

A regular meeting of the City Council of the City of Newburgh was held on Monday May 9, 2011 at 7:00 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Mayor Valentine and the Pledge of Allegiance was led by Councilwoman Bell.

Present: Mayor Valentine, presiding; Councilwoman Angelo, Councilwoman Bell, Councilman Dillard- 4

Absent: Councilwoman Bello - 1

Councilwoman Angelo moved and Councilman Dillard seconded that the minutes of the regular meeting of April 25, 2011 be approved.

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

CARRIED

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

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

CARRIED

COMMUNICATIONS

Councilwoman Angelo moved and Councilman Dillard seconded that the Notices of Claim, Summons & Complaint, Summons & Verified Complaint and Verified Answer be referred to Corporation Counsel with power to act.

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

CARRIED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 87-2011

OF

MAY 9, 2011

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR MAY 23, 2011
TO HEAR PUBLIC COMMENT CONCERNING THE MUNICIPAL
STORMWATER MANAGEMENT PROGRAM FOR THE CITY OF
NEWBURGH AS REQUIRED BY NEW YORK STATE ENVIRONMENTAL
CONSERVATION LAW AND THE RULES AND REGULATIONS OF THE
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that there is hereby scheduled a public hearing to receive comments concerning the Municipal Stormwater Management Program for the City of Newburgh as required by New York State Environmental Conservation Law and the rules and regulations of the New York State Department of Environmental Conservation ("NYSDEC"); and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 23rd day of May, 2011, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

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

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

ADOPTED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 100-2011

OF

MAY 9, 2011

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR MAY 23, 2011
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW
AMENDING CHAPTER 270 ENTITLED "TAXATION" TO PROVIDE FOR
THE ADDITION OF ARTICLE X ENTITLED "RESIDENTIAL-
COMMERCIAL EXEMPTION"**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law amending Chapter 270 entitled "Taxation," to provide for the addition of Article X, entitled "Residential-Commercial Exemption; and that such public hearing be and is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 23rd day of May, 2011, in the 3rd Floor Council chambers, City Hall, 83 Broadway, Newburgh, New York

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

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

ADOPTED

100-11

LOCAL LAW NO.: ___ - 2011

OF

A LOCAL LAW ADDING ARTICLE X ENTITLED
"RESIDENTIAL-COMMERCIAL URBAN EXEMPTION"
TO CHAPTER 270 "TAXATION" OF THE CODE
OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Article X entitled 'Residential-Commercial Urban Exemption' to Chapter 270 of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for developers and building owners to convert non-residential real property to mixed residential and commercial uses as authorized by Real Property Tax Law Section 485-a.

SECTION 3 - AMENDMENT

Chapter 270 entitled "Taxation" of the Code of the City of Newburgh is hereby amended by the addition of Article X entitled "Residential-Commercial Urban Exemption" to read as follows:

"ARTICLE X

Residential-Commercial Urban Exemption

§270-61 Purpose.

The City Council of the City of Newburgh encourages and promotes the conversion of numerous vacant and underutilized buildings in the City formerly used for industrial, warehouse, manufacturing and other commercial operations to mixed commercial and residential use by

providing an exemption from general municipal taxes pursuant to Section 485a of the Real Property Tax Law of the State of New York.

§270-61 Definitions.

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

APPLICANT - any person obligated to pay real property taxes on the property for which an exemption from real property taxes under this Article is sought.

COMMERCIAL CONSTRUCTION WORK - the modernization, rehabilitation, expansion or other improvement of the portion of the mixed-use property to be used for commercial purposes.

COMMERCIAL PURPOSE OR USE - the buying, selling or otherwise providing of goods or service, including hotel services, or other lawful business or commercial activities permitted in mixed-use property.

MIXED-USE PROPERTY - property on which will exist, after completion of residential construction work or a combination of residential construction work and commercial construction work, a building or structure used for both residential and commercial purposes.

MUNICIPALITY - any town, city or village except a city having more than one million inhabitants.

PERSON - an individual, corporation, limited liability company, partnership, association, agency, trust, estate, foreign or domestic government, or subdivision thereof, or other entity.

RESIDENTIAL CONSTRUCTION WORK - the creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than dwelling units in a hotel, in the portion of mixed-use property to be used for residential purposes.

§270-62 Exemption.

Non-residential real property, upon conversion to mixed-use property, shall be exempt from taxation and special ad valorem levies as provided in Section 485-a of the New York State Real Property Tax Law. For a period of twelve (12) years from the approval of an application, the increase in assessed value of such property attributable to such conversion shall be exempt as provided in the table below. Such exemption shall be computed with respect to the "exemption base". The exemption base shall be determined for each year in which there is an increase in assessed value so attributable from that of the previous year's assessed value. Such exemption shall be computed in accordance with the following table:

Year of Exemption	Percentage of Exemption
1 through 8	100% of exemption
9	80% of exemption
10	60% of exemption
11	40% of exemption
12	20% of exemption

§270-63 Exclusions from Exemption.

- A. No such exemption shall be granted unless such conversion was commenced subsequent to the date on which this Local Law takes effect and the cost of such conversion exceeds the sum of Ten Thousand (\$10,000.00) Dollars.
- B. For purposes of this section, the term “conversion” shall not include ordinary maintenance and repairs.
- C. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except where, during the period of such previous tax exemption, payments in lieu of taxes or other payments were made in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this Article. In such case, an exemption shall be granted for a number of years equal to the twelve-year exemption granted pursuant to this Article less the number of years the property would have been previously exempt from real property taxes.

§270-64 Time to File Application.

Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law and shall be effective when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2012.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 101-2011

OF

MAY 9, 2011

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR MAY 23, 2011 TO
HEAR PUBLIC COMMENT CONCERNING THE ADOPTION OF THE
PROPOSED CITY OF NEWBURGH FUTURE LAND USE PLAN AS A
COMPONENT OF THE SUSTAINABLE MASTER PLAN**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning the adoption of the Sustainable Master Plan; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 23rd day of May, 2011, in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York; and

BE IT FURTHER RESOLVED, that copies of the proposed Future Land Use Plan are available for review on the 1st Floor at City Hall, Office of the City Clerk, and 3rd Floor of Cit Hall, the Department of Planning and Development, 83 Broadway, Newburgh, NY 12550; and further available at the Newburgh Free Library, 124 Grand Street, Newburgh, NY 12550; and can also be viewed on the City of Newburgh Website at <http://www.cityofnewburgh-ny.gov/devel/index.htm>

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

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

ADOPTED

COMMENTS FROM THE PUBLIC REGARDING AGENDA

Denise Ribble, City of Newburgh questioned resolution #97-2011 and said that the CDBG funds were intended to provide job creation. The funds were recovered but there has never been any discussion as to what the amount is that we are talking about because the Council has never received a complete and accurate report. Now all of a sudden there is money to repay the loan and for demolition. It was never discussed what other programs would be eligible for this funding. She has been following this very closely because there was concern about utilizing this funding for the hiring and training program. Mr. Lynch stated on Thursday night that Mr. Hom recommended the re-payment of this loan and they were asked what a partial payment would look like by one of the Council members. She does not believe that that information has been provided and therefore she feels that a vote in favor of making this payment is a vote to fail in responsibility to provide adequate fiscal management.

Brenda McPhail, Varick Homes said that in regard to Section 108 they were promised the creation of forty-three jobs that were never created. When we got the money back everyone celebrated and believed that this money would be used to right the wrong and actually create jobs. It has been almost two years and everyone acts like they have amnesia. Council members have made promises to use that money to hire kids and create jobs for the community but none have been created. What do we have to show for it? We don't have to use all of the money to pay back this loan some of it should be spent on what we need now. Take action and make sure that this money goes towards jobs like it was supposed to. She told the Council to keep their promises and vote "no" for this resolution and do what is right for a change.

Gay Lee, City of Newburgh asked in regard to resolution #31-2011 where the Council is in terms of developing a property tax re-payment plan to help the City of Newburgh as well as help people to remain in their homes.

Kippy Boyle, 400 Grand Street asked for a clarification of resolution #99-2011 regarding BANS. She thought that we had to submit a balanced budget for 2010 so she would like to know where we are falling short and what the impact will be on another BAN for an additional four years with anticipated revenues. It is very confusing to her.

Barbara Smith, City of Newburgh said that at the last meeting there was a public hearing regarding water and sewer billing methodology and there

were questions raised by the public and the Council so what is Ordinance #13-2011 about?

Mayor Valentine noted that Ordinance #13-2011 is regarding recreation fees.

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

**RESOLUTION NO.: 88 - 2011
OF
MAY 9, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT FOR VENDOR SERVICES
WITH JAMIE LO AT A RATE OF THIRTY DOLLARS PER HOUR
TO PROVIDE CONSULTING SERVICES TO THE CITY OF NEWBURGH
IN CONNECTION WITH GEOGRAPHIC INFORMATION SYSTEMS DATA**

WHEREAS, the City of Newburgh is currently involved in several projects such as the Smart Growth Grant and the Land Bank; and

WHEREAS, such projects require expertise in the field of Geographic Information Systems ("GIS") data; and

WHEREAS, Jamie Lo has expressed a desire to assist the City of Newburgh with the GIS data; and

WHEREAS, the rate for these services is \$30.00 per hour not to exceed 8 hours per week, with such funding to be derived from A.1440.0455; and

WHEREAS, it is necessary and appropriate to enter into an agreement for vendor services in connection with such consulting services; and

WHEREAS, this Council has determined that entering into such agreement is in the best interests of the City of Newburgh and its future development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement, in substantially the same form annexed hereto and subject to approval of the Corporation Counsel with such other terms and conditions as Counsel may require, with Jamie Lo at a rate of \$30.00 per hour to provide consulting services to the City of Newburgh in connection with Geographic Information Systems ("GIS") data.

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

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

ADOPTED

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 JAMIE LO, 472 Main Street, Apartment B, Beacon, New York 12508, 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 May 9, 2011, and ending December 31, 2011.

ARTICLE 3. COMPENSATION

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

A not-to-exceed cost of \$9,000.00 has been established for the scope of SERVICES

and/or the supply of goods rendered by
VENDOR. Costs in excess of such not-to-
exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than one (1) year after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

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.

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 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.

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 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted does not constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses

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

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

ARTICLE 9. 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 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate

the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INDEMNIFICATION

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

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 14. 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 15. 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 16. TERMINATION

Either party may, by written notice to the other effective no earlier than two (2) weeks of mailing, terminate this Agreement in whole or in part at any time (i) for convenience of the party, (ii) upon the failure of one party to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

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

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

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

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will

be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

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 17. 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 18. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. 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.

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 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 22. 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 23. 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.

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: _____
JAMIE LO, GIS Analyst

DATE: _____

DATE: _____

APPROVED AS TO FORM:

MICHELLE KELSON,
CORPORATION COUNSEL

CHERYL A. GROSS,
COMPTROLLER

SCHEDULE A

SCOPE OF SERVICES

For Professional Services in connection with on-going GIS related projects to include:

- a. Land Bank Project with Pace University;
- b. Smart Growth Project with Orange County;
- c. GIS Implementation Plan; and
- d. Updating of Data Warehouse

SCHEDULE B

FEES AND EXPENSES

Thirty (\$30.00) Dollars per hour not to exceed eight (8) hours weekly.

RESOLUTION NO.: 89 - 2011

OF

MAY 9, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK**

**TO TRANSFER \$11,600.00 FROM COMPTROLLER
TO TECHNOLOGY TO FUND PAYROLL FOR DONNA RICKEY
TO ASSIST IN THE CONVERSION WITH ADP AND
DATA TRANSFER FROM THE AS400**

BE IT RESOLVED, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Comptroller A.1315.0110	\$ 11,600	
Technology A.1680.110		\$ 11,600

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

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

ADOPTED

RESOLUTION NO.: 90 - 2011

OF

MAY 9, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK
TO TRANSFER \$3,000.00 FROM CONTINGENCY TO THE CITY CLERK
TO PROVIDE FUNDING FOR INCREASED COSTS FOR LEGAL
PUBLICATIONS**

BE IT RESOLVED, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Special Items		
Contingency A.1900.1990	\$ 3,000	
City Clerk		
Legal Notices A.1410.0462		\$ 3,000

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

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

ADOPTED

RESOLUTION NO.: 91 - 2011

OF

MAY 9, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK
TO TRANSFER \$1,000.00 FROM CONTINGENCY TO
PARKS TO PROVIDE ELECTRIC FOR
LIGHTS IN DOWNING PARK**

BE IT RESOLVED, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Special Items		
Contingency A.1900.1990	\$ 1,000	
Parks		
Gas and Electric A.7110.0422		\$ 1,000

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

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

ADOPTED

RESOLUTION NO.: 92- 2011

OF

MAY 9, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK TO TRANSFER \$50,000.00 FROM CONTINGENCY TO
POLICE TO PROVIDE FOR THE PURCHASE OF TWO
PATROL CARS FOR THE CITY OF NEWBURGH POLICE DEPARTMENT**

BE IT RESOLVED, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Special Items		
Contingency A.1900.1990	\$ 50,000	
Police		
Motor Equipment A.3120.0202		\$ 50,000

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

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

ADOPTED

RESOLUTION NO.: 93 - 2011

OF

MAY 9, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT
DONATIONS TO PROVIDE FUNDING TO OPEN THE AQUATIC CENTER
FOR THE 2011 SUMMER SEASON**

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support the opening of the Aquatic Center for the 2011 Summer Season; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept said donations with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens for their support; and

BE IT FURTHER RESOLVED, that the City Comptroller is hereby directed to deposit said donations into the General Fund, Line A.0000.2001, Pool Fees.

Mayor Valentine said that we are doing an outreach to organizations to see if they would like to sponsor a family of four for the season for \$100.00. They are also sending a letter to all of the Churches to see if they would like to sponsor a family from their own congregation. He already spoke to the Kiwanis Club and was met very favorably. They said that they will sponsor one or two families and it will be discussed at their next Board meeting. One of the club members presented a check to the Mayor for \$200.00 and the President said that he will give him a personal check for \$100.00. He gave the checks to City Comptroller, Cheryl Gross, to put into the dedicated fund for pool operations.

Councilwoman Angelo asked how the individual families will be chosen.

Acting City Manager, Richard Herbek responded that they will be chosen through a Lottery.

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

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

ADOPTED

RESOLUTION NO.: 94 - 2011

OF

MAY 9, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE CITY OF NEWBURGH'S
23RD ANNUAL FESTIVAL**

WHEREAS, the City of Newburgh will be holding its 23rd Annual Festival over the Labor Day Holiday; and

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support this event; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept said donations with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens, for their support and sponsorship of this event.

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

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

ADOPTED

RESOLUTION NO.: 95 - 2011

OF

MAY 9, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE CITY OF NEWBURGH'S
FOURTH OF JULY CELEBRATION**

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to fund the City of Newburgh's Fourth of July Celebration; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations and enter into such contract and;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to accept donations in support of the City's Fourth of July Celebration.

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

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

ADOPTED

RESOLUTION NO.: 96 -2011

OF

MAY 9, 2011

**A RESOLUTION AUTHORIZING THE SUBMISSION
OF A HOME RULE REQUEST TO THE LEGISLATURE OF THE STATE OF
NEW YORK REQUESTING THE ENACTMENT INTO LAW OF
SENATE BILL S03959 AND ASSEMBLY BILL A07299
AUTHORIZING THE CITY OF NEWBURGH TO ESTABLISH AN
ADMINISTRATIVE TRIBUNAL TO HEAR AND DETERMINE
PARKING, STANDING AND STOPPING VIOLATIONS**

WHEREAS, the establishment of an administrative tribunal to hear and decide parking, standing and stopping violations in the City of Newburgh would be of great benefit to the administration of justice and to the enforcement of traffic laws and enhance urban commerce; and

WHEREAS, pursuant to Municipal Home Rule Law it is necessary for the New York State Senate and Assembly to enact respectively bills which would establish such a tribunal in the City of Newburgh; and

WHEREAS, pursuant to Municipal Home Rule Law Section 30 it is necessary and appropriate to send this Home Rule Request asking that the subject legislation be enacted and said tribunal be thus created;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York does hereby authorize the submission of this Home Rule Request to the Senate and Assembly of the State of New York requesting the adoption into law of Bills S 03959 and A 07299, to authorize the City of Newburgh to establish an administrative tribunal to hear and determine parking, standing and stopping violations.

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

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

ADOPTED

RESOLUTION NO.: 97 - 2011

OF

MAY 9, 2011

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF NEWBURGH AUTHORIZING THE PAYMENT
OF THE BALANCE OF A LOAN FROM THE SECTION 108
LOAN GUARANTEE PROGRAM OBTAINED FOR THE PURPOSE OF
DEVELOPING CITY-OWNED LAND SURROUNDING CRYSTAL LAKE**

WHEREAS, pursuant to Resolution No. 88-97 of November 24, 1997, the City of Newburgh applied for and received financial assistance from the U.S. Department of Housing and Urban Development, Community Development Block Grant, Section 108 Loan Guarantee Program ("Section 108 Loan") for the purpose of developing a 68 acre parcel of land surrounding Crystal Lake, for the purchase of fire apparatus and for completing the renovations to the Downing Park Shelter House; and

WHEREAS, the City completed the purchase of the fire apparatus and undertook certain improvements of the infrastructure along Temple and Ellis Avenues using the Section 108 Loan funds but was unable to complete the commercial development around Crystal Lake; and

WHEREAS, the City must make principal and interest payments on the Section 108 Loan principal semi-annually;

WHEREAS, the City may pre-pay balance of the Section 108 Loan in full resulting in a savings of approximately \$100,000.00 in interest payments which could be applied to eligible CDGB programs; and

WHEREAS, the City Council of the City of Newburgh determines it to be in the best interest of the City to pre-pay the balance of the Section 108 Loan;

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 pay the balance of the Crystal Lake Section 108 Loan in full in the August 2011 payment.

Councilwoman Bell moved to table this resolution. There was no second.

Councilwoman Bell commented that as we all know the Courthouse Project has been a disaster for our city. It was fraught with mismanagement and has served basically to bankrupt this city. In the State's audit of the Courthouse Project it was stated that the Council had a responsibility to provide adequate oversight and leadership in fiduciary matters as well as insure that the Acting City Manager and other city officials provide accurate, complete, reliable records and follow policies and procedures for planning and monitoring in detailed periodic reports to the Council to allow for informed fiscal decision making. Examples of lack in oversight has been inadequate planning and monitoring and imprudent or outright fiscal mismanagement by former City Council's, City Manager's, Economic and Community Development Director's and other city staff as well as former Comptroller's, Consulting Engineers, etc. The Courthouse Project, the Dutch Reformed Church, the Crystal Lake Industrial Park and loans made from CDBG funds for Marina Ops just to name a few. Again we see this pattern concerning the use of 108 Marina Ops funds to repay the failed Section 108 Crystal Lake loan. Over the past several months the entire Council has never been given a complete or accurate report on funds or the eligibility of certain projects for CDBG or 108 funding. We are asked to vote on this tonight but she has still not been provided with complete answers to all of her questions regarding the Crystal Lake repayment, partial loan repayment or other eligible use of the funds. This fragmented and incomplete approach over the last several months has left the Council with a dilemma in fulfilling its responsibilities to provide oversight and leadership in fiduciary matters. From an April 10, 2009 memorandum from Lourdes Zapata, former Economic Development Director to the City Council and from the HUD management decision to which this memo was attached she quoted, "Agreement with the I.G. that the city should have pursued repayment of Marina Ops more aggressively while seeking a pledge from the City that we will reasonably pursue repayment of the delinquent Marina Ops debt and to commit any recoveries to the CDBG program". The Section 108 funds being discussed in this resolution were recovered when the city collected the reported amount of 1.9 million dollars upon the sale of the Marina Ops property. Remember that the CDBG funds were given to a private developer to make a Marina down at the Waterfront in exchange for the creation of jobs for residents but not one job was created. That 1.9 million dollars was withheld from people in our city who that money was directly intended for. An April 1st memo from Mr. Herbek to the Council states that in making full payment now the City would save approximately \$100,000.00 which would then be spent on eligible programs. In the actual resolution it says that it *could* be used for CDBG programs. As she has previously stated, in a family where unemployment has struck and the bills are piling up, the roof is leaking, the hot water heater has broken down, the kids need shoes and there is no food in the house, to take the complete unemployment check and use it to pay off the full credit card

balance would be nothing other than foolish. That is what is being represented in this resolution. To take all of the funds to pay off Crystal Lake when we have such great needs in our city is more than irresponsible. The argument has been made by the Acting City Manager that a payoff of the entire sum would improve the city's credit rating. Is this the real purpose of the CDBG or 108 program? Those programs were developed to provide low income residents with decent affordable housing, opportunities for jobs, job training and the like. Not to pay off a failed loan or to prop up the city's credit rating. She will not vote for a resolution based on incomplete information that does not allow her to carry out her fiduciary responsibilities. She will not vote on a resolution that steals opportunities once again from our residents in order to feed the hungry monster of mismanagement that runs rampant in our city.

Councilwoman Angelo asked if we make this first payment then will there be other money available in between payments?

Ed Lynch, Planning & Development Director said that right now the city is being charged approximately 8% interest on a loan which is very high. When we make this payment we then will have future funds available in the CDBG program which can be used for hiring and training activities.

Councilwoman Bell asked how much money.

Mr. Lynch responded that it depends on what the interest payment was at the time. There have been numerous e-mails and memos from Mr. Hom in which he talks about the advantages of paying off this loan. It is logical from a fiscal management point as well as from a planning point to make this payment now. This is the last Council meeting so we will have to wait another six months of paying interest which is high. We have \$85,000.00 which is non-committed to this payment and we have talked about \$50,000.00 going towards the demolition program to be able to hire people from Newburgh who might be qualified to work on that project. The remaining \$35,000.00 could be used to potentially hire a part-time individual to work as a hiring and training facilitator to get a program going so that when the CDBG cycle comes around next year we will have something that we can embrace. He added that next Wednesday he and the City Manager will be making a visit to Albany to talk about their hiring and training activities. He noted that there is space for two more people in the car to make this trip. They want to look at what is being done so that when we have money we are doing it right.

Mayor Valentine added that within this \$108,000.00 that we are paying, \$425,000.00 is interest that was gained when we got the full payment back from Marina Ops. Not only did we get all of the money back, we got back interest

and penalties because there was a lien. \$425,000.00 of what we are paying back is extra because the owner refused to pay.

Councilwoman Bell said that it is still being withheld from our residents.

Mayor Valentine said that payment is still being withheld from going back to HUD because they will not accept a pre-payment and we have to wait for the ten years to be up.

Ed Lynch, Planning & Development Director noted that the previous Comptroller had been discussing this with HUD and the current Comptroller believes that it is a sound and fiscally responsible action.

Councilwoman Bell said that it shows no humanity or fairness whatsoever. This money was not designed to prop up the city's interest rate so we can borrow more money that we can't afford to pay back. This was specifically designed for residents who we wouldn't get the money for if we didn't have low-income residents with needs. So this money is going to be taken again after it was withheld inappropriately for the use of Marine Ops. It was stolen and now it is going to be stolen again. How can we in good conscience decide that this is appropriate? Our residents have nothing so to take every penny of this money to pay off a loan is audacious and inappropriate to her. She cannot believe that her fellow members are even entertaining this because it should not even be on the table as a resolution.

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

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

Nays - Councilwoman Bell - 1

ADOPTED

RESOLUTION NO.: 98 - 2011

OF

MAY 9, 2011

**A RESOLUTION REQUESTING THE STATE LEGISLATURE
TO ENACT SENATE BILL S02953 AND ASSEMBLY BILL A7441
AUTHORIZING THE CITY OF NEWBURGH TO OFFER
AN OPTIONAL TWENTY YEAR RETIREMENT PLAN
FOR CERTAIN POLICE OFFICERS AND FIREFIGHTERS,
PURSUANT TO SECTION 384-d OF THE RETIREMENT
AND SOCIAL SECURITY LAW**

BE IT RESOLVED, by the Council of the City of Newburgh, New York that this Council does hereby make a Home Rule Request pursuant to the Municipal Home Rule Law of the State of New York that the Senate and Assembly of New York enact Senate Bill S02953 and Assembly Bill A7441, a copy of which is annexed hereto, to authorize the City of Newburgh to offer an optional Twenty (20) Year Retirement Plan to certain police officers and firefighters pursuant to Section 384-d of the Retirement and Social Security Law, same as being in the best interests of the City of Newburgh.

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

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

ADOPTED

98-11

STATE OF NEW YORK

2953--A

2011-2012 Regular Sessions

IN SENATE

February 3, 2011

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the city of Newburgh, in the county of Orange, to offer an optional twenty year retirement plan to certain police officers and firefighters

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
 2 the city of Newburgh, in the county of Orange, a participating employer
 3 in the New York state and local police and fire retirement system, which
 4 previously elected to offer the optional twenty year retirement plan,
 5 established pursuant to section 384-d of the retirement and social secu-
 6 rity law, to police officers and firefighters employed by such city, is
 7 hereby authorized to make participation in such plan available to Daniel
 8 Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan and Kevin
 9 Romero, police officers, and Robert Bain Jr., Mark Bethea and William
 10 Wiseman, firefighters employed by the city of Newburgh, who, for reasons
 11 not ascribable to their own negligence failed to make timely applica-
 12 tions to participate in such optional twenty year retirement plan.

13 The city of Newburgh may so elect by filing with the state comp-
 14 troller, on or before December 31, 2011, a resolution of its governing
 15 body together with certification that such police officers and fire-
 16 fighters did not bar themselves from participation in such retirement
 17 plan as a result of their own negligence. Thereafter, such police offi-
 18 cers and firefighters may elect to be covered by the provisions of
 19 section 384-d of the retirement and social security law, and shall be
 20 entitled to the full rights and benefits associated with coverage under
 21 such section, by filing a request to that effect with the state comp-
 22 troller on or before June 30, 2012.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD06154-04-1

S. 2953--A

2

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the city of Newburgh over a
3 period of ten years.

4 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the City of Newburgh to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officers Daniel Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan, Kevin Romero and firefighters Robert Bain Jr, Mark Bethea and William Wiseman.

If this legislation is enacted during the 2011 legislative session, we anticipate that there will be an increase of approximately \$45,700 in the annual contributions of the City of Newburgh for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$620,000, which would be borne by the City of Newburgh as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2012. The City of Newburgh may amortize this cost over a period of ten (10) years. The first year cost, including interest, will be approximately \$84,000.

This estimate, dated April 6, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-156, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.



Thursday, May 5, 2011

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

Bill No.: [Summary](#) [Actions](#) [Votes](#) [Memo](#)
 [Text](#)

A07441 Summary:

BILL NO A07441
 SAME AS Same as S 2953-A
 SPONSOR Kirwan
 COSPNSR
 MLTSPNSR

Authorizes the city of Newburgh to offer an optional 20 year retirement plan, pursuant to section 384-d of the retirement and social security law, to certain police officers and firefighters employed by such city.

[Go to top](#)

A07441 Text:

S T A T E O F N E W Y O R K

7441

2011-2012 Regular Sessions

I N A S S E M B L Y

May 4, 2011

Introduced by M. of A. KIRWAN -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the city of Newburgh, in the county of Orange, to offer an optional twenty year retirement plan to certain police officers and firefighters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-

BLY, DO ENACT AS FOLLOWS:

1 Section 1. Notwithstanding any other provision of law to the contrary,
 2 the city of Newburgh, in the county of Orange, a participating employer
 3 in the New York state and local police and fire retirement system, which
 4 previously elected to offer the optional twenty year retirement plan,
 5 established pursuant to section 384-d of the retirement and social secu-
 6 rity law, to police officers and firefighters employed by such city, is
 7 hereby authorized to make participation in such plan available to Daniel
 8 Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan and Kevin
 9 Romero, police officers, and Robert Bain Jr., Mark Bethea and William
 10 Wiseman, firefighters employed by the city of Newburgh, who, for reasons
 11 not ascribable to their own negligence failed to make timely applica-
 12 tions to participate in such optional twenty year retirement plan.
 13 The city of Newburgh may so elect by filing with the state comp-
 14 troller, on or before December 31, 2011, a resolution of its governing
 15 body together with certification that such police officers and fire-
 16 fighters did not bar themselves from participation in such retirement
 17 plan as a result of their own negligence. Thereafter, such police offi-
 18 cers and firefighters may elect to be covered by the provisions of
 19 section 384-d of the retirement and social security law, and shall be
 20 entitled to the full rights and benefits associated with coverage under
 21 such section, by filing a request to that effect with the state comp-
 22 troller on or before June 30, 2012.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
 [] is old law to be omitted.

A. 7441

2

LBD06154-05-1

1 S 2. All past service costs associated with implementing the
 2 provisions of this act shall be borne by the city of Newburgh over a
 3 period of ten years.

4 S 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the City of Newburgh to reopen the provisions of
 Section 384-d of the Retirement and Social Security Law for police offi-
 cers Daniel Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M.
 Kirwan, Kevin Romero and firefighters Robert Bain Jr, Mark Bethea and
 William Wiseman.

If this legislation is enacted during the 2011 legislative session, we
 anticipate that there will be an increase of approximately \$45,700 in
 the annual contributions of the City of Newburgh for the fiscal year
 ending March 31, 2012.

In addition to the annual contributions discussed above, there will be
 an immediate past service cost of approximately \$620,000, which would be
 borne by the City of Newburgh as a one-time payment. This estimate is
 based on the assumption that payment will be made on February 1, 2012.
 The City of Newburgh may amortize this cost over a period of ten (10)
 years. The first year cost, including interest, will be approximately
 \$84,000.

This estimate, dated April 6, 2011 and intended for use only during
 the 2011 Legislative Session, is Fiscal Note No. 2011-156, prepared by
 the Actuary for the New York State and Local Police and Fire Retirement
 System.

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Contact Webmaster

RESOLUTION NO.: 99 - 2011

OF

MAY 9, 2011

**A RESOLUTION REQUESTING THE STATE LEGISLATURE
TO ENACT SENATE BILL S4938 AND ASSEMBLY BILL A7442
TO AMEND SECTION 5 OF CHAPTER 223 OF THE LAWS OF 2010
RELATING TO AUTHORIZING THE CITY OF NEWBURGH
TO ISSUE BOND ANTICIPATION NOTES (BANs) FOR AN ADDITIONAL 4
YEARS FOR THE PURPOSE OF LIQUIDATING CERTAIN DEFICITS**

BE IT RESOLVED, by the Council of the City of Newburgh, New York that this Council does hereby make a Home Rule Request pursuant to the Municipal Home Rule Law of the State of New York that the Senate and Assembly of New York enact Senate Bill S4938 and Assembly Bill A7442, a copy of which is annexed hereto, to amend Section 5 of Chapter 223 of the Laws of 2010, relating to authorizing the City of Newburgh to issue Bond Anticipation Notes (BANs) for an additional four (4) years for the purpose of liquidating certain deficits, same as being in the best interests of the City of Newburgh.

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

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

ADOPTED

STATE OF NEW YORK

4938

2011-2012 Regular Sessions

IN SENATE

May 2, 2011

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the city of Newburgh fiscal recovery act, in relation to extending the final authorized date of issuance of deficit bonds and notes by such city

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

- 1 Section 1. Section 5 of chapter 223 of the laws of 2010, constituting
 2 the city of Newburgh fiscal recovery act, is amended to read as follows:
 3 § 5. Deficit bond and deficit note issuance authorization. The city is
 4 hereby authorized to issue bonds, subject to the provisions of this act,
 5 on or before [~~December 31, 2011~~] August 30, 2015, in an aggregate prin-
 6 cipal amount not to exceed fifteen million dollars (\$15,000,000) (exclu-
 7 sive of the costs and expenses incidental to the issuance of the bonds
 8 authorized to be issued by this section) for the specific object or
 9 purpose of liquidating actual deficits in its general fund, the special
 10 revenue fund, and the capital projects fund existing at the close of its
 11 2010 fiscal year. In anticipation of the issuance of such bonds, deficit
 12 notes are hereby authorized to be issued.
 13 § 2. This act shall take effect immediately, provided that the amend-
 14 ments to the city of Newburgh fiscal recovery act, made by section one
 15 of this act, shall not affect the expiration and repeal of such act, and
 16 shall expire and be deemed repealed therewith.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD11048-01-1



Thursday, May 5, 2011

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Bill No.:

[Summary](#) [Actions](#) [Votes](#) [Memo](#)
 [Text](#)

A07442 Summary:

BILL NO A07442
 SAME AS Same as S 4938
 SPONSOR Kirwan
 COSPNSR
 MLTSPNSR
 Amd S5, Chap 223 of 2010

Authorizes the city of Newburgh to issue deficit bonds and notes until August 30, 2015 pursuant to the city of Newburgh fiscal recovery act.

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A07442 Text:

S T A T E O F N E W Y O R K

7442

2011-2012 Regular Sessions

I N A S S E M B L Y

May 4, 2011

Introduced by M. of A. KIRWAN -- read once and referred to the Committee on Cities

AN ACT to amend the city of Newburgh fiscal recovery act, in relation to extending the final authorized date of issuance of deficit bonds and notes by such city

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 5 of chapter 223 of the laws of 2010, constituting
2 the city of Newburgh fiscal recovery act, is amended to read as follows:
3 S 5. Deficit bond and deficit note issuance authorization. The city is
4 hereby authorized to issue bonds, subject to the provisions of this act,
5 on or before [December 31, 2011] AUGUST 30, 2015, in an aggregate prin-
6 cipal amount not to exceed fifteen million dollars (\$15,000,000) (exclu-
7 sive of the costs and expenses incidental to the issuance of the bonds
8 authorized to be issued by this section) for the specific object or
9 purpose of liquidating actual deficits in its general fund, the special
10 revenue fund, and the capital projects fund existing at the close of its
11 2010 fiscal year. In anticipation of the issuance of such bonds, deficit
12 notes are hereby authorized to be issued.
13 S 2. This act shall take effect immediately, provided that the amend-
14 ments to the city of Newburgh fiscal recovery act, made by section one
15 of this act, shall not affect the expiration and repeal of such act, and
16 shall expire and be deemed repealed therewith.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD11048-01-1

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Contact Webmaster
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ORDINANCE NO.: 12 - 2011

OF

MAY 9, 2011

**AN ORDINANCE AMENDING CHAPTER 220,
"PARKS AND RECREATION AREAS"
OF THE CODE OF ORDINANCES**

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 220, Parks and Recreation Areas, of the City Code of Ordinances of the City of Newburgh be and are hereby amended as follows:

Section 1. Article II, Delano-Hitch Recreation Park

§ 220-17. Scheduling of use of building.

A. Written requests for use; fees.

(1) All requests to use the facility, except by City departments, boards or agencies, shall be submitted in writing to the City Manager or the City Manager's designee no less than 30 days prior to the date requested and shall be accompanied by the following fees set forth in Chapter 163, Fees, of this Code:

(a) A nonrefundable permit application fee;

(b) Usage fees.

(c) A refundable damage fee to be used for any necessary replacement and/or repair costs of the building and its equipment beyond normal wear and tear. Within a reasonable time after completion of an event and/or program, the City Manager or the City Manager's designee shall provide to the applicant an invoice of hours, supplies and equipment expended in the cleaning and repair of the building necessitated by such event and/or program. In the event such invoice demonstrates costs in excess of the security deposit paid, the applicant shall pay the total cost of such excess within 30 days of the presentment of the invoice. In the event such invoice demonstrates costs less than the security deposit paid, the City shall refund the overage within 30 days of the presentment of the invoice.

(2) Any organization requesting to pay the usage fees, set forth in Subsection A(1)(a)[1] above shall, at the time of their request to use the facility, submit to the City Manager or the City Manager's designee, in a form acceptable to him/her, proof that the organization is one in which residents of the City of Newburgh comprise 50% or more of such

organization's membership. The City Manager or the City Managers designee's written findings on such issue shall be included in the permit issued by him for use of the facility. Any person aggrieved by the decision of the City Manager or the City Manager's designee on this issue may appeal such decision, in writing, to the City Manager within 10 days of the issuance of the permit. All decisions of the City Manager shall be final.

(3) The fees listed in Subsections A(1)(a)[1], [2], [4] and A(1)(c) above shall be refunded if the request for use is denied, but shall not be refunded if the request for use is granted but the facility is not used for the period of time requested.

B. (Reserved)

C. All groups requesting use of the facility, except City departments, boards or agencies shall agree to indemnify the City for any liability to persons or property or damage to the facility resulting from the group's use of the facility.

D. Any group or organization applying to use the building must present to the City before the application is approved a certificate of insurance with an insurance company which is authorized to do business in the State of New York written on an occurrence basis and approval of the City Manager. The certificate must indicate that the City of Newburgh is named on the policy as a named insured. The certificate must also indicate that the policy may not be canceled without at least 10 days' notice to the City Manager who shall be specified as the representative of the city. The required insurance coverage shall be in the form of a general liability insurance policy for bodily injury and property damage in the amount of at least \$500,000 for each occurrence and \$1,000,000 aggregate for bodily injury and \$50,000 each occurrence \$100,000 aggregate for property damage.

E. In the event that several groups request the use of the facility on the same date, the City Manager or the City Manager's designee shall decide which group's request shall have priority.

§ 220-19. Aquatic Center and Athletic Fields.

A. Use of the City's Aquatic Center shall be ~~by season pass~~ at the rates set forth in Chapter 163, Fees of this Code.

B. All requests to use the athletic fields, except by City departments, boards or agencies, shall be submitted in writing to the City Manager or the City Manager's designee no less than 30 days prior to the date requested, except that all requests to use the athletic fields between May 1 and August 31 shall be submitted no earlier than February 1 of the current year. All such requests shall be on a form to be provided by the City

Manager or the City Manager's designee and shall be accompanied by the following fees set forth in Chapter 163, Fees, of this Code.

C. Conditions and rules for use of athletic fields.

1. The City Manager or the City Manager's designee shall have the sole authority to cancel or delay game(s) due to inclement weather and/or due to unsafe field conditions.

2. No alcoholic beverages be served, distributed, used or possessed on City property.

3. The City Manager or the City Manager's designee shall determine the hours during games which games can be played Monday through Friday and maximum number of games to be played in a single weekday. On Saturdays, no games shall begin before 10:00 am and must end no later than 5:00 pm. On Sundays, no games shall begin before 12:00 pm and must end no later than 5:00 pm.

Section 2. Article IX, Delano-Hitch Municipal Stadium

§ 220-33. Conditions and rules for use of stadium.

- A. The stadium may be used only for events and/or programs open to the general public and not for any private purpose.
- B. The stadium must be left in a clean and undamaged (other than usual wear and tear) condition after use. The group or organization using the stadium is responsible for cleaning and repair of the stadium to the satisfaction of the City Manager or the City Manager's designee.
- C. No city-owned equipment or property is to be removed from the stadium or damaged.
- D. No alcoholic beverages may be served, distributed, used or possessed in the stadium or on City property.
- E. The number of persons occupying the stadium shall not exceed the maximum legal occupancy established by the Fire Department.
- D. No group or organization using the stadium shall discriminate against persons seeking access to an event and/or program open to the public on the basis of race, sex, creed, color or national origin.
- E. City employees shall have access to the stadium at any time, including during any event and/or program, for performance of their official duties. City employees in the performance of their official duties shall have the

right to eject any individual from the stadium or to cancel or terminate, without notice, any event and/or program for violation of this article or any other City ordinance or any other provision of county, state and/or federal law.

- F. The City Manager or the City Manager's designee shall have the sole authority to cancel or delay game(s) due to inclement weather and/or due to unsafe field conditions.

§ 220-34. Scheduling of and charges for use of stadium - non-sports events.

- A. All requests to use the stadium shall be submitted in writing to the City Manager or the City Manager's designee no less than 30 days prior to the date requested for such use, except that all requests to use the stadium between May 1 and August 31 shall be submitted no earlier than February 1 of the current year. All such requests shall be on a form to be provided by the City Manager or the City Manager's designee and shall be accompanied by the following fees set forth in Chapter 163, Fees, of this Code:
- (1) A nonrefundable permit application fee;
 - (2) A usage fee; and
 - (3) A refundable damage fee to be used for any necessary replacement and/or repair costs of the building and its equipment beyond normal wear and tear. Within a reasonable time after completion of an event and/or program, the City Manager or the City Manager's designee shall provide to the applicant an invoice of hours, supplies and equipment expended in the cleaning and repair of the building necessitated by such event and/or program. In the event such invoice demonstrates costs in excess of the security deposit paid, the applicant shall pay the total cost of such excess within 30 days of the presentment of the invoice. In the event such invoice demonstrates costs less than the security deposit paid, the City shall refund the overage within 30 days of the presentment of the invoice.
- B. In addition to the usage fee set forth above, there shall be a fee for the use of the multi-purpose building as required by § 220-17 of the Code.
- C. All requests by the Greater Newburgh City School District, or the individual schools thereof, shall be approved pursuant to a separate agreement between such school district and the City of Newburgh.
- D. For purposes of such usage fees, each calendar day that an event and/or program is held shall be considered a separate event and/or program requiring a separate usage fee. The usage fee shall be refunded if the request for use is denied, but shall not be refunded if the request for use is

approved but the stadium is not used for the period of time requested. City departments, boards and agencies shall be exempt from these fees.

- E. Any organization requesting to pay the usage fees set forth in Subsection A(2)(a) and (b) above shall, at the time of their request to use the facility, submit to the City Manager or the City Manager's designee, in a form acceptable to him/her, proof that the organization is one in which residents of the City of Newburgh comprise 50% or more of such organization's membership. The City Manager or the City Managers designee's written findings on such issue shall be included in the permit issued for use of the facility. Any person aggrieved by the decision of the City Manager or the City Manager's designee on this issue may appeal such decision, in writing, to the City Manager within 10 days of the issuance of such permit. All decisions, of the City Manager shall be final.

~~F. Security deposits.~~

- ~~(1) All requests to use the stadium, except by City departments, and boards, must also be accompanied by a security deposit.~~

§ 220-35. Approval or denial of permits - non-sports events.

- A. Upon receipt of all items and deposits required in § 220-34 of this article, the ~~Recreation Director shall transmit such application to the City Manager, who~~ City Manager or the City Manager's designee shall approve or deny the application and, in the event such application is approved, issue a permit for such use. In the event that two or more groups or organizations request the use of the stadium on the same date, the City Manager or the City Manager's designee shall decide which groups' or organizations' requests shall have priority, giving preference in such decision to those groups or organizations in which residents of the City of Newburgh comprise 50% or more of such group's or organization's membership.
- B. The City Manager shall approve or deny the application based upon the following criteria:
- (1) Timely submission of all items and deposits required in § 220-34 of this article;
 - (2) The failure to comply with any provision of this article or any other provision of law during any past use of the stadium by the applicant or any individual associated with the applicant;
 - (3) Reasonable cause to believe that the proposed use would pose an unreasonable risk of causing bodily injury to the participants in the proposed event and/or program, the spectators thereto, and/or to the general public;

- (4) Reasonable cause to believe that the proposed use would pose an unreasonable risk of causing property damage to the stadium, the property of the City of Newburgh and/or the property of any other person;
 - (5) Reasonable cause to believe that the applicant is unable or unwilling to comply with one or more provisions of § 220-33G or 220-34 of this article.
- B. No permit granted hereunder shall be deemed to include the right to use the stadium for sale of food, beverages, novelties, souvenirs or any other item by the applicant or any other person. The right to all such uses shall be pursuant to separate contract(s) entered into with the City Manager or the City Manager's designee with the prior approval of the City Manager.

§ 220-36. Scheduling of and charges for use of stadium - sports events.

- A. All requests to use the stadium shall be submitted in writing to the City Manager or the City Manager's designee no less than 30 days prior to the date requested for such use, except that all requests to use the stadium between May 1 and August 31 shall be submitted no earlier than February 1 of the current year. All such requests shall be on a form to be provided by the City Manager or the City Manager's designee.
- B. All groups or organizations using the stadium, except City departments, boards or agencies, shall be deemed to agree by such use:
- (1) To pay its own cost of all personnel, supplies and equipment necessary and proper for the maintenance of the field as is required by their use thereof.
 - (2) To return the field and stadium to the City in a clean condition free of all equipment, garbage and debris and repair all damage incurred to the field and diamonds during the period of use.
 - (3) To maintain general liability and property damage insurance with an insurance company authorized to do business in the State of New York written on an occurrence basis and to present a certificate of insurance approved by the City Manager indicating that the City of Newburgh is named on the policy as a named insured in the amounts of not less than \$1,000,000 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000 on account of any one occurrence, and in an amount not less than \$500,000 for damage on account of all occurrences related to Property damage.
 - (4) To report any accident to the Office of the City Manager as soon as possible and not later than 24 hours from the time of such accident. A detailed written report must be submitted to the City as soon

thereafter as possible and not later than three days after the date of such accident.

- (5) To be financially solvent and experienced and competent to perform the type of work or to furnish the consideration to be furnished by it.
 - (6) To be familiar with all federal, state, municipal and department laws, ordinances and regulations, which may in any way affect the work or play of those employed or engaged therein but that there is no right to control the actions of City employees nor any duty to supervise the actions of City employees.
 - (7) That the relation of the group to the work to be performed by it under this section shall be that of an independent contractor. As an independent contractor, all groups and organizations will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the group or organization, its agents or employees have been negligent; that it shall hold and keep the City free and discharged of and from any and all responsibility and liability of any sort or kind; that it shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by acts of God or preexisting conditions; that it shall make good any damages that may occur in consequence of the performances or any part of it and shall assume all blame, loss and responsibility of any nature by reason of its neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the group or organization and/or the nature of its performance.
 - (8) To indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from its negligence, active or passive.
- C. Fees for baseball games shall be as set forth in Chapter 163, Fees, of this Code.
- D. All games played by the City of Newburgh Little League Baseball, Program shall be approved pursuant to a separate license agreement between the program and the City of Newburgh.
- E. All groups or organizations using the stadium, except City departments, boards or agencies, may operate concessions in a designated area of this diamond under the following terms and conditions:
- (1) To use and occupy the designated area for no other purposes than for the sale of hot and cold foods, ice cream and ice cream

products for public use; prior to beginning use of the designated area, to obtain from the Orange County Department of Health, all permits and licenses necessary to sell food and beverages and provide the City with proof that such permits and licenses have been obtained; at its own cost and expense, furnish all labor, food and non-alcoholic beverage supplies.

- (2) Nothing herein contained shall prohibit City employees or the public from bringing food or nonalcoholic beverages into the diamond for personal consumption.
- (3) The sale of any product which is bottled or otherwise packaged in a glass container is prohibited.
- (4) At all times, to comply with all rules and regulations adopted by the City for the operation of the concession which are now in force or which may be hereafter adopted; to comply with all rules, regulations, laws and ordinances promulgated by the County of Orange, State of New York, including but not limited to the rules and regulations of the Orange County Department of Health; to comply with all laws of the State of New York and the rules and regulations promulgated thereunder.
- (5) That the group or organization is an independent contractor and not an employee of the City and that any persons employed, retained or engaged by the group or organization to perform the services authorized hereunder shall be employees of the group or organization and not of the City. The group or organization shall inform persons so employed, retained or engaged of these facts.
- (6) To assume all risk in the operation of this service and be solely responsible and answerable in damages for all accidents or injuries to persons or property and to indemnify and keep harmless the City and Department of Recreation of the City of Newburgh and its officers and employees from any and all claims, suits, losses, damage or injury to persons or property of whatsoever kind and nature, whether direct or indirect, arising out of the use of the stadium under this section or the carelessness, negligence or improper conduct of the group or organization or any servant, agent or employee, which responsibility shall be limited to the insurance coverage herein provided for.

Section 3. This Ordinance shall take effect immediately.

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

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

ADOPTED

ORDINANCE NO.: 13 - 2011

OF

MAY 9, 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:

§ 220-17 Delano-Hitch Recreation Park

Use of multipurpose activity center building

Application fee \$50.00

Usage fees Organizations whose membership 50% or more City of Newburgh residents:
[a] \$200 for four hours or less;
[b] \$50 for each additional hour, or part thereof;
Organizations whose membership is less than 50% residents:
[a] \$400 for four hours or less;
[b] \$100 for each additional hour, or part thereof;

Usage fees shall be reduced by 25% for any group or organization sponsoring 10 or more events in any calendar year.

Use of facility's kitchen \$100.00

Refundable damage fee \$500.00

§ 220-19 Use of Aquatic Center and Athletic Fields

Swimming pool, ~~operated in two hour sessions~~ free ~~Children 5 and under:~~

~~Children 6 to 17~~
Season Pass 4 family members: \$100.00

~~City resident: \$15.00~~
~~Non-City resident:~~

~~\$40.00~~

~~Adults 18 and over:~~
~~City resident: \$40.00~~
~~Non-City resident:~~

~~\$80.00~~

Daily fee: \$2.00 per adult

\$1.00 per child

Summer Camp Programs: \$2.00 per child per day.

Softball diamonds 225.00 Per game: ~~\$200.00~~

League fee: ~~\$225~~ 250.00 per team

All games played by the City of Newburgh Little League Baseball Program shall be approved pursuant to a separate license agreement between the Program and the City Manager

Soccer field

City of Newburgh-based youth teams shall be approved pursuant to a separate license agreement between the program and the City Manager. ~~-\$50 per day game; \$75 per night game~~

Non-City youth teams:
\$200 per day game;
\$350 per night game

City of Newburgh-based adult teams:
~~\$125~~ 150 per day game; \$175 per night game

Non-City adult teams:
\$300 per day game;
\$350 per night game
Adult league: \$800 per

team

Football field

Non-City youth teams:
~~\$175~~ 200 per day game; \$200 per night game

	City of Newburgh-based adult teams: \$ 250 <u>275</u> per day game; \$350 per night game
	Non-City adult teams: \$450 per day game; \$550 per night game
	All games played by the City of Newburgh Pop Warner Football Program shall be approved pursuant to a separate license agreement between the Program and the City Manager
Basketball courts	Tournaments: \$ 200 <u>250</u> per day
	Leagues: [1] City-based leagues: \$ 125 <u>150</u> per team
	[2] Non-City-based leagues: \$ 175 <u>200</u> per team
	Use of area for non-basketball event: \$250 per day
Summer camp for ages six years to 13 years old	Residents: \$ 100 <u>200</u> per <u>child</u> two-week session
	Nonresidents: \$ 200 <u>300</u> per <u>child</u> two-week session
§ 220-21	Launching boat or jet skis at Newburgh

boat/jet ski Boat Launch \$8.00 per day per

§ 220-34 Use of Delano-Hitch Stadium

Non-Sporting Event

Application fee \$50.00

Usage fees For each event and/or program sponsored by New York State, not-for-profit organizations in which residents of the City of Newburgh comprise 50% or more of such group's or organization's membership: ~~\$100.00~~ 200.00

|

For each event and/or program sponsored by New York State, not-for-profit organizations in which residents of the City of Newburgh comprise less than 50% of such group's or organization's membership: ~~\$200.00~~ 300.00

|

For each event and/or program sponsored by any other type of organization in which residents of the City of Newburgh comprise 50% or more of such group's or organization's membership: ~~\$250.00~~
350.00

For each event and/or program sponsored by any other type of organization in which residents of the City of Newburgh comprise less than 50% of such group's or organization's membership: ~~\$700.00~~
800.00

Usage fees shall be reduced by 25% for any group or organization sponsoring 10 to 20 events in any calendar year

Any group or organization sponsoring more than 20 events in any calendar year shall pay usage fees set by the City Manager with the approval of the City Council

Security deposit

For organizations in which City of Newburgh residents comprise 50% or more of such organization's membership: \$500.00

For organizations in which City of Newburgh residents comprise less than 50% of such organization's membership: \$1,000.00

Sporting events

City-of-Newburgh-based youth teams, where 50% or more of the team's roster is comprised of City of Newburgh residents: ~~no charge~~ \$25.00

Non-City youth teams: \$100 per day game; ~~\$125~~ 150.00 per night game

City-of-Newburgh-based adult teams: ~~\$100~~ 125 per day game; \$150 per night game

Non-City-based adult teams: ~~\$125~~ 150 per day game; \$175 per night game

All fees and charges referred to in this subsection may, upon the approval of the City Council, be deemed satisfied, in whole or in part, by labor performed by the members of the group or organization in the maintenance of the field at Delano-Hitch Stadium and the grounds of the Delano-Hitch Recreation Park as may be deemed appropriate by the City Manager or the City Manager's designee

Use of parking lot for non-sporting event \$250.00

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

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

ADOPTED

RESOLUTION NO.: 102 - 2011

OF

MAY 9, 2011

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF
LITIGATION REGARDING THE IN REM TAX FORECLOSURE
OF LIENS FOR THE YEARS 2008 AND 2009 RELATIVE TO 29 CITY
TERRACE (SECTION 29, BLOCK 4, LOT 18), 200 CITY TERRACE (SECTION
17, BLOCK 8, LOT 20), 202 CITY TERRACE (SECTION 17, BLOCK 8, LOT 21),
214 DUPONT AVENUE (SECTION 13, BLOCK 3, LOT 43), 203 DUBOIS
STREET (SECTION 17, BLOCK 8, LOT 13) AND 137 WILLIAM
STREET (SECTION 45, BLOCK 10, LOT 27)**

WHEREAS, The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such actions being designated as Orange County Index Numbers 2008-011978 and 2009-12857; and

WHEREAS, Alfredo Garcia, by his attorney, served an Answer to each such action in regard to the foreclosure of 29 City Terrace (Section 29, Block 4, Lot 18), 200 City Terrace (Section 17, Block 8, Lot 20), 202 City Terrace (Section 17, Block 8, Lot 21), 214 Dupont Avenue (Section 13, Block 3, Lot 43), 203 Dubois Street (Section 17, Block 8, Lot 13) and 137 William Street (Section 45, Block 10, Lot 27); and

WHEREAS, Mr. Garcia is prepared to settle such actions; and

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 RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to withdraw the liens on the properties located at 29 City Terrace (Section 29, Block 4, Lot 18), 200 City Terrace (Section 17, Block 8, Lot 20), 202 City Terrace (Section 17, Block 8, Lot 21), 214 Dupont Avenue (Section 13, Block 3, Lot 43), 203 Dubois Street (Section 17, Block 8, Lot 13) and 137 William Street (Section 45, Block 10, Lot 27), City of Newburgh, from the Lists of Delinquent Taxes, provided that the sum of Fifty Five Thousand One Hundred Fifty Three And 50/100 (\$55,153.50) 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 May 30, 2010.

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

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

ADOPTED

COMMENTS FROM THE PUBLIC

Kippy Boyle, City of Newburgh read an e-mail that she sent to the Charter Review Commission regarding a drafted Petition to Adopt Term Limits and submitted a copy to the Council. (copy of e-mail and Petition attached)

Mayor Valentine said that he believes that the Charter Review Commission has come up with a series of recommendations that they are working on detailing.

Acting City Manager, Richard Herbek said that they are looking at four wards with two at large City Council members and the Mayor. That would expand the membership on the City Council to seven and then there were other recommendations regarding the hiring and firing of the City Manager.

Gay Lee, City of Newburgh said in regard to the trip to Albany that this discussion has been on the table for quite some time. Since our residents want to learn job skills and get jobs then an initiative should be put together so that they can achieve that goal. At least five residents should go along to discuss what their needs are and what they are looking for to help people find jobs.

Councilwoman Bell asked what the date will be because she had requested that she be part of that trip.

Acting City Manager, Richard Herbek said that it is in the process of being put together now so they are looking at the 18th with a 9:30 meeting. He and Mr. Lynch are currently scheduled to attend along with Councilwoman Bell. He was hoping to have a representative from Community Voices Heard also attend and if this is expanded then they will have to take two vehicles.

Councilwoman Bell suggested we use our Art Bus.

Acting City Manager, Richard Herbek said that the Art Bus won't make it.

Councilwoman Bell said that there is only 10,000 miles on it so how could it not make it to Albany and back?

Denise Ribble, City of Newburgh said that Councilwoman Angelo asked earlier if there would be any funds in between the payments and the short answer that was not received is "no" there won't be any funds left. She hopes that Council members who voted in favor of that know that all of the

funds have now been programmed to pay the failed 108 loan. There will be no other money because there was no discussion of a partial payment of the interest that could have been saved. There was never a discussion in public about any of the other eligible programs which included the Land Bank, demolition and hiring and training program. She finds it fascinating that without getting an answer to the questions so many council members would vote in favor of this.

Judy Kennedy, 162 Grand Street said that she is very distressed with this vote. She understands the idea of paying off a loan and the whole financial background. She asked what we are trying to do in terms of getting this city to move in a new direction. Money keeps going to places that it was not intended to go. It is one story after another. What would have been wrong with making a partial payment on the loan and then using some of that money to go towards the people that it was originally intended for? There is a demolition project coming up and an amount of money will be going towards that but is demolition the right thing to be doing? Where are we going? She doesn't see any plan. She added that last Saturday's clean up demonstrated what the people of Newburgh can do when they come together and she believes in that.

Jenny Loeb, Chambers St., said that she finds it funny that we are talking about being concerned with saving money on interest now. The audit in 2009 says that 1.7 million had already been paid on the loans from CDBG funds and 1.4 million was scheduled to be paid from CDBG. \$650,000.00 sat in an account at City Hall for six years while it was being paid out of CDBG funds. 1.9 million dollars from the Marina loan came back to the City which does not include all of the years we have been paying which totals almost six million dollars. Six million dollars and what did we get for it? A fire truck and a shelter house at Downing Park but not one job. Now they can't even consider spending part of it to help the residents that it was meant for. As for our credit rating, she doesn't think that HUD loans really affect our credit rating because they are federally guaranteed. She said that she is not a law expert but she thinks that they were tricked into thinking that that was the case. In the HUD audit, they said that when that money comes back it goes back into CDBG funds to eligible programs. We have all celebrated the money coming back and worked so hard for the past two years to come up with some compromise but the Council has not worked with them at all. Council members have stated that that money would be used for jobs but now it is being used to pay back another loan that didn't work.

Brenda McPhail, Varick Homes read from an April 5, 2010 YNN news article titled, "Job Program to Employ City Youth" The article reads that far too jobs for the youth of the City of Newburgh is what many people believe is at

the root of the city's rise in gang violence but help may be on the way for Newburgh teenagers and young adults thanks to \$800,000.00 in federal grant money from the Department of Housing and Urban Development. Newburgh City Councilman, Curlie Dillard said if city leaders don't come up with a plan to put young people to work, the city's crime problems will persist. "We have over 30 percent unemployment in the minority population here in the city and it is critical that if we do not create jobs and training programs so that they can advance their living standard, the City of Newburgh will sink further and further", Dillard said. One way to address the scarcity of work for teenagers and young adults in the city is to open some new businesses that are in the need of some help. In just about a month, Nazaire Kebreau will try to do just that when he opens this Broadway Restaurant. "That's my idea, to get teenagers to work with me, part-time or whatever I can give them, and work with them and give them gospel and get on the right track", said Kebreau. City leaders won't say how much of the federal money that was originally secured to help beautify the city will be used to create new jobs but the hope is many more Newburgh teens will be put to work by summer. It might help get more kids off the streets seeing that there's a better way to make money without getting in trouble or getting killed. She feels that what the Council told YNN was a big lie and told them that if they do the crime they shall do the time.

Brigidanne Flynn, City of Newburgh reminded everyone that back in December we were all outraged about our tax bills. Come May 17th we get a chance to vote on the School Budget which will be another tax increase. If you are concerned about your taxes, please get out and vote to make a difference.

Ramona Monteverde, City of Newburgh thanked DPW for their help with the clean-up. It is up to the people and the communities to continue these clean-ups to move forward.

Janet Gianopolous, City of Newburgh commented that the school district provides each child in the City of Newburgh with twelve years of excellent education and training. She can understand the City looking at ways and taking the steps to pay off debt and looking at the need for jobs but she feels that there are jobs available. People just need to be informed of the jobs and training that is available.

Susan Smith, Chambers St. thanked George Garrison and the people in the community that worked very hard to clean up our City. We need more of our community coming together; helping to restore our City. She does see some changes happening and she understands paying off these bills but you don't want to leave the City completely broke. We need that money to do

other things with. We need to work together to come up with ideas and ways to create revenue because raising taxes is not the way to get it.

Lilliam Harris, 26 Hasbrouck said that Hasbrouck Street Park needs some work. The kids need this Park to stay open and they need their swings back.

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

Submitted and read by Kippy Boyle at City Council meeting on May 9, 2011.

K. Boyle
Original Message Sent April 14, 2011

Re-Sent Today, May 9, 2011

To The Charter Review Commission,

Thanks for taking on the important and daunting task of reviewing our City Charter. I respectfully request that adopting 'term limits' be added to the list of issues you are addressing.

Please take a moment to read the attached Petition to Adopt Term Limits. This was initially drafted to call for a Special Referendum before the Primary and General Election this year. Collecting signatures of 10% of the last election voters is readily do-able. But it makes more sense for the Commission to discuss this proposed change and bring it through the process to a referendum during the General Election. I also request that "Term Limits" not be 'bundled' with other proposed Charter changes, but allow the public to consider it on its own.

Respectfully submitted,

C.K. Boyle

400 Grand St.

Newburgh, NY 12550

PRESENTED TO THE CRC

PETITION TO ADOPT TERM LIMITS
FOR ALL CITY OF NEWBURGH ELECTED OFFICERS,
INCLUDING MAYOR, COUNCIL MEMBER, CITY JUDGE,
LIMITING EACH OFFICE TO
TWO (2) CONSECUTIVE TERMS

TO: Charter Review Committee
Mayor Nicholas Valentine
Councilwoman Angelo
Councilwoman Bell
Councilwoman Bello
Councilman Dillard
Cc: Clerk of the City of Newburgh
83 Broadway, Newburgh, NY 12550

We, the undersigned residents of the City of Newburgh, exercising our rights granted under New York State Municipal Home Rule Law, petition this City Council to enact a Local Law creating Term Limits for the Elected Officers described in Article III, Section C3.00(A) and C3.10 of the City Charter. Term Limits of Two Consecutive Terms should apply to each elected office including the office of Mayor, the office of Council Member, and the office of City Judge.

We believe that instituting Term Limits for each elected office is in the best interest of all of the citizens of Newburgh. Stagnation and entrenchment in Newburgh's legislative and judicial bodies have denied our community meaningful opportunities for progress.

The City of Newburgh Charter should ensure a healthy turnover in elective offices. Our citizens are suffering from the long-term effects of cultural stagnation in elected offices. Enacting Term Limits is an equitable tool to remedy this problem.

WE respectfully petition the City Council to adopt a Local Law establishing Term Limits of Two Consecutive Terms for all elected offices, and to take every procedural step necessary under Municipal Home Rule Law to make Term Limits effective at the earliest date allowable.

Respectfully submitted this ____ day of ____ April, 2011.

COMMENTS FROM THE COUNCIL

Councilwoman Angelo said that the Unions are looking for young people to come and take their training programs to become Carpenters, Brick Layers, Electricians and Plumbers. If they had listened last year, they would have graduated by now and could be working at a job site. Perhaps we can get a group of young people together and bring them to the Union Halls to help them find jobs and learn a profession. She added that she is waiting for Community Voices Heard to complete an application for the Parade because she wants the whole city to march in respect for the Veterans. She thanked everyone for coming.

Councilwoman Bell reminded Councilwoman Angelo that Todd Diorio was part of and signed on 100% support to our Newburgh Hiring and Training Center so he obviously saw the need here. She said that she stopped by to visit with Councilwoman Bello who is under the weather and she asked her to please make a statement from her concerning the take home cars for the department heads. Some people are traveling forty miles back and forth which causes wear and tear on the vehicles and gas at \$4.00 a gallon is coming out of the City Budget. She wanted to ask the City Manager once again to kindly stop throwing away money that we can't afford and have people use their own vehicles and pay for their own gas. She added that she is generally an optimistic and upbeat person and she can usually find the silver lining in just about every cloud but she is deeply troubled by our taking away opportunities from people that so desperately need a leg up again. This happens again and again which is why she thinks the government is thinking about eliminating the CDBG program because people keep taking the money and doing whatever they please and not addressing the needs of the people that the money was intended for in the first place. She is ashamed because this is not fair. Lastly, we did a beautiful clean up and the city is sparkling. She has never seen so many mattresses go in to a dumpster at one time in her life. She thanked everyone who donated their services and all the adults and children that came out to participate. This Saturday she will be marching in the Youth Parade and she encouraged everyone to come out and support them. She thanked Kiki Hayden of Trestle, Inc. for consenting to allow the use of some of the beautiful artwork that the kids have done to put on the Art Bus to make it a rolling exhibit. She told everyone to keep fighting and never give up because eventually we will win.

Councilman Dillard inquired about Burton Towers because he received an e-mail and he asked if this is a HUD Project. Will the City of Newburgh be responsible for the RFQ or will HUD be responsible.

Mayor Valentine responded that HUD is responsible.

Councilman Dillard continued that we need to make certain that HUD knows that there are minority property managers and contractors here in the City of Newburgh.

Acting City Manager, Richard Herbek said that he asked Fire Chief, Mike Vatter for an update and not too much has changed although they are monitoring it very closely. There is still only one elevator which we have stressed to HUD. We have also let HUD know that we want to be involved as much as possible.

Mayor Valentine said that he had asked a couple of the tenants to come to the meeting tonight to express their concerns. Not only do they have problems with the elevators but they have not had hot water since April 20th and the intercom system is not working. These are older people and if something happens it will fall back on us. We need to keep on this.

Fire Chief, Mike Vatter, has been in touch with Congressman Hinchey's office and HUD is not being very responsive.

Mayor Valentine said that they have received a couple of requests from developers interested in doing this so maybe we could set up a meeting and let them make some suggestions to keep on top of things because HUD will drag their feet on this. There are two hundred to two hundred and fifty people in that building with only one elevator. If the other elevator breaks down then that will definitely make the front page of the newspaper.

There being no further business to come before the Council, the meeting adjourned at 8:35 P.M.

LORENE VITEK
CITY CLERK

