalid, or ineffective, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 9: This act shall take effect immediately.

RESOLUTION NO.: 112 - 2010

OF

MAY 24, 2010

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A
GRANT FROM THE UNITED STATES DEPARTMENT OF HOMELAND
SECURITY FOR THE CITY OF NEWBURGH FIRE DEPARTMENT
AND AMEND THE 2010 BUDGET
OF THE CITY OF NEWBURGH TO PROPERLY BUDGET THEREFOR**

WHEREAS, this Council wishes to accept a grant enumerated on Exhibit A attached hereto, and to amend the 2010 Budget of the City to properly budget therefor,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby accepts said Grant; and

BE IT FURTHER RESOLVED, that Resolution 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended as set forth on the attached Exhibit A.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

112-10

EXHIBIT A

GRANT FUND
 US Department of
 Homeland Security
 4/23/10-4/22/11
 CFDA #97-044
 Thermal imaging camera & hose
 Homeland Security Grant
Contribution From General Fund
TOTAL

Expenditures	Revenues	FUND	DEPT	ITEM	PROJ	LOCATION
69,000				CG		
	62,100		3412	0205	4000	2010
	6,900		3412	4390	4000	2010
			3412	5031	4000	2010
69,000	69,000					

GENERAL FUND

Fire Equipment & Cap, Other Equip
 Operating Transfer to Grant Fund
TOTAL

Increase	Decrease	FUND	DEPT	ITEM	PROJ	LOCATION
6,900				A		
	6,900		3412	0205		
			9901			
6,900	6,900					

RESOLUTION NO.: 113 - 2010

OF

MAY 24, 2010

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
WITH THE LOCAL 589 INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS**

WHEREAS, the City of Newburgh and the Local 589 International Association of Fire Fighters (hereafter "Local 589"), are parties to a collective bargaining agreement; and

WHEREAS, the City and Local 589 are desirous of improving Fire Department services for the benefit of the resident of the City; and

WHEREAS, the City Council of the City of Newburgh wishes to explore Fire Department based Emergency Medical Services and expanding Fire Department based Code Enforcement; and

WHEREAS, the City Council has reviewed the terms of the Memorandum of Understanding, a copy of which is annexed hereto, and has consulted with the representatives of the City, who have recommended that the City Council approve the agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to execute on behalf of the City of Newburgh, the Memorandum of Understanding annexed hereto, or in substantially the same form.

Mayor Valentine said that this is for a time period through September for the Fire Department to explore based emergency medical service and code enforcement. This is on their dime. They are doing the research and the work. They will bring their findings back to the Council in a timely manner to see if this is feasible, cost effective and what the benefits are. At that point, it becomes the City Council's decision to either accept in part or whole or to reject in part or whole just like any other resolution. There is no commitment to start or establish anything. This is an exploratory operation from the members of the Fire Department to do this and the reason behind it is to manage manpower. Unless they continue to think outside the box and think of ways to expand their services their numbers are in jeopardy.

Fire Chief, Michael Vatter said that this is for an opportunity to explore the possibility and the Council will have the right to say yes or no in September. They are trying to do some other things and the unofficial goal is to come up with \$800,000.00 to give back to the City. He will gladly take advice, information or answer any questions on how to do this.

Councilwoman Bello said that she has some serious concerns about this. This resolution gives Local 589 the authority to explore taking over the responsibilities that are currently held by Code Compliance officers who are CSEA members without input from the CSEA. She believes that if we approve this memorandum with Local 589, we are going to be obligated to fund a counter proposal from the CSEA workers. If not, we may be subject to unfair labor practices and possible lawsuits. There is no cost factor in this Memorandum of Understanding and to vote for it is equivalent to signing a blank check. She would also like to know what legal right does this Council have to use taxpayer dollars to fund a union proposal. This idea of EMS is not provided for in our Charter and she thinks that this whole thing is premature. She applauds the Fire Department for coming up with revenue generating ideas but it is not up to the taxpayers to fund a union proposal. She added that in this Memorandum of Understanding we are appointing people to positions that currently do not exist and will be promoted to Supervisor. They just had problems in Montgomery with their police department for the same thing which she believes is a violation of Civil Service procedures. We haven't even heard from the people yet because there has not been a public hearing on whether the people even want to entertain this. She thinks that this is premature and if anyone thinks that the cost for the start up of this would be added to deficit financing then that would be shameful to consider.

Councilwoman Bell said that the way she looks at it is that we have asked every Department to come up with some creative, out of the box thinking ways to generate some revenue. If we don't, then the responsibility for that money is on your back and hers in terms of tax bills and she can't afford to pay more taxes. If they are willing to do this study to see if it is plausible then there is no way she is going to shut them down before they have a chance to look at everything and come back to tell us what they found. When they come back and tell us what they have found then we are at that time able to say yes or no. To shut down before we allow them to do what we asked she feels would be wrong.

Councilwoman Bello asked for a legal opinion on whether we can take one union and have them infringe on the rights of another union in this City and not be subject to lawsuits ourselves. This is a union proposal and if they want to explore it on their own dime she thinks that is wonderful but to ask

for taxpayer dollars to do this is not right. We are allowing the firefighters to consider bargaining for the responsibilities that are currently held by CSEA members.

Bernis Nelson, Corporation Counsel said that this is for a three month exploration and there is no proposal here tonight. This to supplement Codes at hours when they are not available and for EMS services to see if it would be cost effective. This agreement will cancel on September 1st unless there is an extension to it.

Councilwoman Bello said it reads that it will cancel unless Local 589 and the City enter into a new collective bargaining agreement.

Bernis Nelson, Corporation Counsel said that that would have to be brought before the Council as well and they would have to approve.

Councilwoman Bello said it says that they are exploring staffing of Code Enforcement with Local 589 members. If we took Code Enforcement and wanted to extend their ours or hire part-time Code Enforcement Officers to work on the weekends or evenings, is CSEA getting a chance to give a counter proposal and if so are we going to be required to fund that also?

Bernis Nelson, Corporation Counsel said that she doesn't know. All she knows is that this proposal is before us for this three month period.

Councilwoman Bello said this should be looked at before we endeavor to do this.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilman Dillard, Mayor Valentine - 4

Nays - Councilwoman Bello - 1

ADOPTED

113-10

MEMORANDUM OF UNDERSTANDING

BETWEEN
LOCAL 589 INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
AND
THE CITY OF NEWBURGH

WHEREAS, the CITY OF NEWBURGH (CITY) and LOCAL 589 INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (LOCAL 589), are desirous of entering into an agreement between the parties to provide for the establishment of an emergency medical service with ambulance transport and for expanding code enforcement within the City of Newburgh Fire Department ("Fire Department") which will be staffed by members of Local 589.

IT IS HEREBY UNDERSTOOD AND AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Certain members of Local 589 IAFF identified below shall be temporarily assigned to assist the Fire Department in the preparations and submissions by the City of all necessary and required documents, applications, specifications and written procedures required by the State of New York and any regulatory agency for the establishment and startup of Emergency Medical Services (EMS) (hereinafter referred to as the "EMS Unit") within the Fire Department on or about April 1, 2011.
 - a) Lieutenant William Horton shall be named Supervisor of the Fire Department EMS unit. If necessary, a firefighter shall be assigned to assist Lieutenant Horton.
 - b) The EMS Unit shall be covered by the collective bargaining agreement between Local 589 and the City. Any persons performing work in the EMS Unit shall be covered the collective bargaining agreement between the City and Local 589, including the position of Supervisor of the EMS Unit and any firefighter positions assigned to the EMS Unit.
 - c) Lieutenant Horton and/or any other persons assigned to the position of Supervisor of the EMS Unit shall receive additional compensation equivalent to that of a Fire Captain for this work. A firefighter, if assigned to the EMS Unit, shall not receive any additional compensation. No persons shall lose overtime as a result of being assigned to the EMS Unit. The parties agree to meet and negotiate any additional terms and conditions of employment which may be necessary to establish the EMS Unit and which may be necessary to effectuate this Memorandum.
2. The benefits provide in paragraph 1 of this Memorandum shall be in effect from

May 1, 2010, up to and including September 1, 2010, at which time, either the City-and/or Local 589 may cancel this agreement unless Local 589 and the City enter into a) a new collective bargaining agreement or b) agree to extend the aforementioned end date.

3. The City and Local 589 agree that in order to operate a fire department based Emergency Medical Service, the staffing levels required for such service will be discussed and agreed upon as part of the collective bargaining process.
4. The City and Local 589 agree to review current code enforcement services within the City with the intent of improving said services; increasing code enforcement inspections; and increasing code enforcement operations to seven days per week through the utilization of uniformed firefighters.
5. The City and Local 589 agree that in order to operate a fire department based code enforcement program seven days per week, fire department staffing levels will be discussed and agreed upon as part of the collective process.
6. The review period for the proposed serviced provided in paragraph 4 of this Memorandum shall be in effect from May 1, 2010, up to and including September 1, 2010, at which time, either the City-and/or Local 589 may cancel this agreement unless Local 589 and the City enter into a) a new collective bargaining agreement or b) agree to extend the aforementioned end date.
7. Nothing contained herein shall be construed as consent by Local 589 to open up the current collective bargaining agreement between Local 589 and the City. All of the terms, conditions and provisions in the current collective bargaining agreement between Local 589 and the City shall remain in full force and effect except as modified herein.
8. The parties agree and acknowledge that this agreement shall not establish any past practice or precedent for the City or Local 589 with respect to EMS Unit, Emergency Medical Services, EMT duties, Code Enforcement duties as described in Article IV of the Collective Bargaining Agreement.

Dated: May , 2010
Newburgh, New York

AGREED TO:

CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK, CITY MANAGER

LOCAL 589 INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS

By: _____
EDWARD DILLER, PRESIDENT

RESOLUTION NO.: 114 - 2010

OF

MAY 24, 2010

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT
WITH FLANNERY ANIMAL HOSPITAL
TO PROVIDE FOR VETERINARY SERVICES FOR DOGS IN
THE CUSTODY OF THE CITY OF NEWBURGH**

WHEREAS, as mandated by the Agriculture & Markets Law of New York State, the Animal Control Unit must have veterinary care for the dogs taken into the custody of the City of Newburgh; and

WHEREAS, Flannery Animal Hospital, P.C. has been providing such care, but it is in the best interests of the City of Newburgh to have additional provision of such services as well as to provide care for a limited number of cats if space allows; and

WHEREAS, this Council has reviewed the proposed agreement with Flannery Animal Hospital, P.C. and has determined that entering into the same would be in the best interests of the City of Newburgh, its citizens and the animals 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 enter into an agreement, in substantially the same form annexed hereto with such other terms and conditions as may be required by the Corporation Counsel, with Flannery Animal Hospital, P.C. to provide veterinary services for the dogs in the custody of the City of Newburgh.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

114-10

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2010, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and FLANNERY ANIMAL HOSPITAL, P.C. a firm with principal offices at 789 Little Britain Road, New Windsor, New York 12553 hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter "Department Head").

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning as of February 1, 2010, and ending December 31, 2010. This contract may be renewed by the City for each of five (5) successive one-year terms.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule A, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission,

percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies that the prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition; and that no attempt has been

made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

In accordance with such status as independent contractor, VENDOR covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the CITY, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CITY including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 9. NON-EXCLUSIVITY, ASSIGNMENT AND SUBCONTRACTING

The parties recognize and agree that VENDOR is providing specialized professional services to assist CITY in performing its obligations under the Agricultural & Markets Law and other state and local laws, rules and regulations; and that VENDOR will provide its services in accordance with same. The parties agree that this agreement is non-exclusive, and that CITY shall be entitled to secure the

same services and/or goods from another vendor as provided by **VENDOR** hereunder at any time including during the term of this Agreement.

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the **SERVICES** to be performed by it under this Agreement, without the prior express written consent of the City Manager of the **CITY**. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any **SERVICES** provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the **CITY** shall be subject to all of the terms and conditions of this Agreement.

The provisions of this clause shall not hinder, prevent, or affect any assignment by **VENDOR** for the benefit of its creditors made pursuant to the laws of the State of New York.

This agreement may be assigned by the **CITY** to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

VENDOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. **CITY**, or any State and/or Federal auditors, and any other persons duly authorized by the **CITY**, shall have full access and the right to examine any of said materials during said period.

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the **CITY**. **VENDOR** shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the **CITY** so that it may evaluate the reasonableness of the charges, and **VENDOR** shall make its records available to the **CITY** upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the **CITY**, the State of New York, the federal government, and/or other persons duly authorized by the **CITY**. Such audits may include examination and review of the source and application of all funds whether from the **CITY**, State, the federal government, private sources or otherwise. **VENDOR** shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the **SERVICES** set forth herein and as hereinafter amended, **VENDOR** shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage of a minimum of \$2,000,000 per occurrence, naming the City as additional insured, and other insurance with stated minimum coverages, as required by law: Notwithstanding anything to the contrary in this Agreement, **VENDOR** irrevocably waives all claims against the **CITY** for all losses, damages, claims or expenses resulting from risks commercially insurable under commercially-available policies of insurance.

If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the

purposes of set-off in sufficient sums to cover such loss or damage.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

Either party may, by written notice to the other effective ninety (90) days after mailing, terminate this Agreement in whole or in part at any time (i) for convenience, (ii) upon the failure of a party to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

ARTICLE 18. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 19. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the City Manager of the CITY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County.

ARTICLE 20. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. VENDOR shall render all SERVICES under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such SERVICES are rendered.

ARTICLE 21. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 22. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by both parties. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

{THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK}

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

THE CITY OF NEWBURGH

FLANNERY ANIMAL HOSPITAL, P.C.

BY: _____
RICHARD F. HERBEK,
ACTING CITY MANAGER

BY: _____
Name:
Title:

DATE: _____

DATE: _____

APPROVED:

CHRISTINE MITCHELL,
CITY COMPTROLLER

BERNIS E. NELSON,
CORPORATION COUNSEL

SCHEDULE A

SCOPE OF SERVICES / FEES AND EXPENSES

FLANNERY ANIMAL HOSPITAL RFP FOR VETERINARY CARE

Flannery Animal Hospital submits the following for proposal to provide Veterinary Care for the City of Newburgh:

Office Visit \$50.00/ animal seen - for ill or injured animals seen during regular appointment hours
Emergency Office Visit \$98.00 – for animals requiring examination by a Doctor not during regularly scheduled hours

Canine Castration/Ovariohysterectomy: Flannery Animal Hospital agrees to provide spay and neuter surgeries for City of Newburgh Strays at the following discounted rates. These prices are for non-owned City of Newburgh Strays only, owned animals will be charged at our usual fees.

K9 Spay 30# or less.....	\$ 90.00
K9 Spay 31-60#	\$ 100.00
K9 Spay 61-90#.....	\$110.00
K9 Spay 91# and up.....	\$125.00
Feline Spay	\$ 85
K9 Castration 30# or less.....	\$ 85.00
K9 Castration 31-60#.....	\$ 95.00
K9 Castration 61-90#.....	\$ 103.00
K9 Castration 91# and up.....	\$115.00
Feline Castration.....	\$ 62.00

FLANNERY ANIMAL HOSPITAL
RFP FOR VETERINARY CARE

Euthanasia and Burial services: K9 Euthanasia & Burial 40# or under \$60.00
K9 Euthanasia & Burial 41# and over.....\$75.00
Feline Euthanasia & Burial kitten\$27.00
Feline - Euthanasia & Burial Adult cat..... \$49.00

Fees for Additional services provided :
Hospitalization – daily \$73.00 to \$113
Heartworm/Lymes Test \$25.00
Rabies Vaccine (city stray) \$16.00 Rabies vaccine – privately owned \$28
Dhlppc (distemper vaccine) \$26.00
Bordetella vaccine \$23.00

All fees for services are for City of Newburgh Stray (non-owned) animals. Fees for owned animals, including rabies vaccinations necessary to license and release impounded claimed, owned animals will be charged at usual and prevailing fees. All fees for services not specifically outlined in this contract will be charged at our usual and prevailing fees.

All fees documented within this agreement are discounted. These discounts are contingent upon prompt payment for services. All payments must be received within 45 days of receipt of voucher, or billing fees and interest will accrue on unpaid balances, and this agreement will be revoked and usual and prevailing fees will be incurred on all future services.

The terms and fees in this contract are subject to annual review and must be renewed by both parties.

Signed : _____ Date: _____
Representative for City of Newburgh

Signed : _____ Date: _____
Representative for Flannery Animal Hospital

RESOLUTION NO.: 115 - 2010

OF

MAY 24, 2010

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT
WITH COUNTRYRUN, INC.
TO PROVIDE FOR BOARDING SERVICES FOR DOGS IN
THE CUSTODY OF THE CITY OF NEWBURGH**

WHEREAS, as mandated by the Agriculture & Markets Law of New York State, the Animal Control Unit must have caregivers for the dogs taken into the custody of the City of Newburgh; and

WHEREAS, Countryrun, Inc. has submitted a proposal to provide boarding services such as clean housing, feeding and rehabilitation of dogs in the custody of the City of Newburgh; and

WHEREAS, this Council has reviewed the proposed agreement with Countryrun, Inc. and has determined that entering into the same would be in the best interests of the City of Newburgh, its citizens and the animals 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 enter into an agreement, in substantially the same form annexed hereto with such other terms and conditions as may be required by the Corporation Counsel, with Countryrun, Inc. to provide boarding services for the dogs in the custody of the City of Newburgh.

Councilwoman Bell said that at the Work Session it was mentioned that Countryrun is located in Milton, New York which she thinks is an extremely long distance to go to transport dogs. She wishes that we had worked more aggressively with our local SPCA. Why should we take dogs to Milton? Is that easier or more cost effective than just working it out? She doesn't think that this makes sense.

Councilwoman Angelo asked about the cost and how long will they keep them?

Bernis Nelson, Corporation Counsel said that she doesn't have a cap on the cost. The Humane Society in Middletown will be the main contractor and Countryrun is merely a backup location. The cost is per animal and at Countryrun it is \$30.00 per day which is the standard rate. The Humane Society rate is based on a period of holding the dog which is \$200.00 per dog delivered.

Mayor Valentine said that the \$200.00 is a one time fee not a per day fee.

Councilwoman Bell said that in regard to the dog fighting here in the City she thinks that aggressive measures should be taken to put a halt to this. It was said that many of the dogs are vicious that are not able to be adopted so many of them are going to be euthanized. Why would we pay \$200.00 for a dog that is going to be euthanized in a short period of time?

Bernis Nelson, Corporation Counsel said that we are required by law to keep the dog for five days.

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

Ayes -Councilwoman Angelo, Councilwoman Bello, Mayor Valentine-3

Nays - Councilwoman Bell, Councilman Dillard -2

ADOPTED

115-10

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2010, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and COUNTRYRUN, INC., a firm with principal offices at 808 Lattintown Road, Milton, New York 12547 hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter "Department Head").

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning as of February 1, 2010, and ending December 31, 2010. This contract may be renewed by the City for each of five (5) successive one-year terms.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule A, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission,

percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies that the prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition; and that no attempt has been

made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

In accordance with such status as independent contractor, VENDOR covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the CITY, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CITY including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 9. NON-EXCLUSIVITY, ASSIGNMENT AND SUBCONTRACTING

The parties recognize and agree that VENDOR is providing specialized professional services to assist CITY in performing its obligations under the Agricultural & Markets Law and other state and local laws, rules and regulations; and that VENDOR will provide its services in accordance with same. The parties agree that this agreement is non-exclusive, and that CITY shall be entitled to secure the

same services and/or goods from another vendor as provided by VENDOR hereunder at any time including during the term of this Agreement.

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

The provisions of this clause shall not hinder, prevent, or affect any assignment by VENDOR for the benefit of its creditors made pursuant to the laws of the State of New York.

This agreement may be assigned by the CITY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

VENDOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. CITY, or any State and/or Federal auditors, and any other persons duly authorized by the CITY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage of a minimum of \$2,000,000 per occurrence, naming the City as additional insured, and other insurance with stated minimum coverages, as required by law: Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under commercially-available policies of insurance.

If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the

purposes of set-off in sufficient sums to cover such loss or damage.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

Either party may, by written notice to the other effective ninety (90) days after mailing, terminate this Agreement in whole or in part at any time (i) for convenience, (ii) upon the failure of a party to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

THE CITY OF NEWBURGH

COUNTRYRUN, INC.

BY: _____
RICHARD F. HERBEK,
ACTING CITY MANAGER

BY: _____
VINCENT SCATURRO
Title:

DATE: _____

DATE: _____

APPROVED:

CHRISTINE MITCHELL,
CITY COMPTROLLER

BERNIS E. NELSON,
CORPORATION COUNSEL

SCHEDULE A

SCOPE OF SERVICES / FEES & EXPENSES

**Countryrun Inc.
808 Lattintown Rd.
Milton, NY 12547
845-522-9292**

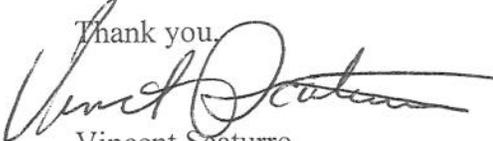
May 10, 2010

**Attn: Animal Shelter Services
For City of Newburgh
83 Broadway
Newburgh, NY 12550**

Services – Countryrun Inc. will provide clean housing, feeding and rehabilitate dogs back to proper health. Countryrun Inc. prepares dogs if they can be rehabilitated depending on the animal to be ready for a new home. Countryrun Inc. will not be responsible for placing dogs in new homes. Countryrun Inc. is not responsible for any medical services or euthanizing of any animal. We are a rehabilitation facility only. The City of Newburgh will have the availability for picking up and dropping off animals to and from vet or placing of dogs. They are available seven days a week, only during business hours, 8 a.m. to 6 p.m., with a phone call to Vincent Scaturro @ 845-522-9292. All animals must come with identification papers so they can be submitted with billing.

Experiences and References – Countryrun Inc. has been in business since 1976 as a breeding a boarding facility approved by the town of Marlboro. In addition, I take of the rescue dogs for the Town of Marlboro, the Town of Lloyd, and the Town of Plattekill and have been taking care of them for the past ten years, with great success and accomplishment. For more information or references, please call Jim Meyers from the Town of Marlboro, as he is in charge of all dog rescues, 845-236-3167.

Payment – The City of Newburgh will be responsible to pay Countryrun Inc. \$30.00 a day per dog boarding at Countryrun's facility. An invoice will be provided with information papers on dogs that will be staying at the facility until they are placed in a new home. Payments will be expected every two weeks for dogs boarding at the facility.

Thank you,

Vincent Scaturro

Countryrun Inc. Identification # 14-1790981

RESOLUTION NO.: 116 - 2010

OF

MAY 24, 2010

**A RESOLUTION RATIFYING THE CITY MANAGERS
AUTHORITY TO ENTER INTO AN AGREEMENT
WITH THE HUMANE SOCIETY OF MIDDLETOWN
TO CARE FOR DOGS IN THE CUSTODY OF THE
CITY OF NEWBURGH**

WHEREAS, as mandated by New York State law, the Animal Control Unit must have caregivers for the dogs taken into the custody of the City of Newburgh; and

WHEREAS, the Humane Society of Middletown has been willing to undertake such care in compliance with the Agricultural and Markets Law of the State of New York; and

WHEREAS, this Council has reviewed the attached agreement with the Humane Society of Middletown and has determined that entering into the same is in the best interests of the City of Newburgh, its citizens and the animals alike;

NOW, THEREFORE, BE IT RESOLVED, that this Council of the City of Newburgh, New York does hereby ratify the City Manager's authority to enter into an agreement with the Humane Society of Middletown to care for the dogs in the custody of the City of Newburgh.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

Humane Society of Middletown
142 Bloomingburg Road
Middletown, New York 10940

(845) 361-1861
Fax (845) 361-9881

May 13, 2010

Agreement between the CITY OF NEWBURGH, & THE HUMANE SOCIETY OF MIDDLETOWN, INC., for the period beginning June 1, 2010 through December 31, 2010

The Humane Society of Middletown, Inc. agrees to accept any dog brought to our shelter by your Animal Control Officer, (ACO) or Dog Control Officer, (DCO) from The City of Newburgh, space permitting. The number of dogs not to exceed three (3) dogs per week, unless space is available and the ACO/DCO calls beforehand.

The dogs, in accordance with New York State Agricultural Law, must be held until midnight of the fifth day, after which they may be put up for adoption if not claimed by the owner. If said dogs are not claimed or adopted, they will be humanely euthanized.

When leaving a dangerous dog, you must keep the dog in the outside only part of the ACO/DCO pen. You must leave written information and also call the shelter, or leave a message on the answering machine if it is after business hours.

Since we do not have a veterinarian on premises, we are unable to accept any animal with suspected mange, rabies, distemper, parvo or injured animals requiring immediate medical attention. These animals will have to be taken to a veterinarian by your ACO/DCO for treatment or euthanasia. Any bills for these animals will be paid directly to the veterinarian by your Town/City.

The Town/City will pay a fee of \$200.00 per dog delivered to the Society.
The Town/City will pay a fee of \$40.00 per cat delivered to the Society.

If a dog is brought in DOA, one half of the regular fee will be charged for the cremation. Any small animals brought to us by the ACO/DCO for cremation will cost the Town/City \$25.00 each.

All adoptable animals surrendered to this shelter will be altered, given their vaccines and chipped and licensed before leaving. The Middletown Humane Society.

The Humane Society will send out vouchers once a month. A record of the disposition of the dogs from the prior month will be sent out by the end of the month.

The Humane Society of Middletown, Inc.,

01-911
Approved *[Signature]* May 14, 2010
Approved *[Signature]* 5/14/2010
Acting City Manager

RE
MAY 14 2010

RESOLUTION NO.: 117 - 2010

OF

MAY 24, 2010

**A RESOLUTION AMENDING RESOLUTION NO.: 16-2010 OF JANUARY 22,
2010 AUTHORIZING THE CITY MANAGER
TO APPLY TO THE STATE OF NEW YORK OFFICE OF
GENERAL SERVICES FOR TRANSFER AND CONVEYANCE
OF A CERTAIN PARCEL OF STATE LAND KNOWN AS
THE NEW YORK STATE ARMORY, 321 SOUTH WILLIAM STREET
F/K/A 321-393 SOUTH WILLIAM STREET
LOCATED IN THE CITY OF NEWBURGH, ORANGE COUNTY, NEW YORK**

WHEREAS, the State of New York ("State") is the owner of a parcel of property located at 321 South William Street f/k/a 321-393 South William Street, City of Newburgh, County of Orange, and more accurately known as Section 43, Block 1, Lot 13 on the official tax map of the City of Newburgh and consisting of approximately 12.10 acres, hereinafter referred to as the "Premises;" and

WHEREAS, the State is authorized to convey its right, title and interest in the Premises to the City of Newburgh pursuant to Section 34 of the Public Lands Law for the purposes set forth in the statute; and

WHEREAS, it is the desire of the City of Newburgh to apply for a transfer and conveyance of the Premises for the purposes ~~of park and recreation~~ set forth in Section 34 of the Public Lands Law, and

WHEREAS, the consideration for the transfer and conveyance of the Premises as set forth in Section 34 is One (\$1.00) Dollar;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to apply to the State of New York Office of General Services for the transfer and conveyance of the Premises for the purposes ~~of park and recreation~~ pursuant to set forth in Section 34 of the Public Lands Law; and

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute all documents necessary to effectuate said use and transfer and

conveyance of the Premises and that such documents shall be subject to the review thereof by the Corporation Counsel as to form and substance; and

BE IT FURTHER RESOLVED, that title shall be transferred after such environmental reviews as may be required by the State Environmental Quality Review Act have been completed.

Underlining denotes: additions

~~Strike Through~~ denotes: deletions

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 118 - 2010

OF

MAY 24, 2010

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWBURGH
DECLARING THE INTENT TO BE LEAD AGENCY STATUS UNDER
STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)
WITH RESPECT TO THE TRANSFER AND CONVEYANCE OF A CERTAIN
PARCEL OF STATE LAND KNOWN AS THE NEW YORK STATE ARMORY,
321 SOUTH WILLIAM STREET F/K/A 321-393 SOUTH WILLIAM STREET
AND DECLARING THE PROJECT TO BE AN UNLISTED ACTION,
ADOPTING PART I OF THE ENVIRONMENTAL ASSESSMENT FORM
AND ISSUING A NEGATIVE DECLARATION**

WHEREAS, the City of Newburgh is desirous to apply for a transfer and conveyance of a parcel of State Land known as The New York State Armory located at 321 South William Street f/k/a 321-393 South William Street, City of Newburgh, County of Orange, and more accurately known as Section 43, Block 1, Lot 13 on the official tax map of the City of Newburgh; and

WHEREAS, the City of Newburgh proposes to undertake said transfer and conveyance; and in compliance with the terms of State law does hereby wish to review the project in accordance with SEQRA; and

WHEREAS, in compliance with the State Environmental Quality Review Act (SEQRA), the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the project to be an unlisted action, approve and adopt Part I of the Environmental Assessment Form ("EAF"), and find that the project will not have any significant adverse environmental impacts; and issue a negative declaration;

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

1. That 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; and
2. Classifies the action as an unlisted action; and

3. Adopts Part I of the Environmental Assessment Form; and
4. Issues a Negative Declaration with respect thereto.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 119 - 2010

OF

MAY 24, 2010

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWBURGH
DECLARING THE INTENT TO BE LEAD AGENCY FOR A PROPOSED
LOCAL LAW TO ADOPT A "LOCAL AND FIRST SOURCE HIRING
ORDINANCE" UNDER THE
STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)**

WHEREAS, this Council is considering a proposed Local Law to adopt a Local and First Source Hiring Ordinance "Proposed Local Law"; and

WHEREAS, this Council wishes to review the proposed Local Law in accordance with SEQRA; and

WHEREAS, in compliance with SEQRA, this Council wishes to assume Lead Agency status, declare the proposed Local Law an Unlisted action, and direct the preparation of a Long Form Environment Assessment Form for the proposed Local Law,

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

5. That the City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the proposed Local Law pursuant to 6 NYCRR 617.6;
6. Classifies the proposed Local Law as an Unlisted action;
7. Directs the Department of Planning and Development to prepare a long form Environment Assessment Form for the proposed Local Law.

Councilwoman Bello said that she questioned if this is premature because the public hearing is not until June 14th. She asked Corporation Counsel, Bernis Nelson to please explain why we are doing this prior to the public hearing.

Corporation Counsel, Bernis Nelson explained that under the State Environmental Quality Review Act this does not apply to what would be called a Type I Action but it is an unlisted action. There are certain economic impacts which could result from this and therefore it needs to be reviewed under the State Environmental Quality Review Act. This resolution takes lead agency on behalf of the City Council and directs the preparation of the long form environmental assessment by the Department of Planning and Development.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 120 - 2010

OF

JUNE 14, 2010

**A RESOLUTION ESTABLISHING THE SANITATION FUND
AND AMENDING THE 2010 BUDGET OF THE CITY OF NEWBURGH
TO TRANSFER ALL SANITATION REVENUE AND EXPENSE
BUDGET LINES IN SUCH BUDGET TO THE SANITATION FUND**

WHEREAS, this Council wishes to establish a Sanitation Fund as an enterprise fund to fund and account for all sanitation revenues and expenses in the City;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that a Sanitation Fund is hereby established to fund and account for all sanitation revenues and expenses in the City; and

BE IT FURTHER RESOLVED, that Resolution No.: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended to transfer all sanitation revenue and expense budget lines from the General Fund to the Sanitation Fund, as set forth on the spreadsheet attached hereto.

Councilwoman Bello said that sanitation fees will be treated the same as water fees and it won't be part of the General Fund any longer.

Mayor Valentine said that is correct. This would be set up as a separate fund.

Councilwoman Bell said that she visited the DPW last week and every one of the vehicles she saw were ten, fifteen and twenty years old. In the long run, even though there may be an increase in the fees to be efficient, we have to do it.

Mayor Valentine said that you have to look at this the same way you look at the Water Department. The sanitation department has to be self sufficient and needs those capital funds in order to purchase the equipment that is needed to keep it running. This will also take it out of the General Fund which will make it so much easier to look at during Budget time.

Councilwoman Bello said that this will obviously increase our sanitation fees.

Corporation Counsel, Bernis Nelson said that this particular resolution doesn't increase the sanitation fees. That will be up for a vote next month.

Mayor Valentine said that if there are efficiencies that change then sanitation fees could go down. It doesn't always have to be an increase.

Councilwoman Bello said that it never goes down.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilman Dillard, Mayor Valentine - 4

Nays - Councilwoman Bello - 1

ADOPTED

120-10

CITY OF NEWBURGH

SANITATION OPERATIONS

	ACCOUNT CODES	GENERAL FUND	
		2009 BUDGET	Budget Adjustment
REVENUES			
User Fees	A.0000.2130	\$ 1,900,000	\$ (1,900,000)
Transfer to Sanitation Fund	A.0000.9901		(459,572)
Transfer from General Fund			
		<u>\$ 1,900,000</u>	<u>\$ (2,359,572)</u>
EXPENDITURES			
Personal Services			
Salary	A.8160.0101	916,057	(916,057)
Overtime	A.8160.0103	15,000	(15,000)
Longevity	A.8160.0107	23,000	(23,000)
		<u>954,057</u>	<u>(954,057)</u>
Employee Benefits			
CSEA State Retirement	A.8160.0810	124,027	(124,027)
Social Security	A.8160.0830	72,985	(72,985)
Health Insurance	A.8160.0860	247,194	(247,194)
Health Insurance - Retirees	A.8160.0860.0001	68,809	(68,809)
		<u>513,015</u>	<u>(513,015)</u>
Contractual Expense			
Oper of Moter Vehicles	A.8160.0411	50,000	(50,000)
Office Supplies & Postage	A.8160.0413	9,000	(9,000)
Bldg & Grounds Maint & Supplies	A.8160.0415	1,500	(1,500)
Uniforms	A.8160.0417	9,000	(9,000)
Repairs - Motor Vehicles	A.8160.0442	35,000	(35,000)
Repairs - Other Vehicles	A.8160.0443	500	(500)
Other Services - Tipping Fees	A.8160.0448	780,000	(780,000)
Doctors Fees	A.8160.0452	1,000	(1,000)
Other Services	A.8160.0481	4,000	(4,000)
Other Services	A.8160.0482	2,500	(2,500)
		<u>892,500</u>	<u>(892,500)</u>
		<u>\$ 2,359,572</u>	<u>\$ (2,359,572)</u>
Total Expenditures			

SANITATION FUND

Account Codes	2009 BUDGET
S.0000.2130	\$ 1,900,000
S.8160.5031	459,572
	<u>\$ 2,359,572</u>
S.8160.0101	916,057
S.8160.0103	15,000
S.8160.0107	23,000
	<u>954,057</u>
S.8160.0810	124,027
S.8160.0830	72,985
S.8160.0860	247,194
S.8160.0860.0001	68,809
	<u>513,015</u>
S.8160.0411	50,000
S.8160.0413	9,000
S.8160.0415	1,500
S.8160.0417	9,000
S.8160.0442	35,000
S.8160.0443	500
S.8160.0448	780,000
S.8160.0452	1,000
S.8160.0481	4,000
S.8160.0482	2,500
	<u>892,500</u>
	<u>\$ 2,359,572</u>

RESOLUTION NO.: 121 - 2010

OF

MAY 24, 2010

**RESOLUTION AMENDING RESOLUTION NO: 185-2009,
THE 2010 BUDGET OF THE CITY OF NEWBURGH,
REGARDING AMENDMENTS TO THE SELF-INSURANCE FUND**

BE IT RESOLVED that Resolution No: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended regarding amendments to the Revenues and Expenditures in the Self-Insurance Fund, as set forth on the spreadsheet attached hereto.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

12/10

	Original Budget 2010	Revised Budget 2010	YTD 2010
REVENUES			
M.0000.2401.0000.0000	-20,000.00	-7,000.00	-3,281.00
M.0000.2800.0000.0000	-3,005,000.00	-3,005,000.00	-3,005,000.00
TOTAL REVENUES	-3,025,000.00	-3,012,000.00	-3,005,000.73
EXPENDITURES			
	BUDGET 2010	Revised Bdg 2010	YTD 2010
M.1420.4100.0000.0000	0.00	200,000.00	20,867.00
M.1420.4200.0000.0000	0.00	300,000.00	79,685.00
M.1420.4300.0000.0000	0.00	50,000.00	779.00
M.1710.0400.0000.0000	746,914.00	230,000.00	191,965.00
M.1722.0400.0000.0000	718,906.00	350,000.00	301,684.00
M.1930.0400.0000.0000	147,515.00	350,000.00	136,464.00
M.1931.0400.0000.0000	37,345.00	3,500.00	3,232.33
M.1989.0400.0000.0000	280,092.00	280,000.00	110,920.00
M.1990.0400.0000.0000	326,775.00	128,500.00	0.00
M.9040.0408.0000.0000	702,099.00	770,000.00	280,131.00
M.9050.0400.0000.0000	65,354.00	350,000.00	73,400.00
	3,025,000.00	3,012,000.00	1,199,127.33
	0.00	0.00	-1,805,873.40

RESOLUTION NO.: 122 - 2010

OF

MAY 24, 2010

**RESOLUTION AMENDING RESOLUTION NO. 185-2009,
THE 2010 BUDGET OF THE CITY OF NEWBURGH, REGARDING
AMENDMENTS TO THE DEBT SERVICE FUND, GENERAL FUND, AND
SEWER FUND**

BE IT RESOLVED, that Resolution No: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended regarding amendments to the Debt Service Fund, General Fund, and Sewer Fund, as set forth on the three (3) spreadsheets attached hereto to: zero out the Debt Service Fund, to transfer all Revenue and Expenditures in the Debt Service Fund to debt service budgets in the General Fund, to adjust interest attributable to bond anticipation notes and tax anticipation notes in the debt service budgets of the General Fund, and to budget for interest charged to the Sewer Fund.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 123 - 2010

OF

MAY 24, 2010

**A RESOLUTION AMENDING RESOLUTION NO.: 41-2010
OF MARCH 22, 2010 AS ADOPTED BY THE CITY COUNCIL
ON APRIL 12, 2010 WHICH AUTHORIZED THE CITY MANAGER TO
ACCEPT FUNDS FROM THE NEWBURGH ENLARGED CITY SCHOOL
DISTRICT TO FUND THE SALARY AND BENEFITS OF THREE POLICE
OFFICERS TO BE HIRED TO BACKFILL POLICE DEPARTMENT
PERSONNEL CURRENTLY SERVING IN THE CITY'S SECONDARY
SCHOOLS AS COMMUNITY RESOURCE OFFICERS
AND AMENDING RESOLUTION NO.: 185-2009, THE 2010 BUDGET
OF THE CITY OF NEWBURGH**

WHEREAS, the City Council, on March 22, 2010, authorized the City of Newburgh and the Board of Education of the Newburgh Enlarged City School District ("NECSD") to establish the position of Community Resource Officer ("CRO") to be filled by police officers from the City of Newburgh Police Department at three schools within the NECSD - Newburgh Free Academy, North Junior High n/k/a NFA Campus North, and South Junior High; and

WHEREAS, said Resolution provided for the City of Newburgh to accept funds from the NECSD in the amount of \$174,322.29; and

WHEREAS, the amount so indicated in such Resolution is inaccurate as the result of further discussions; and

WHEREAS, this Council has determined that accepting of such funds 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 accept the funds from the NECDS in an amount not to exceed \$167,681.01, for the assignment of three City of Newburgh Police Officers as CRO's in the NECSD; and

BE IT FURTHER RESOLVED, that Resolution No.: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended to reflect the new amount.

Councilwoman Bell said that the hold up for this was that the School District asked for City residents to pay for this and we fought aggressively to have this voted as part of the School Budget so that the two Town's could also kick in for this.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

GENERAL COMMENTS FROM THE PUBLIC

Charlotte Mountain, Dubois Street said that in regard to the First Source Hiring Ordinance she hopes that the City will participate in that. In regard to the Fire Department taking over Codes, she thinks that this City needs experienced Code Enforcement Officers. The CSEA contract prohibits non CSEA workers for CSEA jobs. In regard to the Armory building, she hopes that the City does surveys to see exactly what the residents would like to have there and she is willing to assist with those surveys. She added that she applied for a home rehabilitation loan through the Community Development office and was denied. It is her understanding that everyone who has applied for that program has been denied up to this point. She asked what the appeal process was and was told that there isn't one which she thinks is a violation. She feels that the way that the parameters of that program were put together goes against public policy because of absentee landlords and a disproportionate ratio of tenants and landlords to property owners. This program gives more money to landlords than it would to the single family owner occupied home. When doing this program she thinks that giving the final decision making power to an advisory committee is very inappropriate and is a dereliction of their duties as a City Council. She said that they must retain at least the power to overrule an advisory committee.

Alden Link, 119 Broadway said that he has been trying to see the City Manager but he feels that he is avoiding him. He said that due to certain circumstances he has had to take a \$300.00 a month reduction in rent at his store on Broadway. His taxes have gone up, water has gone up and now sanitation is going to go up. He is asking that the store be able to stay open at night so that he can afford to pay his rent. Many people try to get in after hours and there are people waiting to get in before they are open to purchase milk.

Councilwoman Bell asked Mr. Link if he is sure that it is milk they are looking for.

Mr. Link continued that he would like for his tenant to be able to stay open all night.

Anthony Hernandez, 185 Chambers St. said that he has lived here for over twenty years and his property value has gone down. He has complained many times and nothing has been done. He feels that the quality of life in the City of Newburgh is bad because of the police and sanitation departments. He told the Council to drive around and take a look at their City because nobody cares. At 181 Chambers Street there are two garages that are unauthorized and

nobody in that neighborhood lives there. People sit in their chairs drinking liquor and the police department does nothing. Nobody wants to rent or buy there because these people are sitting on the streets night and day. He tries to clean up his property and people that don't even live on that street come and sit on his steps, urinate and leave bottles on his property. This has to stop.

Nelson McAllister, 412 Liberty Street said that the City Council has a tough job and he hopes that the citizens appreciate what they have to go through because it is not easy. He noted that the City is going to use a State appointed advisory council for funds but the State is out of money so why would we select them to help us? The County has a surplus so wouldn't it be wise to ask the County to put a panel together because they know how to do it. In regard to the dogs, has anyone done a study of how much it costs over a period of years? We have some property where perhaps we could take care of the dogs ourselves which would be job creation. In regard to the CDBG funding, he noted that the Federal Government allows a certain percentage to be allocated for community services and he encouraged that they do that to the full percentage. In these times, our children need programs and he hopes that the Armory turns out to be a wonderful thing. He added that Congressman Hinchey was here a while ago and stated that when you look at History you look at what was, what is and what is to come. What was in the 1940's is a system in the City of Newburgh that is outdated and needs to be changed. What is we are operating on a government system and now are in a position where we are just about out of money and the system is broke. What is to come is to set up a ward system. Let's elect a strong Mayor and let people be represented from different wards in this City so government can be run like it should be.

A City resident said in regard to a comment made about the store staying open at night means that people can buy beer all night long. When they get drunk problems are created that we don't need. If you did allow the stores to stay open, they would have to not be allowed to sell beer.

A City resident said that his house was in the newspaper for the FBI raids and he feels that he was assaulted by the Courts which makes it difficult to find a job. The disability he receives does not pay his bills and he was placed by DSS into a crack house. From what he heard tonight he applauds the comment made about the missing money. There is no mystery because usually the last person that was there is responsible. He said that he is going to continue to be positive.

Mary Ann Prokosch, City of Newburgh said that the quality of life is an issue for about seventy five percent of the people here in this city. Neighborhoods are deteriorating, loitering is happening and gunshots are

heard all around the city. Priorities and funding need to be put in places where they will make a difference. In regard to the Dog Warden, she said that in the fall of last year she talked to the ASPCA and they told her that they put a proposal into the City about six months before because they felt that they could save the City money in regards to boarding dogs but they hadn't heard anything. She doesn't know what happened there. She added that in regard to the Armory it is a wonder thing but she doesn't want to hear that it will be the savior of Newburgh because it won't solve all of our problems.

Carol Link, taxpayer said that the last few weeks have been eventful with gang and drug raids. She feels that Newburgh needs a new approach to solve its drug problems which is the main reason for crime here. She does not feel that closing stores is the answer. She asked the Council to see fit to make important and effective changes in the way things are done to this beautiful City.

Kevin Barrett, City of Newburgh said a comment was made earlier that governments and municipalities can not go out of business. This gives the implication that the City or government can do whatever it wants to do and not fail. It can spend what it wants and take from the citizens whatever it wants and we have to accept that it will always exist. Rev. McAllister asked why we didn't go to the County for assistance which he has said many times because the County can help. We are part of this County and all of our taxes go there. In regard to the dogs, there is a local ASPCA that could help do something with these dogs. In regard to the Armory, it sounds like a sweet deal to get this for a \$1.00 but we just did the Courthouse project where they found out that there were bodies buried under the building and there was a lot of asbestos. Have there been any reports saying that there are any problems with this building and is the City capable of being a developer? He doesn't see the City coming back. Lastly he said that we have an archaic fire alarm system. We still have boxes where a person can pull the fire alarm and cause the Fire Department to run up and down the street. He questions this because we are in the 21st Century and there is no reason to have these boxes when everyone has a cell phone.

Pauline Dillard, 350 N. Water Street said that the Chamber Street Tenants Association would like to know if it is legal to have a grill and cookout on the sidewalk. She added that there is a new group that will be having a community picnic on June 12th at Audrey Carey Park from 3:00 p.m. to 6:00 p.m. The mission of this group is to assist mothers with the challenges of growth and development for their children. A lot of mothers have challenges so we are trying to mentor them and assist them with the different agencies that should be working with them.

Denise Ribble, City of Newburgh said that she found it interesting to hear the comments about the County and fiscal responsibility. She has mentioned before that the citizens should look at the Orange County Comprehensive Plan because we are in it. Everyone needs to see how the County treats the City of Newburgh. There are four areas that she thinks are crucial. One is the proposed Orange County Water Master Plan. Two is the transportation plan, three is affordable housing and lastly is the way that grant money is spent in the City of Newburgh and what the processes are for that. She urged everyone that is concerned to see that Newburgh get its fair share.

Brigidanne Flynn, City of Newburgh said that quality of life in this city is going downhill. Sanitation and Police do what they can with limited resources which is understandable. She doesn't understand why the groups that came here tonight don't take action on those items. Why aren't they out there doing something about the chairs in front of their garage and picking up the trash in front of their houses? Why aren't they patrolling the parks to make sure that people are using them appropriately? We are the adults and there are a lot of young people here that need guidance. As adults we should take responsibility for all children. When she sees them drop garbage on the street she asks them to pick it up and to respect where they are living. Children are running wild.

Lilliam Harris, 26 Hasbrouck Street said in regard to the barbecue grills on the sidewalk that some people have no place else to put them. The Hasbrouck Street Park needs swing sets and it needs to be resurfaced. She would like to see this attended to as it is the only park available. In regard to the dogs, she is an animal lover so the dog fights make her angry. If someone loses their dog, they might not be able to travel all the way to Middletown to get it back so we need to try to get something right here in the City.

Pastor Patricia Thomas asked if Broadway could be closed to have a Back to School Barbecue Bash. Last year they had it at the Rec but this year they wanted to have it closer.

Mayor Valentine said that they can't close the street. They can maybe use the Ann Street Parking Lot or behind Motor Vehicle. There is no money for closing the streets this year.

Pastor Thomas continued that there needs to be an investigative committee to look into the raid and the people that were arrested. She was told that an informant was paid \$50,000.00 to get these names of who belonged to gangs and who sold drugs. Some of these kids are innocent and have been incarcerated. The most vicious gang, she believes is called MS13, was not even mentioned in that raid. In regard to the store staying open, she noted that

some people work nights and might go to the store early in the morning so you can't tell people when they can and can't go to the store.

Mary McDowell, Town of Newburgh said that these are not "your" children because she believes they are all "our" children. It is very important that we not be divided and we need to come together because it does take a community to raise a child. The more people we can get to come to these meetings who have good hearts and want to make this work for everyone the better. We cannot be divided or we won't make it through this.

Police Chief, Eric Paolilli said that the information Ms. Thomas heard was unequivocally false. There was no payment of any amount even close to that. As far as MS13, that has not been an identified gang locally in the City of Newburgh at this point. As far as evidence, there was not a list developed based on hearsay.

Mayor Valentine said that the City of Newburgh was actively involved in this.

Police Chief, Eric Paolilli said that they have been involved in this for about two years now. All of the information gathered and used began with investigations that were started here.

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

GENERAL COMMENTS FROM THE COUNCIL

Councilwoman Angelo said that President Obama arrived at Stewart recently and no one was there to greet him. The Pride Parade held last Saturday by 21st Century was wonderful and provided food and games for everyone. She reminded everyone that the Memorial Day Parade has been canceled but on Memorial Day from 11:00 a.m. to 11:30 a.m. at Washington's Headquarters the Veteran's will conduct services and then in the afternoon we will go to the Monument and read the names of all of the deceased. On Thursday, the 27th the Citizens Advisory is meeting and they will have a representative from Economic Development to speak about rehabilitation of homes.

Councilwoman Bell said that last week she participated with Councilman Dillard in a Youth Speak Out with a panel of youth speaking about what they thought was needed here in the City and why kids use drugs and what things could be helpful. She found it very enlightening and at the end of the day she told them all to "be the change that you wish to see". She was encouraged tonight to see so many people engaged in being the change that they wish to see. She asked everyone to keep coming and to bring someone with them because with that kind of energy focused on moving things forward we can be invincible.

Councilwoman Bello commended our City of Newburgh Police Officers and Detectives for an incredible job with the recent FBI busts and said that this is only the beginning.

Councilman Dillard thanked Denise Ribble and the voices for the tremendous job they did on the labor agreement. Our next pass it to begin to create activities for the young people of this City. At the Speak Out, what he heard from these young people was that they need jobs and activities. We need to start thinking about how much money is in that Community Development Office that could be used for this.

Mayor Valentine said that the FBI operation was huge but it was a lot of work and it was so long in the making. When he saw the kids at the Youth Day Parade last Saturday they had smiles on their faces because they now have their block back and it is safe for them to play outside. He also spoke to a mother who thanked him and said to thank the members of law enforcement for getting her block back and making it safe. He told her he appreciated that but now it is up to her. If you see something, say something. If something starts to creep up again on that block you have to let them know. Too many times it creeps back but we can't let that happen this time. We have to be

vigilant each and every day. He wished everyone a beautiful Memorial Day weekend.

There being no further business to come before the Council, the meeting adjourned at 10:00 p.m.

LORENE VITEK
CITY CLERK