

A regular meeting of the City Council of the City of Newburgh was held on Monday, January 10, 2011 at 7:00 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

Mayor Valentine asked for a Moment of Silence for the tragedy in Arizona followed by the Pledge of Allegiance 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 December 13, 2010 and the special meeting of December 21, 2010 be approved.

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

Abstain - Councilwoman Bell

CARRIED

REPORTS

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 December be received, filed and made available to the Press.

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

CARRIED

COMMUNICATIONS

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

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

CARRIED

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Michael Curry, 8 Grand Street said that he is concerned that Local 589 is not going to get what they bargained for in this contract. This year with the Newburgh Fiscal Recovery Act the bond holders that supported that bond are the first in line for state aid which mainly goes towards police and fire. If those accounts are not full in advance then that money will be taken by the state to pay the bond holders and they will not give the city any notice. They will just take the money to pay the bond holders. He believes that this sets in motion what will end up in Local 589 not getting what they bargained for and the money will be taken. Everyone in the city of Newburgh is making choices including families of firefighters. He begged the Council to reserve this because it is not going to help firefighters and it is not going to help the city. It will just set in motion the worst case scenario.

Michael Gabor, Grand Street said in regard to the agreement with Local 589 that there were no parameters instructed of the City Manager in the negotiations. If there had been parameters he is sure that the City Council was not aware that a multi-year contract for four years that included a no-layoff clause would have been part of that. Instead of the City Manager first going to the City Council he went directly to the Press after the agreement was signed before the Council was notified. There is an Election this year and the Council has decided to keep Mr. Herbek without further search because there will possibly be three new people sitting on the Council but here you are tying the hands of those new City Council people for an additional three years. He feels that this has to be considered before this is moved and that it should be tabled until something can be worked out. As we have been informed by the Corporation Counsel, this can be extended again to take some more time. This is a very important thing that will cover a four year period. We know that we will be saving money this year but we may not be saving money next year and how much will we be saving over the four year period. We have not seen any numbers for the best and worst case scenarios. How much will we save?

Mary Ann Prokosch, City of Newburgh said in regard to the contract with the Armory that she feels it should be for one year instead of three and that we need to make sure that it provides something for the seniors because we have nothing for them now. In regard to the agreement with Local 589, she said that the fire department costs 1.2 million dollars for one year so that savings will only cover the first year that the firemen are working but what happens to the three years after that. There is a no lay-off clause so who will be eliminated. She also asked if the State has to approve this contract. She would love to see more policemen but we can't always have what we want and

we have to be able to pay for what we have. We have to change the cycle of what we are doing in order to make changes to the city.

Marietta Curry, 8 Grand Street said that she read the contract and she wants to be a firefighter. Wouldn't we all love to work only eight days a month and take a vacation in the winter? They receive a clothing allowance of \$750.00 and they can have another job on the side. They also don't have to live here in the City because they can live up to forty miles away and their jobs are guaranteed until 2014. They get six figure salaries and benefits with medical. The taxpayers are not being defended and she feels that we lack leadership here in the City of Newburgh.

Ariyike Diggs, 10 Bayview Terrace feels that it would be a mistake to enter into this contract because we can't afford it at this time and it violates the Newburgh Fiscal Recovery Act. In 2009, the City of Newburgh came face to face with the reality of how at least a decade of financial mismanagement put us in a financial crisis. We also saw the termination of Jean-Ann McGrane as City Manager after four and a half years and the City Council started a search for a full-time City Manager but did not find one. From January to August in 2009, the City of Newburgh had five Acting City Managers until our current Acting City Manager was hired. Mr. Herbek was given the monumental task of preparing a Budget at a time when we no longer had a Comptroller and it became clear that we did not have the revenue that we thought we had. It had also become clear that despite raising taxes as Mr. Herbek did in the 2009 Budget; the City remained in financial trouble and by June 2010 after our taxes had been raised by 24% we were on the edge of bankruptcy. This is how the Newburgh Fiscal Recovery Act came to be to assist the City in returning to fiscal and economic stability while ensuring adequate funding. Fire is an essential service but we have not set ourselves up to have a contract like this because it will result in a loss in fiscal stability which is what the Recovery Act requires.

Isaac Diggs, 10 Bayview Terrace said that raising property taxes by 70% and continuing to raise them by 28% in 2012 and 11% in 2013 are not actions that will achieve and maintain long term fiscal stability. As more people continue to lose their homes because they can not pay such taxes and more people see the value of their property go down while their taxes soar and more people chose to buy or invest in Newburgh, the result will be immediate and long term instability. The Newburgh Fiscal Recovery Act puts in place obligations that the City has to meet so that we can recover financially. The Act specifies that the financial plan must contain appropriate reserve funds and actions to achieve financial stability. The City has known about these requirements since July 2010 and he suggested that the City take the following steps for fiscal stability as dictated by the Newburgh Fiscal Recovery Act.

They should prepare a written revenue generating fiscal financial plan that fits within the guidelines of the Newburgh Fiscal Recovery Act and eliminate tax hikes. They should immediately reinstate the search for a permanent City Manager as a step towards long term stability. The last one we had was fired in 2009 and here we are two years later still without a qualified successor. Enter into a one year contract with Local 589 until an acceptable financial plan has been prepared. The current agreement negotiated by Mr. Herbek is based on a financial plan that does not meet the requirements of the Newburgh Fiscal Recovery Act.

Sean O'Shea, City of Newburgh supports Councilwomen Bell and Bello and hopes that one of the other Council members or the Mayor will come forward and say "no" to this contract. This is unsustainable and will lock us into a situation where we don't know what our financial situation will be and we are also going to have to negotiate similar contracts with the Police Department and CSEA. He said that he respects the firemen but the majority of them don't live here and many of them enjoy fire protection from volunteer departments within their own townships. He is for the firemen here but we can't put ourselves in that situation. We are laying-off thirty people from CSEA; people who work on sanitation trucks and on buildings and road improvements throughout the City. These are the people that he depends upon so what will happen when their contract comes up? We don't have the money to pay for this. This is unsustainable and he thinks that the Council should do the right thing by saying "no".

Lillie Howard, City of Newburgh said that if things had been handled in the way that they should have been handled then we would not be here today. The Courthouse fiasco and IDA fiasco are just two reasons as to why we don't have the money to have the proper things that are needed. She noted that we have twelve high-rises here in the City of Newburgh and if the Fire Department is not fully staffed then she hopes that it does not come back to haunt them when someone's life is taken. It seems like we are always sorry after the fact instead of being preventive before the fact.

Janet Gianopolous, City of Newburgh said that the one major risk that she sees is the no lay-off clause and she thinks that the Council should go back to the table and address some issues.

Timothy Hayzill, City of Newburgh said that if your house is on fire are you going to call the garbage men to put it out? He doesn't understand this.

Bill Horton, City of Newburgh Fire Department said that in this contract there will be no raise in 2010. In 2011 - 2012 there will be a 5% pay cut and they will be working the first two hours of overtime every week for free which

is one hundred and ten hours per guy per year. They will be changing their vacation schedule so that there is not a spike of overtime in the summer. There will be changes in schedules to save the City money. In 2013 we will still be at minus 5% and in the middle of 2013 we will get 2% of that money back. In 2014 we will get the last 3% back so in 2014 we will be working at the 2009 rate. They have been working with the City Manager for the last two years to maintain a level of safety in the City for both the citizens and the firefighters. Without safety and security we will never be able to move forward.

Judy Kennedy, 162 Grand Street has listened to all of the comments and this is a difficult decision. We can't solve our problems with the same level of thinking that created the problems in the first place. She hears people say that it is going to be this way or that way but we don't know any of that. We are living in some very uncertain times and we don't know where we are going to be in 2014. She heard from the City Council that we pay a lot of money for health benefits so what are we about to sign up for with this contract. Will it be more Cadillac benefits? We cannot afford Cadillac benefits for any city employee. We have to be careful about what we are signing up for. There are communities all over this Country that are working with volunteer services and until we have at least three choices to think of we haven't been creative in our thinking at all. It is time to get a lot more creative in how to solve problems than this black/white, this or that kind of thinking which hasn't happened here yet. This contract is not ready.

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

RESOLUTION NO.: 1- 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AND EXECUTE AN AGREEMENT WITH
THE NEWBURGH ARMORY UNITY CENTER, INC.**

WHEREAS, the City of Newburgh has determined that it does not have sufficient personnel and other resources to manage, operate, and raise funds for the Armory; and

WHEREAS, the City Council after following due diligence, has determined that the Newburgh Armory Unity Center, Inc. ("NAUC") is the most capable entity to provide such management, operation, and fundraising services for the City of Newburgh; and

WHEREAS, the term of the agreement is for three (3) years; and

WHEREAS, this Council has reviewed the annexed agreement and finds that the execution of such agreement is in the best interests of the City of Newburgh, and its citizens;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement with the Newburgh Armory Unity Center, Inc., in substantially the same form as annexed hereto and subject to such other terms and conditions as may be required by Corporation Counsel.

Councilwoman Bell said that she is thankful for this proposal because our City Budget allots just 1% for recreation and youth services. People are always noting that these are some really bad kids that are always getting into trouble because they have nothing to do. A lot of creative thinking went in to developing this plan so she absolutely will be voting "yes" for it because it is the only thing that we are offering to our kids.

Councilwoman Angelo said that there will be eleven different directors so we will have a good foundation to work with. This is a step forward for us.

Mayor Valentine said that from day one when we acquired the Armory we knew that it would either be something that the City of Newburgh would be able to do or some other entity. We came to the conclusion very early on that the City of Newburgh could not manage this property. We don't have the staff to do it and we can't do the fundraising. We discussed this at our December meeting and then put it into the hands of this organization and came up with this agreement. There was a comment made that this is a three agreement but either side can get out of it by just saying that they don't want it anymore. There are no penalties or one side versus the other. These are people who have a vested interest in the City of Newburgh and they realized that in order to move that asset the only way to do it properly is with its own entity. The major thing to keep in mind is that they can do fundraisers and get grants. They can work with different organizations and put together events and do the infrastructure repairs to that building. The number of institutions and individuals that have contacted him since October and November will keep them busy for the next couple of months. Everyone has a good idea. They want to help the people in the City of Newburgh and do their share. This gives them the opportunity to work in an organized fashion with an Executive Director and a Board with no cost to the City of Newburgh. We also have the opportunity to use those facilities and the grounds whenever we choose at no cost. As Councilwoman Bell stated, we are seriously lacking in things that we do for our young people and seniors but we can't do them within the staff of our recreation department and the staff that we have here at City Hall. The only way we can get it done is with the not-for-profits and the volunteers. If we are going to start off this year in a positive way, he would have to say that this resolution would not be a better resolution than the one authorizing this agreement.

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.: 1 - 2011

OF

JANUARY 10, 2011

A LOCAL LAW AMENDING CHAPTER 126
ENTITLED "BUILDINGS, NUISANCE"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
(CITY ABATEMENT)

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

SECTION 1 - Title

This Local Law shall be referred to as "A Local Law amending Chapter 126 entitled "Buildings, Nuisance" of the Code of the City of Newburgh".

SECTION 2. Chapter 126. Buildings, Nuisance.

§ 126-7. Abatement by authorized officials.

The authorized officials of the City, having properly served parties who have committed or are responsible for a nuisance, ~~shall~~may abate such nuisance ~~at~~after the expiration of the time limit provided in such notice ~~under the rules of the City Charter and Code for its abatement, and for such abatement by the City the penalties and cost chargeable by the City against the owner as provided in this chapter shall be imposed and collected in the manner provided by law regulating the collection of fines; and if not so collected same may be added to and relevied as property tax against the property and enforced and collected in the same manner as provided by law for the enforcement of unpaid taxes. and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

SECTION 3 - Effective Date

THIS LOCAL LAW SHALL TAKE EFFECT immediately upon its filing in the Office of the Secretary of State as provided by Law.

Councilwoman Angelo moved and Councilwoman Bello seconded that the local law be enacted.

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

ENACTED

ORDINANCE NO.: 1 - 2011

OF

JANUARY 10, 2011

**AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN
CHAPTER 226, ENTITLED "PERFORMANCE OF WORK BY CITY;
ABATEMENT" OF THE CODE OF ORDINANCES AND AMENDING
CHAPTER 226, "PERFORMANCE OF WORK BY CITY; ABATEMENT"
IN ITS ENTIRETY**

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 226, "Performance of Work by City; Abatement", be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

SECTION 1. Chapter 226. Performance of Work by City; Abatement.

§ 226-1. Notice.

- A. In the event that any owner of any occupied or unoccupied lot, piece of land, building or structure or any part thereof within the City of Newburgh shall fail to maintain or repair the same as required by the City Code, or if such property or structure be considered a public nuisance as defined by the City Code, such owner may, in addition to or in lieu of other remedies, be served an abatement notice by certified mail, return receipt requested, sent to such owner's last known address as shown on the records of the City Assessor. A copy of such notice shall also be posted on the premises.
- B. The abatement notice shall contain a description of the premises, specify the provisions of the City Code deemed to have been violated, require the owner to correct the condition within twenty (20) days of the date of such notice, and provide that if the owner fails to do so, the City or the City's contractor may undertake or cause to be undertaken the required work, repair, or demolition and the City shall assess a lien against the property for the cost of the work, repair, or demolition together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, to be added to the total costs of the work, repair, or

demolition. The notice shall also contain, pursuant to § 226-2 of this Chapter, a hearing date and location, at which time and place the owner may be heard in regard to the matter contained in the notice. If the City determines that an emergency exists, the City may undertake or cause to be undertaken such work, repair, or demolition prior to the expiration of the specified period of time and/or prior to the hearing date, provided the notice identifies the violations as constituting such an emergency.

§226-2. Hearing to appeal notice.

- A. Any person affected by an abatement notice issued pursuant to § 226-1 of this Chapter shall be entitled to a hearing before the City Manager or the City Manager's designee, except in the case of an emergency. The City Manager or the City Manager's designee shall set the time and place for such hearing. The hearing shall be scheduled for at least ten (10) days but not more than fifteen (15) days from the date of the notice. At such hearing, the owner shall be given an opportunity to show cause why such notice of abatement should be modified or withdrawn.
- B. After a hearing held in accordance with subsection 226-2A of this Chapter and on consideration of the evidence presented, the City Manager or the City Manager's designee shall sustain, modify, or withdraw the notice of abatement. Such decision shall be deemed a final order and shall be served on the owner in the same manner as provided for in subsection 226-1A of this Chapter.
- C. The City Manager or the City Manager's designee shall keep a summary of testimony and copies of relevant notices or orders; entries of appearance; findings of fact, if any; and the final determination, and such record shall be maintained as a public record.
- D. If the owner does not appear at a hearing scheduled pursuant to this Section, the abatement notice shall be deemed a final order.

§226-3. Remedies; additional notice; additional hearing; expenses and tax liens.

- A. Should the owner fail to comply with a final order, or should the City determine an emergency exists, the City may undertake or cause to undertake the required work, repair, or demolition. The City shall keep records of the cost of such work, repair, or demolition.

- B. Should the required work, repair, or demolition be performed by the City or the City's contractor pursuant to subsection 226-3A of this Chapter, the city shall serve a billing notice on the owner, in the same manner as specified in subsection 226-1A of this Chapter, setting forth the cost of such work, repair, or demolition together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, to be added to the total costs of the work, repair, or demolition.
- C. An owner served with a billing notice pursuant to subsection 226-3B of this Chapter may request and shall be granted a hearing before the City Manager or the City Manager's designee to dispute the charges, provided that such owner shall file within ten (10) days of the date of the notice, in the office of the City Manager, a written request for such hearing. Upon receipt of a request for a hearing the City Manager or the City Manager's designee shall set a time and a place for such hearing and shall give the applicant at least ten (10) days written notice thereof. Such hearing shall commence not later than thirty (30) days after the date on which the request was filed; however, hearings may be postponed beyond such thirty (30) day period for good cause shown. At such hearing, the owner shall be given an opportunity to show cause why such costs should be reduced or otherwise modified. The City Manager or the City Manager's designee shall make a final determination on the charges, and such decision shall be deemed a final order. If the owner does not request a hearing on the billing notice, such notice shall be deemed a final order.
- D. The cost of the work, repair, or demolition as finally determined together with an additional fifteen (15%) percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, added to the total costs of the work, repair, or demolition, shall be assessed as a lien against the abated property. Notice shall be given to the Tax Collector's Office specifying the total cost of the work, repair, or demolition together with the fifteen (15%) percent administrative fee and the property affected by section, block and lot numbers as the same appear on the Official Tax Assessment Map of the City of Newburgh. From the hour of filing of said notice, the charges specified shall be a lien upon the property affected thereby. A copy of said notice shall also be served on the owner as provided for in subsection 226-1A of this Chapter. The costs specified, if not paid by or on behalf of the owner within thirty (30) days of the date of the notice, shall be added to and collected with the subsequent City tax

levy, and shall bear interest and be enforced as provided by law for City taxes.

§226-4. Judicial review.

Any person or persons, jointly or severally aggrieved by any final order, may seek to have such order reviewed by the Supreme Court, Orange County, in the manner prescribed in Article 78 of the Civil Practice Law and Rules and as otherwise provided for in the laws of the State of New York.

§226-5. City not liable.

No action for damages may be maintained against the City by reason of its failure to comply with any of the provisions of this Chapter.

SECTION 2. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Councilwoman Bell asked for an explanation.

Corporation Counsel, Bernis Nelson explained that this legislation sets forth the base Abatement procedure for the City. If a property owner has not done what they were ordered to do and the City decides either in addition to or in lieu of to do the work itself then it gets charged back to the property owner.

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

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

ADOPTED

ORDINANCE NO.: 2 - 2011

OF

JANUARY 10, 2011

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODE OF THE CITY OF NEWBURGH WITHIN CHAPTERS 119, "BRUSH, GRASS AND WEEDS," 121, "BUILDINGS, VACANT," 122, "BUILDING CONSTRUCTION," 129, "BUILDINGS, UNSAFE," 190, "HOUSING AND PROPERTY STANDARDS," 234, "PROPERTY DAMAGE" AND 279, "TREES AND SHRUBS"
(ABATEMENT BY CITY)

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapters 119, "Brush, Grass and Weeds," 121, "Buildings, Vacant," 122, "Building Construction," 129, "Buildings, Unsafe," 190, "Housing and Property Standards," 234, "Property Damage" and 279, "Trees and Shrubs" of the Code of the City of Newburgh be and the same are hereby amended to read as follows:

SECTION 1. Chapter 119. Brush, Grass and Weeds.

§ 119-5. Correction of condition by city.

If the person upon whom the notice provided for in § 119-4 is served fails, neglects or refuses to cut and remove or to kill by spraying such weeds, grass or other vegetation ~~within five days after the date of the mailing or posting of said notice, then the city, through the official designated by it for said purpose, shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed or killed by spraying.~~ the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

§ 119-6. Costs of removal.

~~The actual cost to the city of cutting and removing or killing by spraying as provided in § 119-5 plus a sum equal to 5% of such actual cost for inspection and other additional costs in connection therewith, shall be certified by the city official in charge of such cutting, removing or killing by spraying, and the amount thereof shall thereupon become and be a lien upon the property on which such weeds, grass or other vegetation were located, and the total amount~~

~~thereof shall be added to and become a part of the next annual assessment roll at the time and in the manner prescribed by the Charter of the city and subject to all the provisions thereof.~~

SECTION 2. Chapter 121. Buildings, Vacant.

§ 121-3. Responsibility of owner.

C. The Office of Code Compliance shall cause such vacant building to be inspected on a biweekly basis and shall notify the owner or agent at the address filed with the Office of Code Compliance of any accumulation of trash, debris, rodent infestation, the failure to keep said building secured or other violation of law, ordinance, City or state code or regulation at the premises.

(1) The owner shall have seven days from receipt of said notice to correct such conditions.

(2) If the owner fails to correct such condition, the City may ~~enter on the property, correct said condition and assess the cost of such work against the property.~~ abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

~~D. Assessment of any costs incurred by the City for such work performed by the City to correct violations at said property shall be carried out pursuant to Chapter 226 of the Code of Ordinances.~~

SECTION 3. Chapter 122. Buildings, Construction.

§ 122-7. Notice of violations; court action; emergencies; costs; responsibility for violations.

C. Proceedings to compel compliance. In the event that the owner, agent, operator or occupant cannot be found within the time limit set for the abatement of said violations or if such owner, agent, operator or occupant shall fail, neglect or refuse to abate such violation, the Corporation Counsel shall be advised of all facts and ~~shall~~ may institute appropriate action in the court to compel compliance. Additionally, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

D. Emergency cases. In cases of emergency which, in the opinion of the Code Compliance Supervisor, require immediate action to abate a direct hazard or imminent danger to the health, safety, morals or welfare of the occupants of a building or to the public, ~~he shall promptly cause such action to be taken as is necessary to remove or abate the hazard or danger.~~ the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

SECTION 4. Chapter 129. Buildings, Unsafe.

§ 129-11. Refusal to comply; procedure; expenses.

In addition to any penalty provided for in this chapter of the Code, upon the refusal or neglect of the person served with the notice for which provision is made in §§ 129-9 and 129-10 to comply with any of the requirements thereof, the Building Inspector may take down, remove, make safe or secure said buildings or structures ~~or may cause such work to be done and shall file a certificate of the expense thereof, together with a description of the property upon which the said buildings or structures are or were located, with the Director of Finance, who shall certify the same to the Council at the next regular meeting thereafter, and the expense of such taking down, removal, making safe or secure shall be paid by the owner of said property and may be collected in a proceeding pursuant to General Municipal Law, § 78 b, or by action at law or may be determined, assessed and collected in the same manner as the general city taxes as provided by law.~~ and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code. In the event of demolition, the Building Inspector shall additionally follow the procedures set forth in Section 129-15 hereof.

§ 129-12. Temporary safeguards for dangerous buildings.

In case there shall be, in the opinion of the Building Inspector, actual and immediate danger of the falling of any building or part thereof so as to endanger life or property, and such danger constitutes an emergency, the Building Inspector shall cause the necessary work to be done to render such building or part thereof temporarily safe. and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.

§ 129-15. Procedure.

The procedure for the removal of any building or structure which endangers the health, safety or welfare of the public shall be as follows:

F. In the event that the owner, or any party of interest, fails to repair or remove, as directed in the notice, within the time indicated therein, the City of Newburgh ~~shall~~may enter upon such property and cause to be repaired or removed the building or structure thereon, pursuant to the procedures set forth in Chapter 226 of the City Code. The cost and expenses incurred by the city in connection with the repair or removal of such building or structure, including the cost of actually removing the same, shall be assessed against the land on which said building or structure is located. Said cost and expenses may also be collected from the owner of said building or structure by special proceeding pursuant to § 78-b of the General Municipal Law.

SECTION 5. Chapter 190. Housing and Property Standards.

§ 190-21. Abatement of hazards;~~in~~ emergencies; expenses.

~~Whenever any violation of this chapter which, in the opinion of the head of the code enforcement agency, causes a direct hazard or immediate danger to the health, safety, morals or welfare of the occupants of a building or the public has not been corrected in the time specified by the order issued under § 190-20 of this chapter, the head of the code enforcement agency may take such direct action as is necessary to abate the hazard or danger. Expenses incurred in the execution of such orders shall be recovered as provided in Chapter 125, Buildings, Demolition of, of this Code. If, in the opinion of the head of the code enforcement agency, such violations constitute an emergency, or if the owner notified pursuant to § 190-16 fails to correct the specified violations, the City may abate such condition and assess a lien against the property for the cost of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

SECTION 6. Chapter 234. Property Damage.

§ 234-8. Property owners' responsibilities.

C. In any case in which the City takes appropriate action to remedy, remove or paint over graffiti as provided in Subsection B hereinabove, after providing the notice as required therein, then in such case the City shall be entitled to recover from the owner or from the offender or from both, jointly and severally, reimbursements for the actual costs and expenses associated with such remedy, removal or painting over. The City may undertake any and all

available actions which may be appropriate and necessary to securing such reimbursement, including but not limited to any or all of the following: negotiation with the responsible party, mediation, arbitration, legal action, and/or ~~adding the sum sought to the tax bill sent to and imposed upon the owner of real property in the City of Newburgh assessing a lien against the property for the costs of such remedy, removal, or painting over together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code. If such sum is added to the tax bill, it may thereafter be enforced in the same manner as provided by law for the enforcement of taxes.~~

SECTION 7. Chapter 279. Trees and Shrubs.

§ 279-14. Removal of branches overhanging public areas.

Where privately owned trees encroach upon any public street, park or public area, the Superintendent of Public Works or the Building Inspector may serve, personally or by mail, upon the owner of such property, a written notice to trim the encroaching branches, ~~and, upon failure to do so within 30 days after service of such notice, the Superintendent of Public Works shall remove branches overhanging any public street, park or public area and assess the costs thereof against the property affected by the assessment, to be levied, collected and enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced. If such owner fails to comply with such notice, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

§ 279-15. Removal of dead trees.

Where any dead tree or trees located on private property adjacent to a public street, park or public area constitute a danger or are potentially dangerous to the traveling public, the Superintendent of Public Works or Building Inspector may serve personally or by mail upon the owner of such property a written notice to remove the dead tree, ~~and, upon failure to do so within 30 days after service of said notice, the Superintendent of Public Works shall remove the same and assess the costs thereof against the property affected by such assessment, to be levied, collected or enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced. If such owner fails to comply with such notice, the City may abate such condition and assess a lien against the property for the costs of such abatement together with a fifteen (15%) percent administrative fee, pursuant to the procedures set forth in Chapter 226 of the City Code.~~

SECTION 8. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

| ~~Strikethrough~~ denotes deletions

Underlining denotes additions

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

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

ADOPTED

RESOLUTION NO.: 2 - 2011

OF

JANUARY 10, 2011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA") ASSUMING LEAD AGENCY STATUS WITH RESPECT TO AN AMENDMENT TO CHAPTER 266 OF THE CODE OF THE CITY OF NEWBURGH, ENTITLED "SUBDIVISION OF LAND," CLASSIFYING THE ACTION AS AN UNLISTED ACTION, ADOPTING THE SHORT FORM ENVIRONMENTAL ASSESSMENT FORM ("EAF") ATTACHED HERETO, MAKING A FINDING OF NEGATIVE SIGNIFICANT IMPACT ON THE ENVIRONMENT WITH RESPECT TO SAID ACTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAME ON BEHALF OF THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh wishes to adopt an ordinance amending various sections of Chapter 266, entitled "Subdivision of Land" within the Code of the City of Newburgh; and

WHEREAS, in compliance with the New York State Environmental Conservation Law ("ECL") and the rules and regulations of the New York State Department of Environmental Conservation ("NYSDEC") (6NYCRR, Part 617) the City Council wishes to assume lead agency status with respect to such action; classify such action as an Unlisted Action and adopt the Short Form EAF attached hereto in pursuance of same;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Newburgh, New York, does hereby assume lead agency status with respect to an amendment to Chapter 266 of the Code of the City of Newburgh, entitled "Subdivision of Land;" and as lead agency does hereby classify such action as an Unlisted Action; and does hereby adopt the Short Form EAF attached hereto; make a finding of negative significant impact on the environment and does hereby authorize the City Manager to execute and submit same to all involved regulatory agencies and parties on behalf of the City of Newburgh, in compliance with the provisions and requirements of SEQRA, the Environmental Conservation Law and the rules and regulations of the New York State Department of Environmental Conservation.

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

H.2-11

Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Newburgh City Council	2. PROJECT NAME Amendments to Land Subdivision Ordinance
3. PROJECT LOCATION: Municipality Newburgh County Orange	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) City wide Code Amendments. Entire Jurisdiction affected.	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Amendments to the Newburgh Land Subdivision Ordinance regarding Definitions, Fee In Lieu for Parks and Open Space, Automatic Period of Approval, Street Specifications, and other minor changes.	
7. AMOUNT OF LAND AFFECTED: Initially 2035 acres Ultimately 2035 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: Entire City affected	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: Edward Lynch, Director of Planning and Development Date: September 1,2010 Signature: <u>E Lynch</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

Reset

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN **ANY** ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
 No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
 No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
 No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
 No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
 No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
 No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:
 No

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

City Council of Newburgh New York September 1, 2010

 Name of Lead Agency Date

Richard Herbeck Acting City Manager

 Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer

 Signature of Responsible Officer in Lead Agency *E. Lynch*
 Signature of Preparer (if different from responsible officer)

Reset

ORDINANCE NO.: 3 - 2011

OF

JANUARY 10, 2011

AN ORDINANCE AMENDING VARIOUS SECTIONS
OF CHAPTER 266, ENTITLED "SUBDIVISION OF LAND"
WITHIN THE CODE OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that the following sections of Chapter 266, entitled "Subdivision of Land", of the Code of the City of Newburgh be and the same are hereby amended to read as follows:

Chapter 266, SUBDIVISION OF LAND

SECTION 1. ARTICLE I, General Provisions

§ 266-3. Definitions.

For the purpose of this chapter, the following words shall have the following meanings:

SUBDIVISION -- Division of any tract of land into two or more lots, plats, sites or parcels, for immediate or future sale or for building development with or without the creation of new streets, or highways, for the purpose of sale, transfer of ownership, or development. The term "subdivision" includes any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved, mapped on tax maps and filed in the office of the County Clerk.

SUBDIVISION, MINOR -- Any alteration of a lot line or dimensions of any existing lot and subdivision of a parcel into no more than two lots on an improved street.

TIDAL WETLAND/FRESHWATER WETLAND -- Any area which meets one or more of the following criteria:

A. Lands and waters of the state that meet the definition provided in § 24-0107.1 of the New York State Freshwater Wetlands Act (Article

24 and Title 23 of Article 71 of the Environmental Conservation Law) and have an area of at least 12.4 acres or, if smaller, have unusual local importance as determined by the Commissioner of the Department of Environmental Conservation of the State of New York pursuant to § 24-0301.1 of the Act. The approximate boundaries of such lands and waters shall be determined pursuant to § 24-03-1.5 of the Act, or a map that has been amended or adjusted pursuant to § 24-0301.6 of this title.

B. All areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of hydrophytic vegetation as defined by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989) prepared by the Federal Interagency Committee of the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Services, and U.S.D.A. Natural Resource Conservation Service.

SECTION 2. ARTICLE II, General Procedure

§ 266-6. Steps.

F. Prior to the approval of the final subdivision plat, the Planning Board shall make certain that the appropriate public improvements are installed and approved by the Planning Board and the City Engineer, or an acceptable performance bond, or other financial security acceptable to Corporation Counsel, in an amount specified by the City Engineer shall be posted with the City Engineer. The City Engineer may provide the Planning Board status reports on these securities. Forms for the submission of the final plat may be obtained from the City Planning Board. Prior to the submission of the final plat, streets and other public lands may be offered to the City Council for dedication. (See Article VII for requirements and details.)

SECTION 3. ARTICLE III, Preliminary Plat Requirements

§ 266-8. Form and content; endorsement.

B. Every preliminary plat submitted to the City Planning Board for its approval shall carry the following endorsement:

Approved by resolution of the Planning Board of the City of Newburgh, New York, on the..... day of....., 20____, subject to all requirements and conditions of said resolution. Any change, erasure, modification or revision of

this plat, as approved, shall void this approval. Signed this day of
20 by

.....
Chair

.....
City Engineer

SECTION 4. ARTICLE IV, Design Standards

§ 266-13. Drainage.

J. No Tidal or Freshwater Wetland shall be filled.

§ 266-19. Open spaces.

The Board may require the reservation of land for park, playground or other recreational purposes where it makes a finding that a proper case exists for such reservation on sites containing residential units. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the City based on projected population growth to which the particular subdivision plat will contribute. In the event that the Board makes such a finding, the Board may require dedication of 10% of the gross area or a minimum of three contiguous acres of open space, whichever is greater, or, where the Board finds that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the Board may require a sum of money in lieu thereof in an amount as set forth in Chapter 163, Fees. In making such determination, the Board shall assess the size and suitability of land shown on the subdivision plat which could be possible locations for park or recreational facilities as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any money required by the Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the City exclusively for park, playground or other recreational purposes, including the acquisition of property.

SECTION 5. ARTICLE V, Preliminary Plat

§ 266-21. Procedure.

The City Planning Board shall review the preliminary plat showing the foregoing requirements and, within 62 days of the date of submission of the preliminary application, shall:

A. Have the preliminary plat reviewed by the City Engineer and, if a performance bond is to be posted by the subdivider, receive the preliminary cost estimate from the subdivider approved by the City Engineer for such improvements.

B. A public hearing shall be held on the preliminary plat. Notice of such hearing shall be published at least once in the official newspaper of the city at least 10 days before the date set for such hearing. Notice shall also be mailed at least 10 days prior to such hearing to the owners of all properties within 300 feet of the exterior boundaries of the property which is the subject of the application. The applicant shall prepare the notice and mailing and shall pay the cost of publication, mailing and the fees provided in § 163-6 of this Code. The Secretary of the Board shall perform the mailing and arrange for the publication of the notice. The applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh. The notice shall set forth a description of the action sought from the Board, the name of the project, the location of the project by street location and tax map designation, the number of lots sought to be created and when and where a copy of the proposed plat is available for public inspection.

C. Review any approval or disapproval of the Orange County Department of Health regarding sewage disposal in the subdivision.

D. Approve, conditionally approve or disapprove the preliminary plat.

E. Communicate in writing the terms of conditional approval or the reasons for disapproval to the subdivider.

F. Communicate in writing the character and extent of the required public improvements for which waivers have been requested and which, in their opinion, may be waived without jeopardy to the public health and general welfare.

G. If conditionally approved, so endorse, together with the conditions, on the appropriate place on both the original and the photographic Mylar or equal stable material and return only the photographic Mylar to the subdivider. One print each of the approved plat may be submitted to the City Engineer, City Clerk and the City Assessor.

§ 266-24. Automatic approval.

If no action is taken by the City Planning Board within 62 days from the date of its submission, such preliminary plat will stand automatically approved, and the City Clerk, upon demand, shall issue a certificate to this effect.

SECTION 6. ARTICLE VI, Public Improvements

§ 266-29. Specifications.

Specifications for improvements, including but not limited to monuments, street grading and construction, curbs and sidewalks, street lights, trees, and other improvements on public or private streets, shall be acceptable to the City Engineer and conform to established industry standards available in his/her office.

SECTION 7. ARTICLE VII, Final Plat Requirements

§ 266-31. Form and content.

The final plat shall be prepared by a professional engineer and land surveyor and shall be drawn clearly and legibly with waterproof ink at a horizontal scale of one inch equals 50 feet and vertical scale of one inch equals five feet and shall show:

L. Every final plat submitted to the City Planning Board for its approval shall carry the following endorsement:

Approved by resolution of the Planning Board of the City of Newburgh, New York, on the day of, 20, subject to all requirements and conditions of said resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval. Signed this day of, 20 by

.....
Chair

.....
City Engineer

§ 266-33. Planning Board procedure.

A. Within 62 days from the date of submission of the subdivision plat, the Planning Board shall approve, conditionally approve or disapprove such plat.

Final approval cannot be given until the subdivider has complied with the requirements of this chapter. If such approval is given, the City Planning Board shall so endorse on the appropriate place on both the original and on the photographic Mylar or equally stable material and return only the photographic Mylar to the subdivider. One print each of the approved plat may be submitted by the City Planning Board to the City Engineer, City Assessor and City Clerk.

SECTION 8. ARTICLE VIII, Miscellaneous Provisions

§ 266-34. Waivers.

If the record owner or the subdivider can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of one or more of these regulations is impracticable or will exact undue hardship, the City Planning Board may permit such waiver as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter.

SECTION 9. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

denotes deletions
Underlining denotes additions

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

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

ADOPTED

ORDINANCE NO.: 4 - 2011

OF

JANUARY 10, 2011

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

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

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

SECTION 2. § 266 Subdivision of Lands

§ 266-19 Open Spaces

Parks, Open Space and Minor Subdivisions \$.10 cents per
square foot of

Subdivided area.

§ 266-22 Subdivision of Lands Fees

~~Recreation fee in lieu of land at the~~

~~Planning Board's discretion~~

~~500 per lot for a subdivision of four lots or fewer (minor subdivision); provided, however, that if a lot contains an existing single-family dwelling unit, such lot (and only one) shall be excluded from the calculation; \$500 per lot including the first four lots for subdivisions greater than four (major subdivision). For residential site plans, including but not limited to newly created condominiums, multiple dwellings (three and greater) and two family homes: \$1,000 for each residential unit.~~

SECTION 3. §300-51 Planning Board

Recreation fee in lieu of land at the For residential site
plans, including Planning Board's discretion but
not limited to newly created
condominiums, multiple dwellings
(three and greater): \$1,000 for
each residential unit.

SECTION 4. This Ordinance shall take effect immediately.

~~Strikethrough~~ denotes deletions
Underlining denotes additions

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

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

ADOPTED

RESOLUTION NO: 3 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING AN EXTENSION OF TIME
TO CLOSE TITLE ON THE PROPERTY LOCATED AT 135 WISNER
AVENUE (SECTION 13, BLOCK 5, LOT 10) SOLD AT THE OCTOBER 1, 2009
AUCTION**

WHEREAS, this Council, by Resolution No.: 164-2009 of October 26, 2009, confirmed the sale of (Section 13, Block 5, Lot 10) to Millpond Management; and

WHEREAS, the City Manager granted the sixty (60) day allotted extension to close title on said premises on or before February 12, 2010; and

WHEREAS, this Council, by Resolution No.: 50-2010 of March 8, 2010 authorized a sixty (60) day extension to close title on said premises on or before May 7, 2010; and

WHEREAS, this Council, by Resolution No.: 109-2010 of May 10, 2010 authorized a sixty (60) day extension to close title on said premises on or before July 9, 2010; and

WHEREAS, due to unforeseen circumstances, specifically severe title issues, the purchaser was not able to close title before July 9, 2010; and

WHEREAS, City staff and the title company have now resolved said issues; and

WHEREAS, Millpond Management wishes to close and has requested an extension to close title and also requested a confirmation of sale; and

WHEREAS, this Council has determined that granting the requested extension would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 135 Wisner Avenue (Section 13, Block 5, Lot 10) to Millpond Management be and is hereby granted until February 24, 2011, that date being forty-five (45) days from the date of this Resolution.

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 # 4 - 2010

OF

JANUARY 10, 2011

**A RESOLUTION DESIGNATING
DEPOSITORY BANKS**

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the following banks be and are hereby designated as depositories for City funds;

Bank of America
Citizens Bank
Key Bank of New York, N.A.
JP Morgan Chase
M & T Bank
Orange County Trust Company
Provident Bank
TD Bank

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

Councilwoman Bell said that she read the list of depositories in the Town of Newburgh and she didn't see any of the banks that we use on their list so she is wondering how they are chosen. She thinks that we should take a look at where we are putting the money and why to make sure that it is the best choice. If we find that there are other opportunities can this be amended?

City Comptroller, Cheryl Gross explained that these are the ones that were listed last year as she just started on December 20th. She has the option of calling these banks to find the highest interest rate offered and if at anytime she finds another bank other than one listed that is offering a higher rate she will contact the City Council.

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.: 5 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF
CHRIS ALLEN AGAINST THE CITY OF NEWBURGH IN THE AMOUNT OF
FIFTY-FIVE THOUSAND DOLLARS**

WHEREAS, Chris Allen brought an action against the City of Newburgh;
and

WHEREAS, the parties have reached an agreement for the payment of the
settlement in the amount of Fifty-Five Thousand (\$55,000.00) Dollars in exchange
for a release to resolve all claims among them; and

WHEREAS, such funds shall be secured by 2010 "M" Funds, Account
M.1930.0400 Judgments & Claims; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of
Newburgh, New York, that the City's attorney is hereby authorized to settle the
claim of Chris Allen in the total amount of Fifty-Five Thousand (\$55,000.00)
Dollars, and that City Manager be and he hereby is authorized to execute
documents as the City's attorney may require, to effectuate the settlement as
herein described.

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

**Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman
Dillard, Mayor Valentine - 4**

Abstain - Councilwoman Bell - 1

ADOPTED

RESOLUTION NO.: 6 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION TO RATIFY A SETTLEMENT IN THE MATTER OF
THE MEDIATION BETWEEN HILL INTERNATIONAL, INC.
AND THE CITY OF NEWBURGH**

WHEREAS, Hill International, Inc. ("HILL") and the City of Newburgh entered into a contract dated October 5, 2006 for Construction Management Services in connection with the construction of a new Court House; and

WHEREAS, a dispute developed and HILL served a demand for mediation; and

WHEREAS, after attending a mediation session both sides now desire to settle all the disputes to avoid the time and expense of further legal proceedings; and

WHEREAS, the City shall pay HILL a lump sum of \$150,000.00 no later than January 31, 2011; and

WHEREAS, such funds shall be secured by "H" Funds, Account H.1100.2004 City Court; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the terms of the settlement agreement are hereby ratified and that City Manager be and he hereby is authorized to execute a written settlement agreement and general release, and any other documents as may required, to effectuate the settlement as herein described.

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

R 6-11

SETTLEMENT AGREEMENT

In the Matter of the Mediation between

Re: 13 124 01266 10
Hill International, Inc.

Claimant

and

City of Newburgh

Respondent

WHEREAS, Hill International, Inc. ("Claimant") and City of Newburgh ("Respondent") entered into a contract dated October 5, 2006 whereby the Claimant agreed to perform certain construction management services for the Respondent in connection with the construction of a new court house in Newburgh, New York;

WHEREAS, a dispute developed and the Claimant served a demand for mediation upon the Respondent demanding \$385,020 in damages;

WHEREAS, the Respondent asserted a counterclaim totaling \$1,280,523.00 and denied any responsibility to make payment of any monies to Claimant;

WHEREAS, the parties selected Neal M. Eiseman to act as their mediator pursuant to the Mediation Rules of the American Arbitration Association; and

WHEREAS, the parties submitted pre-mediation statements and attended a mediation session before Mr. Eiseman on December 15, 2010; and

WHEREAS, both sides now desire to settle all the disputes between them,

IT IS HEREBY AGREED AS FOLLOWS:

1. By no later than January 31, 2011, the Respondent shall pay the Claimant the lump sum of \$150,000 by wire transfer to bank account specified by Claimant.

2. Upon execution of this settlement agreement, each party shall sign and notarize the reciprocal general releases annexed hereto as Exhibit "A" to be exchanged upon the Claimant's receipt of the \$150,000 referenced to in paragraph 1.

3. The parties agree to pay their own attorneys' fees and their respective share of the American Arbitration Association fees.

4. At its own cost and expense, and only as long as they remain employed by the Claimant, the Claimant shall make Doug Traver and Joseph Rhoades available to the Respondent for up to two days each (16 hours in total each) to assist the Respondent in the Respondent's prosecution of its claims against William J. Hauser, P.E. and McGoey, Hauser & Edsall Consulting Engineers, P.C. in a pending lawsuit in Supreme Court of the State of New York, County of Orange, Index No. 9292/10. Respondent shall pay for any incidental out-of-pocket expenses incurred by Claimant, Messrs. Traver and Rhoades for copying costs and travel expenses in connection with their assistance and any other out of pocket costs that are preapproved by Respondent. Any time spent by Messrs. Traver and Rhoades beyond the initial two days each, up to two additional days each shall be billed by the Claimant (and paid by the Respondent) at Messrs. Traver's and Rhoades current direct salary rate plus home office overhead excluding mark-up.

5. This settlement described herein is not to be construed as an admission of fault or liability by either party. Rather, it reflects each parties' desire to avoid the time and expense of further legal proceedings.

6. The parties acknowledge that they have consulted with their attorneys before

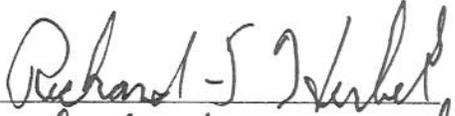
executing this settlement agreement.

Dated: December 15, 2010

HILL INTERNATIONAL, INC.

By: 

CITY OF NEWBURGH

By: 
subject to approval
of City Council

RESOLUTION NO.: 7 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT FOR VENDOR SERVICES WITH
KELLY KANE TO SERVE AS A TEMPORARY PART-TIME GRANTS
COORDINATOR TO ASSIST THE CITY OF NEWBURGH POLICE
DEPARTMENT FOR THE PERIOD OF JANUARY 1, 2011 THROUGH
DECEMBER 31, 2011 AT THE RATE OF \$25.00 PER HOUR NOT TO EXCEED
20 HOURS PER WEEK**

WHEREAS, pursuant to Resolution No. 225-2006 of November 13, 2006, the City Manager was authorized to retain the services of Kelly Kane to serve as an administrator and coordinator of grants and grant-funded programs; and

WHEREAS, Kelly Kane can continue to provide the coordination and management skills, as set forth in the Scope of Services section of the annexed agreement, that will assist the City of Newburgh Police Department in organizing and managing its grant funding; and

WHEREAS, funding to retain such services for the period January 1, 2011 through December 31, 2011 shall now be secured through the Police Department Line entitled "Other Services" (A.3120.0448) and not to exceed \$26,000.00; and

WHEREAS, retention of such services requires the execution of an agreement in substantially the same form attached hereto; and

WHEREAS, continuing the retention of such service is deemed to be in the best interests of the City of Newburgh Police Department and of the City and its citizens generally;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with Kelly Kane, in substantially the same form as annexed hereto to retain Ms. Kane's services as a part time grants coordinator to provide management assistance with respect to the Police Department's grant funding for the period of January 1, 2011 through December 31, 2011; Ms. Kane is to be paid at the rate of \$25.00 per hour for a work week not to exceed 20 hours per week from the Police Department Line entitled "Other Services" (A.3120.0448) and not to exceed \$26,000.00.

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

A7-11

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2011, 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 KELLY KANE, an individual consultant with principal offices at 297 Hudson Street, Cornwall on Hudson, New York 12550, 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. As such, CITY, in its sole discretion, shall have the right to use, copy, disseminate and otherwise employ or dispose of such material in any manner as it may decide with no duty of compensation or liability therefore to VENDOR or to third parties. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual

property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning January 1, 2011 and ending on December 31, 2011, unless extension expressly authorized by the City Council.

VENDOR shall perform twenty (20) hours of service per week hereunder, unless additional hours are expressly authorized by the Chief of Police.

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 the amount of twenty-five (\$25.00) and NO/Dollars per hour worked not to exceed 20 hours per week. VENDOR SHALL submit to the Chief of Police a weekly invoice for SERVICES rendered during the prior week, or as otherwise required by the Chief of Police 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. 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 8. ASSIGNMENT AND SUBCONTRACTING

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.

ARTICLE 9. BOOKS AND RECORDS

VENDOR agrees to maintain and retain 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 10. 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.

ARTICLE 11. INSURANCE AND INDEMNIFICATION

VENDOR shall be responsible for securing such insurance coverage for itself as VENDOR shall deem necessary and appropriate. CITY shall be in no way responsible for insuring VENDOR against any losses, damages or claims by third parties arising out of VENDOR's performance of services under this Agreement.

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 12. 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.

ARTICLE 13. 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 publicly or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDOR's 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 14. TERMINATION

Either party may, by written notice to the other effective upon mailing, terminate this Agreement in whole or in part at any time (i) for convenience, (ii) upon the failure of the other 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.

ARTICLE 15. 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 16. 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 17. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an

actual or perceived conflict of interests due to their position with the CITY.

ARTICLE 18. 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 19. 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 the party to be bound. 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

VENDOR

BY: _____
RICHARD F. HERBEK
ACTING CITY MANAGER

BY: _____
KELLY KANE

DATE: _____

DATE: _____

APPROVED AS TO FORM:

BERNIS E. NELSON
CORPORATION COUNSEL

CHERYL A. GROSS
COMPTROLLER

SCHEDULE A

SCOPE OF SERVICES

1. The Vendor shall coordinate and manage all grant funding received through the City of Newburgh Police Department.
2. The Vendor shall act as liaison between the City of Newburgh Police Department and the City of Newburgh Office of the Comptroller for all financial matters concerning grant funding.
3. The Vendor shall review all new grant applications for accuracy and confer with the Chief of Police to ensure that he is aware of the exact terms and conditions of the application.
4. The Vendor shall forward all grant applications to the City Manager's Office, Corporation Counsel and Comptroller.
5. The Vendor shall ensure that a resolution is drawn up by the Corporation Counsel to be forwarded to the City Council for approval.
6. The Vendor shall ensure that contracts are executed by all parties under all grants awarded to the Police Department.
7. The Vendor shall voucher the New York State or Federal government for reimbursement of monies paid out by the City of Newburgh.
8. The Vendor shall ensure that all quarterly, semi-annual and annual progress reports are completed by the property grant administrator within the Police Department.
9. The Vendor shall meet with each grant administrator bi-weekly to update them on the financial status of each grant.
10. The Vendor shall seek further grant funding and assist in writing new grants as time permits.

RESOLUTION NO.: 8 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION APPROVING THE CONSENT JUDGMENT AND
AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT
JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI
PROCEEDINGS AGAINST THE CITY OF NEWBURGH IN THE ORANGE
COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NOS.
8103-2008, 8275-2009 AND 8418-2010, INVOLVING SECTION 58, BLOCK 1,
LOTS 1.48, 1.-7, 1.-17, 1.-25, 1.-27 AND 1.-28 (PAUL & JOSEPH
MANAGEMENT, INC.)**

WHEREAS, Paul & Joseph Management, Inc. has commenced tax certiorari proceedings against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2008-2009, 2009-2010 and 2010-2011 tax assessment years bearing Orange County Index Nos. 8103-2008, 8275-2009 and 8418-2010; and

WHEREAS, it appears from the recommendation of the City Assessor, Fernando Gonzalez and Richard B. Golden, Esq. of Burke, Miele & Golden, LLP, Special Counsel for the City of Newburgh in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the City would involve considerable expense with the attendant uncertainty of the outcome, and that settlement of the above matters as more fully set forth below is reasonable and in the best interests of the City; and

WHEREAS, Paul & Joseph Management, Inc. is willing to settle these proceedings without interest, costs or disbursements, in the following manner:

- 1- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.48 be reduced to a market value of \$ 207,000.
- 2- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.48 be reduced to a market value of \$ 193,500.
- 3- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.48 be reduced to a market value of \$ 161,500.

- 4- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.-7 be reduced to a market value of \$ 156,500.
- 5- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.-7 be reduced to a market value of \$ 120,000.
- 6- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.-7 be reduced to a market value of \$ 100,000.
- 7- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.-17 be reduced to a market value of \$ 163,500.
- 8- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.-17 be reduced to a market value of \$ 138,500.
- 9- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.-17 be reduced to a market value of \$ 114,500.
- 10- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.-25 be reduced to a market value of \$ 173,500.
- 11- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.-25 be reduced to a market value of \$ 141,000.
- 12- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.-25 be reduced to a market value of \$ 120,500.
- 13- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.-28 be reduced to a market value of \$ 161,000.
- 14- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.-28 be reduced to a market value of \$ 135,000.
- 15- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.-28 be reduced to a market value of \$ 111,000.
- 16- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2008-2009 as tax map number 58-1-1.-27 be reduced to a market value of \$ 181,000.
- 17- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2009-2010 as tax map number 58-1-1.-27 be reduced to a market value of \$ 150,000.

18- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2010-2011 as tax map number 58-1-1.-27 be reduced to a market value of \$ 127,500.

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above and the attached Consent Judgment is hereby accepted pursuant to the provisions of the General City Law and other related laws.

BE IT FURTHER RESOLVED, that Richard F. Herbek, City Manager of the City of Newburgh; Fernando Gonzalez, Assessor of the City of Newburgh; and Richard B. Golden, Esq. on behalf of Burke, Miele & Golden, LLP, as Special Counsel, be and they hereby are designated as the persons for the City who shall apply for such approval pursuant to the aforesaid laws.

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

R 8-11

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X

In the Matter of the Application of
PAUL & JOSEPH MANAGEMENT, INC.,

Petitioner,

- against -

CITY OF NEWBURGH ASSESSOR'S OFFICE,
STEPHEN P. RUELKE, ASSESSOR,

Index Nos.: 8103-2008,
8275-2009,
8418-2010

Respondents.

For review of a Tax Assessment under Article 7
Of the Real Property Tax Law

-----X

PRESENT: HON. CATHERINE M. BARTLETT

UPON THE CONSENT attached hereto duly executed by the attorneys for all the parties and by all the parties, it is

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.48

be reduced in market value from \$221,800.00, 210,000.00 and 168,000.00, respectively to a market value of \$207,000.00, 193,500.00 and 161,500.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.-7

be reduced in market value from \$169,800.00, 134,100.00 and 107,300.00, respectively to a market value of \$156,500.00, 120,000.00 and 100,000.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.-17

be reduced in market value from \$177,600.00, 159,000.00 and 127,200.00, respectively to a market value of \$163,500.00, 138,500.00 and 114,500.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.-25

be reduced in market value from \$185,400.00, 167,000.00 and 133,600.00, respectively to a market value of \$173,500.00, 141,000.00 and 120,500.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.-28

be reduced in market value from \$172,000.00, 154,400.00 and 123,500.00, respectively to a market value of \$161,000.00, 135,000.00 and 111,000.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2008-2009, 2009-2010 and 2010-2011 as follows:

Tax Map No. 58-1-1.-27

be reduced in market value from \$193,100.00, 174,100.00 and 139,300.00, respectively to a market value of \$181,000.00, 150,000.00 and 127,500.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the Petitioner's real property taxes on said parcel above described for the 2008-2009, 2009-2010 and 2010-2011 School, County and City taxes be adjusted accordingly and that any overpayment by Petitioner be refunded upon the entering of this Consent Judgment with the Orange County Clerk's Office; and it is further,

ORDERED, that the officer or officers having custody of the aforesaid City of Newburgh assessment rolls shall make or cause to be made upon the proper books and records

and upon the assessment roll of said City the entries, changes and corrections necessary to conform such reduced market values; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the City of Newburgh and/or the County Commissioner of Finance, as the case may be, the amounts, if any, paid as City taxes and City Special District taxes against the original assessments in excess of what said taxes would have been if the market values had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the County of Orange, the amounts, if any, paid as County taxes and County Special District taxes against the original assessments in excess of what said taxes would have been if the market values had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the Newburgh City School District, the amounts, if any, paid as School District taxes against the original assessments in excess of what said taxes would have been if the market values had been determined as herein; and it is further,

ORDERED, that there shall be no interest paid or credited in connection with this Consent Judgment; and it is further,

ORDERED, that these proceedings are settled without costs or disbursements to either party as against the other.

Signed: January ____, 2011
 Goshen, New York

ENTER:

HON. CATHERINE M. BARTLETT
SUPREME COURT JUSTICE

ON CONSENT:

HON. RICHARD F. HERBEK
Acting City Manager
Dated:

JOSEPH E. SUAREZ, ESQ.
PAUL & JOSEPH MANAGEMENT, INC.
Managing Partner

Dated:

HON. FERNANDO GONZALEZ
Assessor
Dated:

RICHARD B. GOLDEN, ESQ.
Burke, Miele & Golden, LLP
Attorney for Respondents
Dated:

RESOLUTION NO.: 9 - 2011

OF

JANUARY 10, 2011

**RESOLUTION AMENDING RESOLUTION NO: 185-2009,
THE 2010 BUDGET OF THE CITY OF NEWBURGH,
REGARDING AMENDMENTS TO THE GENERAL FUND
FOR THE LIBERTY STREET SCHOOL EMERGENCY CLEANUP**

BE IT RESOLVED that Resolution No: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended regarding amendments to the General Fund for the Liberty Street School Emergency Cleanup, as set forth on the spreadsheet attached hereto.

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

R9-11

Liberty Street School Emergency Cleanup
Budget Adjustment for 2010 Expenses

		Expenditures
A.1900.1990	Contingency - Emergency	\$ (32,420)
A.1440.0459	Cleanup/Removal	\$ 32,420 

RESOLUTION NO.: 10 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION APPROVING A COLLECTIVE BARGAINING
AGREEMENT WITH LOCAL 589
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS**

WHEREAS, the City of Newburgh and Local 589 International Association of Fire Fighters ("Local 589") are parties to a collective bargaining agreement which term expired on December 31, 2009; and

WHEREAS, the City Manager and negotiators representing the City of Newburgh and Local 589 have engaged in collective negotiations for a successor agreement pursuant to the requirement of the Taylor Law; and

WHEREAS, the City Council has reviewed the terms negotiated as set forth in the attached Collective Bargaining Agreement between the City of Newburgh and the Local 589, which sets forth the terms and conditions of employment for the term January 1, 2010 through December 31, 2014, and has consulted with the representatives of the City, who have recommended that the City Council approve the negotiated changes and new collective bargaining agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the terms of the attached Collective Bargaining Agreement are ratified and approved and the City Manager is directed and authorized to execute such agreement.

Councilwoman Bello said that the only problem that she has is that in agreeing to the contract there is no safety net built into it. Most of our ability to pay for the contract is based on projections of estimated savings. There is no place in the contract that gives us an opportunity to stop and evaluate whether these savings are being realized or not. In addition to that we are further limited in our choices because we are handcuffed with minimum staffing levels and a no lay-off clause. She thinks that it would be wise to table this.

Councilwoman Bello moved and Councilwoman Bell seconded that the resolution be tabled.

Ayes - Councilwoman Bell, Councilwoman Bello - 2

Nays - Councilwoman Angelo, Councilman Dillard, Mayor Valentine-3
DEFEATED

Councilwoman Bello continued that we have three other Unions to negotiate with. If any or all three ask for job security in the form of a no-layoff clause and we don't entertain their request, are we setting ourselves up for an unfair labor practice?

Corporation Counsel, Bernis Nelson said that she would have to consult with the labor counsel.

Councilwoman Bell said that once precedence is set then it becomes the expectation of the others. When it comes time to negotiate with the police how can we say that they deserved it but you don't.

Councilwoman Bello said that we are basing our ability to meet the requirements of this contract on estimated cost savings. If those cost savings don't materialize, are we going to further decimate DPW, eliminate police officers or raise taxes?

Acting City Manager, Richard Herbek said that they did as good a job as possible. There will be a number of retirements taking place over the next couple of years. They tried to analyze that and come up with projections of cost savings. He thinks that there are going to be opportunities within the Fire Department with changes in the overall function in terms of their being able to take on more responsibilities. One would be to help with vacant properties and inspections. There is a whole range of possibilities that he thinks they will be able to achieve. It is very hard to come up with revenue savings but it is something that there is an agreement on with the partnership here. He thinks that this is a good deal for the City moving forward and that it is going to give us the ability to provide fire protection without having to shut down the West End Firehouse. He thinks that this needs to be analyzed in terms of what it accomplishes over a period of time. He also thinks that it will allow for some possible changes in terms of part-time employees and some other ideas that have been provided. He agrees that those ideas need to be evaluated and we need to look at every possibility in terms of providing emergency services to the community.

Councilwoman Bello said that the fact of the matter is that in one hand she has the letter to the State Comptroller where she is sure that the City

Manager was honest in his assessment of our financial situation and in the other hand she has a lot of promises. How can we meet the demands of this contract in this financial situation? She doesn't understand this and she doesn't know how anyone could sign a contract based on blind faith. Everything is estimated. She is hearing that people are going to retire but the contract provides that they get paid back for the money that they gave up if they retire at certain points. All she asked for was a cost benefit analysis and she was not able to get that. She thinks that there are so many questions and it would behoove us to really take a little more time but the majority of the Council doesn't want to do that. What is really troublesome to her is that there is no safety net whatsoever and if these numbers are not realized then it will certainly fall on the taxpayers who are over burdened right now. She read the following letter that she received from a resident - *"Help I am a woman in my middle 70's who has lived in Newburgh since 1962. I have always paid my taxes, mortgages, bills etc. My husband is 76 and he is retired. I am still working to pay my bills but this new tax bill has floored me. There is no way we can exist. It is so unfair and beyond anyone's expectations to tax us like this. I am sick with worry. I am a decent person and I go to work to try to make ends meet but I feel suffocated by the Council's decision to do this to us. Please, please help us."* She asked Mr. Herbek if this doesn't work out what she should tell this lady. Should she tell her to go get a second job? This is the reality and these are the people that are the basis of this community and we are playing roulette with probably the largest material asset that they have.

Councilwoman Bell said that she is struck by the fact that once again on our Council we have three people who stand together and maybe that's because they are careless. She cares about the people here in the City of Newburgh that have worked their whole entire life to participate in the American Dream and now they can't do that anymore. She said that she is a member of the Teacher's Union and they understood as a Union that these are such difficult times. When their contract was up for renewal they decided that it was not to anyone's advantage to negotiate a multi-year contract so a one year addendum to the contract was signed. She suggested this to the Fire Department and when she spoke to one of the members recently she asked him where he lived and was told that he lived in the Town of Newburgh where their tax increase was 1.9%. She hears the guys saying that they really want to help but we are on our knees gasping for our last breath. To her the fact that they would get their twelve jobs would be enough knowing what dire circumstances we are in but they just don't want the twelve jobs they want more. We have no money for youth services so if they work eight days a month she would like to hear someone say out of good faith that on their days off they will work to help our youth. Maybe we could have a youth fire organization. She is not hearing any compassion or sympathy for the taxpayers here. 2% and 70% are two very different things. In the City

Manager's report to the State Comptroller it says that with no available fund balance achieving a balanced budget required a 70% increase in the property tax levy which followed a 24% increase in the property tax levy in 2010. It also says that the above changes alone will call for a 28% and then an 11% increase in the property tax levy in 2012 and 2013. How will we survive? Everyone wants to get their piece and the City residents wind up getting nothing. We have to stop this. She appealed to her fellow Council members to stop with the black and white and yes or no. It is not the appropriate time. Let's move to hold things off. She listened to the speech of the Governor which was incredible. He said that he will be offering major incentives in the tune of Millions of dollars to municipalities and he will also propose a consolidation bonus. They have been talking about consolidation of local government for a long period of time and they are seeing some progress. If they add financial incentives to the governments that actually consolidate then we would see acceleration in the consolidation process and have a bonus fund for local governments that consolidate and merge or share services with 50% of the bonus money going to direct property tax payer relief for people of that government. We are not an Island and we are not operating in a vacuum here. We have to be more conscience of what is going on around us. If we sign a no-layoff, multi-year contract, we are not eligible to do consolidation. We lock ourselves completely out of a multi-million dollar opportunity. She told her fellow Council members to use their heads and their hearts. This is not the proper time for this deal.

Councilwoman Angelo said that about a month ago the Council Chambers was packed with people fighting for them to keep the West End Firehouse open and keep twelve firemen working. Her phone was ringing off the hook with senior citizens calling her because they were afraid that their homes were going to burn down. Now we have the chance to keep the twelve firemen. She read an article from the newspaper and said that she knows that we are talking about sharing services but we have Towns that have volunteer firemen and we have paid firemen.

Acting City Manager, Richard Herbek said that what he has been hearing from some of the surrounding Towns is that they are having difficulty with volunteers responding especially during daytime hours.

Councilwoman Angelo said she is going to approve this contract.

Councilwoman Bell asked how many of the firemen actually live here and have received this increase. She doesn't want to lay anyone off but she doesn't want them to hold us up either. She feels like they are being held hostage here because they know that we need them but instead of just getting the jobs saved they want more and we don't have it. We are bled dry. She

heard that there is an opportunity to keep both firehouses open with some apparatus at both. We are always either yes or no but there is opportunity to be fluid and make things work if we would only talk to each other and work together but we don't do that. People are being forced out of their homes and she told the people that are renters who feel that they don't pay taxes to remember that their landlords do. She just received a tax bill for one of her buildings which is \$12,030.00 and that doesn't include the sanitation or water which is \$560.00 a quarter. She keeps her rents some of the lowest in the whole city but what are we going to do?

Acting City Manager, Richard Herbek said that if you lay-off the twelve firemen it is actually going to cost the city more because we need to pay them all of their accrued time. He thinks that they have achieved some savings in 2011 and 2012 and there are opportunities moving forward for even more savings and more productivity from this deal.

Councilwoman Bell said that she thinks we should keep the guys and not give away the ability to be open to some of the possibilities that might come our way. When you sign off on no lay-offs then you are not giving us the opportunity to have any other possibilities which is not fair.

Councilwoman Bello said that there is no safety net here and not one person on this Council can give you a cost factor for the length of this contract. It is just completely irresponsible to vote on a contract based on blind faith. She wants to believe the numbers she is given and give them every opportunity to prove it but Mr. Herbek didn't put any kind of safety net in these negotiations. He put nothing in to protect the city or the taxpayers which is where it lost her support.

Councilwoman Bell said that she received a call from Councilwoman Bello asking for them to just do a two year contract which is also an option. Why does it always have to be just that way? Can't we keep them for two years and look at what the actual saving are going to be? That was her appeal. She got it and thought it was valid but what did the other Council members think about it?

Mayor Valentine asked the City Manager when they started negotiating with the firefighters on this contract.

Acting City Manager, Richard Herbek responded that it dates back to about two years when the process started.

Mayor Valentine said that he believes Councilwoman Bell was on the Council at that time. It is really easy to play to the audience and have the

audience cheer you. On every single one of our sessions that we had on these contracts, Councilwoman Bell was in favor. In fact, on more than half of them, he was against it. He said that he ranted to the City Manager to make the numbers work. If the numbers don't work, then they lose their jobs because it cannot cost the city any money. He polled the Council at every meeting to see who was for it and who was against it. Do we give the City Manager the direction to move forward or do we break negotiations? The three people that wanted to move ahead consistently were Regina, Curlie and Marge. Christine was against it from day one and he was against it probably more than 50% of the time. Now, as of last Thursday night, we get this turnabout and revelation that all of a sudden all of the information that we got doesn't work. All of the speeches that our Fire Chief made over and over again stating how he can make this work and how this will save money now all of a sudden don't work. They don't work for Councilwoman Bell because she knows that she has three people sitting right next to her who are going to vote for this contract. There is a lot of responsibility and leadership in taking a vote of this nature. It is not an easy vote. He has gone back and forth and fought on this. He told the firefighters that in all truth and honesty that if this vote had occurred the night that we had the Council meeting at the Activity Center they wouldn't have been able to get his vote for their contract come Hell or high water. He was never more embarrassed as an elected official and he had never seen such bad behavior by a group of individuals. He knows most of the firemen in the City of Newburgh and the people who spoke at the microphone weren't even from here to trash us, pick on us and lobby us which was disgusting. It was a sad night. This is not perfect. It is far from perfect because there is no perfect agreement for this particular time. No perfect labor agreement. There is a no agreement but that means that not only twelve people lose their jobs but the safety of this city is at risk. He cannot do that in good conscience. We have been assured by our Fire Chief and he puts his trust in him because for more than thirty years he has been doing this. He started as a fireman, got a law degree specializing in labor negotiations and then came back to the City of Newburgh as Fire Chief. He could be anywhere he wants but he is here. He puts his assurance, faith and trust in a person that cares about this city, its well being, safety and also its finances. There are always things that could have been changed but at some particular point you have to say that this is the contract that goes forward. This has already gone to the Union and back and forth to so many lawyers we can't count. At what particular point do you vote? At what particular point do you stand up and say to the citizens of the City of Newburgh that in the best interest of the safety of the people that live here this is the way it should happen. Obviously it is not very popular which we can see from the audience but as Councilwoman Angelo said earlier a month ago we were being crucified. He was getting phone calls from the elderly who were afraid their homes would burn down because they live on the west end.

Councilwoman Bell said that was because they were told that by people who were trying to frighten them.

Mayor Valentine said that we who vote do not have the luxury to say it becomes personal. We have to look at the overall safety of the people in this City. What he does like about this contract is the added services and opportunities that we can negotiate because there is stability within the fire department. There has been talk about the people who lost their jobs at DPW but do you know that last year they never got one single phone call from CSEA? Not one phone call from anyone at the Union that said we want to come in and save some of those jobs. He feels bad for George Garrison and he is sick over the fact that there are that many people that don't have their jobs but no one came forward from CSEA. The firemen came forward early on and said they had an idea and they became creative. We hammered it out to make the numbers work.

Councilwoman Bello asked how he saw the numbers.

Mayor Valentine said that she has seen every single number. He has not seen any number that she has not seen.

Councilwoman Bello said that is not true.

Mayor Valentine asked the City Manager, Corporation Counsel and Chief Vatter if there is any piece of paper that he has seen that certain Council people have not. There is probably a conspiracy by all four of them not to give Councilwoman Bello a piece of paper.

Councilwoman Bell said that there is always a conspiracy someplace when they have systematically tried to cut them out.

Mayor Valentine said that at every single one of the Executive Sessions they heard the numbers go back and forth and he looked to his left and asked Councilwoman Bell if she liked this and was told "yes" she did. He didn't like it because it didn't meet what he wanted but she always said "yes" and tonight, "no".

Councilwoman Bell said that she doesn't want to fight. They should be working together to try to figure out how to make something that is workable for our taxpayers.

Mayor Valentine said that we went through all of the numbers and every part of this agreement to get to where we are. He said that obviously they have to monitor this overtime because he is very worried about the

commitment of overtime. He is worried that it is not in the language saying that there is some type of penalty. It just says that they will meet the overtime and he is worried about that. He doesn't like it and he is not comfortable with it. Not to the point of changing his vote but he has to express that he is not comfortable with it. They have to know that we are maintaining the numbers that have been promised in this deal so to the Firemen and the Fire Chief he said that the City Council has to be notified on a regular basis to make sure that if something is out of whack we correct it within the department. It may not be in the language but it is in his language and it is what he is saying to the public tonight. That is something that they have to constantly watch. Also, the changing of the shifts should save money and they are all hoping for that. In other cities it has saved money and they hope it will here too. Lastly, the members of the Fire Department as well as other municipal employees have to come to the table with management and we have to start looking at the health care providers for the City of Newburgh. If we are going to make the tax numbers work in upcoming years, we have to start looking for some savings from people who work here right now and people that have worked here in the past and are now retired. If we don't, we are going to be dead in the water so he is reaching out to please work with him and the other Unions in the City to sit down and start discussing this.

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

Ayes - Councilwoman Angelo, Councilman Dillard, Mayor Valentine-3

Nays - Councilwoman Bell, Councilwoman Bello - 2

ADOPTED

R 10-11

STIPULATION OF AGREEMENT made and entered into this 3rd day of January 2011 by and between the negotiating committees for the City of Newburgh ("the City") and Local 589, IAFF, AFL-CIO ("the IAFF").

WHEREAS, the parties have engaged in negotiations in good faith in an effort to arrive at the terms of a new collective negotiations agreement to be effective January 1, 2010; and

WHEREAS, the parties have arrived at a tentative agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties stipulate and agree as follows:

1. The provisions of this Agreement are subject to ratification by the IAFF's membership, and ratification and approval by the City Council.
2. The signatories agree to recommend this Agreement for ratification/approval.
3. A copy of this original document has been furnished to representatives of the City and the IAFF.
4. All proposals made by either party during the course of negotiations which are not covered by this Agreement shall be deemed dropped.
5. The provisions of the Agreement shall be as per the attached draft collective negotiations agreement. Unless otherwise noted, all changes shall be effective on January 1, 2010.

FOR THE CITY:

Richard W. Herbert 1/3/11
Cheryl A. Gross 1/3/11

FOR THE IAFF:

James M. Hoff 01/03/11
Jimmy Carter 01/03/11

AGREEMENT

BETWEEN the City of Newburgh, a municipal corporation organized and existing under and by virtue of the laws of the State of New York ("the City") and LOCAL 589, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO ("the Union" or "Local 589").

WHEREAS, it is the intent and purpose of the parties, by entering into this Agreement, to promote harmonious and cooperative relationships between the City and its employees and to protect the public by assuring at all times the orderly and uninterrupted operations and functions of the government and to comply with the statutory requirements set forth in the Public Employees' Fair Employment Act (Chapter 329, Laws of 1967), Civil Service Law, commonly referred to as the Taylor Law; and

WHEREAS, the Union affirms that it will abide by the provisions of Section 210 of the Public Employees' Fair Employment Act, pertaining to the prohibition of strikes, and will not assert the right to strike against the City or enter into any concerted stoppage of work or slowdown and that it will not assist or engage in a strike, and that it will not cause, encourage or condone a strike or impose any obligation upon its members to conduct, assist or participate in a strike.

ARTICLE 1 – RECOGNITION

The City recognizes the Union as the sole and exclusive representative and bargaining agent for all uniformed employees ("employees") of the City of Newburgh Fire Department ("Fire Department"), with the exception of the Fire Chief and Deputy Fire Chief as directed by the Public Employment Relations Board, on all matters relating to wages, hours of work, working conditions, benefits and grievances as provided in the Public Employees' Fair Employment Act.

ARTICLE II – MANAGEMENT'S RIGHTS

It is recognized that the management of the Fire Department, the control of its properties, and the maintenance of order and efficiency, are solely the responsibilities of the City. Accordingly, the City retains all rights except as they may be specifically modified in this Agreement including, but not limited to, selection and direction of the work forces; to hire, suspend, or discharge for cause; to make reasonable and binding rules which shall not be inconsistent with this Agreement; to assign, promote or transfer; to determine the amount of overtime to be worked; to relieve employees from duty because of lack of work or for other legitimate reasons; to decide on the number and location of facilities, stations, etc.; to determine the work to be performed, amount of supervision necessary, equipment, methods, schedules, designing, engineering and the control of equipment and materials; to purchase services of others by contract or otherwise except as they may be otherwise specifically limited in this Agreement; and to make reasonable and binding rules which shall not be inconsistent with this Agreement.

ARTICLE III – SENIORITY

- A. The Fire Chief shall establish a list on the basis of seniority, and the list shall be re-established effective January 1 of each year. The list shall be posted at the Central Fire Station and all substations for a period of not less than 30 days, and shall be mailed to the Union Secretary.
- B. Any objection to the seniority list as established each year shall be made to the Fire Chief within 20 days, and shall be considered in accordance with the procedure herein for the adjudication of grievances (Article XXI).
- C. Seniority shall be computed for each employee from the date of permanent appointment. An employee who has resigned and who has thereafter been reinstated or reappointed within one year shall be deemed to have maintained continuous service, except where the resignation was solely for the purpose of accepting another position of employment outside of the Fire Department.
- D. Subject to the provisions herein, an employee shall lose all seniority rights upon voluntary resignation or upon discharge for just cause. An employee whose service is terminated for any period in excess of one year and is thereafter reinstated or reappointed shall have the employee's seniority computed from the date of reinstatement or reappointment.
- E. Subject to the provisions herein, leave of absence without pay or suspension shall not constitute an interruption of continuous service.

ARTICLE IV – PROMOTIONS

- A. Promotions shall be determined and regulated by Civil Service Law and Rules calling for the selection of one of the top three candidates, determined by competitive examination and certified by the Civil Service Commission. All promotions, whether to permanent or temporary positions, will only be made by the promotion being offered to an employee and the employee accepting the offer, except in emergencies occurring without notice and then not to exceed 24 hours.
- B. Each candidate for appointment or promotion is entitled to and shall receive actual notice of the appointment to be made at a time prior to the public announcement of designation of appointment or promotion.

ARTICLE V – HOURS OF DUTY

- A. The hours of duty shall be so established by the Fire Department that the average weekly hours of duty in any year, other than hours during which employees may be summoned and kept on duty because of a conflagration or major emergencies, shall not exceed 40 hours. The Day Shift shall be from 8:00 A.M. until 5:00 P.M. and the Night Shift from 5:00 P.M. until 8:00 A.M. Effective January 13, 2011

through April 12, 2013 employees, other than those assigned as staff members, shall work a 24 hour shift. The 24 hour shifts shall be from 8:00 A.M to 8:00 A.M. followed by 72 hours off. The hours of duty of staff members shall continue to be the same as is set forth in Article XXXI(1). If the City wishes to return to the nine hour and 15 hour shifts, the City shall give the Union notice on or before January 12, 2013. If the City does not give this notice by on or before January 12, 2013, 24 hour shifts shall be permanent. If the City opts out of the 24 hour shifts, the previous work schedule of nine and 15 hour shifts and existing contract provisions associated with the nine and 15 hours shifts listed in Appendix "B" attached hereto shall be restored. The parties agree that the 27 month trial period for a 24 hour work schedule shall not be referenced in any manner by the Union or the City in any interest arbitration proceeding between them unless the 24 hour period becomes permanent pursuant to the terms of this Agreement.

B. Mutual Exchanges

An employee may be granted in a calendar year an unlimited number of exchanges of a scheduled tour of duty ("mutual"), provided that the mutual is with another employee holding the same rank within the Fire Department and possessing the same qualifications (qualification is for purposes of drivers of apparatus). For purposes of the same rank, captains and lieutenants will be considered equal. Approval of a request for a mutual shall not be unreasonably withheld. Upon approval of the mutual, responsibility for working the tour of duty shall lie with the employee who agreed to work the tour and the scheduled employee shall be relieved of responsibility for working the tour of duty. The employee who agrees to work the mutual shall not use any time off for the mutual tour, except for use of sick leave as set forth below.

A request to exchange a tour of duty shall be submitted in writing to the Fire Chief or designee prior to the scheduled start of the tour. The request shall state the name of the employee scheduled to work, the name of the employee who will actually work, the tour for which the exchange will take place, the date and group of the employee scheduled to work, and the signature of both employees.

Early relief of up to one hour may be taken upon reporting to the officer in charge without the submission of a mutual exchange request and early relief shall not be considered mutual exchange time.

In the event an employee who agreed to work the mutual is unable to do so, that employee may have another employee of the same rank and equal qualifications work the tour of duty ("substitute employee"). An employee who utilizes undocumented sick leave for one tour when the employee was due to work a mutual for another employee will lose the right to mutual exchanges for a period of one year from the date of occurrence and the employee will be charged two sick days (effective January 13, 2011, 48 hours) of sick time for the absence on the mutual tour. An employee unable to work a mutual exchange tour due to

sickness and who upon return to duty submits documentation from a licensed physician that the employee was unable to work, will be charged one sick day (effective January 13, 2011, 24 hours) of sick time for the absence on the mutual tour.

An employee who reports sick for two mutual tours within a one year period of time will lose the right to mutual exchanges for a year from the date of the first tour occurrence and two sick days (effective January 13 2011, 48 hours) of sick time will be charged for the exchanged tours, regardless of the circumstances of the employee's absences.

All mutual exchanges must be repaid within a year from the date of the mutual. Any compensation in addition to regular pay shall be paid to the employee actually performing the duty.

- C. Mutual exchanges will not be approved where the mutual will result in the employee working more than 39 consecutive hours (effective January 13, 2011, 48 consecutive hours).
- D. Assistant Chiefs shall attend staff meetings scheduled by the Fire Chief outside their regular work schedule. Staff meetings shall be held no more frequently than one per month and for no longer than two hours per meeting. Assistant Chiefs shall be compensated at the straight time pay rate (1/2080, 1/2088 or 1/2096 of annual salary depending on the calendar days in a given year) ("the straight time pay rate") for time spent at staff meetings, except to the extent that the Fair Labor Standards Act (FLSA) otherwise requires, in which event the FLSA shall apply.

Company Officers shall attend staff meetings scheduled by the Fire Chief outside their regular work schedule. Staff meetings shall be held no more frequently than one per quarter and for no longer than two hours per meeting. Company Officers shall be compensated at the straight time pay rate for time spent at staff meetings, except to the extent that the FLSA otherwise requires, in which event the FLSA shall apply.

ARTICLE VI – PRODUCTIVITY

The Union and the City recognize the need for increased employee productivity and agree to work jointly together to effectuate increased productivity. Among, but not limited to, the areas to be discussed are:

- (1) EMT Training Program;
- (2) Establishing an Emergency Medical Services ("EMS") Division;
- (3) Inspections;
- (4) Code Enforcement, other than as set forth below.

Training, if required by the City, will be done during regularly scheduled tours, or if done at any other time, shall be compensated for, at the straight time pay rate for time spent at training, except to the extent that the FLSA otherwise requires, in which event the FLSA shall apply.

Effective January 1, 2011, employee duties and responsibilities shall include commercial fire inspections and inspections of buildings in the vacant building registry.

In the event the City decides to add performance of additional code enforcement duties and/or basic EMS and/or advanced life support duties by employees, the parties agree to reopen negotiations prior to the expiration of this Agreement.

ARTICLE VII – WORKING RULES AND REGULATIONS

- A. The Fire Department may adopt rules and regulations to govern its operation and the conduct of its employees provided, however, that these rules and regulations do not conflict with any of the provisions of this Agreement, the Public Employees' Fair Employment Act, the Labor Law or the Civil Service Law.

All employees shall be given a copy of the revised Rules, Regulations, Orders and Standard Operating Procedures. Copies of new items or deletions will be distributed when adopted. Copies shall be maintained by employees for inspection upon call by the Fire Chief.

- B. The Fire Chief or designee and the City Manager, as herein set forth, have the authority to discipline and suspend for just cause subject, however, to the provisions of Article VIII and Article XXI.
- C. No employee shall be directed or required to perform work outside of the employee's job description. Specifically, major maintenance is outside of an employee's job description and shall include, but not be limited to, the following categories: interior and/or exterior painting; carpentry; electrical; plumbing; heating; roofing; and masonry.
- D. Pursuant to administrative order, every document forming a part of an employee's personnel file shall be consecutively numbered.
- E. Upon request, an employee(s) shall be entitled to the presence of a Union officer during any job related confrontation with a superior.
- F. Employees on an initial alarm assignment, commencing five minutes after returning from a Second Alarm or Third Alarm fire scene or mutual aid call in duration of more than one hour, shall be allowed 30 minutes of shape-up time before returning to in-service status. If shape-up time is taken, the employee shall shower and change to a clean uniform.

- G. The City shall submit written notice to the Union of the following actions affecting employees:
1. Appointment of new employees;
 2. Promotions;
 3. Disciplinary actions;
 4. Retirements;
 5. Authorized leaves of absence for one week or more.
- H. When an employee is transferred to a different station, the City will notify the employee by telephone a least one hour prior to the commencement of the tour of duty.
- I. Employees are prohibited from the wearing of facial jewelry while on duty. Facial jewelry is defined to mean any item of jewelry, except eyeglasses or contacts, worn on or appended to a person's face, nose, ears and head, including items such as earrings and nose rings. An employee who violates this requirement shall be subject to disciplinary action.
- J. Pay Day. Pay day shall continue on a current bi-weekly schedule.

ARTICLE VIII – DISCIPLINARY ACTION

- A. Disciplinary action shall follow within the provisions of Article V, Title B of the New York State Civil Service Law.
- B. Every employee shall have the right to the assistance and representation of the Union at any disciplinary action.
- C. The authority to suspend an employee shall be exercised by the City Manager, the Fire Chief or a Deputy Chief. The Assistant Chief shall have the authority to relieve an employee from duty for a period not to exceed 24 hours, with the concurrence of the Fire Chief or the City Manager.
- D. No employee shall be ordered or asked to submit to a polygraph (lie detector) test for any reason. A polygraph test may be given if requested by an employee desiring to submit to one.
- E. All hearings pursuant to this provision shall be conducted pursuant to the authority and procedures established under sec. 75 of the Civil Service Law. The City and the Union shall attempt to mutually select a hearing officer for the charged employee. In the event that a hearing officer is not selected within three days of the service of the charges, the parties shall request that the Public Employment Relations Board submit an independent list of five hearing officers. Within 72 hours of receipt of the list, the Union shall submit, to the Fire Department's designated representative, the list with up to two names struck by the Union. Within 72 hours of receipt of the list from the

Union, the Department's designated representative shall strike two of the remaining names on the list and the person remaining shall be designated hearing officer for purposes of Art. VIII. In the event the Union does not submit the list to the Department's designated representative within the 72 hour period, the Union shall have waived its hearing officer selection rights and the Department shall have the right to designate a hearing officer from any of the five persons on the PERB list. The hearing shall then proceed in accordance with the Rules and Regulations promulgated by the Public Employment Relations Board.

ARTICLE IX - SALARIES

- A. The annual salary rates for each position and step in effect as of December 31, 2009 are annexed hereto in Appendix A.
- B. The annual salary rates for each position and step in effect as of December 31, 2009 shall remain in effect unchanged until January 13, 2011. Effective January 14, 2011, the annual salary rates shall be temporarily reduced by 5% below the rates in effect on December 31, 2009 until June 30, 2013. Except as required by law, the temporary 5% salary reduction shall apply only to bargaining unit members.
- C. Effective July 1, 2013, the annual salary rates for each position and step shall be temporarily reduced by 3% below the rates in effect on December 31, 2009, until December 31, 2013.
- D. Effective January 1, 2014, the annual salary rates for each position and step shall be the same as those which were in effect on December 31, 2009.
- E. Effective with the second payroll in December 2014, the annual salary rates for each position and step, including the starting salary step, shall be increased by 5% over the rates in effect on January 1, 2014.
- F. Effective July 1, 2009, the Fire Lieutenant annual salary rate shall be increased to 15% above the annual salary rate of a top grade Firefighter. Effective July 1, 2009, the Fire Captain annual salary rate shall be increased to 5% above the annual salary rate of a Fire Lieutenant. Effective July 1, 2009, the Assistant Fire Chief annual salary rate shall be increased to 5% above the annual salary rate of a Fire Captain.
- G. Effective January 1, 2011, the starting salary for a newly hired employee will be \$40,000 and will be reflected in Appendix A. Effective January 1, 2011, a sixth salary step shall be added to the salary schedule for newly hired employees as reflected in Appendix A.
- H. There shall be no step movement effective January 1, 2011 through and including December 31, 2012 at 11:59:59 P.M. Commencing on January 1, 2013, salary step movements shall resume, and employees shall be advanced (but not paid) to the step(s) they would have otherwise earned during the period January 1, 2011 through

December 31, 2012. Any employee who retires into the New York State Retirement System on or before January 31, 2014 shall have the employee's 2011, 2012, 2013 and/or 2014 salary, as appropriate, recalculated at the employee's Dec. 31, 2009 hourly pay rate without any reduction. Those monies shall be paid in a lump sum within 30 calendar days of the effective date of the employee's retirement. The recalculated salaries shall be reported to the New York State Retirement System. Any employee who retires into the Retirement System between January 1, 2014 and January 31, 2014 shall have all terms and conditions of employment frozen as of December 31, 2013 at 11:59:59 P.M. Any employee who retires into the Retirement System on or after February 1, 2014 shall not receive the above recalculation or lump sum payment. The salary reduction referenced in this paragraph applies only to employees and may not be referenced in any matter by the Union or the City in any subsequent interest arbitration proceeding between them.

- I. The salary rates stated in sections A through G above shall be effective on the first day of the first full payroll period occurring after the corresponding effective date.
- J. A copy of the revised salary schedules is attached hereto in Appendix A.
- K. Anniversary Dates. Employees hired before June 30 of any year shall move to the next step of the salary schedule on the next January 1. Employees hired on or after June 30th of any year shall move to the next step of the salary schedule on the second January 1st following appointment.

Longevity - In addition to the salary set forth herein, payment shall be made for and on account of longevity as follows:

Upon completion of 5 years of service:	\$ 850
Upon completion of 10 years of service:	\$1350
Upon completion of 15 years of service:	\$1850
Upon completion of 20 years of service:	\$2150

Effective January 14, 2011, in addition to the salary set forth herein, payment shall be made for and on account of longevity as follows:

Upon completion of 6 years of service:	\$1150
Upon completion of 9 years of service:	\$1650
Upon completion of 13 years of service:	\$2150
Upon completion of 17 years of service:	\$2450

Effective December 31, 2014 at 11:59:59 P.M., in addition to the salary set forth herein, payment shall be made for and on account of longevity as follows:

Upon completion of 6 years of service:	\$1650
Upon completion of 9 years of service:	\$2150
Upon completion of 13 years of service:	\$2650

Upon completion of 17 years of service: \$2950

Longevity shall be paid annually by either lump sum in the next pay date following the anniversary date of hire or on a prorata basis over 12 months in regular bi-weekly salary payments at the employee's option, to be exercised in writing to the Fire Chief on or before December 1 of the year before the change is to be implemented.

ARTICLE X – OVERTIME AND OVERTIME PAY

A. Employees shall receive a minimum of two hours pay per call-back. Employees required to remain on duty more than two hours but no more than two and one-half hours shall receive two and one-half hours pay, and employees remaining on duty more than two and one-half hours shall be paid in additional half hour increments for each successive half hour block of time or part thereof. Payment for call-backs resulting from a Second Alarm Fire, Mutual Aid or Cause and Origin investigations shall be at the rate of double time of the straight time pay rate. Payment for all other call-backs shall be at the rate of time and one-half of the straight time pay rate, except to the extent that the FLSA otherwise requires, in which event the FLSA shall apply. Effective January 1, 2012 at 8:00 A.M. and thereafter, overtime shall be paid for all hours worked in excess of the regularly scheduled 24 hour shift, excluding mutuals. For the purpose of computing overtime, "hours worked" shall include compensatory time, vacation days, personal days, sick leave and HR time.

B. (1) Overtime for extra tours shall be paid at time and one-half the straight time pay rate, for all hours worked except to the extent that the FLSA otherwise requires, in which event the FLSA shall apply.

(2) Compensatory time will be credited at the straight time tour rate whether or not the employee works a nine or 15 hour tour with the employee continuing to have the option as to whether to utilize a nine or 15 hour tour for compensatory time purposes, except to the extent that the Fair Labor Standards Act otherwise requires, in which event the FLSA shall apply. Effective January 13, 2011, compensatory time will be credited at the straight time pay rate for all hours worked, except to the extent that the FLSA otherwise requires, in which event the FLSA shall apply.

C. Any employee who is not relieved from a shift at the appropriate time (that is, a "holdover") shall be paid in half hour increments for each successive half hour block of time or part thereof, at the rate of time and one-half of the straight time pay rate.

D. Employees shall make written requests 48 hours in advance unless a *bona fide* emergency exists when requesting compensatory time off. Each use of compensatory time off for reasons of *bona fide* emergency shall be reviewed by the Fire Chief and the Union President. Upon review by the Fire Chief of an emergency time due used by an employee and deemed by the Fire Chief not to be a true emergency, the employee shall have accumulated compensatory time charged at the rate of twice the amount of time off taken. The only reason for denial shall be that no personnel are available to fill the

employee's tour. An employee who uses an emergency time due on more than two occasions in a 12 month period shall have accumulated compensatory time charged at the rate of twice the amount of time off taken for the *bona fide* emergency commencing with the third use of an emergency time due in a 12 month period.

For purposes of this provision, emergency time due shall mean a request for use of accumulated compensatory time for a *bona fide* emergency which is made on less notice than is required for use of compensatory time off as provided in Article X, Section D. For purposes of defining the two occasions which are the predicate for the two for one charge, each occasion of use of emergency time due shall include the tour or set of tours which are used at the same time on an emergency basis for a *bona fide* emergency condition.

Effective January 13, 2011, at 8:00 A.M., if the staffing at the start of the schedule tour exceeds 11 members, a member may request the use of compensatory time. These requests shall be granted in accordance with seniority and shall not constitute the use of an emergency time due.

E. The distribution of extra hours of duty (overtime), not to include call-back, shall be distributed by an "overtime card" rotation system. Refusal of overtime shall count as a turn in the rotation. Failure to contact the Fire Department within 10 minutes after notification (voice message or pager) shall count as a turn in the rotation.

F. Effective January 14, 2011 at 8:00 A.M., and notwithstanding any inconsistent contract provision or practice to the contrary, all employees shall be entitled to overtime as follows: at the straight time pay rate for all hours worked after actually working 40 hours during the applicable FLSA work cycle as designated by the City; and at time and one-half the straight time pay rate for all hours worked after actually working the maximum number of hours in the applicable FLSA work cycle as designated by the City (i.e., in excess of 212 hours worked during 28 consecutive days). This provision shall not affect the City's obligation to pay double overtime for second alarms, mutual aid and cause and origin investigations and regular overtime for third alarms. This provision shall sunset on January 1, 2012 at 8:00 A.M. and shall have no force and effect thereafter. This shall not constitute a past practice and may not be referenced in any interest arbitration proceeding between the parties.

ARTICLE XI – EDUCATIONAL BENEFITS

Subject to prior course approval by the City Manager, the full cost of tuition, books and school fees incurred by an employee attending vocational educational courses related to fire safety or fire suppression or any college associates degree or bachelors degree, shall be paid by the City on a semester basis upon the successful completion of the course and submission of official grade reports. Reimbursement shall occur within 30 days of receipt of the official grade report.

The reimbursement for tuition shall not exceed the cost per degree credit for New York State residents charged by SUNY (New Paltz). Reimbursement shall be made only for courses in which the employee receives a grade level of "C" or better. The reimbursement terms shall apply to "internet" and/or "distance learning" courses leading to a final degree that have been accredited or otherwise duly approved by the New York State Department of Education for purposes of a certification or a college degree. In the event that an employee separates from the City within three years of the date of completion of any approved course, the employee shall reimburse the City for all expenses paid by the City on a prorata or "sliding scale" basis.

Books paid for by the City under this Article shall become the property of the Fire Department Library.

Any employee who, as of October 10, 2006, was currently enrolled in a previously approved degree program which falls outside the limits set by this Article may continue to receive reimbursement until the completion of that degree program.

ARTICLE XII – HOSPITALIZATION

A. Each employee shall receive New York State Empire Plan premiums fully paid by the City to provide insurance coverage for hospital and medical expenses, and this coverage for employees is to continue upon retirement.

B. The hospitalization coverage provided herein is not a substitute for the protection and benefits conferred by General Municipal Law Section 207-a and is not available to the City for payment of medical expenses resulting from an injury or illness incurred in the performance of firemanic duties.

C. The City may change insurance carriers provided that the schedule of benefits is at least equal to the coverage being replaced and of the same area health care institution acceptability, provided further that any replacement carrier has no less of a Bests rating and that there is no lapse in benefits.

D. Each employee hired on or after January 1, 1989 shall contribute 10% of the cost of the health insurance premium for individual coverage or 25% of the cost for the premium for dependent coverage, if the employee selects dependent coverage, for each year until the employee completes five years of employment with the Fire Department. The employee's payment for the cost of health insurance shall terminate commencing the first full payroll period after the employee completes five full years of employment with the Fire Department. Thereafter, the City shall pay the full cost of the employee's health insurance premiums for individual and family coverage.

E. Each employee hired on or after January 1, 2011 shall contribute 10% of the cost of the individual or family, as appropriate, health insurance premium while actively employed by the Fire Department and, upon retirement the City shall pay the full cost of the employee's health insurance premium (individual or family, as appropriate).

F. Effective January 1, 2006, all new hires must have a minimum of 15 years of service with the City to be eligible to receive their health insurance premiums fully paid by the City upon retirement.

G. Any employee who receives a Retirement System disability retirement pension, shall have the employee's health insurance premium fully paid for by the City upon retirement.

H. Health Insurance Waiver: An employee who is covered by another health insurance plan other than health insurance provided by the City, may notify the City Comptroller's office on or before December 1st for the succeeding calendar year in writing on a form provided by that office, that the employee is electing to decline and waive all or part of the health insurance coverage provided by the City for which the employee is then eligible and entitled to receive during the next 12 month period.

An employee who declines and waives health insurance coverage as provided above shall receive 25% of the savings in premium costs realized by the City for each whole month the employee declines and waives health insurance coverage. The employee shall receive the premium savings payment as calculated above on or before January 30th of the year following the year for which the employee waived health insurance coverage.

Any employee who elects to receive a cash payment hereunder may, at any time during the 12 month period for which the employee has declined and waived health insurance coverage, send written notice to the City Comptroller that the employee wishes to resume health insurance coverage by the City's health insurance plan. The effective date of the employee's re-establishment of health insurance coverage shall be as provided by the City's health insurance carrier. The City agrees to notify its health insurance carrier as soon as possible of the employee's decision to re-establish health insurance coverage.

Waivers shall be valid for a maximum of 12 months. Any action taken in connection with waiver of health insurance coverage shall be on forms provided by the City Comptroller.

ARTICLE XIII – RETIREMENT

Employees shall have the option of a 20 year or 25 year retirement plan pursuant to the New York State Policemen's and Firemen's Retirement System, with contribution to the Retirement System paid by the City. In addition, employees are eligible for the final average salary plan, and any additional retirement plan the City Council may approve.

A. The City represents that it has taken the initial steps and action to cause the Retirement System to transfer employees Mark Bethea, Robert Bain, and William Wiseman, from the pension plan provided by RSSL section 375-i (25 year plan) to the

pension plan provided by RSSL section 384-d (20 year plan).

B. Mark Bethea, Robert Bain, and William Wiseman have returned to the City five times dues or 10 sick days each year for 2006, 2007, and 2008 in December 31st of each year.

ARTICLE XIV – SEVERANCE PAY

A. Upon retirement, layoff or death, the employee or the employee's beneficiary (beneficiary on file with the NYS Retirement System) will be entitled to receive payment in equivalent time or money for accumulated hours as follow:

1. For any accumulated days (effective January 13, 2011, hours) due to the employee pursuant to this Agreement, at the employee's straight time hourly pay rate, including vacation time, sick time, compensatory time, personal time and hour reduction time.

2. Longevity shall be prorated to the date of retirement, layoff or death.

3. The payment of accumulated and unused sick leave at the rate of 75% of the employee's straight time hourly pay rate at the time of retirement from the Fire Department or death.

4. For an employee who dies during the period of employment with the Fire Department, the payment of accumulated and unused sick leave at the rate of 100% of the employee's straight time hourly pay rate at the time of death.

5. If the option of transferring the severance payment to the deferred compensation plan is available, the employee may request to have all or part of the severance payment transferred to the deferred compensation plan.

6. A retiree shall file notice before July 1 of the year previous to retirement, and shall receive the severance payment in addition to the employee's prorated salary.

7. Vacation entitlement in the last calendar year of employment, for the purposes of severance, shall be any unused vacation plus prorated vacation time, if any, from the employee's original appointment date to the employee's retirement date of that year.

ARTICLE XV – CLOTHING ALLOWANCE

A. Each employee shall receive \$750 per annum credit as a clothing allowance. The clothing allowance payment shall be issued, absent unusual circumstances, to the employee on the pay day closest in time to February 15 of that year.

The clothing allowance shall only be used for purposes of employment with the Fire Department. Except in the circumstance of an employee who retires from the Fire Department by reason of a service retirement or the award by the Retirement System of a disability retirement pension, an employee who receives the clothing allowance payment and leaves Fire Department service prior to the end of the calendar year in which the payment was received shall reimburse the Fire Department on a prorata monthly basis for the remaining full months after the employee leaves service in that calendar year. The clothing allowance amount owed shall be deducted from any payment(s) to which the employee may be entitled for items such as accrued time; if no payment is due, the amount owed shall be deducted from the employee's final pay check. Notwithstanding the above, in the event the amount owed is not reimbursed to the Fire Department, the City retains the right to pursue the matter through appropriate legal action, in which event the employee shall be fully liable to the City for the costs of the action.

B. Upon permanent appointment to the Fire Department, the appointee is eligible for the clothing allowance for that calendar year and the initial issuance by the Fire Department of those items of safety equipment required by the Fire Department without effect on the clothing allowance. Additionally, if the NYS Department of Labor's PESH or the City mandate changes in safety equipment or uniforms, these items will be initially furnished by the Fire Department at no cost to the employee. Changes in safety equipment or uniform mutually agreed upon by the Union and the City shall be purchased by the employee from the clothing allowance. All other required uniform items shall be purchased by the employee and all items, including safety equipment, shall be maintained and replaced by the employee from the clothing allowance.

C. The City shall pay for uniform changes necessitated by promotion, or demotion due to budgetary reasons, to a permanent position. Currently these items would be: an officer's dress blouse, bell cap, and helmet shield for a Firefighter promoted to officer upon completion of the probationary period; badges and insignia of rank for employees promoted to Lieutenant and Captain; and badges, insignia of rank, and helmet shield for employees promoted to chief officer.

D. Any provisional appointee separated from the Fire Department for any reason shall be required to return all firemen clothing and gear, helmet, turnout gear, boots and badges. In all other cases, employees shall be entitled to retain clothing purchased by them.

E. Equipment purchased at Fire Department expense shall be returned upon separation of the employee from the Department.

F. Employees will not be required to wear dress uniforms while traveling to and from work.

G. Nameplates, badges or collar ornaments will not be required to be worn on work uniforms, except an officer's insignia of rank.

H. The City shall have the right to institute a "Quartermaster" system in lieu of providing the clothing allowance payments listed in Section A of this Article. If the City does not provide the Union with notice of implementation of a quartermaster system by January 15th, the clothing allowance payment provided in section A shall be made. If the City elects to institute a "quartermaster" system, the City shall provide and maintain for each employee all required uniform items as designated in the Fire Department's Rules and Regulations, as specifically stated and in the designated manner listed below:

Dress Uniform: (upon completion of probation for new hires who have not received two clothing allowances).

- a. blouse
- b. trousers
- c. black tie
- d. bell crown hat
- e. badges

Working Uniform:

- a. navy blue trousers or shorts (initial set, then as needed)
- b. shirts (long or short sleeve) with epaulets and polo shirts (initial set, then as needed)
- c. black belt (as needed)
- d. black low quarter safety shoes or boots approved by the Fire Chief (as needed)
- e. black socks (this item to be maintained by the employee) (initial set, then as needed)
- f. navy blue work jacket (initial item, then as needed)
- g. Fire Dept. patches (as required for uniforms)
- h. navy blue sweatshirt (initial set, then as needed)
- i. navy blue T-shirts (initial set, then as needed)

I. Summer Uniform: (Date: April 1st to October 31st) and shall consist of:

- a. navy blue shorts or pants with black belt (initial set, then as needed)
- b. navy blue polo shirt (initial set, then as needed)
- c. low quarter safety shoes or boots approved by the Fire Chief with black socks (initial set, then as needed)
- d. Assistant Chiefs may wear white polo shirts (initial set, then as needed)

ARTICLE XVI – VACATIONS

A. Newly hired employees shall receive, upon the completion of one year of service, 14 consecutive days of vacation per year until the completion of the fifth year of service. Effective January 1, 2011, newly hired employees shall receive, upon the completion of one year of service, 14 consecutive days of vacation per year until the completion of the

third year of service. At the time of annual vacation picks in December, a new hire (i.e., an employee with less than one year of service) shall be allowed to pick vacation slots available for the following year before the completion of one year of service. If the available vacation slot conflicts with the City's scheduling of the required New York State mandated training, the employee will reschedule the vacation to another available vacation slot. The rescheduling of vacation by a new hire shall not be grievable pursuant to Article XXI (Grievance Procedure). In the event that the new hire has taken vacation time off prior to completion of one year of service and does not complete the year of service, the employee shall be obligated to repay to the City any used vacation time.

B. Employees having completed five years of service in the employ of the Fire Department shall receive 21 consecutive days of vacation. Effective January 1, 2011, employees having completed three years of service in the employ of the Fire Department shall receive 21 consecutive days of vacation.

C. Employees having completed seven years of service shall receive 28 consecutive days of vacation. Effective January 1, 2011, employees having completed six-years of service shall receive 28 consecutive days of vacation.

D. Employees having completed 15 years of service shall receive 35 consecutive days of vacation. Effective January 1, 2011, employees having completed 12 years of service shall receive 35 consecutive days of vacation.

E. Effective January 1, 2011, employees having completed 18 years of service shall receive 42 consecutive days of vacation.

F. Vacations shall start the first week of January and shall run consecutively in 21 day cycles for 12 months. Choice of the vacation schedule shall be selected by employees on the basis of seniority as established in Article III herein. Employees shall first select their 21 day vacation periods before the additional seven day list is selected.

G. The vacation schedule shall be posted during November of each year with the seniority list provided in Article III. Each employee shall thereafter be prepared to select vacation, and in the event of the employee's failure to do so, the employee shall be passed to the next following employee on the seniority list, with the employee's name being placed last upon the list.

H. In an effort to provide for a fair and equitable distribution of vacation time during those periods of highest demand, there shall be established and maintained a ratio of Officers and Firefighters within each vacation period of one Assistant Chief slot, two Officers slots and four Firefighters slots. The said ratio may be waived to fill openings that may exist in the vacation schedule. Employees who are assigned to staff positions will not pick in these vacation slots.

Effective January 1, 2011, in an effort to provide for a fair and equitable distribution of vacation time during those periods of highest demand, there shall be

established and maintained a ratio of Officers and Firefighters within each vacation period of two Officers (Assistant Chief or Captain or Lieutenant) slots and three Firefighters slots. Employees who are assigned to staff positions will not pick in these vacation slots. In the event that all slots are filled for Officers or Firefighters and it is necessary to make available additional slots, an additional slot(s) may be added by the Fire Chief at his/her discretion.

I. For employees who are not working shifts, the use of vacation time off shall be at the discretion of the Fire Chief.

J. Vacations shall be scheduled to start at the most convenient time for the City, with full consideration to the greatest possible benefit of the employees.

K. Employees must schedule all vacation time for the next calendar year on the first Thursday in December ("vacation pick day"). Off-duty employees who report for vacation pick day shall be paid straight time at the straight time hourly pay rate, except to the extent the FLSA otherwise requires, in which event the FLSA shall apply. Time spent by otherwise off-duty employees on vacation pick day selecting vacations and going through inspections (e.g., uniforms, ID's; etc.) shall be paid at the straight time hourly pay rate.

L. To determine years of service eligibility for additional vacation days, all dates of appointment shall be deemed effective from January 1 of the year in which the employee's service was commenced.

M. An employee requesting vacation pay to be paid in advance of a vacation period shall do so in writing at least four weeks before the start of the employee's scheduled vacation period.

N. Any employee, who is granted 207-a (Injury Leave) and does not use the allotted vacation time off during the course of the initial year of injury because the Fire Department could not reasonably schedule the vacation time off will receive payment for all or part of unused vacation time off, and payment shall be made in the last pay period in December of the year of the occurrence. This provision shall not apply to any year subsequent to the initial year of injury for an employee who is on continuous 207-a (Injury Leave).

ARTICLE XVII – LIFE INSURANCE

Each employee shall receive life insurance coverage on the employee's life payable to the employee's designated beneficiary in the amount of \$50,000 fully paid by the City. The coverage is to provide the employee with an option to continue the insurance beyond retirement at the employee's own cost and expense.

ARTICLE XVIII - HOLIDAYS

A. Employees shall receive the following 13 holidays in time at the rate of time and one-half of one-fifth (1/5th) weekly salary.

New Years Day	Labor Day
Rev. Martin Luther King Jr. Day	Columbus Day
Lincoln's Birthday	Election Day
Washington's Birthday	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Eve
	Christmas Day

Effective January 13, 2011, employees shall be entitled to take the following 10 holidays per calendar year either in time or pay. Holidays elected as time shall be at the rate of 24 hours per holiday. Holidays elected as pay shall be paid at the rate of 16 hours per holiday.

New Years Day	Labor Day
Rev. Martin Luther King Jr. Day	Columbus Day
President's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

B. A new hire shall not be eligible for holiday pay or compensatory time for holidays which occur during the employee's training period and until the employee is assigned to a group.

C. Employees electing to receive pay for a holiday shall receive payment in the next pay date following the day of occurrence for the applicable holiday.

Employees electing to receive compensatory time will be credited the time on the day of occurrence of the applicable holiday.

D. Employees will notify the Fire Department in writing on the Fire Department's form by July 1st of the preceding year of their election of compensatory time or pay for holidays, except that the City agrees that employees can resubmit written requests for compensatory time or pay for holidays in 2011 within seven calendar days of the complete ratification and approval of the 2010-2014 Agreement.

Other than the regular day's pay and the above holiday pay, there will be no other holiday compensation.

ARTICLE XIX – LEAVE

- A. INJURY LEAVE shall be governed by General Municipal Law Section 207-a .
- (1) An employee who is in receipt of GML 207-a benefits for a continuous period of two years or more shall not accumulate additional paid sick time, receive holiday compensation payments, receive clothing allowance payments after the two year period. This clause (Article XIX – Leave, Section A, Section 1) will apply only to employees for whom the City has filed an application for Accidental Disability and/or a Performance of Duty Disability Retirement with the New York State and Local Police and Fire Retirement System. This provision shall not apply to any of the four employees of the Fire Department who have received GML 207-a (Injury Leave) benefits for a continuous period prior to October 10, 2006.
- B. SICK LEAVE shall be allowed the employees at a rate of 12 days (effective January 13, 2011, 144 hours) per year, to be computed from the date of employment with unlimited accumulation of time benefits. Effective January 13, 2011, sick leave shall be accumulated at the rate of 12 hours per month.

The use of sick leave shall be governed by the following rules:

- (1) An employee who finds it necessary to use sick leave shall make every effort to call in and report sick as soon as practicable prior to the start of the employee's tour.
- (2) All employees on sick leave for a period in excess of 72 consecutive hours (effective January 13, 2011, 48 work hours) shall provide a certificate from a doctor certifying the nature of the illness or injury and that the employee was unable to perform duty.
- (3) The hour factor (72) (effective January 13, 2011, 48) shall be computed from the next scheduled tour of duty. Employees shall be presumed sick until reporting back that they are available for duty whether they are scheduled for duty or not.
- (4) Employees calling requesting to be placed on sick leave and calling back being available for duty in less than a 72 (effective January 13, 2011, 48) hour period and then calling in sick again without returning to actual duty shall be presumed to be in circumvention of Paragraph "2", and the time factor (72; effective January 13, 2011, 48 hours) shall be computed from first call. In these cases the employee shall provide a certificate from a doctor certifying the nature of the illness or injury that occasioned the second request for sick leave and that the employee was unable to perform duty.

- (5) Employees on extended sick leave shall be required to provide a certificate of sickness from a doctor each 90th consecutive calendar days.
- (6) Upon being available for duty from sick leave, an employee shall call in no later than three hours prior to the scheduled start of the employee's tour. Upon returning from sick leave, an employee who wants to document sick leave shall provide a certificate from a doctor certifying that the employee was unable to perform the employee's duty. The certificate shall be provided to the Fire Department within one calendar week of calling off sick leave.
- (7) Sick leave will only be charged for scheduled tour of duty in regular group assignment.
- (8) Employees who use five undocumented sick leave days (effective January 13, 2011, 60 hours) in a six month period shall be immediately placed on a sick leave monitoring program for the next following six months. Employees shall be advised, in writing, upon being placed on the sick leave monitoring program and shall be subject to the following conditions:
 - (a) When requesting the use of sick leave, the employee shall advise the Fire Department of the employee's residence or location and shall remain in that residence or the reported location unless the employee notifies the Fire Department when the employee leaves, where the employee is going to and the telephone number of that location.
 - (b) During the use of sick leave, the employee shall be subject to a visit and/or telephone contact by a representative of the Fire Department.

Violation of these conditions will subject the employee to disciplinary action. After six months on the sick leave monitoring program, the employee's use of sick leave during the six month period shall be assessed and the employee may be taken off the program if the employee has used less than five undocumented sick leave days (effective January 13, 2011, 60 hours) and has not violated any of the conditions of the sick leave monitoring program. The employee shall be advised, in writing, of whether the employee will be taken off or remain on the program. Thereafter, an employee can be placed on the sick leave monitoring program if the employee again utilizes five undocumented sick leave days (effective January 13, 2011, 60 hours) in a six month period.

- (9) Employees who are in the sick leave monitoring program who use undocumented sick leave shall be charged two days of leave time for each day of undocumented sick leave. Effective January 13, 2011, this will be

changed to employees shall be charged two hours for each hour of undocumented leave.

- (10) Sick Leave Buy-Out – Upon completion of 10 years of service as a Fire Department employee, or at any time thereafter, an employee may cash in accumulated and unused sick days in excess of 45 days (effective January 13, 2011, 576 hours) at the rate of 50% of the employee's daily rate based on the annual salary rate in effect at the time the payment is made. When payment of accumulated sick days is made, the sick days represented by the payment shall be deducted from the employee's total of accumulated and unused sick days and the days shall not be available for any purpose.

C. BEREAVEMENT LEAVE shall be allowed at a rate of seven consecutive days with pay and shall be granted any employee in the event of the death of the employee's grandmother, grandfather, mother, father, or a step-parent, brother, sister, wife, child, son-in-law, daughter-in-law, or grandchild. This "leave" shall be granted also in the event of the death of wife's mother, father, sister, brother, child (employee's step-child), provided, however, that the wife is alive and living with the employee at the time of the death.

D. DAY OF THE FUNERAL LEAVE shall be allowed for attendance at any family funeral, by blood or by marriage, not hereinbefore included subject, however, to a 24 hour advance notice to the Fire Chief, except where religious observances otherwise require.

When requiring the use of Bereavement Leave, the employee shall submit, upon return to work, a completed Bereavement Leave form to the Fire Department identifying the name of the deceased, relationship to the employee, the date of death and the City or place of death.

E. PERSONAL DAYS – Members who accumulate five years without use of sick leave days shall be allowed five personal days. A member who has not used his sick leave in the prior calendar year shall be allowed one personal day. The personal leave days shall be used in the year in which it is credited and shall not be carried over to the next year.

Effective January 1, 2011, an employee who has worked the entire prior calendar year and who has not used sick leave in the prior calendar year shall be allowed 24 hours of personal leave. An employee who has worked the entire prior calendar year and who has accumulated five years without use of sick leave shall be allowed a total of 72 hours of personal leave. An employee who has worked the entire prior calendar year and who, after the 5th year, continues to maintain no use of sick leave, shall receive 72 hours of personal leave per year. The personal leave hours shall be used in the year in which they are credited and shall not be carried over to the next year.

F. JURY DUTY LEAVE – The Department shall provide an employee leave with pay for time actually spent on jury service when the employee is scheduled to work. The employee shall submit proof of service on jury duty as a condition of receiving full pay for periods of time on jury service. An employee shall be eligible for jury duty leave only for the time as the employee is scheduled to work and is required to be physically present in the court house serving on, or waiting to serve on, a jury. If the employee is not required to be physically present at the court house while waiting to be called for jury duty (e.g., if the employee may check in by phone), the employee shall report to work as scheduled. Any fees or payment received by the employee from the State or governmental authority for jury service shall be paid to the City as a condition of the employee receiving full salary from the City for jury service. An employee shall be provided time off with pay for jury service.

ARTICLE XX – TIME ACCUMULATION

A. Each employee shall be allowed to have up to 15 days (effective January 13, 2011, 240 hours) accumulation of compensatory time.

B. Upon the completion of 16 (effective January 13, 2011, seven) years of service, each employee shall be allowed to have up to 25 days (effective January 13, 2011, 312 hours') accumulation of compensatory time.

C. The City may buy out in a lump sum payment any accumulated and unused compensatory time in excess of 10 days (effective January 13, 2011, 120 hours) at the employee's straight time hourly pay rate in effect at the time the buyout option is exercised. The City shall notify employees in writing at least 30 calendar days in writing in advance ("30 day notification period") of its decision whether to buy out accumulated and unused compensatory time in December of each calendar year. Employees shall not use accumulated and unused compensatory time in excess of 120 hours during the 30 day notification period. The City shall make the buy out payment within two payroll periods from the date on which notice of the decision is provided to the Union.

ARTICLE XXI – GRIEVANCE PROCEDURE

If any employee or group of employees shall have a grievance or complaint, an earnest effort shall be made to settle the grievance promptly, and the following procedure will apply:

Step 1. Any grievance or complaint shall be presented in writing to the Fire Chief within 20 working days (defined as days on which City Hall is open for official business) of the occurrence, or when the party reasonably would know the facts giving rise to the grievance. A reply must be given within 10 working days. In either case, failure to reply within the specified period will constitute a denial.

Step 2. If no settlement is reached in Step 1, or if the Fire Chief is not available within 10 working days, the grievance shall be presented in writing to the City Manager

who, within the next seven working days, will conduct a meeting with the aggrieved, the aggrieved's representative(s) and any other parties who may be involved. The City Manager will render a decision in writing within seven working days after the meeting.

Step 3. If the grievance is unresolved to the satisfaction of the Union, it shall be taken to binding arbitration by the Union filing a demand within 30 working days of Step 2 with the Public Employment Relations Board's Director of Conciliation in accordance with Part 207 of PERB'S Rules of Procedure. Arbitrators shall be selected from PERB'S New York Metro area arbitrator listing. The selection process shall be as provided in section 207.7 of PERB's Rules of Procedure. Arbitration shall be conducted in accordance with Part 207 of PERB's Rules of Procedure, except that the Demand for Arbitration need not include an identification of the provision in the Agreement claimed to be violated unless the grievance or complaint involves a violation of the Agreement. The decision of the arbitrator shall be final and binding on both parties. Any expenses incidental to arbitration shall be borne equally by both parties.

ARTICLE XXII – ASSOCIATION RELEASE TIME

A. The president and/or a designated Union representative shall be allowed up to 10 days (effective January 13, 2011, 120 hours) per year, between them, from their usual work schedules without loss of pay or benefits for attendance at IAFF conventions, district meetings, state meetings, state AFL-CIO meetings, Orange County Central Labor Council, or legislative conferences at which subjects pertinent to the employees or the City are on the agenda. Only one employee per tour of duty shall be allowed Association release time. Requests for the use of Association release time shall be made 48 hours in advance of the scheduled start time of the tour for which release time is requested, unless an unforeseen circumstance requires use of the time on less than 48 hours' notice, in which event release time may be granted by the Fire Chief on less than 48 hours' notice, and approval shall not be unreasonably withheld. Release time not used in a calendar year shall not carry over to the next calendar year. On January 1, 2016, Association release time shall increase to 240 hours per year.

B. No more than three members of the Union's negotiating team committee may be excused from the performance of their duties to attend collective bargaining contract negotiation meetings between the City and the Union which occur during the employee's usual work schedule.

C. No more than three members of the Union's Grievance Committee shall be excused from the performance of their duties to attend a meeting or hearing concerning a grievance occurring during the employee's usual work schedule.

D. Notification of Identity of Union Officials: The Union shall provide the Fire Department with an official list of names of Union officials and offices held, and the Union will keep the list current.

ARTICLE XXIII – PERSONAL PROPERTY

Any employee suffering loss or damage to personal property occasioned by accidental means in the line of duty shall be entitled to have it replaced at the sole expense of the City.

Personal property shall be deemed to exclude cash, jewelry, and electronic devices and is intended to cover accidental loss or damage to such items as eye glasses, contact lenses, and prescribed safety glasses. Personal property requested or approved by the Fire Chief in writing for use in training exercises or Fire Department business will be covered for loss or damage. In the event of a loss, the employee shall submit an estimate of repair or replacement with a voucher through the Fire Chief.

ARTICLE XXIV – DISCRIMINATION

The City agrees not to discriminate against any employee for the employee's activity in behalf of, or membership in, the Union. The City and the Union agree that there shall be no discrimination against any employee because of race, creed or religion.

ARTICLE XXV – SEPARABILITY

Should any section or provision of this Agreement be decided by the courts to be unconstitutional, invalid, or unenforceable for any reason, that decision shall not affect the validity of the Agreement as a whole, or any part thereof, other than the section or part decided to be unconstitutional, invalid or unenforceable.

ARTICLE XXVI – AGREEMENT AND CONTRACT REPRODUCTION

This Agreement shall be reproduced by the City in sufficient number of copies to be distributed to the membership, and to arbitrators.

ARTICLE XXVII – PROBATIONARY PERIOD

- A. All new hires shall serve a probationary period of not more than 12 months, shall have no seniority rights during this period, and shall otherwise be subject to and entitled to the terms and provisions of the Agreement. The probationary period shall be computed in determining seniority. Promoted-employees shall have a 12 week probationary period.
- B. Employees who have worked in the position for the 12 month probationary period shall be known and designated as permanent employees.
- C. Employees shall be required to have a complete physical and psychological examination including, but not limited to, an electro-cardiogram, during the probationary period. The results of the examination shall be part of the employee's permanent record.

D. Provisional service in a promotional title may be considered part of the employee's probationary period at the discretion of the City Manager. A provisional employee shall be so notified in writing at the end of the provisional period of service.

It is not intended by this Article to change any provision of the Civil Service Law.

ARTICLE XXVIII – LEGISLATIVE AUTHORITY

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

ARTICLE XXIX – DUES, AGENCY SHOP AND UNION PLAN DEDUCTIONS

A. The City agrees to deduct the following, in the amount certified to be current by the Union Treasurer, from the pay of unit and/or union members and transmit these sums forthwith to the Treasurer:

1. Union dues and assessments for those employees who sign dues deduction authorization cards.
2. Agency shop fee deduction in an amount equal to subparagraph "2" for those employees who are not Union members.
3. Fees, premiums or deposits for Union-sponsored credit union, insurance and other benefit plans for individuals who request in writing to be included in those plans.

B. The Union and employees agree that the City has no responsibility to ensure due and proper application of these sums by the Union Treasurer.

C. The City shall only be obligated to issue one check per pay period for all deductions to the Union.

ARTICLE XXX - PARKING

Free on-site parking shall be provided for each on-duty employee stationed at the Public Safety Building and four free on-site parking spaces will be provided for on-duty employees stationed at the West End fire house.

ARTICLE XXXI – STAFF CONDITIONS

Employees assigned to staff positions shall receive the following additional benefits and conditions of employment:

1. The hours of duty shall be the same as those in effect for staff personnel of City Hall, provided prior notification is given to the Union.
2. When the Fire Chief or designated representative determines that Fire Department vehicles are available, they will be provided to Staff employees for use in answering recalls and traveling to and from work.
3. Staff employees shall not be required to place partial days accumulated on the compensatory time book if used with the permission of the Fire Chief, within a week of being worked.
4. All Staff employees will receive a day off with no loss of pay when City Hall is closed due to holiday observance.

ARTICLE XXXII - OUTSIDE EMPLOYMENT

A. Employees who choose to hold another position shall submit, in writing, to the Fire Chief for approval in advance of accepting the position, the following information: place of employment, location(s), telephone number, type of work to be performed, and number of hours to be worked per week.

B. In reviewing a request for outside employment, the Fire Chief shall consider, prior to approving the request, the type of work the employee will be performing and whether the work may present a conflict of interest. Outside employment shall not exceed 40 hours per week. The Fire Chief's approval of a request for outside employment shall not be unreasonably withheld.

ARTICLE XXXIII- LABOR-MANAGEMENT/SAFETY& HEALTH COMMITTEE

A Labor-Management/Safety & Health Committee ("the Committee") shall be established to study and make recommendations on matters of mutual concern regarding employment. Unless otherwise mutually agreed, membership on the committee shall not exceed three representatives for each party. The Committee shall meet upon five days' written notice of either party or at other mutually agreed upon times. The notice shall include a proposed agenda for the meeting.

The Committee shall not be a substitute for collective negotiations and the Committee shall not have the power to amend, modify, or add to the terms of this Agreement. Further, the Committee shall not be a substitute for, nor affect, the terms of, the contractual grievance procedure. Issues concerning maintenance and repair of Public Employee Safety and Health Act-required equipment items shall be referred to the Committee. The referral of these matters to the Committee is made without prejudice to the rights or positions of either party in any pending or future matter between them.

The Union President or designated representative shall be allowed up to 10 days (effective January 13, 2011, 120 hours) of Association release time for use in connection with service on the Committee in addition to the Association release time provided in Article XXII, section A. Only one employee per tour of duty shall be allowed Association release time. Requests for the use of release time shall be made 48 hours in advance of the scheduled start time of the tour for which release time for requested, unless an unforeseen circumstance requires use of Association release time on less than 48 hours' notice, in which event Association release time may be granted by the Fire Chief on less than 48 hours notice, and approval shall not be unreasonably withheld. Association release time not used in a calendar year shall not carry over to the next calendar year.

ARTICLE XXXIV – EMERGENCY MEALS

Where attendance, as determined by the officer in charge, at a fire or other catastrophic event requires employees to work four or more hours of uninterrupted service at the fire or event, the City shall provide to the employees food and drink in reasonable amounts. If the Union makes payments for food and drink, the City shall reimburse the Union.

ARTICLE XXXV – RESIDENCY

For purposes of Fire Department residency requirements, employees shall be permitted to reside anywhere in Orange County or within 30 road miles of the City (effective January 1, 2011, a 40 mile radius from the Public Safety Building).

ARTICLE XXXVI – FITNESS FOR DUTY

The public has the absolute right to expect persons employed in the Fire Department will be free from the effects of drugs and controlled substances, and will not be under the influence of alcohol while on duty. The City, as the employer, has the right to expect its employees to report for work fit and able for duty and to set a positive example for the community. Employees have a special obligation to refrain from the illegal use or misuse of controlled substances and not be under the influence of alcohol while on duty. The parties recognize and agree to implement testing of employees on the basis of reasonable suspicion and on a random testing basis, and further agree that, before implementing any random testing, the Fire Department and the Union will negotiate rules, regulations, policies and procedures to implement the terms of this provision, including testing procedures, and which may include procedures for referrals for employee assistance and counseling.

ARTICLE XXXVII – DEFERRED COMPENSATION

Employees may elect to participate in the City's Deferred Compensation Plan. Employees may on one occasion during their employment contribute accumulated and unused sick time in excess of 45 days (effective January 13, 2011, 576 hours) to the

deferred compensation plan at the rate of 75% of the cash value provided that such contribution is consistent with the rules of the plan and applicable State and Federal statutes and regulations. Sick Leave cash value shall be based on the employee's straight time hourly pay rate at the time of contribution. Sick Leave represented by the contribution will be deducted from the employee's unused sick time accumulation at the time of contribution and will not be available for any reason.

ARTICLE XXXVIII – HOUR REDUCTION TIME

Hour Reduction Time or HR Time (scheduled hours worked in excess of 2080 hours annually) shall be elected as pay or time by each eligible employee. Employees shall notify the Fire Department in writing on the Fire Department form before July 1 of the preceding year of their election to receive time or pay for HR Time. An employee who fails to notify the Fire Department on or before July 1 shall receive time for HR in the next year.

A. HR Time taken as pay: Payment for HR Time will be at time and one half the straight time hourly pay rate. Each employee electing pay shall receive four hours of HR Time bi-weekly in their paycheck, up to 23 bi-weekly payments (4 x 23 = 92 hours). In November of each year, an adjustment of each employee's HR Time will be calculated and a final payment of HR Time owed will be issued in the last pay check in December.

B. HR Time taken as time: Each employee electing HR Time as time shall submit to the Fire Chief in writing on or before the first Thursday in December the employee's preferred choices for HR Time off. Each employee shall choose three one week periods from January to June and choose three one week periods from July to December. The Fire Chief will make every attempt to grant requests for HR Time off by seniority. If selections for HR Time off are not available, the Fire Chief will schedule the HR Time off at the Fire Chief's discretion. The scheduling of HR Time by the Fire Chief will not be grievable under Article XXI (Grievance Procedure).

C. HR Time as pay while on GML 207-a (Injury Leave): While on GML 207-a (Injury Leave), bi-weekly HR Time as pay will cease until returning to active duty status. An employee shall have HR Time as pay calculated on a prorata basis. If an employee owes the City any HR Time as pay and it cannot be adjusted in the same year it was given, it will be reduced from the next year's HR Time as pay or time. If an employee is awarded a New York State Disability Retirement, any amount of HR Time as pay owed by the employee will not be recovered by the City. Additional HR time as pay owed to the employee will be addressed in the same manner as Section A of this Article.

D. HR Time as time while on GML 207-a (Injury Leave): While on GML 207-a (Injury Leave), an employee will have HR Time as time calculated on a prorata basis. If an employee owes the City any HR Time and it can not be adjusted in the same year it was given, it will be reduced from the next year's HR Time as pay or time. If an employee is awarded a New York State Disability Retirement, any amount of HR Time owed by the employee will not be recovered by the City.

E. Administrative Leave used by an employee shall be treated the same as GML 207-a for the purposes of this Article.

F. HR Time shall not be available in either pay or time during the period of January 1, 2011 through and including December 31, 2012 at 11:59:59 P.M.. Employees who retire into the New York State Retirement System between January 1, 2011 and January 31, 2014 at 11:59:59 P.M. shall receive the HR Time they would have earned in 2011 or 2012, in a lump sum payment, prorated based upon their date of retirement, based on their annual salary rate in effect on December 31, 2009. The City agrees to report all HR Time paid to employees under this paragraph to the New York State Retirement System. Effective from January 1, 2013 to December 31, 2014 at 11:59:59 P.M., all HR Time will be available as pay only and paid at time and one-half the straight time hourly pay rate. All existing obligations in effect on December 31, 2010 at 11:59:59 P.M. with respect to HR Time pursuant to this Article shall resume effective 11:59:59 P.M. on December 31, 2014. The unavailability of HR Time pursuant to the provisions of this paragraph may not be referenced in any interest arbitration proceeding between the City and the Union.

ARTICLE XXXIX – RECOVERY OF TRAINING COSTS

In the event that the Fire Department is required to provide basic training courses for a newly hired employee, and the employee separates from the Fire Department within three years of the date of completion of training, the employee shall reimburse the Fire Department for all wages and expenses paid by the City during or in conjunction with basic training, on a prorata or “sliding scale” basis.

ARTICLE XL – ADMINISTRATIVE LEAVE

A. In the event an employee is determined not fit to perform fire fighting duties following a medical examination and evaluation related to use of a respirator conducted by the Fire Department’s designated medical consultant and the Fire Department decides to remove the employee from active duty status, the employee shall first be placed on paid Administrative Leave for up to 12 working tours (effective January 13, 2011, 144 working hours) (“the Administrative Leave period”). In the event the employee is not returned to active duty within the administrative leave period, the employee shall be placed on sick leave and the use of sick leave shall be governed by the applicable terms of the Fire Department’s Rules and Regulations and this Agreement. The administrative leave period may be renewed pending the Fire Department’s decision on the employee’s return to active duty as provided by paragraph (D) below.

B. An employee shall receive, during the term of employment with the City, no more than 12 working tours (effective January 13, 2011, 144 working hours’) administrative leave for a medical condition that forms the basis of the determination that the employee is not fit to perform fire fighting duties. An employee who is determined not fit to perform fire fighting duties based on a medical condition different than the medical

condition which formed the basis of a prior not fit determination will receive the administrative leave for the different medical condition.

C. Upon placement on administrative leave, the employee shall consult with the employee's personal physician as soon as possible. The employee shall take these actions as may be directed by the personal physician to address the condition(s) which affect the employee's fitness to perform fire fighting duties.

D. In the event that the employee's personal physician determines that the employee is fit to perform fire fighting duties, the employee shall obtain a written medical clearance from the personal physician to return to active duty status. The employee shall provide the written medical clearance to the Fire Department, which shall have 72 hours to consult with its designated medical consultant and to decide whether to return the employee to active duty status. In the event that the Fire Department does not inform the employee of its decision prior to the expiration of the 72 hour period, the employee shall be placed on paid administrative leave and shall not lose any sick leave pending the decision of the Fire Department with respect to return to active duty. The employee shall continue to accrue seniority and benefits while on administrative leave or sick leave. In the event that the Fire Department decides, after consultation with its medical consultant, to not return the employee to active duty status, the administrative leave period shall continue if not concluded as provided in paragraph (A) above. If the employee had previously exhausted the 12 tour (effective January 13, 2011, 144 hours of) administrative leave provided by paragraph (A) above, the employee shall continue on sick leave.

E. In the event that the employee is not returned to active duty following submission of medical clearance from the employee's physician, the Fire Department shall provide a written statement of the reason(s) for not returning the employee to active duty, including written recommendations, if any, that may have been provided by the Fire Department's medical consultant concerning the employee's return to active duty.

ARTICLE XLI – MINIMUM STAFFING

Effective January 13, 2011 and continuing until 11:59:59 P.M. on December 31, 2014, the Fire Department shall maintain a minimum staffing per on duty group of at least 10 employees per shift for fire suppression comprised of one Assistant Chief, three Company Officers and six Firefighters for one Truck Company and two Engine Companies. The existence of the provisions of this paragraph and/or termination of the terms and conditions set forth in this paragraph may not be referenced in any interest arbitration proceeding between the City and the Union. This includes the Union's agreement that it does not have the right to seek continuation of this provision before an interest arbitration panel.

ARTICLE XLII – LAYOFFS

The City shall not lay off any employee during calendar years 2010, 2011, 2012, 2013 and 2014. This provision shall not apply to positions which become vacant through attrition (resignations, terminations, retirements; etc.). This provision shall expire and become null and void effective 11:59:59 P.M. on December 31, 2014. The existence of the provisions of this paragraph and/or termination of the terms and conditions set forth in this paragraph may not be referenced in any interest arbitration proceeding between the City and the Union. This includes the Union's agreement that it does not have the right to seek continuation of this provision before an interest arbitration panel.

ARTICLE XLIII – ACCUMULATED TIME CONVERSION

Effective January 13, 2011 at 8:00 A.M., all compensatory time and sick time days accumulated by employees shall be converted to hours at 12 hours per day. The parties shall try to reconcile accumulated hours on the books of the Fire Department and the City Comptroller no later than January 10, 2011. Any issues that may arise concerning reconciliation of accumulated hours will be referred to the Labor-Management Committee.

ARTICLE XLIV - TERM

This Agreement shall be in effect for a five year period commencing January 1, 2010 and terminating December 31, 2014.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto this day of January 2011.

CITY OF NEWBURGH

LOCAL 589, INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS

By: _____

By: _____

Appendix A
Salary Schedule For Newburgh Fire Department

Year	2010	2011	2012	2013	2013	2014	2014	2014
Dates	0%	Minus 5%	0%	1/13 - 6/13	7/13 - 12/13	1/1/14	Restored 2010	2nd Payroll of 12/2014 Plus 5%
Salary Change	0%	Minus 5%	0%	0%	Restored 2%	Restored 2010	Restored 2010	Restored 2010
Assistant Chief	78,187	74,278	74,278	74,278	75,764	78187	78187	82096
Captain	74,464	70,741	70,741	70,741	72,156	74464	74464	78187
Master Mechanic	74,464	70,741	70,741	70,741	72,156	74464	74464	78187
Fire Alarm	71,918	68,372	68,372	68,372	69,720	71918	71918	75464
Lieutenant	70,918	67,372	67,372	67,372	68,720	70918	70918	74464
Current Firefighter								
5th Year	61,668	58,585	58,585	58,585	59,757	61668	61668	64751
4th Year	54,655	51,922	51,922	51,922	52,960	54655	54655	57388
3rd Year	52,978	50,329	50,329	50,329	51,336	52978	52978	55627
2nd Year	51,446	48,874	48,874	48,874	49,851	51446	51446	54018
1st Year	49,896	47,401	47,401	47,401	48,349	49896	49896	52391
Starting	45,394	40,000	40,000	40,000	40,000	40,000	40,000	42,000
New Firefighter Starting 1/1/11								
6th Year	58,585	58,585	58,585	58,585	59,757	61668	61668	64751
5th Year	51,922	51,922	51,922	51,922	52,960	54655	54655	57388
4th Year	50,329	50,329	50,329	50,329	51,336	52978	52978	55627
3rd Year	48,874	48,874	48,874	48,874	49,851	51446	51446	54018
2nd Year	47,401	47,401	47,401	47,401	48,349	49896	49896	52391
1st Year	43,124	43,124	43,124	43,124	43,986	45394	45394	47664
Starting	40,000	40,000	40,000	40,000	40,000	40,000	40,000	42,000

Lieutenants receive 15% more than a top grade firefighter
 Captains receive 5% more than a Lieutenant
 Assistant Chiefs receive 5% more than a Captain
 Depending on the number of Mondays - Fridays in a given year, the straight time pay rate shall be calculated at 1/2080, 1/2088 or 1/2096.
 All salary rates and increases are effective on the first day of the first full payroll period that occurs after the date of the time period indicated unless otherwise negotiated.

APPENDIX "B"

ARTICLE V – HOURS OF DUTY

A. The hours of duty shall be so established by the Fire Department that the average weekly hours of duty in any year, other than hours during which employees may be summoned and kept on duty because of a conflagration or major emergencies, shall not exceed 40 hours. The Day Shift shall be from 8:00 A.M. until 5:00 P.M. and the Night Shift from 5:00 P.M. until 8:00 A.M.

B. Mutual Exchanges

* * *

In the event an employee who agreed to work the mutual is unable to do so, that employee may have another employee of the same rank and equal qualifications work the tour of duty ("substitute employee"). An employee who utilizes undocumented sick leave for one tour when the employee was due to work a mutual for another employee will lose the right to mutual exchanges for a period of one year from the date of occurrence and the employee will be charged two sick days of sick time for the absence on the mutual tour. An employee unable to work a mutual exchange tour due to sickness and who upon return to duty submits documentation from a licensed physician that the employee was unable to work, will be charged one sick day of sick time for the absence on the mutual tour.

An employee who reports sick for two mutual tours within a one year period of time will lose the right to mutual exchanges for a year from the date of the first tour occurrence and two sick days of sick time will be charged for the exchanged tours, regardless of the circumstances of the employee's absences.

* * *

C. Mutual exchanges will not be approved where the mutual will result in the employee working more than 39 consecutive hours.

ARTICLE X – OVERTIME AND OVERTIME PAY

B. (2) Compensatory time will be credited at the straight time tour rate whether or not the employee works a nine or 15 hour tour with the employee continuing to have the option as to whether to utilize a nine or 15 hour tour for compensatory time purposes, except to the extent that the Fair Labor Standards Act otherwise requires, in which event the FLSA shall apply.

ARTICLE XIV – SEVERANCE PAY

1. For any accumulated days due to the employee pursuant to this Agreement, at the employee's straight time hourly pay rate, including vacation time, sick time, compensatory time, personal time and hour reduction time.

8. The payment of compensatory time upon severance from service shall be calculated at the rate of nine hours per day at the time of severance.

ARTICLE XVIII - HOLIDAYS

A. Employees shall receive the following 13 holidays in time at the rate of time and one-half of one-fifth (1/5th) weekly salary.

New Years Day	Labor Day
Rev. Martin Luther King Jr. Day	Columbus Day
Lincoln's Birthday	Election Day
Washington's Birthday	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Eve
	Christmas Day

D. Employees will notify the Fire Department in writing on the Fire Department's form by July 1st of the preceding year of their election of compensatory time or pay for holidays, except that the City agrees that employees shall have 30 days to resubmit written requests for compensatory time or pay for holidays, after the City gives notice of its decision to return to nine and 15 hour shift schedule.

* * *

ARTICLE XIX - LEAVE

B. SICK LEAVE shall be allowed the employees at a rate of 12 days per year, to be computed from the date of employment with unlimited accumulation of time benefits.

The use of sick leave shall be governed by the following rules:

* * *

- (2) All employees on sick leave for a period in excess of 72 consecutive hours shall provide a certificate from a doctor certifying the nature of the illness or injury and that the employee was unable to perform duty.
- (3) The hour factor (72) shall be computed from the next scheduled tour of duty. Employees shall be presumed sick until reporting back that they are available for duty whether they are scheduled for duty or not.
- (4) Employees calling requesting to be placed on sick leave and calling back being available for duty in less than a 72 hour period and then calling in sick again without returning to actual duty shall be presumed to be in circumvention of Paragraph "2", and the time factor (72) shall be computed from first call. In these cases the employee shall provide a certificate from a doctor certifying the nature of

the illness or injury that occasioned the second request for sick leave and that the employee was unable to perform duty.

* * *

- (8) Employees who use five undocumented sick leave days in a six month period shall be immediately placed on a sick leave monitoring program for the next following six months. Employees shall be advised, in writing, upon being placed on the sick leave monitoring program and shall be subject to the following conditions:
- (a) When requesting the use of sick leave, the employee shall advise the Fire Department of the employee's residence or location and shall remain in that residence or the reported location unless the employee notifies the Fire Department when the employee leaves, where the employee is going to and the telephone number of that location.
 - (b) During the use of sick leave, the employee shall be subject to a visit and/or telephone contact by a representative of the Fire Department.

Violation of these conditions will subject the employee to disciplinary action. After six months on the sick leave monitoring program, the employee's use of sick leave during the six month period shall be assessed and the employee may be taken off the program if the employee has used less than five undocumented sick leave days and has not violated any of the conditions of the sick leave monitoring program. The employee shall be advised, in writing, of whether the employee will be taken off or remain on the program. Thereafter, an employee can be placed on the sick leave monitoring program if the employee again utilizes five undocumented sick leave days in a six month period.

- (9) Employees who are in the sick leave monitoring program who use undocumented sick leave shall be charged two days of leave time for each day of undocumented sick leave.
- (10) Sick Leave Buy-Out – Upon completion of 10 years of service as a Fire Department employee, or at any time thereafter, an employee may cash in accumulated and unused sick days in excess of 45 days at the rate of 50% of the employee's daily rate based on the annual salary rate in effect at the time the payment is made. When payment of accumulated sick days is made, the sick days represented by the payment shall be deducted from the employee's total of accumulated and unused sick days and the days shall not be available for any purpose.

E. PERSONAL DAYS – Members who accumulate five years without use of sick leave days shall be allowed five personal days. A member who has not used his sick leave in the prior calendar year shall be allowed one personal day. The personal leave days shall be used in the year in which it is credited and shall not be carried over to the next year.

ARTICLE XX – TIME ACCUMULATION

A. Each employee shall be allowed to have up to 15 days accumulation of compensatory time.

B. Upon the completion of 16 years of service, each employee shall be allowed to have up to 25 days accumulation of compensatory time.

C. The City may buy out in a lump sum payment any accumulated and unused compensatory time in excess of 10 days at the employee's straight time hourly pay rate in effect at the time the buyout option is exercised. The City shall notify employees in writing at least 30 calendar days in writing in advance ("30 day notification period") of its decision whether to buy out accumulated and unused compensatory time in December of each calendar year. Employees shall not use accumulated and unused compensatory time in excess of 120 hours during the 30 day notification period. The City shall make the buy out payment within two payroll periods from the date on which notice of the decision is provided to the Union.

ARTICLE XXII – ASSOCIATION RELEASE TIME

A. The president and/or a designated Union representative shall be allowed up to 10 days per year, between them, from their usual work schedules without loss of pay or benefits for attendance at IAFF conventions, district meetings, state meetings, state AFL-CIO meetings, Orange County Central Labor Council, or legislative conferences at which subjects pertinent to the employees or the City are on the agenda. Only one employee per tour of duty shall be allowed Association release time. Requests for the use of Association release time shall be made 48 hours in advance of the scheduled start time of the tour for which release time is requested, unless an unforeseen circumstance requires use of the time on less than 48 hours' notice, in which event release time may be granted by the Fire Chief on less than 48 hours' notice, and approval shall not be unreasonably withheld. Release time not used in a calendar year shall not carry over to the next calendar year. On January 1, 2016, Association release time shall increase to 240 hours per year.

* * *

ARTICLE XXXIII- LABOR-MANAGEMENT/SAFETY& HEALTH COMMITTEE

* * *

The Union President or designated representative shall be allowed up to 10 days of Association release time for use in connection with service on the Committee in addition to the Association release time provided in Article XXII, section A. Only one employee per tour of duty shall be allowed Association release time. Requests for the use of release time shall be made 48 hours in advance of the scheduled start time of the tour for which release time for requested, unless an unforeseen circumstance requires use of Association release time on less than 48 hours' notice, in which event Association release time may be granted by the Fire Chief

on less than 48 hours notice, and approval shall not be unreasonably withheld. Association release time not used in a calendar year shall not carry over to the next calendar year.

* * *

ARTICLE XXXVII – DEFERRED COMPENSATION

Employees may elect to participate in the City's Deferred Compensation Plan. Employees may on one occasion during their employment contribute accumulated and unused sick time in excess of 45 days to the deferred compensation plan at the rate of 75% of the cash value provided that such contribution is consistent with the rules of the plan and applicable State and Federal statutes and regulations. Sick Leave cash value shall be based on the employee's straight time hourly pay rate at the time of contribution. Sick Leave represented by the contribution will be deducted from the employee's unused sick time accumulation at the time of contribution and will not be available for any reason.

ARTICLE XL – ADMINISTRATIVE LEAVE

A. In the event an employee is determined not fit to perform fire fighting duties following a medical examination and evaluation related to use of a respirator conducted by the Fire Department's designated medical consultant and the Fire Department decides to remove the employee from active duty status, the employee shall first be placed on paid Administrative Leave for up to 12 working tours ("the Administrative Leave period"). In the event the employee is not returned to active duty within the administrative leave period, the employee shall be placed on sick leave and the use of sick leave shall be governed by the applicable terms of the Fire Department's Rules and Regulations and this Agreement. The administrative leave period may be renewed pending the Fire Department's decision on the employee's return to active duty as provided by paragraph (D) below.

B. An employee shall receive, during the term of employment with the City, no more than 12 working tours administrative leave for a medical condition that forms the basis of the determination that the employee is not fit to perform fire fighting duties. An employee who is determined not fit to perform fire fighting duties based on a medical condition different than the medical condition which formed the basis of a prior not fit determination will receive the administrative leave for the different medical condition.

* * *

D. In the event that the employee's personal physician determines that the employee is fit to perform fire fighting duties, the employee shall obtain a written medical clearance from the personal physician to return to active duty status. The employee shall provide the written medical clearance to the Fire Department, which shall have 72 hours to consult with its designated medical consultant and to decide whether to return the employee to active duty status. In the event that the Fire Department does not inform the employee of its decision prior to the expiration of the 72 hour period, the employee shall be placed on paid administrative leave and shall not lose any sick leave pending the decision of the Fire Department with respect to return to active duty. The employee shall continue to accrue seniority and benefits while on

administrative leave or sick leave. In the event that the Fire Department decides, after consultation with its medical consultant, to not return the employee to active duty status, the administrative leave period shall continue if not concluded as provided in paragraph (A) above. If the employee had previously exhausted the twelve (12) tour administrative leave provided by paragraph (A) above, the employee shall continue on sick leave.

* * *

ARTICLE XLIII – ACCUMULATED TIME CONVERSION

In the event the nine and 15 hour shift schedule is restored, all compensatory time and sick time hours accumulated by the employee(s) shall be converted to days. Every 12 hours shall be converted to one day. The parties shall try to reconcile accumulated hours on the books of the Fire Department and City Comptroller within 30 calendar days of the City's decision to return to the nine and 15 hour shift schedule. Any issues which may arise concerning reconciliation of accumulated hours will be addressed in the Labor-Management Committee.

RESOLUTION NO.: 11 - 2011

OF

JANUARY 10, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET
FOR THE CITY OF NEWBURGH, NEW YORK AS A RESULT
OF THE LOCAL 589 INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
CONTRACT SETTLEMENT**

BE IT RESOLVED that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as a result of the Local 589 International Association of Fire Fighters Contract Settlement, as set forth on the spreadsheet attached hereto.

Acting City Manager, Richard Herbek explained that these are the various Budget modifications within the 2011 Budget to retain twelve firefighters. It actually is keeping the budget line at the exact same level as was in the adopted Budget and making adjustments to various lines to accomplish this agreement.

Councilwoman Angelo moved and Councilman Dillard seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Mayor Valentine-3

Nays - Councilwoman Bell, Councilwoman Bello - 2

ADOPTED

FIRE DEPARTMENT #3412

BUDGET ADJUSTMENT AS RESULT OF IAFE (FIREFIGHTERS) CONTRACT SETTLEMENT

	Col: A 2011 ADOPTED BUDGET	Col: B LESS NON IAFF	Col: C (A-B) CURRENT MINUS 12 IAFF	Col: D REVISED WITH 12 IAFF	Col: E (B+D) 2011 REVISED BUDGET	Col: F (E-A) BUDGET REVISION REQUIRED	
PERSONNEL SERVICES							
A.3412.0101	Salary	3,144,399	272,409	2,871,990	3,385,149	513,159	Add 12 positions, less 5% reduction
A.3412.0101.0207	Salary 207A	489,110	-	489,110	453,211	(35,899)	5% salary reduction
A.3412.0103	Overtime	704,000	50,000	654,000	200,000	(454,000)	Overtime reduction per Art 10.F.
A.3412.0104	Shift Pay	6,400	6,400	-	6,400	-	
A.3412.0105	Holiday Pay	51,804	-	51,804	59,841	8,037	Add 12, less reduced # of Holidays
A.3412.0106	Severance Pay	100,000	-	100,000	50,000	(50,000)	No Severance anticipated in 2011
A.3412.0107	Longevity	63,200	6,200	57,000	54,350	(2,650)	Add 12, less adjustments
A.3412.0108	Training Overtime	8,000	-	8,000	8,000	-	
A.3412.0110	Temporary	48,000	48,000	-	48,000	-	
		4,614,913	383,009	4,231,904	4,210,551	4,593,560	
EMPLOYEE BENEFITS							
A.3412.0810	CSEA Retirement	27,614	36,525	(8,911)	36,525	8,911	Benefits
A.3412.0815	Police/Fire Retirement	815,734	-	815,734	796,244	(19,490)	Adjusted
A.3412.0830	Social Security	315,624	29,300	286,324	316,737	1,113	For Adding 12
A.3412.0835	MTA	14,028	1,302	12,726	12,775	49	less
A.3412.0860	Health Insurance	686,248	45,458	640,790	792,418	151,628	reductions in
A.3412.0860.0001	HI-Retirees	1,268,255	60,081	1,208,174	1,208,174	-	Retirement,
A.3412.0860.0002	HI-Survivors	14,520	-	14,520	14,520	-	Social Security
A.3412.0870	Life, DBL Insurance	367	367	-	367	-	Etc., due to 5%
A.3412.0880	Employee Benefits	5,572	5,572	-	5,572	-	salary reduction
A.3412.890	Life Insurance	3,019	-	3,019	3,861	842	and reduced overtime
A.3412.891	EAP	1,200	125	1,075	1,375	300	
		3,152,181	178,730	2,973,451	3,116,804	3,295,534	
	TOTAL	7,767,094	561,739	7,205,355	7,327,355	7,889,094	
REVENUE							
A.0000.1560.0003	Vacant Registry	(78,000)	-	(78,000)	(200,000)	(200,000)	Added Vacant Bldg Revenues to be Received
	NET	7,689,094	561,739	7,127,355	7,127,355	7,689,094	

JDH-1-05-11

11-11
B

FIRE DEPARTMENT #3412

BUDGET ADJUSTMENT AS RESULT OF IAFF (FIREFIGHTERS) CONTRACT SETTLEMENT

	Col: A	Col: B	Col: C (A-B)	Col: D	Col: E (B+D)	Col: F (E-A)	
	2011 ADOPTED BUDGET	LESS NON IAFF	CURRENT MINUS 12 IAFF	REVISED WITH 12 IAFF	2011 REVISED BUDGET	BUDGET REVISION REQUIRED	
PERSONNEL SERVICES							
A.3412.0101	Salary	3,144,399	272,409	2,871,990	3,385,149	513,159	Add 12 positions, less 5% reduction
A.3412.0101.0207	Salary 207A	489,110	-	489,110	453,211	(35,899)	5% salary reduction
A.3412.0103	Overtime	704,000	50,000	654,000	200,000	(454,000)	Overtime reduction per Art 10.F.
A.3412.0104	Shift Pay	6,400	6,400	-	6,400	-	
A.3412.0105	Holiday Pay	51,804	-	51,804	59,841	8,037	Add 12, less reduced # of Holidays
A.3412.0106	Severance Pay	100,000	-	100,000	50,000	(50,000)	No Severance anticipated in 2011
A.3412.0107	Longevity	63,200	6,200	57,000	54,350	(2,650)	Add 12, less adjustments
A.3412.0108	Training Overtime	8,000	-	8,000	8,000	-	
A.3412.0110	Temporary	48,000	48,000	-	48,000	-	
		4,614,913	383,009	4,231,904	4,210,551	4,593,560	
EMPLOYEE BENEFITS							
A.3412.0810	CSEA Retirement	27,614	36,525	(8,911)	-	8,911	Benefits
A.3412.0815	Police/Fire Retirement	815,734	-	815,734	796,244	(19,490)	Adjusted
A.3412.0830	Social Security	315,624	29,300	286,324	287,437	1,113	For Adding 12
A.3412.0835	MTA	14,028	1,302	12,726	12,775	49	less
A.3412.0860	Health Insurance	686,248	45,458	640,790	792,418	151,628	reductions in
A.3412.0860.0001	HI-Retirees	1,268,255	60,081	1,208,174	1,208,174	-	Retirement,
A.3412.0860.0002	HI-Survivors	14,520	-	14,520	14,520	-	Social Security
A.3412.0870	Life, DBL Insurance	367	367	-	-	-	Etc., due to 5%
A.3412.0880	Employee Benefits	5,572	5,572	-	-	-	salary reduction
A.3412.890	Life Insurance	3,019	-	3,019	3,861	842	and reduced overtime
A.3412.891	EAP	1,200	125	1,075	1,375	300	
		3,152,181	178,730	2,973,451	3,116,804	3,295,534	
	TOTAL	7,767,094	561,739	7,205,355	7,327,355	7,889,094	
REVENUE							
A.0000.1560.0003	Vacant Registry	(78,000)	-	(78,000)	(200,000)	(122,000)	Added Vacant Bldg Revenues
	NET	7,689,094	561,739	7,127,355	7,127,355	-	to be Received

BUDGET ADJUSTMENT AS RESULT OF IAFF (FIREFIGHTERS) CONTRACT SETTLEMENT

	Col: A	Col: B	Col: C (A-B)	Col: D	Col: E (B+D)	Col: F (E-A)
	2011 ADOPTED BUDGET	LESS NON IAFF	CURRENT MINUS 12 IAFF	REVISED WITH 12 IAFF	2011 REVISED BUDGET	BUDGET REVISION REQUIRED
PERSONNEL SERVICES						
A.3412.0101 Salary	3,144,399	272,409	2,871,990	3,385,149	3,657,558	513,159
A.3412.0101.0207 Salary 207A	489,110	-	489,110	453,211	453,211	(35,899)
A.3412.0103 Overtime	704,000	50,000	654,000	200,000	250,000	(454,000)
A.3412.0104 Shift Pay	6,400	6,400	-	-	6,400	-
A.3412.0105 Holiday Pay	51,804	-	51,804	59,841	59,841	8,037
A.3412.0106 Severance Pay	100,000	-	100,000	50,000	50,000	(50,000)
A.3412.0107 Longevity	63,200	6,200	57,000	54,350	60,550	(2,650)
A.3412.0108 Training Overtime	8,000	-	8,000	8,000	8,000	-
A.3412.0110 Temporary	48,000	48,000	-	-	48,000	-
	4,614,913	383,009	4,231,904	4,210,551	4,593,560	
EMPLOYEE BENEFITS						
A.3412.0810 CSEA Retirement	27,614	36,525	(8,911)	-	36,525	8,911
A.3412.0815 Police/Fire Retirement	815,734	-	815,734	796,244	796,244	(19,490)
A.3412.0830 Social Security	315,624	29,300	286,324	287,437	316,737	1,113
A.3412.0835 MTA	14,028	1,302	12,726	12,775	14,077	49
A.3412.0860 Health Insurance	686,248	45,458	640,790	792,418	837,876	151,628
A.3412.0860.0001 HI-Retirees	1,268,255	60,081	1,208,174	1,208,174	1,268,255	-
A.3412.0860.0002 HI-Survivors	14,520	-	14,520	14,520	14,520	-
A.3412.0870 Life, DBL Insurance	367	367	-	-	367	-
A.3412.0880 Employee Benefits	5,572	5,572	-	-	5,572	-
A.3412.890 Life Insurance	3,019	-	3,019	3,861	3,861	842
A.3412.891 EAP	1,200	125	1,075	1,375	1,500	300
	3,152,181	178,730	2,973,451	3,116,804	3,295,534	
TOTAL	7,767,094	561,739	7,205,355	7,327,355	7,889,094	
REVENUE						
A.0000.1560.0003 Vacant Registry	(78,000)	-	(78,000)	(200,000)	(200,000)	(122,000)
NET	7,689,094	561,739	7,127,355	7,127,355	7,689,094	-

RESOLUTION NO.: 12 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION APPOINTING MEMBERS
TO THE COMMUNITY DEVELOPMENT BLOCK GRANT ADVISORY
COMMITTEE**

WHEREAS, the City of Newburgh is awarded Community Development Block Grant (“CDBG”) funds by the Department of Housing and Urban Development (“HUD”) to support community development projects; and

WHEREAS, it is appropriate in keeping with the rules and regulations of HUD to appoint a committee to give guidance and advice with respect to the expenditure of CDBG funds for community development projects; and

WHEREAS, pursuant to Resolution No. 278-2010 of December 13, 2010 the membership of the CDBG Advisory Committee shall consist of the following nine (9) members:

- Four (4) members, at least two (2) of whom represent the low income community, on the basis of their knowledge and interest in housing, homeless needs, disability rights, youth services, seniors and social services.
- Three (3) professional practitioners on the basis of their expertise in the areas of housing, homeless needs, disability rights, youth services, seniors and social services.
- One (1) Member of the City Council.
- One (1) City employee who is a staff member of the Department of Planning and Development.

WHEREAS, it is appropriate to appoint members to such CDBG Advisory Committee;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individuals be and are hereby appointed as new members to the CDBG Advisory Committee, effective immediately:

Mario Cipollone - professional practitioner
Torrance Harvey - community member
Brenda McPhail - community member

BE IT FURTHER RESOLVED, the following members hereby remain to serve as members to the Community Block Grant Advisory Committee

Cari Bailey - professional practitioner
Timothy Hayes - community member
Jenny Loeb - professional practitioner

BE IT FURTHER RESOLVED, the City Council shall forthwith appoint one (1) of its members and one additional (1) community member, and the Director of Planning & Development shall forthwith appoint one (1) employee staff member of the Department of Planning and Development, to bring the CDBG Committee to its full complement of nine (9) members.

Councilwoman Bell volunteered to be the Council member appointed.

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.: 13 - 2011

OF

JANUARY 10, 2011

A RESOLUTION AMENDING RESOLUTION NO. 190-2010 OF AUGUST 9, 2010, WHICH AUTHORIZED THE AWARD OF A BID AND THE EXECUTION OF A CONTRACT WITH OP-TECH ENVIRONMENTAL SERVICES, INC. IN CONNECTION WITH THE SOIL EXCAVATION AND DISPOSAL AT CITY OWNED PROPERTY LOCATED AT 210 MILL STREET AND KNOWN AS THE PROVAN FORD SITE, FOR THE EXECUTION OF A CHANGE ORDER AND TO INCREASE THE BUDGET FOR SUCH PROJECT TO \$950,000.00

WHEREAS, by Resolution No.: 190 - 2010 of August 9, 2010, the City Council authorized the award of a bid and the execution of a contract with OP-Tech Environmental Services, Inc. for the Soil Excavation and Disposal Project at City owned property located at 210 Mill Street and known as the Provan Ford Site in the amount of \$747,783.25; and

WHEREAS, Op-Tech Environmental Services, Inc. has found additional contamination which will result in the contractor incurring additional costs to comply with the Department of Environmental Conservation; and

WHEREAS, a budget for such project was established in the amount of \$823,000.00 including a contingency of \$75,216.75; and

WHEREAS, it is now necessary to increase said budget to \$950,000.00; and

WHEREAS, funding for such project will continue to be derived from the 2009 Bond Authorization H1.1440.0215.5400.2010; and

WHEREAS, it is now necessary to authorize the City Manger to execute a change order with OP-Tech Environmental Services, Inc. to compensate them for said additional costs;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute a change order for Op-Tech Environmental Services, Inc. in connection with the Soil Excavation and Disposal Project at City owned property located at 210 Mill Street and known as the Provan Ford Site

BE IT FURTHER RESOLVED, that the budget for said project be increased to \$950,000.00.

Councilwoman Bell said that similar companies do green remediation type work and she thinks it would be phenomenal if we could attract a company like that here to the City of Newburgh so that we could get residents trained in the new technologies.

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.: 14 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CHANGE ORDER WITH LAND REMEDIATION INC.
IN CONNECTION WITH THE BUILDING DEMOLITION,
TANK CLOSURE AND IMPACTED SOIL REMOVAL PROJECT
AT CITY OWNED PROPERTY LOCATED AT 350-352 LIBERTY STREET
IN AN AMOUNT NOT TO EXCEED \$25,000.00**

WHEREAS, by Resolution No.: 228 - 2010 of October 18, 2010, the City Council authorized the award of a bid and the execution of a contract with Land Remediation Inc. bid for the Building Demolition, Tank Closure and Impacted Soil Removal Project at City owned property located at 350-352 Liberty Street for the base bid amount of \$123,509.00 and an Alternate No. 1 bid amount of \$14,530.00; and

WHEREAS, the Contractor will incur additional costs to dispose of the additional contaminated liquids and other impacts associated with the rupturing of the water service to the site; and

WHEREAS, it is now necessary to authorize the City Manger to execute a change order with Land Remediation Inc. to compensate them for said additional costs;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute a change order for Land Remediation Inc., to provide for the additional costs to the contract for the City owned property located at 350-352 Liberty Street at a cost not to exceed \$25,000.00 with such funds to be provided from the 2009 Bond Authorization, H1.1440.0215.5400.2010.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Mayor Valentine - 4

Nays - Councilman Dillard - 1

ADOPTED

ORDINANCE NO.: 5 - 2011
OF
JANUARY 10, 2011

AN ORDINANCE AMENDING CHAPTER 103
OF THE CODE OF ORDINANCES
ENTITLED "ALARM SYSTEMS" TO ESTABLISH
AN ALARM APPLICATION FEE AND INCREASE PENALTIES

BE IT ORDAINED, by the Council of the City of Newburgh, New York that:

Section 1. Chapter 103 of the City Code of Ordinances entitled "Alarm Systems" be and is hereby amended as follows:

§ 103-13. Application form and information. Fees.

A. Applications for all permits required hereunder shall be filed with the City Clerk. The City Clerk shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. The application for alarm systems shall require the name, address and telephone number of the person who will render service or repairs during any hour of the day or night and a non-refundable application fee as set forth in Chapter 163, Fees, of this Code.

§ 103-30. Penalties for offenses.

A. Any person who shall violate any of the provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder shall be punished by a fine of \$150.00 for the first offense, a fine of \$250.00 for the second offense and a fine of \$500.00 for the third offense and each subsequent offense thereafter [as provided in § 1-12 for violation of this chapter of the Code of Ordinances of the City of Newburgh].

Section 2. This Ordinance shall take effect immediately.

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

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

ADOPTED

ORDINANCE NO.: 6 - 2011

OF

JANUARY 10, 2011

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

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

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

[§ 103-7	Police alarm device permit	\$50 annual permit fee]
<u>§ 103-13</u>	<u>Alarm permit application fee</u>	<u>\$100.00</u>
	<u>residence/business</u>	<u>Non-refundable</u>
	Fire-suppression system installation application	2% of the approved estimated costs of the system
§ 103-21	False alarms: any alarm activation to which the Police Department personnel respond which is not the result of an unauthorized entry, fire, smoke or other emergency	
	[1] [One to three] <u>Up to two</u> per calendar year:	\$0.00
	[2] [Four to 10] <u>Three to five</u> per calendar year:	\$50.00 per
	alarm	
	[3] [Eleven] <u>Six</u> or more per calendar year:	\$125.00 per
	alarm	
	Payable to the City Clerk by the property owner or lessee upon receipt of an annual billing statement from the City	

Underlining ___ denotes additions.

Brackets [] denote deletions.

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

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

ADOPTED

RESOLUTION NO.: 15 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF
LITIGATION REGARDING THE TAX FORECLOSURE
OF 97 RENWICK STREET, SECTION 45, BLOCK 6, LOT 12 AND
99 RENWICK STREET, SECTION 45, BLOCK 6, LOT 11**

WHEREAS, the City of Newburgh has commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number 2008--011978; and

WHEREAS, on May 10, 2010, the estate of the deceased owner, by its attorney, served an Answer to such action in regard to the foreclosure of 97 Renwick Street, Section 45, Block 6, Lot 12, and 99 Renwick Street, Section 45, Block 6, Lot 11; and

WHEREAS, the attorney has advised that the estate of the deceased owner is prepared to settle such action;

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its further development to settle this matter if all taxes, interest and penalties in the amount of \$46,156.58 for 97 Renwick Street and \$43,900.02 for 99 Renwick Street are remitted to the City of Newburgh on or before January 31, 2011;

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to withdraw the liens on the property located at 97 Renwick Street, Section 45, Block 6, Lot 12, and 99 Renwick Street, Section 45, Block 6, Lot 11, in the City of Newburgh, from the Lists of Delinquent Taxes upon receipt of all taxes, interest and penalties in the amount of \$46,156.58 for 97 Renwick Street and \$43,900.02 for 99 Renwick Street, which amount must be remitted to the City of Newburgh on or before January 31, 2011.

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.: 16 - 2011

OF

JANUARY 10, 2011

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT
AND THE EXECUTION OF A CONTRACT
FROM THE NEW YORK DEPARTMENT OF STATE
FOR NEWBURGH WATERFRONT PUBLIC ACCESS IMPROVEMENTS
AS PART OF THE STATE GRANT NUMBER 08DOS058
TO RECEIVE A TOTAL AMOUNT OF \$348,600.00
WITH A ONE HUNDRED (100%) PERCENT CITY MATCH**

WHEREAS, by Resolution No. 116-2008 of July 21, 2008 the City Council authorized the City Manager to apply and accept a grant up to \$348,600.00 from the New York State Department of State Environmental Protection Fund for the City of Newburgh Hudson River Waterfront; and

WHEREAS, the City of Newburgh is authorized to accept said grant and execute a contract from the New York State Department of State for the Newburgh Waterfront Public Access Improvements in the amount of \$348,600.00 with a One Hundred (100%) Percent City Match; and

WHEREAS, the Newburgh Waterfront Public Access Improvements will consist of repairs to the Newburgh Landing and the First Street Fishing Pier, and the preparation of design documents for the South Street Park; and

WHEREAS, this Council has determined that accepting such grant and executing such contract 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 is authorized to accept the grant from the New York State Department of State in the amount of \$348,600.00 with the City's matching contribution to be derived from in-kind services and available funds from the 2009 Bond Authorization as set forth in Resolution No. 180-2009 of November 16, 2009; and

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute State Contract Number C006959 entitled "Newburgh Waterfront Public Access Improvements."

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

PUBLIC COMMENTS REGARDING GENERAL MATTERS

Gay Lee, City of Newburgh submitted and read the attached statement. (copy attached) She added that it seems like this tax increase should be filed as a class action suit. We should write to everyone in government until we get some better answers and better taxes. In regard to the issue with the firefighters she feels that if money was managed differently then we wouldn't have to use them as a smoke screen by blaming the taxes on them. Where are our funds going and how come we are in this shape? Nobody seems to be explaining that.

Timothy Hayzill, City of Newburgh said that resolution #9-2011 is for emergency cleanup of the Liberty Street School. Bluestone Development had Liberty Street School and they had a lot of young people over there to work. Will they still hire the same people to work with this cleanup?

Mayor Valentine noted that the cleanup has already taken place. It's already done.

Mr. Hayzill asked if the project for the \$348,000.00 with a 100% match will be hiring people from the community to do this work.

Mayor Valentine responded, "yes".

Joe Palladino, City of Newburgh said that his taxes are now \$8,000.00 plus water, sewer and sanitation and he is living on a pension. The City Manager is making more money than the Governor and why are all of these people working here from Westchester that don't pay this tax. He is angry because he is going to lose his house where he has lived for forty-two years. Let the City Manager take a 20% cut. The Lawyer quit so why did she come back? He has been friends with members of the Council for many years but no more.

Isaac Diggs, 10 BayView Terrace said in regard to Bluestone Development that when Dr. Blue was here negotiating taking that property he was asked directly by one of the City Council members whether he intended to follow through with the project as negotiated. His response was "yes" and on the basis of that it was decided that he was going to follow through with what he said he was going to do even though the contract that was negotiated put the city in a very bad position and we all know what happened to that project. Tonight he heard a City Council person say that they had major reservations about certain aspects of this contract and that we will have to

monitor overtime but there is no provision in the contract. It is done with the assumption that people are going to be around to monitor this. City Council people change so your good intentions may not matter in nine months but what matters is the letter of that contract. He is not an Attorney but he thinks that is the way it works. He congratulated the firefighters for negotiating a contract that meets their demands because that is what they are supposed to do. Whoever is representing and negotiating for them is who he wants on his team. The people who voted for this have serious reservations and for whatever reasons didn't address them when the contract was negotiated. Despite what you intend to do in six months unless it's in the contract...

Ariyike Diggs, 10 BayVieww Terrace said that she is an Attorney and that is how it works. What is disturbing to her is that there is language in the contract that a Council member is uncomfortable with but decided to still vote. The contract will prevail. She said that they are not against the Fire Department at all but the reality is that while the numbers might work for some members of the Council they do not work for us. A 70% tax increase this year, a 28% tax increase next year and another 11% the year after so we cannot ignore the fact that the contract was negotiated based on this financial plan to increase our taxes which is not acceptable. This contract does not have to be for four years. She heard that this has been negotiated for a long time and she understands that but you don't get tired and decide you are uncomfortable and just vote anyway. She thinks that it is great that we have a Fire Chief with a law degree but he was on the other side of the table when this contract was being negotiated and she doesn't understand how they could lose sight of that. It is about negotiating what is best for the people of this city; the people that they serve.

Judy Kennedy, 162 Grand Street has heard members of this Council many times say that we are in this mess because of what previous Council members have either done or not done. She has heard it said that our taxes are up this year because we should have raised them back in earlier years and she has also heard how these numbers will work because this new contract with the Fire Department doesn't cost the city any money. It all keeps running down to 71%. Maybe city government has to start thinking differently. She is very much in favor of consolidation for something different to happen in this city. Sanitation, water and taxes are up and scare tactics are common. Little old ladies wouldn't be calling about their houses burning down on the west side if someone wasn't telling them that's what is going to happen. When we start running this city like a business and work things through in a different way then maybe we will get somewhere. She doesn't understand how in good conscious they could come up with a Budget with a 71% tax increase and she would like to compare our taxes with other cities around here. Do some

benchmarking across the community and with other states because New York State is out of control. This is not o.k. and we have a right to be angry.

Cindy Holmes, 26 Roe Street said that she wants our firefighters and our police; she wants them all. The reason she is here tonight is that an African-American woman was denied a management promotion over a Caucasian woman who was appointed by the City Manager. She has less experience and less seniority so her question is why?

Corporation Counsel, Bernis Nelson said that she was not aware of this until today so she cannot speak on it right now.

Acting City Manager, Richard Herbek said that the decision he made had nothing to do with race. The decision was made by him and other individuals involved which they thought was in the best long term interest of the City of Newburgh.

Ms. Holmes said to the City Council and the Mayor that that is not good enough for her.

Brigidanne Flynn, City of Newburgh said that at the Work Session they discussed about Rules of Order. She found the original on the City's website and was wondering if Corporation Counsel could post the proposed amendments so that we can look at it since we are involved in it.

Mayor Valentine said that at this point most of it is housekeeping but there is some discussion about changing the Rules of the Order of the Council Meetings and we will bring it up at our next meeting.

MaryAnn Prokosch, City of Newburgh said that the contract is the Bible. Whatever is in it is abided by. A ten-year contract with her business with these tax increases is hitting them at the worst possible time and it is putting them on the verge of bankruptcy. Nobody can see into the future with these long term contracts and they can be devastating. There is nothing in the contract concerning fire inspections and she heard it mentioned that we might do away with fire boxes but you won't be able to get rid of the person who services those boxes because of the no-layoff clause. That contract is the law and the lawyers who have looked at it only attest to the legality of it. It was said that there is a 1.2 million dollar savings in this contract but that is over a four year period and the firemen are costing us 1.2 million dollars a year. We need to see figures on paper to justify what it is.

Usef Belford, City of Newburgh said that the community has a lot of problems and we need to rebuild Newburgh. By renovating the buildings here in Newburgh we as a community can hold ourselves together and bring revenue back into our community. Newburgh builds Newburgh; let's think about it.

Acting City Manager, Richard Herbek said that there is a proposal for \$250,000.00 for this program but step one is to get the State and Federal agencies involved. We don't have the written o.k. to utilize those funds right now but we are working on it.

Mayor Valentine said that we should have some updates at our next Work Session.

Michael Curry, City of Newburgh fears that this was just another step along the path that will create the collapse of the city's tax base. The increases in sanitation, water & sewer and now the tax increase will hit the rental market severely. The 71% tax increase has told every Section 8 recipient that they better leave because they will not be able to come up with the additional amount to pay. He thinks that everyone that lives or works in this city should write a letter to our Assemblyman, Senator and Governor. This will cause a catastrophic failure of this city.

Sean O'Shea, City of Newburgh said that he is for the firemen and he doesn't mind paying a tax increase for a fire department but there has to be some reasonableness for people who have lived here for a long time and who are struggling. He asked the Council how they pay for their taxes. We can't lay-off the police so who will get hurt in the end? It's the people who work in the Parks, on the roads and in the water and sewage plant. These are people that he relies on and for next year they want to talk about privatization. There will be no money left. He congratulated the Fire Department because they were smart and they came first. You can't say no to the cops so the working people are going to get hurt in the end. They are the people we citizens rely on. He asked the Council if when they run for an Election they run as a group. When it comes to public platforms he asked the Council how many they attended.

Kippy Boyle, City of Newburgh said that she contributes to the salary of every department head and every city employee and she plans on mentioning a department head by their name because people need to know who the department heads are.

Mayor Valentine stated that during this particular comment period, "no".

Kippy Boyle continued by reading a letter from the Newburgh Citizens Coalition Landlord Association saying that there will be an important meeting on January 19, 2011 at 7:00 P.M. at the Warehouse Restaurant at the corner of Liberty and Ann Street. They will be discussing the pooling of resources to pursue legal action against the City of Newburgh to challenge the excessive taxes on properties which in some cases have declined in more than 50% of value. These increases threaten the existence of businesses and homeowners alike. Throughout the years the City has been fiscally irresponsible and the recent purchase of the City Court has tipped the City over the edge of financial ruin. The city clearly lacks the ability to show due diligence and public trust with signing off on deals which are riddled with numerous problems. We need to make more City Board Members and City Officials accountable for their actions. She said that they will not walk away from their homes and businesses and encouraged everyone to attend this crucial meeting on January 19th.

Janet Gianopolous, City of Newburgh congratulated Police Chief Michael Ferrara on his appointment and said that she has faith in Fire Chief Michael Vatter to work with the guys in the Fire Department. She asked them to consider all of the things that they heard from the homeowners because they are strapped and she hopes that they will keep coming back to the table. She saw in the City Manager's report to the State that we have been reduced to basic police, fire and public works yet one Council member noted that we are spending 1% on recreation. According the City Manager's report we have eliminated recreation so she would like to know if we are spending 1% or has it been eliminated. The Council needs to accomplish what is in the best interest of citizens and she thinks that they can do that.

Jerry Maldonado, 182 Montgomery Street said that everyone is frustrated and there is a realization that we are all in this together and people are hemorrhaging. A 70% tax increase is unsustainable and immoral. There are families on the verge of losing their homes and there are seniors struggling so some of them feel that they are going to lose their homes anyway. This saddens him because it is unethical. Further projected increases are completely unsustainable and impossible. At this time you are trying to get blood out of a stone and there is no more blood there. There needs to be some radical restructuring and to make some difficult decisions for this city in the future because the current path is completely unsustainable.

Lilliam Harris, City of Newburgh said that some of the actions here tonight she would not like to see on television and she told the Mayor that he is the leader and if he is going to act like that then what are we going to do?

The Council should be professional even though she knows that we are all upset about these taxes. She doesn't know how she is going to pay hers. In regard to the property abatement she said that it is very hard for them because there are people that tear up your property so it's very hard on us when you do the work and then charge us for it. She said that the tenants have to have some rules because they get away with everything and the homeowners and landlords have to pay the fees. She might lose her home. She thinks she can manage but she doesn't know. She added that DPW did a very good job with the snow removal here not like New York City.

Ray Rivera, 186 Washington Street said that he has had a building here for nine years and he can't pay his taxes now so he has no choice but to ask the City Council and City Manager to try to help him relocate or he will have to close the building and put kids back out on to the streets. He has fifty to one hundred and fifty kids passing by each week keeping out of trouble. He may lose his job on March 31st with the State so the money is not there anymore. He has a lot of troubled kids that he helps every day. He lives in the Town of Newburgh but if he has to bring these kids to his house then he will do that. He lost his son to street violence and it hurts. He loves the kids here in the City of Newburgh. He is behind in his taxes and he is the only not-for-profit organization in the City of Newburgh that gets a tax bill and he can't afford it. He noted that there will be a boxing show in Poughkeepsie on February 5th and there will be thirteen kids from the City of Newburgh participating.

Michael Gabor, Grand Street said that he keeps hearing the same thing and he wonders how at least three of the City Council members are not hearing it. He knows a lot of people who are on the verge of losing their house and people who have parents here who can't live here anymore because they can't pay these taxes. At least two of the Council just sits there and doesn't say a word because they have nothing to say. They just go along with whatever someone tells them to do constantly. They don't speak about why they are voting the way that they are voting. People's lives are at stake here and they sit there and say how difficult this is. Tell that to the people out there that are losing their homes and who are being told that if we don't have this contract that their houses are going to burn down. At least three members have the respect to discuss this with the people that they represent and we at least will know why you do what you do. He has heard from people from Pennsylvania telling him how sorry they are that he has a business here because he has to live with this and fight to survive in a city that is dying before his eyes. It is because of the same situations like what happened tonight with this contract. There are questions that have not been answered and it's just yes or no with no further interest in discussing this further. They are allowing people who have grown up here to leave this city. There is no respect for the people who have given their lives for this city and he thinks that is despicable.

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

Gay Lee

City Council Meeting 1/10/11

I would like to know if a decision has been made with respect to the property tax repayment plan. As previously stated there are no fiscal reasons that preclude the implementation this repayment option.

Our current tax increase puts all home owners at risk of losing their property and puts the City of Newburgh in the precarious position of further fiscal short falls.

Residence of the City of Newburgh should band together and protest the outrageousness of the tax increase. We need to legally question the process used by the tax assessor to determine the tax value of each property. Our properties seem to be assessed at a higher rate than properties in other areas of Orange County, but the property value itself is incongruent with the assessment.

I would like the New York State Comptroller's office to conduct a special investigation to determine a reasonable tax increase. Our city services are minimal and our taxes are in excess. Such an investigation would tell us how the tax funds have been used over the past six years. It is clear to me and others that an outside investigation is the only way to ascertain a true picture of how funds are managed and at times seemly mismanaged.

COMMENTS FROM THE COUNCIL

Councilwoman Angelo told Mr. Gabor that he is responsible for the building on the corner of Broadway and Liberty Street when he and Barbara Smith caused that man to lose that building.

Following disruption from the audience, Mayor Valentine adjourned the meeting at 9:50 p.m.

LORENE VITEK
CITY CLERK

