

A regular meeting of the City Council of the City of Newburgh was held on Monday, March 28, 2011 at 7:00 P.M. in the Council Chambers at City Hall, 3<sup>rd</sup> Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Mayor Valentine. He prayed for fire victim Nataly Vaquero Mendoza who passed away in that fire last week on William Street. Also he extended a heartfelt thank you to what he called our first responders in the police and fire departments, whose personnel did an outstanding job.

The Pledge of Allegiance was led by Councilwoman Bell.

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

Councilwoman Bello moved and Councilwoman Angelo seconded that the minutes of the regular meeting of March 14, 2011 be approved.

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, the Amended Verified Complaint and the Summons and Verified Complaint be referred to Corporation Counsel with power to act.

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

CARRIED

## PRESENTATION

David McTamane was not available to present "Keeping the Memorial in Memorial Day." So as not to interrupt the flow of the meeting, the presentation is going to be moved to the next scheduled meeting.

## **PROPOSED PUBLIC HEARING**

**There were no proposed public hearings.**

## **PUBLIC HEARING**

**Mayor Valentine called a public hearing to receive public comment concerning a local law to amend Chapter 189 entitled "Hours of Operation" of the Code of the City of Newburgh.**

**Maryann Prokosch remarked that hours should not be extended if the building is not in code compliance. Also she wants to ensure that the legislation can be rescinded at any time if there is an increase in negative activity.**

**Mayor Valentine pointed out they discussed it at the work session. Chief Ferrera is going to monitor activity. The chief has informed the council that if there is any spike in crime especially within that hour, he is going to come back before the council immediately.**

**Denise Ribble is concerned that we don't have a plan for rescinding. Perhaps we could charge a small fee for those businesses that want to stay open past midnight. Also she feels part of the problem is it is a general law. Does it need to come before the council again a problem exists?**

**Corporation Counsel Bernis Nelson clarified the ordinance is broad. It is not site specific. So if there is a problem, it does have to come back before the council for amendment.**

**Janet Gianopolous commented that as a consumer she should be able to go out and buy goods from a store anytime she desires. She recalled Fire Chief Vatter commenting that some shopkeepers were downright disrespectful when his staff made their rounds. We should get the data first before making a decision on it.**

**Kippy Boyle would like the council to hold off on it tonight. It does not sound like all the city departments are on the same page. Why punish everyone for the non compliance of a few people? Let the non-compliers come in and prove they are up to code.**

**Brigidanne Flynn remarked that no one begrudges anyone's capacity to make money in this economy. But some of these corner stores have expired food on their shelves. There could be a health code involved. She feels the shop owner should keep his store tidy and inviting. Also if the kids are hanging out in front of the store, the store owner should tell them to move along without having to call the police all the time. Next, the Economic**

Development department should work with the businesses to develop a strong business plan. She is not against the one hour extension, but the codes should be enforced across the board.

Jeffrey Link, owner 120 Broadway, applauded the council for doing this. He urged us not to forget that there is a real need in the community for businesses to remain open. This city needs to find ways to be less regulatory. We are still waiting for that big renaissance to occur, and it has not happened yet. By doing this tonight, at least we are giving them the opportunity to remain in business, so that property owners can continue to be able to pay these high taxes. This is definitely a step in the right direction.

Barbara Smith stated there are only a few who are guilty of loitering and who are not in code compliance. Can we write something into the legislation so that it is site specific for the guilty parties? Why are the clean shop owners suffering for the things that others are not doing?

Judy Kennedy stated she is reminded of an anonymous quote, "Poor implementation of good ideas kills good ideas." We deal with a lot of things that give Newburgh a poor image. We need to crack down on the ones who continue to disregard the code. We are unable to manage stuff that we don't track. This city needs to start taking Zero Tolerance toward offenders. We have to begin to clean up the city's image. She urged us to reward those who follow the code.

Roxie Royal commented she does not have a problem extending the hours by one hour. But how many of you actually live in the areas that are affected by this extension? The stores that are doing unproductive things in the community should be closed.

Michael Gabor stated he is a business owner and would surely be upset if someone put restrictions on his business. He is concerned that there is not even any data to gauge the success of the businesses. He sees the problem lying in the codes department itself. The office closes at 4 P.M. and does not reopen until 8 A.M.

Councilwoman Bell asked if we are going to do this for a six-month period.

Mayor Valentine pointed out that the reaction to the closing was resident-based.

Chief Ferrara stated his department is going to deal with the police issues that occur inside and outside of the stores. If he sees a spike in illegal activity, then he is going to come back before the council accordingly.

Councilman Dillard commented he feels comfortable in the way they are doing this.

Councilwoman Bello stated there is a corner store in her neighborhood. It is not the store owner's fault that there is a gang of kids congregating in front of the store at all hours of the day. It is a police issue.

Councilwoman Bell stated there are kids hanging out in the middle of the afternoon. They are buying loose cigarettes too. There has to be a balance between community and the store owners.

There being no one else wishing to speak for or against this public hearing, this portion of the meeting was closed.

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Maryann Prokosch stated if it isn't broken then don't fix it [Res. #72-2011]. Second, the local law is blanketed. There needs to be more drafted into it. It seems to her we are going backwards. There is a deli in her neighborhood. The activity in front of the store is directly correlated to the hours of operation. She does not want to wait to look at it in 6 months; three months is better. We need to put more teeth into it. Store owners need to prove they are worthy to stay open later [Loc. Law #2-2011]

Denise Ribble asked the council if 22 Grand Street is city-owned [Res. #69-2011]. Second, she agrees with Prokosch that if we can't put some teeth into this, then it should be time-limited. A report should be given in three months [Loc. Law #2-2011]. Next, she thanked Ed Lynch and Bernis Nelson. She worked with them closely, and now she can strongly support the HUD Section 3 Plan [Old Bus. Res. #57-2011].

Judy Kennedy stated Mobile Life has served the community well for a long time [Res. #68-2011]. Second, she appreciates that the details of the HUD Section 3 Plan were looked at thoroughly [Old Bus Res. #57-2011]. Next, she asked what the permit process is for opening a business. Perhaps we could standardize that process, because it seems to her there are a lot of businesses competing in the same locations [Loc. Law #2-2011].

Kippy Boyle stated the codes department has a sophisticated software program. We should be able to get a report of businesses in three months. There are ordinances on the books. This would be a great opportunity for three city departments to make a collaborative effort in gathering data [Loc. Law #2-2011]. Next, having the Hudson River Sloop Clearwater dock at the Landing for four hours is very different than having a large yacht docked there for four days using city water and other resources [Ord. #9-2011]

Janet Gianopolous believes the HUD Section 3 Plan is a good move for the city [Old Bus. Res. #57-2011]. Second, she pointed out that the city does not make money on the not-for profit businesses [Ord. #9-2011].

Michael Gabor asked if we know which stores residents are complaining about. Their complaints do not appear to be based on facts. This is peoples' livelihood. Yes, there are things you can restrict; but, it has to be done for good reason. There is staff working in city departments to track the data. Let's see the results now. It is important to note that these restrictions don't work [Loc. Law #2-2011]

Roxie Royal stated Mobile Life provides a good service to the community. The staff is well trained and well equipped [Res #68-2011]. Next, the store at the corner of Farrington Street and Johnston Street is decimating her neighborhood. She does not see any comparison in allowing a business to make a few extra dollars by remaining open one hour later, at the expense of her losing sleep at night and not being to get up and go to work in the morning. Some of these little corner stores are bringing down our neighborhoods. You should see what they are selling too- loose cigarettes, cigars, cigar pipes, etc. What you need to do is go in and see what you are supporting [Loc. Law #2-2011].

Brigidanne Flynn sees the one hour extension as a good faith effort to try to work together with the store owners. If you are given this extra hour, then try to make the most of it in a positive way [Loc. Law #2-2011].

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

## CITY MANAGER REMARKS

Acting City Manager Richard Herbek pointed out this would be the last city council meeting attended by Bernis Nelson. She is going to be taking a position with the City of Peekskill, New York. He is going to appoint Michelle Kelson to the position of Corporation Counsel effective April 6<sup>th</sup>. Ms. Kelson is well qualified for her new role. She has acted as Corporation Counsel for the City of Newburgh in the past. This time she is agreeable to assume the role. We are going to advertise for an Assistant Corporation Counsel almost immediately. There is a lot of legal work to be performed in the city.

Next, a city wide cleanup is scheduled to be held in or around Earth Day. Safe Harbors has scheduled one for May 7<sup>th</sup>. We are going to try to do this in collaboration with the organization. He hopes this will be a community-wide effort. Also we are not going to be able to do this in a manner in which it will cost a lot of money to the city and taxpayers.

**COMMENTS FROM THE COUNCIL REGARDING THE AGENDA**

**There were no comments at this time.**

**RESOLUTION NO.: 63 - 2011**

**OF**

**MARCH 28, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT A GRANT FROM THE GOVERNORS TRAFFIC SAFETY  
COMMITTEE  
FOR CHILD SAFETY SEATS AND RELATED SERVICES  
IN THE AMOUNT OF \$8,000.00 WITH NO CITY MATCH REQUIRED**

**WHEREAS**, the City of Newburgh Police Department performs many duties and offers a variety of services to promote public safety and health; and

**WHEREAS** the Governor's Traffic Safety Committee (GTSC) awards grants under its "Child Passenger Safety Incentive" grant program to provide eligible persons from culturally diverse, low income populations with child safety seats, awareness training and additional related services, to be provided by and through the City of Newburgh Police Department; and

**WHEREAS**, the City of Newburgh submitted an application to the Governor's Traffic Safety Committee and has been awarded \$8,000.00 to participate in the statewide "Child Safety" program; and

**WHEREAS**, this Council has determined that applying for and accepting such grant is in the best interests of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute any and all documentation required to accept such grant in an amount of \$8,000.00 from the Governors Traffic Safety Committee and implement the subject program; and

**BE IT FURTHER RESOLVED**, this Council hereby amends the City of Newburgh's Grant Fund as follows, in furtherance of acceptance of the Grant:

Revenue Account	CG.3120.4395.3600.2011	\$ 8,000.00
Expense Account	CG.3120.0405.3600.2011	\$ 6,000.00
	CG.3120.0448.3600.2011	\$ 2,000.00

**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**

RESOLUTION NO.: 64 - 2011

OF

MARCH 28, 2011

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN  
THE CITY OF NEWBURGH AND WRIGHT RISK MANAGEMENT COMPANY  
LLC  
TO PERFORM WORKERS' COMPENSATION CLAIMS RUNOFF SERVICES

WHEREAS, the City of Newburgh wishes to enter into the annexed agreement with Wright Risk Management Company LLC; and

WHEREAS, the agreement is for providing for the Plan Manager, Wright Risk Management, to provide workers' compensation claims runoff management services for the period of January 1, 2011 to December 31, 2011; and

WHEREAS, Wright Risk Management will perform workers' compensation claims runoff services for City claims that arose prior to March 1, 2008, when the City joined the New York State Municipal Workers' Compensation Alliance; and

WHEREAS, the rate for these services is \$500.00 per Claim per year or portion thereof; and

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

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Wright Risk Management Company LLC, in substantially the same form as annexed hereto with any other provision that Counsel may require, for providing workers' compensation claims runoff management services.

**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.: 65 - 2011

OF

MARCH 28, 2010

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT A GRANT FROM THE HUDSON RIVER VALLEY COUNCIL  
ON BEHALF OF THE GREENWAY COMMUNITIES PROGRAM  
IN THE AMOUNT OF TEN THOUSAND (\$10,000.00) DOLLARS  
AND AUTHORIZING A SUB-RECIPIENT AGREEMENT WITH PATHSTONE  
COMMUNITY IMPROVEMENT OF NEWBURGH FOR THE PURPOSE OF  
PURSUING A LAND USE PLANNING AND EVALUATION PROCESS FOR THE  
NEWBURGH FOOD & URBAN GARDENS COMMUNITY PLANNING PROJECT  
AND IN FURTHERANCE THERETO, AMENDING THE GRANT FUND  
OF THE CITY OF NEWBURGH**

**WHEREAS**, by Resolution No. 22-2011 of January 24, 2010, the City of Newburgh has applied for a grant from the Hudson River Valley Council on behalf of the Greenway Communities Program for the purpose of pursuing a Land Use Planning and Evaluation Process for the Newburgh Food & Urban Gardens Community Planning Project; and

**WHEREAS**, the City of Newburgh has been informed they were awarded Ten Thousand (\$10,000.00) Dollars to fund PathStone Community Improvement of Newburgh to coordinate this effort, to develop appropriate evaluation tools, organize public events, enlist Cornell University's soil testing services, seek the counsel of Glynwood and Orange County Land Trust, and coordinate volunteer work (the "Work"); and

**WHEREAS**, the City of Newburgh wishes to enter into a sub-recipient agreement with PathStone Community Improvement of Newburgh to undertake the Work and to provide the matching funds of \$10,000.00 for a total project of \$20,000.00; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute any and all documentation required to accept the Grant and enter into the sub-recipient

agreement with PathStone Community Improvement of Newburgh to undertake the Work and to provide the matching funds of \$10,000.00 for a total project of \$20,000.00; and

**BE IT FURTHER RESOLVED**, this Council hereby amends the City of Newburgh's Grant Fund as follows, in furtherance of acceptance of the Grant:

Revenue Account	CG 7110.3887.3009.2011	\$10,000.00
Expense Account	CG 7110.0413.3009.2011	\$ 1,500.00
	CG 7110.0448.3009.2011	\$ 4,000.00
	CG 7110.0455.3009.2011	\$ 4,500.00

**Councilman Dillard wanted to know if the city is obligated to pay anything.**

**Mr. Herbek responded in the negative.**

**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.: 66 - 2011**

**OF**

**MARCH 28, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AND EXECUTE AN AGREEMENT  
WITH GEMKO INFORMATION GROUP, INC.  
FOR THE CONVERSION OF REPORT DATA FROM THE AS400 SYSTEM  
FOR AN AMOUNT NOT TO EXCEED \$4,200.00**

**WHEREAS**, the City of Newburgh wishes to enter into the attached Agreement with GEMKO Information Group, Inc.; and

**WHEREAS**, this agreement will provide the City of Newburgh with the conversion of report data from the AS400 System; and

**WHEREAS**, such funding will be derived from budget line H1.1680.0202.5700.2110 with an amount not to exceed \$4,200.00; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into and execute the attached agreement with GEMKO Information Group, Inc for the conversion of report data from the City's AS400 system with a total cost not to exceed \$4,200.00.

**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**

**RESOLUTION NO.: 67 - 2011**

**OF**

**MARCH 28, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
EXECUTE AN AGREEMENT WITH IKON OFFICE SOLUTIONS  
TO LEASE A RICOH COPIER  
AT THE COST OF \$202.75 FOR 60 MONTHS**

**WHEREAS**, the Finance Department wishes to enter into a lease from IKON Office Solutions for a RICOH MP4001 copier to provide for copy/scan to email and folder, fax and print; and

**WHEREAS**, the cost of the copier is \$202.75 per month for a period of 60 months; and

**WHEREAS**, a copy of the new contract is attached hereto and made a part of this resolution; and

**WHEREAS**, this Council has reviewed such contract and has determined that it is in the best interests of the City of Newburgh to enter into such contract;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached 60-month lease contract with IKON Office Solutions to provide a new RICOH MP4001 copier for use by the Finance Department at the cost of \$202.75 a month for 60 months, such funds to be derived from Budget Line A.1670.0400.

**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.: 68 - 2011**

**OF**

**MARCH 28, 2011**

**A RESOLUTION DESIGNATING MOBILE LIFE SUPPORT SERVICES, INC. AS THE DESIGNATED PROVIDER OF EMERGENCY MEDICAL SERVICES FOR THE CITY OF NEWBURGH IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE PARTIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

**WHEREAS**, by Resolution No. 73 - 2006 of April 10, 2006 the City of Newburgh entered into a contract with Mobile Life Support Services, Inc. ("MLSS") to provide Emergency Medical Services ("EMS") in and for the City of Newburgh; and

**WHEREAS**, the contract with MLSS will expire on April 1, 2011 and they have submitted a proposal for a new 2 year agreement in the form attached hereto; and

**WHEREAS**, the parties wish to designate MLSS as the provider of EMS for the City of Newburgh; on condition that MLSS will continuously provide its resources sufficient to meet the EMS needs of the City of Newburgh and its citizens, pursuant to the terms of said agreement; and

**WHEREAS**, the City of Newburgh shall not be liable for any costs or expenses to MLSS in this regard; and

**WHEREAS**, a copy of such agreement is annexed hereto and made a part of this resolution; and

**WHEREAS**, the City Council has examined such agreement and determined it to be in the best interests of the City of Newburgh to enter into such agreement;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute and enter into an agreement with Mobile Life Support Services, Inc. in the form 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**

## AGREEMENT FOR 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 **MOBILE LIFE SUPPORT SERVICES, INC. (“MLSS”)**, a firm with principal offices at 3188 Route 9W, New Windsor, New York 12553, hereinafter referred to as “**VENDOR**.”

## **ARTICLE 1. SCOPE OF WORK**

VENDOR agrees to perform the SERVICES 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.

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 beginning April 1, 2011, and ending March 31, 2013.

## **ARTICLE 3. 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.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

## **ARTICLE 4. 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.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

#### **ARTICLE 5. INDEPENDENT CONTRACTOR**

In performing the SERVICES 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 6. 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.

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

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

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

#### **ARTICLE 7. BOOKS AND RECORDS**

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

#### **ARTICLE 8. RETENTION OF RECORDS**

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

**ARTICLE 9. INSURANCE**

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

<u>Type of Coverage</u>	<u>Limit of Coverage</u>
Worker's Compensation	Statutory
Employer's liability or similar insurance	\$1,000,000 each occurrence
Automobile liability	\$1,000,000 aggregate
Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Comprehensive General Liability, including	\$1,000,000 aggregate
Broad form contractual	\$2,000,000
Liability, bodily injury and property damage	each occurrence
Professional liability (If commercially available for your profession)	\$1,000,000 aggregate \$2,000,000 <b>each claim</b>

VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests,

(ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;

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

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

#### **ARTICLE 10. INDEMNIFICATION**

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and 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.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

#### **ARTICLE 11. PROTECTION OF CITY PROPERTY**

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

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

#### **ARTICLE 12. CONFIDENTIAL INFORMATION**

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

#### **ARTICLE 13. TERMINATION**

The CITY may, by written notice to VENDOR effective six (6) months upon mailing and failure of VENDOR to cure within such six (6) month period, terminate this Agreement in whole upon the material default of VENDOR to comply with any of the terms or conditions of this agreement, or (ii) upon the VENDOR becoming insolvent or bankrupt.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

#### **ARTICLE 14. NO ARBITRATION**

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

#### **ARTICLE 15. 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 16. 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 Schedule A, which supersedes any other understandings or writings between or among the parties.

#### **ARTICLE 17. 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, 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. 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.

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

THE CITY OF NEWBURGH

MOBILE LIFE SUPPORT  
SERVICES, INC.

BY: \_\_\_\_\_  
RICHARD F. HERBEK,  
ACTING CITY MANAGER

BY: \_\_\_\_\_  
GAYLE METZGER RN BA  
PRESIDENT & CEO

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**SCHEDULE A**

**SCOPE OF SERVICES**

RESOLUTION NO.: 69 - 2011

OF

MARCH 28, 2011

A RESOLUTION AUTHORIZING THE EXECUTION OF  
A LICENSE AGREEMENT FOR THE USE OF CLASSROOM SPACE  
LOCATED AT 22 GRAND STREET FOR THE PURPOSE OF TRAINING  
BY THE MOBILE LIFE SUPPORT SERVICES, INC.

WHEREAS, Mobile Life Support Services (“MLSS”) wishes to enter into a license agreement with the City of Newburgh for the use of classroom space located at 22 Grand Street for the training purposes which include various CPR, First Aid and EMS Certification programs; and

WHEREAS, the term of the agreement is for two (2) years commencing on April 1, 2011 and terminating on March 31, 2013 with an annual license fee of \$40,000.00 per year; and

WHEREAS, a copy of such license agreement is annexed hereto and made a part of this resolution; and

WHEREAS, the City Council has examined such license agreement and determined it to be in the best interests of the City of Newburgh to enter into such license agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and is hereby authorized to execute and enter into the attached license agreement, in substantially the same form and with other terms as Corporation Counsel may require, on behalf of the City of Newburgh.

**Councilwoman Angelo thanked the organization. She wanted to know how it recruits individuals.**

**A spokesperson for Mobile Life responded that they are going to coordinate the training program with the city manager to recruit members of the public.**

**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**

## LICENSE AGREEMENT

This License Agreement, made this \_\_\_\_\_ day of March, two thousand and eleven, by and between the CITY OF NEWBURGH (hereinafter "City"), a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as owner of certain premises located at 22 Grand Street in the City of Newburgh, New York as "LICENSOR"; and MOBILE LIFE SUPPORT SERVICES, INC. ("hereinafter "Mobile Life"), a business corporation organized and existing under the laws of the State of New York having a mailing address at 3188 Route 9W, New Windsor, New York 12553 as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and using certain classroom space located at 22 Grand Street, Newburgh, New York as described on Schedule A attached hereto for training purposes;

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

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

First: Licensor hereby gives to Licensee and Licensee's officers, employees, and agents, upon the conditions hereinafter stated, the non-exclusive license or privilege of entering upon certain classroom space located at 22 Grand Street, Newburgh, New York, as described on Schedule A hereto attached hereto (the "Classroom Space"), for training purposes on an as-available basis, for a term of two (2) years commencing on April 1, 2011 and terminating on March 31, 2013. Such training shall include but not be limited to CPR, First Aid, and EMS Certification programs for the benefit of both City employees and involved residents (collectively "Training").

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

Third: As consideration for this License, Licensee shall pay Licensor a license fee of \$40,000.00 per year, to be paid in quarterly payments of \$10,000.00 each on or before January 1, April 1, July 1, and October 1 of each year of this License Agreement, the first payment to be made on April 1, 2011. Licensor shall not charge Licensee any additional use or maintenance fees for the Classroom Space.

Fourth: Licensee shall notify the Licensor at least ten (10) days in advance of the date of each Training session that it requires the Classroom Room and the anticipated number of participants in such session. The Licensor shall evaluate the request for use of the Classroom Space and shall within two (2) business days advise Licensee whether it is available on such date. If the Classroom Space is not available on such date, Licensor shall provide Licensee with alternative dates. If none of such alternative dates are acceptable to Licensee, Licensee shall find other space for such Training session at no cost to the Licensor.

Fifth: Licensee shall maintain the Classroom Space in the condition it was found prior to each Training session.

Sixth: Third: In connection with the exercise of the license herein, Licensee agrees to hold Licensor harmless from any loss, cost, damages, lawsuit, damage to person or property, and the cost of litigation (including attorneys fees) caused solely by Licensee or its agents, servants or employees in the use of said licensing. After such access, Licensee to return the properties to substantially the same condition as existed prior to said access. Licensee shall, at its sole expense, keep and maintain a policy of commercial public liability insurance which shall include coverage for Licensee's actions upon the properties during the term of this Agreement. This insurance policy shall name Licensor as an additional insured and afford protection in limits of not less than \$2,000,000.00 for bodily injury or death in any one accident, and not less than \$500,000.00 for property damage. All insurance shall be effected under standard form policies, issued by insurers of recognized responsibility authorized to do business in the State of New York and having a national rating of A-9 or better, provided that, at Licensor's option, such coverage may be effectuated through a blanket policy of insurance so long as the risks in respect of the properties are separately scheduled or identified. Licensee has delivered to Licensor certificates of this insurance coverage and, not less than thirty (30) days prior to the expiration of the coverage, a certificate of the new policy accompanied by evidence reasonably satisfactory to Licensor of payment of premiums therefor. Licensee covenants, and this insurance coverage shall include, an agreement by the insurer that the policy shall not be canceled prior to the termination of this Agreement.

THE CITY OF NEWBURGH  
LICENSOR

By: \_\_\_\_\_  
RICHARD F. HERBEK, Acting City Manager

MOBILE LIFE SUPPORT SERVICES, INC.  
LICENSEE

By:

\_\_\_\_\_  
GAYLE METZGER, RN BA

RESOLUTION NO.: 70-2011

OF

MARCH 28, 2011

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF  
LITIGATION REGARDING THE TAX FORECLOSURE  
OF 109 WILLIAM STREET, SECTION 45, BLOCK 1, LOT 10**

**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 June 16, 2010, Prime Real Estate Ventures LLC, by their attorney, served an Answer to such action in regard to the foreclosure of 109 William Street, Section 45, Block 1, Lot 10; and

**WHEREAS**, the attorney has advised the City of Newburgh that Prime Real Estate Ventures LLC, became the owner of the property through a private mortgage proceeding; and

**WHEREAS**, Prime Real Estate Ventures LLC, 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;

**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 109 William Street, Section 45, Block 1, Lot 10, in the City of Newburgh, from the Lists of Delinquent Taxes provided that the sum of Sixty Four Thousand Six Hundred Twenty One and 44/100 (\$ 64,621.44) Dollars representing substantially all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due taxes and charges, including but not limited to all open 2010/2011 school taxes, water charges and sewer charges, are all paid in full by certified or bank check on or before April 29, 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.:71 - 2011

OF

MARCH 28, 2011

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
STIPULATION OF SETTLEMENT WITH ELAINE & HECTOR LOPEZ IN THE  
AMOUNT OF FIFTEEN THOUSAND DOLLARS

WHEREAS, Elaine and Hector Lopez brought an action against the Newburgh Community Development Agency; and

WHEREAS, the parties have reached an agreement for the payment of the settlement in the amount of Fifteen Thousand and 00/100 Dollars (\$15,000.00) in exchange for a release to resolve all claims among them; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Elaine and Hector Lopez in the total amount of Fifteen Thousand and 00/100 Dollars (\$15,000.00), 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 Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine-5**

**ADOPTED**

**RESOLUTION NO.: 72 - 2011**

**OF**

**MARCH 28, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO APPLY FOR A 2011 GRANT  
FROM THE NEW YORK STATE DEPARTMENTS OF STATE  
AND ENVIRONMENTAL CONSERVATION  
BROWNFIELD OPPORTUNITY AREAS PROGRAM  
IN THE AMOUNT OF \$500,000.00  
AND TO ACCEPT SUCH GRANT IF AWARDED**

**WHEREAS**, the City of Newburgh is submitting a proposal for funding under the New York State Brownfield Opportunity Area (BOA) Grant Program through the New York State Departments of State and Environmental Conservation; and

**WHEREAS** the primary goals of the BOA Program were to identify and access underutilized sites such as brownfields, abandoned/vacant properties or those with potential environmental contamination and to identify redevelopment strategies to advance area- wide revitalization; and

**WHEREAS**, the Study conducted under the BOA Program has identified three potential candidate areas suitable for targeted redevelopment including the South Robinson Corridor, Washington Headquarters/Liberty Street Area and former City of Newburgh Wastewater Treatment Facility incinerator and surrounding area; and

**WHEREAS**, the implementation of the Study's recommendations will require changes to existing zoning laws; and

**WHEREAS**, the total project cost for pre-construction engineering design and analysis is in the amount of Six Hundred Eighty Thousand (\$680,000.00) Dollars; and

**WHEREAS**, the City of Newburgh's contribution shall be One Hundred Eighty Thousand (\$180,000.00) Dollars Funds shall be earmarked specifically from the 2009 Planning Bond Authorization in the amount of One Hundred Thousand (\$100,000.00) Dollars and from the 2009 Road Reconstruction Bond Authorization in the amount of Eighty Thousand (\$80,000.00) Dollars; and

**WHEREAS**, this Council has determined that making such application is in the best interests of the City of Newburgh and its future development and revitalization;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized and directed to make and submit such application for a 2011 grant from the New York State Departments of State and Environmental Conservation Brownfield Opportunity Areas Program in the amount of \$500,000.00; and

**BE IT FURTHER RESOLVED**, that the City Manager be and is hereby authorized to execute any necessary documents in connection with the acceptance of said grant if awarded to the City of Newburgh.

Councilwoman Bell desired to know what the match will be.

Craig Marti summarized that this is the 3<sup>rd</sup> part of the BOA program. The report of the nomination phase has identified 3 areas within Census Tract 5 for further study and analysis. This would require an update to the zoning in order to implement any changes in those areas. This portion of the study will study the infrastructure needs to support that type of development.

There is a \$100,000 local component from the 2010 planning bond. We have \$180,000 already in our possession through previous bond authorizations and BAN sales, which would be leveraged into the \$680,000 project.

Councilwoman Bell asked if we are going to spend \$180,000 in hopes of getting \$500,000. She pointed out that the \$180,000 is not free money.

Marti stated it is not free money and we would not spend the \$180,000 unless we get the \$500,000. It is just money we have that can be spent on these initiatives without increasing our debt.

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.: 2 - 2011

OF

MARCH 28, 2011

A LOCAL LAW AMENDING CHAPTER 189 ENTITLED  
“HOURS OF OPERATION” OF THE CODE OF THE CITY OF NEWBURGH

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

§ 189-3. Hours of operation.

It shall be unlawful for any retail establishment except those set forth in § 189-4 hereof to operate and remain open to the public between the hours of ~~11:00 p.m.~~ 12:00 a.m. and 5:00 a.m.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Underlining denotes: additions  
~~Strikethrough~~ denotes: deletions

Councilman Dillard wants to consider a table of the local law until we can get clarity based on the coordination of the police department and the codes department. We need to see exactly how this will be implemented, and we also need to see the direct effects of its implementation.

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

Ayes- Councilman Dillard- 1  
Noes- Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Mayor Valentine-4  
TABLE DEFEATED

Councilwoman Bell stated it occurred to her when people came up to speak that we may be overlooking the fact that we are down significantly in the workforce in the police and codes departments. However, there may be college students who could go around the city and photograph the window violations. Perhaps some students could do it for community service. This would be a great way to get an overall snapshot of where we are with this. Even though she is going to vote in favor of it, there are still issues that they need to work out. She would like the chief to come back with a three month report instead of a six month report.

Councilwoman Angelo is concerned that none of the public comments were made by the shop owners. She does not know if a one hour extension is really going to make much difference.

Mayor Valentine stated we are not legislating the code compliance aspect of it, just the hours. They are two separate issues. We are doing this because of the negative effects of stores remaining open all night.

Bernis Nelson explained this is a special local law that has been adopted in certain municipalities. The change in the hours on a provisional basis and at the recommendations of the police chief is based on his belief that these are not the hours that most of the negative activities occur. She cautioned that in order to enforce a window violation it is treated as a criminal action. A supporting deposition as to the condition of the window must be made by a city employee. It can not be made by someone on the outside. The public can lend its assistance by informing a code officer. But that code officer would then have to go out independently and verify the violation.

Chief Vatter pointed out there seems to be a misunderstanding that the code official is able to levy the fines. The most he can do is issue an appearance ticket or violation. This is where the deterrence lies. Even though the chief feels it is not a deterrent anyway. At the end of the day we could go and check it out. But assuming the shop owner does not fix the violation there is still the possibility the charges won't stick in Court.

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

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

No- Councilman Dillard-1

ENACTED

ORDINANCE NO.: 9 - 2011

OF

MARCH 28, 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:

§ 220-23 Docking at Newburgh Landing

A. Fees for For-Profit Licensees

One-time permit

Permit for recreational vessels over 40 feet in length (by length of boat): \$1 per foot  
Permit for all commercial vessels (by length of boat): \$1 per foot

Monthly or annual permit

Vessels with a capacity of fewer than 100 persons: \$125 per week.  
Vessels with a capacity of 100 or more persons: \$200 per week

B. Fees for Not-For-Profit Licensees

Fee to be determined by City Manager based on admission fees charged to board

vessel, and cost of City  
services and utilities to  
vessel

Section 2. This ordinance shall take effect immediately.

Matter ~~stricken~~ deleted.

Matter underlined added.

**Mayor Valentine commented there is a one-time permit fee for use of the dock by a for-profit craft. There is no fee for a not-for-profit craft. But if a not-for-profit craft comes in and charges an admission fee and uses city services, then the city should by all means get some benefit from it. We have a dock master and anybody using the dock during the season must obtain a permit accordingly.**

**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**

**OLD BUSINESS**

**RESOLUTION NO.: 57-2011**

**OF**

**MARCH 14, 2011**

**RESOLUTION TO ADOPT THE 2011 – 2015 SECTION 3 PLAN  
FOR THE CITY OF NEWBURGH, NEW YORK**

**WHEREAS**, The City of Newburgh ("City") is committed to helping the residents of the City achieve their goals of self-sufficiency by providing opportunities for employment. The City provides opportunities on its construction, demolition, and rehabilitation projects by requiring its contractors, in accordance with this City of Newburgh Section 3 Plan ("Section 3 Plan") to hire qualified City residents to facilitate economic opportunity for such residents.

**WHEREAS**, The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) and 24 CFR 135.1 et seq. is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to City residents with not more than eighty (80%) percent of individual or family median income in the City, being the Service Area for applicable HUD funding, under 24 CFR 135.34(a)(2)(i) ("Section 3 Residents"), and to business concerns which provide economic opportunities for Section 3 Residents.

**WHEREAS**, All contractors approved by the City for wholly or partially HUD-funded projects exceeding \$200,000 in cost must adhere to the Economic Opportunities guidelines of this Section 3 Plan. The Section 3 regulations require that recipients of certain HUD financial assistance, to the greatest extent possible, provide employment and contract opportunities for Section 3 Residents in connection with projects and activities in the City.

**WHEREAS**, The Section 3 regulations recognize that HUD funding typically results in projects/activities that generate new employment and contracting opportunities. The economic opportunities requirements of Section 3 apply to recipients of HUD Community Development and Block Grant Funding for projects exceeding \$200,000. The requirements of Section 3 only apply to those projects involving housing construction, rehabilitation, demolition, or other public construction.

WHEREAS, the adoption of the 2011-2015 Section 3 Plan 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, to adopt the 2011-2015 Section 3 Plan and that the City Manager is authorized to take all reasonable and necessary action to implement and administer said 2011-2015 Section 3 Plan.

**Councilwoman Bell stated she still has some reservations on our ability to provide the necessary accountability. It is like a person walking on one leg. The other leg of this is the Newburgh Builds Newburgh Hiring and Training Center. Without the training center it is only half of the issue. She spoke to Mr. Herbek about going to Albany. They have an outstanding training center. She stated Mr. Herbek and Ed Lynch both agree that it would be a good idea to visit. She is anxious to go along on that trip; then we would have something walking on two legs- the training center along with the HUD Section 3 Plan.**

**Councilwoman Angelo feels it would be a benefit for our city. Are there fines for noncompliance and which office is charged with that monitoring?**

**Mayor Valentine pointed out that the Office of Planning and Development is going to monitor the hiring of the contractors and adherence to the guidelines.**

**Ed Lynch replied there are various sanctions that are mentioned in the proposed legislation for noncompliance.**

**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**

## **NEW BUSINESS**

**There was no new business at this time.**

## PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

Rick Milton supports the 485 Program. It is spectacular in so many ways. He strongly believes this is the best way for us to build ourselves out of this funk we are in. It is really a tax incentive program, not a tax giveaway program. One loan officer told him that because of the explosive tax situation in Newburgh, he is not comfortable lending out money. This program gives banks comfort in lending funds to builders. And let's face it you can't do it all by grants. The banks need that sense of security that the 485 Program provides.

Maryann Prokosch is in favor of the 485 Program too. That particular law provides a real opportunity to change William Street, which mostly consists of commercial properties. Second, regarding the \$500,000 BOA funding, Mill Street and Robinson Avenue have the potential for redevelopment. She urges the council to do a land swap with Visconti. We could really see some positive change in that gateway of the city. Next, she is a city employee because she sits on a city board. Give her a camera and she'll go out and take pictures. She urged the council to go to the State and request a Codes Court to handle the codes issues. Don't stop writing tickets. Write them everyday. Perhaps it will change peoples' outlook.

Mike Gabor stated the city is taking away business by restricting businesses' ability to make money. It has nothing to do with the businesses themselves. If we enforce the codes, then we would not have these problems.

Aquanetta Wright stated we have been dealing with the topic of the image of our city for the last ten years. The Waterfront Jazz Festival series brought in over \$15,000. What does the city want her to do? She needs our help. She needs the council to tell her what it wants her to do. Or do we continue on with this horrible image and keep things the way they are.

Denise Ribble remarked we can consider doing permits. She supports the two-leg commitment to look at the program in the City of Newburgh. It would be worthwhile. We could even take the Art Bus. She commented that Mr. Lynch brought up the magic word *analysis*. We could come up with a good RFQ process so that we are doing *due diligence*. Also she stressed the necessity of the 485 Program. She is excited about it.

Babara Smith asked concerned that if something is out of code compliance, then don't we have the right to have it corrected? We should be able to correct it, especially if it is a potential safety issue involved.

Jeffrey Link addressed the clean-up of our city. Most of these businesses are indeed family-run. He recently walked around the city to help promote his tenant's new restaurant business. He could not believe the filth and squalor of every building he walked into. Cleanup needs to be an ongoing effort. He would love to see neighborhood associations established city-wide. Former New York City Mayor Giuliani attacked the petty crime to get at the larger crime issue.

Janet Gianopolous stated she lived in New York City, and participated in a neighborhood association. She believes Newburgh is all about the people. We need to focus on the individuals who are creating problems in our City. Second, she appreciates Bernis Nelson's service to the city.

Gay Lee stated that as a program director she would love to go to Albany too. We do not really have anything for our children to do, so they are creating their own activities. It is really grown men and women loitering in front of the stores.

Brigidanne Flynn asked what kind of follow up is completed when tickets are issued. Documentation is the key. Writing tickets should not be a revenue generator. She can not accept that there is nothing more that can be done. There are things we can do, including going to the court to speak directly to the judges.

Mayor Valentine interjected. When you put a department head on the spot with inaccurate information, it is very insulting. To say that Chief Vatter does not document his information is extremely disheartening. He reminded the audience not to mention department heads directly and the work they do.

Ms. Flynn apologized to Chief Vatter even though he walked out of the meeting. She did not mean to insult him in any effort he is trying to do to alleviate these problems occurring in the city. She understands there is a decreased number in employees to do more work overall.

Judy Kennedy stressed there is a lot of emotion in the room. There has got to be a way out of all this frustration. From the standpoint of a process engineer, perhaps we could do some monthly reports. You really can not improve that which you do not monitor on a regular basis. Second, she believes the date of the cleanup has been changed to April 30<sup>th</sup> due to a conflict with the Youth Pride Parade on May 7<sup>th</sup>.

She has walked around this city for a long time now. The filth and mess is beginning to eat at her. She stated she is working on a plan, but she is reluctant to reveal it yet. We need to make the city safe. That is a priority.

**Timothy Hazell stated he is more frustrated than any person here tonight. He wore a t-shirt with a picture of one his friends who was slain in Newburgh. He does not care anything about a cleanup in the city. How about some jobs for the people in the community?**

**Roxie Royal is concerned the cleanup does not include disposal of bulk items. She does not always have the extra \$200-\$300 to have her yard cleaned out yearly. After paying the exorbitant water/sewer and garbage fees, often times she does not have any extra money in her budget. The city and the community need to work together on some of these things.**

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

## FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Angelo thanked the city manager and water superintendent for taking action to correct a problem on Washington Street. She had received calls of complaint regarding the drinking water in that area. The company responsible for the reconstruction project has conceded to re-dig and lay down new pipes. Second, she stated the city looks the way it does because of all the snow we have had. She reminded us we had (5) snow storms this winter season. Next, she announced applications are available for the upcoming Memorial Day Parade.

Councilwoman Bell commented the Section 3 Plan is positive. But contractors can only hire skilled persons. If individuals don't have the skills, then they can not be hired. We need to get that training center up and going to give people the skills. Things are structured in this city in a way that kids go to school and become disillusioned by the process. They have no money or any transportation to get around. So then they drop out and begin to do illegal things to make quick money. They get arrested and enter the criminal justice revolving door that continues to go around and around. A felony further prevents them from viable employment opportunities. Section 3 is one leg, but the other leg is a training opportunity that is so desperately needed. Second, she thanked the city manager for agreeing that they should go look at the training center in Albany. Last, she appreciates every person's opinion. It is so invaluable.

Councilwoman Bello stated her perspective is always from a business standpoint. We have to be more open to business if we are going to thrive and flourish in this city. Too much regulatory measure is counterproductive to growth. She feels the enactment of the local law is a step in the right direction. The loitering in front of a business is not the business's fault. It is a police issue and should be dealt with accordingly. Second, she is happy to extend the contract with Mobile Life. They are a great service in the community. Next, she stated it was pleasure working with Bernis Nelson. She wished her the best in her future endeavors.

Councilman Dillard thanked his fellow colleagues for their support of the HUD Section 3 Plan. This legislation is very important to the low-income residents of this city. There are training opportunities right here in the city. We have the Employment and Training Administration through BOCES. He is not against developing a new training center, but with the economy the way it is, he questions whether we have the money to open a new training center right now. He advised his fellow colleagues to speak to BOCES and the Employment and Training Administration to see what they have to offer to

low-income residents. As it stands the city is in a dire state in terms of economic affairs; and he is very much afraid of the upcoming 2012 Budget. He cautioned us to be aware of it. Last, he thanked everyone for coming out tonight.

Mayor Valentine thanked everyone for attending and for all to have a safe journey home.

There being no further business to come before the council, the meeting adjourned at 9:25 P.M.

Respectfully Submitted,

KATRINA COTTEN  
DEPUTY CITY CLERK

