

**A special meeting of the City Council of the City of Newburgh was held on Tuesday, July 19, 2011 at 6:00 P.M. in the Council Chambers at City Hall, 83 Broadway, Newburgh, N.Y.**

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

**Absent: Councilwoman Bell -1**

**The Pledge of Allegiance was led by Mayor Valentine.**

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Barbara Smith, City of Newburgh, asked why they are having an emergency meeting when one valid Council member is absent. That is one descending vote so why wouldn't they wait until she gets back so that they are in full representation. She wants to know what the hurry is for this meeting.

Jane Johnston, City of Newburgh, echoed Barbara's comment. Why do they want to vote for this tonight? There was information that was just provided tonight and only a few minutes ago. She also asked what happened to the idea of a public hearing.

Janet Gianopolous, City of Newburgh, said she is open to listening because the way she figures it for half of the proposed twenty year contract she believes we will be paying less than what we are paying now. She would like a clarification if that is indeed the case because we can certainly use a cost savings at this time. She was thinking that we would pay more but now she is not so positive so she would like to hear the benefits the City would gain from this.

Michael Curry, Grand Street, said that it is obvious that what we are talking about here is a federal guarantee to support a private business. It seems to him that the best case scenario for the City and probably all of the municipalities would be for the County to enter into a solid waste contract and operate much like the way we do now where he assumes that the solid waste people would have to be employed anyway. If this contract is standard and right then it should have a clause in it that the rate can increase over and above the rate that is drafted into the contract if there are increases in cost. He said that you cannot run them out of business so that clause is fine. However, in the environment that we are in there is an estimated cost of what the energy will be sold at in the future so such a contract, in his opinion, should be negotiated. If there is a windfall from highly elevated electric rates, then the City or any municipal body that signs on to a contract like this should receive a give back in that kind of scenario so he does not recommend entering into this unless they can get a clause like that drafted in.

Michael Gabor, Grand Street, stated that we all know why we are here today but he doesn't know if we understand it. The self imposed deadline has nothing to do with what we need right now. If anything, it should be tabled until such a time when it is something that we really need and at this point we don't. We don't need it; Mr. Taylor may but it has not been communicated to

us why this deadline is here. The concern of the Council is to represent the people of this City and not a Corporation.

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

**OLD BUSINESS**

**RESOLUTION NO.: 121 - 2011**

**OF**

**JULY 11, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH  
TBE-MONTGOMERY LLC FOR SOLID WASTE PROCESSING AND  
DISPOSAL**

**WHEREAS**, the City of Newburgh seeks to better manage the disposal of its solid waste; and

**WHEREAS**, TBE-Montgomery LLC has developed a process for sorting, separating and collection solid waste and using such waste to generate renewable electrical energy; and

**WHEREAS**, TBE-Montgomery LLC has presented a proposal to collect and dispose of the City's solid waste to use in its renewable electrical energy process; and

**WHEREAS**, TBE-Montgomery LLC has presented a proposal to collect the City's solid waste at a substantially lower cost than the City currently pays for disposal of solid waste at the Orange County Transfer Station; and

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

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with TBE-Montgomery LLC, in substantially the same form as annexed hereto and subject to such other terms and conditions as may be required by the Corporation Counsel, for the disposal of solid waste.

**Councilwoman Bello said that she is concerned because the contract defines that there is a maximum delivery amount of one hundred and twenty percent of the total number of tons of acceptable waste during the first contract year. Then in another portion of the contract it demands that we use them**

exclusively. We would have to break the contract and be in breach of a contract in order to provide for any growth. Taylor can call some permit or license problem and uncontrollable circumstances and still be held harmless but how will we cope and at what cost? This is a very good contract for Mr. Taylor. They also reserve the right to raise the fee if their operating costs go up so we are not guaranteed this sixty five dollars per ton. Our operating costs go up every year so there is no guarantee of the cost savings that were projected to us.

Councilman Dillard stated that he reviewed the contract early and he also met with the Corporation Council, DPW, City Manager and the Comptroller. They gave him a briefing as to the advantages and he said that he shared e-mails from the constituents outlining their concerns with the contract and they answered all questions. He also attended a meeting at Taylor's with Councilwoman Angelo and they gave him the same information as the City Staff. He was very much satisfied but then he took it a step further and went out into the community. He did not go downtown he went uptown and he had no negative replies concerning this contract therefore he will be voting for it.

Councilwoman Angelo stated that she wanted everyone to know that she and Councilman Dillard went up to Taylor's last Friday and they had a very good tour of the plant. She was very impressed and she understands that four municipalities have signed on and New Windsor is in the process of negotiating so she is prepared to vote. Also Jim did mention that if we do not come up with the right amount of tonnage then we will not be penalized. If the plant does not get built by 2012, then we will not be held to this agreement as she understands.

Mayor Valentine stated that the reason for this meeting is that there is a time sensitive deadline and it is this Friday the 22<sup>nd</sup>. The County is negotiating right now with Mr. Taylor and there is no discount for us as a municipality. A comment was made earlier asking why we don't just go with the County. We can go with the county and we can pay eighty dollars a ton to bring the same garbage to Mr. Taylor's facility or we can sign a separate agreement on the table here tonight and save fourteen to fifteen dollars a ton this year alone. He asked the County Executive if there is some kind of leeway if we don't sign and we go with the County's agreement and they said "no" there is not. It is up to us as an individual municipality to take advantage of this savings or not. It really comes down to a financial decision. It is not a decision, by the way, that benefits the time frame of Taylor Biomass it's a financial decision that will benefit the City of Newburgh on whether we sign or we don't sign by a certain date. That is really why we are having this special meeting tonight. It was not scheduled because one Council person

was not here. In fact, we were discussing this at our last meeting and it got tabled. It was the consensus of Council to bring this back again so that we would have the chance to take advantage of a financial savings by the 22<sup>nd</sup> of July. These are just flat out facts. There is also an opportunity here for us to be sensitive to where and how garbage will be handled in the future over these next five, ten, fifteen and twenty years. We know that in some way, shape or form the Transfer Station on Route 17K will be altered, changed or closed. We don't have a definite date but we know something is going to happen to that Transfer Station which means that if we don't have an agreement with someone that is approximately seven to eight miles away from us then we will be carting our garbage to almost Middletown on a regular basis. Our Superintendent of Public Works is here tonight and he knows the equipment that we have and that is a heck of a truck every time we have to bring garbage out. There are things in the contract that have bothered him but he feels that any time you have a contract like this it will never be picture perfect to either side. He told Councilwoman Bello that the maximum of this over the one twenty does not bother him as much. A twenty percent increase in garbage over the course of a year is an awful lot of garbage in a municipality that right now is trying its best to increase recyclables, be more efficient and getting the message out to our constituents to people where the garbage is collected. This also does not interfere if we choose to have a private carrier pick up our garbage because if a private carrier picks up our garbage the incentive would be to take it somewhere that there is a cost savings because we are still going to get billed per ton. We have been talking to other municipalities that have been looking at taking advantage of this and he feels that quite a few of them will also sign on which is not sitting too well with our County Executive because if we do not send our garbage at eighty dollars a ton to wherever they take their garbage then they are losing that profit and we are gaining. We are not here to in any way hurt the County but if the County was interested in helping us then they would have come back with a deal. There is no such deal on the table so it falls to us to either take advantage of this tonight or not. He said that he is obviously going to vote for this because he is looking at the potential savings given to us by our Comptroller which over the next several years is almost a million dollars and that is with the increases. They only go to 2018 because if we had a contract with the County every five years is when the County can increase our fee and we have already heard from George Garrison that they probably will increase their fee and then what do we do. Fees will go up no matter what because costs go up but you have to look at the estimated savings that are here and also the transportation savings which he believes will make a lot more sense when and if the Transfer Station on 17K is closed. There are many more advantages than there are disadvantages to us doing this so his vote will be "yes".

Councilwoman Bello said that she still does not have an answer to the catch twenty-two here. They will not take any more than one hundred and twenty percent of our initial year throughout the twenty years. We will have to have an alternative means of disposing of our waste and yet in 3.01 B of the contract it's demanded that we use them exclusively so how does that jive without our breaching the contract. Our hands are tied.

Mayor Valentine responded that he is not going to defend Taylor Biomass. There is a maximum that they can take in of 500 tons but that can change if they expand and the facility can take in more. It's not in the contract because it's years away but there is the potential that the facility could take more over time.

Acting City Manager, Richard Herbek said that the actual amount of municipal solid waste is probably, if anything, going to decrease it's not going to increase that much because there will be increased efforts to recycle. The City needs to do a lot more in terms of recycling. They need to be able to have some kind of an upper limit as to the amount of municipal solid waste that they are taking. They required 500 tons a day which deals with the time line issue. He is sure that there are going to be other municipalities signing on to this by the end of the week and once Taylor reaches that 500 ton plateau then that is it because they can't take on any more than that. Down the road they might add on to the facility but right now they are starting off with that as a maximum capacity which really needs to be understood as far as the time factor is concerned.

Councilwoman Bello said that if this was done through the County then at least we have control of our elected officials. We have no control over a sealed contract for twenty years.

Mayor Valentine added that we are also not alone because there are other municipalities that are going to be entering into these contracts and probably the County will enter too if there is enough space and there probably will be.

Acting City Manager, Richard Herbek said that the only increases that he sees are those things that are imposed on Taylor. Things like increased environmental compliance issues.

Councilwoman Bello responded that Section 6.03 of the contract says that they reserve the right to raise their fee if there is an increase in anything affecting their operating costs.

Acting City Manager, Richard Herbek said that Section 6.03 is an increase in deductions and fees due to increased environmental law compliance. Those are the compliance issues. If the Federal or State government imposes additional requirements on them, then that is something that this agreement provides should be passed along.

Councilwoman Bello said that is understandable but don't think that we have a guaranteed price here for tonnage because we don't.

Acting City Manager, Richard Herbek said that from a budgeting standpoint we will know pretty much what the costs will be year to year so it works for us in a positive way.

Mayor Valentine said that we have run this by our Bond Counsel and it certainly looks good as we do our reports for the State Comptroller's Office because it is a cost saving measure. It is real and it is in a contract so it has a life of its own. There is an advantage to us as a municipality coming off of last year to get any cost savings that we can get implemented.

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

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

Nays - Councilwoman Bello - 1

ADOPTED

**There being no further business to come before the Council the meeting adjourned at 6:30 p.m.**

**LISETTE ACOSTA-RAMIREZ  
DEPUTY CITY CLERK**