

A regular meeting of the City Council of the City of Newburgh was held on Monday, May 13, 2013 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led Rev. Sperling, President of the Greater Newburgh Ministerial Association followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee - 5

Mayor Kennedy announced that there will be a Blood Drive tomorrow, May 14, 2013 from 9:30 a.m. to 2:30 p.m. at the City of Newburgh Activity Center. She urged everyone to support this Blood Drive.

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the April 18, 2013 Work Session and the April 22, 2013 City Council Meeting be approved.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

CARRIED

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

CARRIED

A video called "*We Want to Make This Place Your Home*" was played for the audience. There was a Broker's Summit here last Thursday and over one hundred and twenty people in the Real Estate business attended to see what is going on in Newburgh and what great things we are doing. It was a very positive event and the Orange County Partnership put this video together for us as a marketing piece which we plan to use extensively in the future.

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

There were no comments.

## COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilman Brown asked the City Manager to explain resolution #107-2013 as he doesn't recall it being discussed at the last Work Session.

City Manager, Richard Herbek, said that resolution #107-2013 was placed on the Agenda at the recommendation of Mayor Kennedy.

Mayor Kennedy suggested that they discuss items #30 and #31 at the same time.

Councilman Brown says that he understands it being placed on the Agenda but he wants to know exactly what that resolution is intended for.

Mayor Kennedy said that it is intended as a compromise to Resolution #108-2013 and it is only one suggestion as will be discussed when they get there. She thinks they should discuss these two items together because they are of the same topic.

Councilman Brown said that Resolution #107-2013 is his resolution that he put forward. It has pretty much been an issue for this Council for the last eight months in terms of raises that were given back last year. This resolution isn't about anything except correcting a wrong and setting the ship in the right direction or depending on the vote setting it in a different direction. Mr. Herbek gave raises back last year when he believed that he was entitled to give raises, which is fine. We can't hold that against him but he also did it without the Council's approval. He said that he settled to wait until the Budget in order to correct those raises which they did but when he received his Payroll Book the raises were not corrected and he has an issue with that. He feels like he is fighting by himself and he doesn't understand why. It was a compromise made by everyone at this table. They understood what the compromise was and they said yes to it when they voted so now he has brought this resolution forward. He knows that there is some opposition to this resolution but it is not for him or about him. It is about the taxpayers of this City who are footing the bill for a 6% raise and a 14% raise, which is unheard of in this economy. He wants everyone in the audience to take notes

on how this resolution is voted on tonight. He told everyone that it is important that they take notes because this is an election year and some of the people at this table will be running for their seat this year. He said that this resolution is not about him or the employees in it. It is about the taxpayers of this City who are footing the bill for a raise that shouldn't have been given in the beginning. He added that he thinks Resolution #106-2013 should be tabled for tonight. We need to stick to the Budget and we have been deviating from it for the last few months in terms of giving increases or adding positions. Ian was acting as our Director of Planning and Development for some months until we finally brought someone on board but Ian was also compensated for his duties and he did an excellent job of handling that position. Resolution #106-2013 is to give him an increase and he thinks that they should wait on this increase because they currently are in negotiations with two Unions and it is his understanding that at least one of those Unions is going to Binding Arbitration. They could be looking at a big bill or not but the majority of the time in Binding Arbitration it is usually not favorable for the City. He thinks that this resolution should be tabled and considered in another five or six months when they are looking at the Budget and determining raises for other Non-Bargaining employees. Resolution #108-2013 is a resolution about Non-Bargaining employees and raises which should also be tabled because they first need to find out what is going on with the Unions and where they are going to stand with that. They have a lot of money going out so he thinks that they need to wait for this until they have the Budget in hand to see what position we are in financially and move forward from there. In regard to Resolutions #92-2013 & 93-2013, you often hear the negative things that are going on in this City but when you hear something good in terms of Veterans in this City that's a good thing. He wanted to say thank you to all of the Veterans who came out tonight. He told them that we appreciate their support and what they have done for this Country over their terms in service so they are happy to bring this Purple Heart designation to the City of Newburgh. It is important that we do this because we need to show the support for our Veterans here in Newburgh and around the Country.

Councilman Dillard said that he thinks if they table Resolution #108-2013 which is connected to #107-2013 then they should table #107-2013 also.

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

**RESOLUTION NO.: 92 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
PROCLAIMING NEWBURGH, NEW YORK  
A PURPLE HEART CITY**

**WHEREAS**, on August 7, 1782 at his headquarters in Newburgh, New York, Commander in Chief General George Washington established the Badge of Military Merit, the precursor to the modern day Purple Heart, for singular meritorious action; and

**WHEREAS**, 150 years later on February 22, 1932 General Douglas MacArthur's General Order Number Three created the modern day Purple Heart; and

**WHEREAS**, on May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill, New Windsor, New York in the County of Orange at the New Windsor Cantonment, final encampment of the Continental Army; and

**WHEREAS**, the National Purple Heart Hall of Honor was opened on this same site on November 10, 2006 and continues the tradition begun here in Newburgh in 1782 on honoring veterans who have earned the Purple Heart; and

**WHEREAS**, the people of the City of Newburgh have great admiration and the utmost gratitude for all the men and women who have selflessly served their country and this community in the Armed Forces; and

**WHEREAS**, veterans have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and

**WHEREAS**, the contributions and sacrifices of the men and women from Newburgh who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

**WHEREAS**, many men and women in uniform have given their lives while serving in the Armed Forces; and

**WHEREAS**, many citizens of our City have earned the Purple Heart Medal as a result of being wounded or killed while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and

**WHEREAS**, August 7<sup>th</sup> has officially been designated as the day in Orange County to remember and recognize veterans who are recipients of the Purple Heart Medal; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, New York hereby proclaims the City of Newburgh as New York's first Purple Heart City, honoring the service and sacrifice of our Nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

**City Manager, Richard Herbek, read the entire resolution out loud.**

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 93 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
PROCLAIMING NEWBURGH ARMORY UNITY CENTER  
AS A PURPLE HEART CITY CENTER**

**WHEREAS**, on August 7, 1782 at his headquarters in Newburgh, New York, Commander in Chief General George Washington established the Badge of Military Merit, the precursor to the modern day Purple Heart, for singular meritorious action; and

**WHEREAS**, 150 years later on February 22, 1932 General Douglas MacArthur's General Order Number Three created the modern day Purple Heart; and

**WHEREAS**, on May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill, New Windsor, New York in the County of Orange at the New Windsor Cantonment, final encampment of the Continental Army; and

**WHEREAS**, the National Purple Heart Hall of Honor was opened on this same site on November 10, 2006 and continues the tradition begun here in Newburgh in 1782 on honoring veterans who have earned the Purple Heart; and

**WHEREAS**, the people of the City of Newburgh have great admiration and the utmost gratitude for the nineteen men who died in the Battle of the Hindenburg Line on September 29, 1918 all members of Companies E and L of 107<sup>th</sup> Regiment who went to war from the Broadway Armory; and

**WHEREAS**, the Newburgh Armory was opened in 1932 as the home of the 156<sup>th</sup> Field Artillery Regiment the same year as the introduction of the modern day Purple Heart; and

**WHEREAS**, the Newburgh Armory Unity Center carries on the tradition of the City of Newburgh in the World War as a united center with patriotism, service and as a safe haven; and

**WHEREAS**, the Newburgh Armory Unity Center is a home for all our active duty military and our veterans who have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and

**WHEREAS**, the contributions and sacrifices of the men and women from Newburgh who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

**WHEREAS**, many citizens of our city have earned the Purple Heart Medal as a result of being wounded or killed while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and

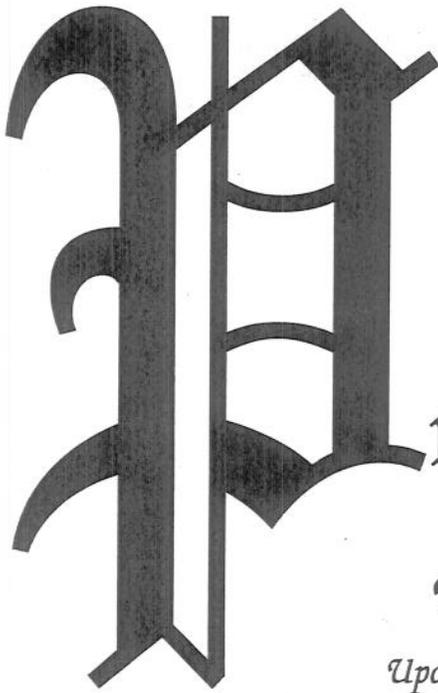
**WHEREAS**, August 7<sup>th</sup> has officially been designated as the day in Orange County to remember and recognize veterans who are recipients of the Purple Heart Medal; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, New York hereby proclaims the Newburgh Armory Unity Center as New York's first Purple Heart City, honoring the service and sacrifice of our Nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**



*The Senate  
State of New York*



**Proclamation**

*Commending*

*The City of Newburgh*

*Upon its designation as a Purple Heart City.*

*WHEREAS, I, Senator William J. Larkin, Jr., am justly proud to commend the City of Newburgh upon the occasion of its designation as a Purple Heart City; and*

*WHEREAS, On August 7, 1782, at his headquarters in Newburgh, New York, General George Washington established the Badge of Military Merit, the precursor to the modern day Purple Heart, for singular meritorious action; 150 years later, on February 22, 1932, General Douglas MacArthur's General Order Number Three created the modern day Purple Heart; and*

*WHEREAS, On May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill in New Windsor, New York, at the New Windsor Cantonment, the final encampment of the Continental Army; and*

*WHEREAS, The National Purple Heart Hall of Honor was opened on this same site on November 10, 2006, and the Hall of Honor continues the tradition begun in Newburgh in 1782 of honoring veterans who have earned the Purple Heart; and*

*WHEREAS, The people of the City of Newburgh and New York State also have great admiration and appreciation for the nineteen men who died in the Battle of the Hindenburg Line on September 29, 1918, all members of Companies E and L of the 107<sup>th</sup> Regiment who went to war from the Broadway Armory; and*

*WHEREAS, The Newburgh Armory Unity Center carries on the tradition of the City of Newburgh during the World War as a united center with patriotism, service and as a safe haven; furthermore, the Newburgh Armory Unity Center is a home for all active duty military and veterans who have time and again placed themselves in harm's way for the good of all; and*

*WHEREAS, Members of the Armed Services from the City of Newburgh, who have served so valiantly and honorably in our nation's wars, as well as in the preservation of peace in peacetime, deserve a special salute from the residents of the City of Newburgh and the entire State of New York State; now, therefore, be it*

*PROCLAIMED, That I, Senator William J. Larkin, Jr., pause in my deliberations to commend the City of Newburgh upon the occasion of its designation as a Purple Heart City; and be it further*

*PROCLAIMED, That a copy of this Proclamation, suitably engrossed, be transmitted to the City of Newburgh and the Newburgh Armory Unity Center, Newburgh, New York.*

*In witness whereof, I have hereunto set  
my hand and signature this first day of May  
in the year two thousand thirteen.*

*William J. Larkin, Jr.*  
Senator  
39th Senate District

**RESOLUTION NO.: 94 - 2013  
OF  
MAY 13, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORANGE  
FOR THE SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM  
TO PROVIDE YOUNG PEOPLE TO WORK FOR THE CITY OF NEWBURGH  
FOR THE SUMMER OF 2013**

**WHEREAS**, the County of Orange is once again offering a Summer Youth Employment and Training Program for the purpose of providing meaningful work experience for participants; and

**WHEREAS**, the City of Newburgh Youth Bureau and other City Departments have expressed an interest in using this program to provide summer jobs for young people and service to the City of Newburgh; and

**WHEREAS**, this Council finds that entering into an agreement with Orange County for this purpose is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement and other necessary documents with the County of Orange in order to participate in the Summer Youth Employment and Training Program which provides young people to work in the City for the Summer of 2013.

**Councilwoman Lee asked if this will run through the Activity Center.**

**City Manager, Richard Herbek, said that this is handled by the Orange County Youth Employment Office. They have handled all of the applications and we are a provider of those jobs. Some of the jobs will be at the Activity Center as well as with the Water Department and DPW on various clean-up crews. All together it will be approximately fifty individuals and it runs for a six week period of time. This is an excellent opportunity for the City to get some help at no cost to the City and to provide an employment opportunity for young people during the summer.**

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 95 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER  
INTO A LICENSE AGREEMENT WITH ST. LUKE'S CORNWALL  
HOSPITAL TO ALLOW USE OF CITY OWNED PROPERTY LOCATED IN  
THE CARTER STREET PEDESTRIAN WALKWAY KNOWN AS LARKIN  
PARK FOR A FARMERS MARKET**

**WHEREAS**, the City of Newburgh is the owner of portion of lands now or formerly owned by the City of Newburgh, designated on the City of Newburgh Tax Maps as Carter Street between City Terrace and Dubois Street between City Terrace and Dubois Street, and more accurately described in Schedule "A" of the Carter Street Easement Agreement between the City of Newburgh and St. Luke's Cornwall Hospital, dated October 25, 2007, hereinafter referred to as "Larkin Park"; and

**WHEREAS**, the St. Luke's Cornwall Hospital proposes to hold a Farmers Market in Larkin Park; and

**WHEREAS**, holding the Farmers Market in Larkin Park requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

**WHEREAS**, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement, in substantially the same form with other provisions as Corporation Counsel may require, with St. Luke's Cornwall Hospital to allow access to and use of City-owned property for the purpose of holding a Farmers Market.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

## LICENSE AGREEMENT

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_, two thousand and thirteen, by and between the SAINT LUKE'S CORNWALL HOSPITAL, with principal offices at 70 Dubois Street, Newburgh, New York 12550 as "LICENSEE"; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor and in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following address:

All that portion of lands now or formerly owned by the City of Newburgh, designated on the City of Newburgh Tax Maps as Carter Street between City Terrace and Dubois Street, and more accurately described in Schedule "A" of the Carter Street Easement Agreement between the City of Newburgh and St. Luke's Cornwall Hospital, dated October 25, 2007, hereinafter referred to as "Larkin Park".

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

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

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at \_\_\_\_\_, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, tables, chairs and other materials as may be necessary; for the purposes of hosting a farmer's market, including but not limited to the sale of farm products, produce and other general information and demonstrations by Orange County agencies on property owned by Licensor. No permanent improvements may be erected on the premises.

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

Third: Licenser acknowledges that the use of the subject property shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licenser harmless against any claims, actions and proceedings brought against Licenser arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licenser as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fifth: This Agreement and the license or privilege term is from June 1, 2013 to October 31, 2013.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: \_\_\_\_\_  
Richard F. Herbek, City Manager

ST. LUKE'S CORNWALL HOSPITAL

LICENSEE

By: \_\_\_\_\_

**RESOLUTION NO.: 96 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
ADOPTING AN ENVIRONMENTAL ASSESSMENT FORM (EAF)  
AND ISSUING A NEGATIVE DECLARATION UNDER  
THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)  
CONCERNING AN AMENDMENT OF ARTICLE VII, ENTITLED "SPECIAL  
USE PERMITS" OF THE ZONING ORDINANCE OF THE CITY OF  
NEWBURGH**

**WHEREAS**, by Resolution No. 194-2012 of October 22, 2012, the City Council of the City of Newburgh, New York authorized the City Manager to execute a Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site, which obligates the City to adopt modifications to the Zoning Code to permit the proposed development; and

**WHEREAS**, by Resolution No. 73-2013 of April 8, 2013, the City Council of the City of Newburgh declared itself as the Lead Agency for the environmental review of "An Ordinance to Amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to Add Section 300-38 entitled "Large-Scale Mixed-Use Development Special Use Permit" ("the Ordinance") pursuant to 6 NYCRR 617.6; classified the adoption of the proposed ordinance as an Unlisted Action; proposed to accept as complete the Environmental Assessment Form ("EAF"); referred the proposed legislation to the Orange County Planning Department as required by General Municipal Law Section 239; and scheduled a public hearing to receive comments regarding the proposed ordinance; and

**WHEREAS**, in compliance with SEQRA, the City Council of the City of Newburgh now wishes to approve and adopt the EAF; and

**WHEREAS**, the City of Newburgh has taken a hard look at the environmental impacts of adopting the ordinance and has determined that there will be no negative environmental impacts regarding same; and

**WHEREAS**, the City Council finds that the adoption of the ordinance is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York hereby adopts the EAF and issues a Negative Declaration pursuant to the SEQRA.

Mayor Kennedy said that she supports the idea of this resolution because this mixed use is where we are headed and what we are going to end up with on Broadway as we do the rezoning project but she still firmly believes that it should be going through the Planning Department. Nobody on this Board has any planning training or training on the SEQRA process so she has real reservations about that particular part of it.

Councilwoman Lee added that she studied some of the process but they have been talking about the SEQRA process for two months now and she thinks this means that they won't have to go through the long process but they will be able to make the decision from the Council seat.

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee - 4

Nays - Mayor Kennedy - 1

**ADOPTED**

**RESOLUTION NO.: 97- 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
GRANT AN EXTENSION OF TIME TO REHABILITATE  
THE PREMISES KNOWN AS 44 HASBROUCK STREET  
(SECTION 38, BLOCK 3, LOT 50)  
IN THE CITY OF NEWBURGH**

**WHEREAS**, the City of Newburgh did convey the premises located at 44 Hasbrouck Street, more accurately described as Section 38, Lot 3, Block 50 on the Official Tax Map of the City of Newburgh, by deed dated June 17, 2011; and

**WHEREAS**, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 17, 2012; and

**WHEREAS**, Araceli Mendoza, the owner of property located at 44 Hasbrouck Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

**WHEREAS**, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Manager be and he hereby is authorized to grant Araceli Mendoza a six (6) month extension to rehabilitate the premises known as 44 Hasbrouck Street in the City of Newburgh, until October 13, 2013, that being six (6) months from the date of this Resolution.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 98 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
GRANT AN EXTENSION OF TIME TO REHABILITATE  
THE PREMISES KNOWN AS 128 DUBOIS STREET  
(SECTION 18, BLOCK 1, LOT 27)  
IN THE CITY OF NEWBURGH**

**WHEREAS**, the City of Newburgh did convey the premises located at 128 Dubois Street, more accurately described as Section 18, Lot 1, Block 27 on the Official Tax Map of the City of Newburgh, by deed dated June 17, 2011; and

**WHEREAS**, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 17, 2012; and

**WHEREAS**, Araceli Mendoza, the owner of property located at 128 Dubois Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

**WHEREAS**, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Manager be and he hereby is authorized to grant Araceli Mendoza a six (6) month extension to rehabilitate the premises known as 128 Dubois Street in the City of Newburgh, until October 13, 2013, that being six (6) months from the date of this Resolution.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 99 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO DAVID L. JADIDIAN  
TO THE PREMISES KNOWN AS 83 NICOLL STREET  
(SECTION 9, BLOCK 1, LOT 3)**

**WHEREAS**, on December 9, 2009, the City of Newburgh conveyed property located at 83 Nicoll Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 9, Block 1, Lot 3, to David L. Jadidian; and

**WHEREAS**, Mr. Jadidian has requested a release of the restrictive covenants contained in said deed; and

**WHEREAS**, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

**WHEREAS**, this Council believes it is in the best interest of the City of Newburgh to grant such request;

**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 the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4 and 5 of the aforementioned deed.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**



**RESOLUTION NO.: 100 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION TO AUTHORIZE A CHANGE ORDER TO THE CONTRACT WITH RITTER & PARATORE CONTRACTING INC. IN AN AMOUNT NOT TO EXCEED \$38,530.00 AND TO AMEND RESOLUTION NO: 223-2012, THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$19,265.00 FROM FUND BALANCE TO 7-11 JOHNES STREET ERP PROJECT.2010 YEAR IN CONNECTION WITH THE JOHNES STREET BUILDING DEMOLITION PROJECT**

**WHEREAS**, by Resolution No. 155-2012 of September 10, 2012, the City Council awarded a bid for the demolition of the building located at 7-11 Johnes Street and authorized the City Manager to enter into a contract with Ritter & Paratore Contracting Inc. for the bid amount of \$118,470.00; and

**WHEREAS**, the actual costs associated with the removal of debris exceeded the pre-demolition estimates increasing the actual cost of the project from \$118,470.00 to \$157,000.00; and

**WHEREAS**, a change order to the contract with Ritter & Paratore Contracting Inc. in the amount of \$38,530.00 is required; and

**WHEREAS**, as said property is part of the ERP the City will be reimbursed for 50% of building demolition costs, including 50% of costs in the change order, by the Department of Environmental Conservation; and

**WHEREAS**, funding for such project shall be derived from the budget line H1.1440.0215.5403.2010; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager, the City Engineer and the Comptroller be and they hereby are authorized to prepare and execute a change order to the demolition contract with Ritter & Paratore Contracting Inc. in an amount not to exceed Thirty-Eight Thousand Five Hundred Thirty (\$38,530.00) Dollars for the costs associated with the removal of debris in connection with demolition of 7-11 Johnes Street; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0911 Fund Balance	\$19,265.00	
H1.1440.0208.5403.2010 7-11 Johnes Street ERP Project.2010 Year		\$19,265.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 101 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION REDUCING THE FIXED AMOUNT TO  
BE PROVIDED IN THE FORM OF A PUBLIC IMPROVEMENT  
PERFORMANCE SECURITY TO BE POSTED BY THE OWNER/SPONSOR  
OF THE SUNSET RIDGE SUBDIVISION PROJECT**

**WHEREAS**, by Resolution No. 142-2005 of July 11, 2005, the City Council of the City of Newburgh declared that the sum of One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths (\$1,153,645.00) Dollars was to be established and accepted as the amount estimated as the cost of infrastructure and improvements required by the Planning Board, and therefore, as the sum to be covered by such Public Improvement Performance Security to be posted by the owner/sponsor of the Sunset Ridge Subdivision in order to sufficiently safeguard the interests of the City of Newburgh and to secure the installation of the public improvements and infrastructure necessarily involved in said project; and

**WHEREAS**, the original developer partially completed the installation of the infrastructure and improvements; and

**WHEREAS**, Iconic Properties, LLC is in contract to purchase the Sunset Ridge Subdivision from TD Bank and is requesting a reduction in the amount of the Public Improvement Security to be posted based on a review by a licensed engineer; and

**WHEREAS**, the City Engineer has reviewed the developer's submission and completed his own survey of the subdivision and the existing infrastructure and recommends that the performance bond for the infrastructure improvements be reduced from One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths (\$1,153,645.00) Dollars to Five Hundred Seventy Five Thousand Five Hundred and zero/one-hundredths (\$575,500.00) Dollars; and

**WHEREAS**, this Council finds that the reduction in the performance bond, as recommended by the City Engineer, is in the best interests of the City of Newburgh and its further development;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Newburgh, New York that the Public Improvement Performance Security to be posted by the owner/sponsor of the Sunset Ridge Subdivision be and hereby is reduced from One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths (\$1,153,645.00) Dollars to Five Hundred Seventy Five Thousand Five Hundred and zero/one-hundredths (\$575,500.00) Dollars as the amount sufficient to secure the installation of the remaining public improvements and infrastructure required by said project.; and

**BE IT FURTHER RESOLVED**, that pursuant to Code Section 266-6, such Public Improvement Performance Security shall be posted with the City Manager by the owner/sponsor of the Sunset Ridge Subdivision and in a form acceptable to the Corporation Counsel.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 102 - 2013**

**OF**

**MAY 13, 2010**

**A RESOLUTION AUTHORIZING THE AMENDMENT TO  
THE TERMS OF A DEED TO JCL MEDIA, INC.  
FOR PREMISES KNOWN AS 67 LIBERTY STREET (SECTION 39, BLOCK 5,  
LOT 14) TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY TO  
THE FOLK MUSEUM HALL OF FAME AND TO ALLOW FOR  
ADDITIONAL TIME TO REHABILITATE THE PROPERTY**

**WHEREAS**, by Resolution No. 155-2004 of August 9, 2004, the Council of the City of Newburgh authorized the City Manager to execute a Land Disposition Agreement with JCL Media, Inc. regarding the sale and proposed development of real property known as 63 Liberty Street (Section 39, Block 5, Lot 16); 65 Liberty Street (Section 39, Block 5, Lot 15.1); 67 Liberty Street (Section 39, Block 5, Lot 14); and 65 Liberty Street Rear (Section 39, Block 5, Lot 15.2) upon certain terms and conditions, including a prohibition against conveying title to same until certain rehabilitation requirements relating to said property have been satisfied; and

**WHEREAS**, JCL Media, Inc. has successfully completed the redevelopment of 63 Liberty Street (Section 39, Block 5, Lot 16) and 65 Liberty Street (Section 39, Block 5, Lot 15.1); and

**WHEREAS**, JCL Media, Inc. has requested permission of the City to convey title 67 Liberty Street (Section 39, Block 5, Lot 14) to the Folk Music Hall of Fame; and

**WHEREAS**, upon such transfer, the Folk Music Hall of Fame shall abide by all of the terms and conditions set forth in the covenants provided for in the deed from the City of Newburgh to JCL Media, Inc. dated June 8, 2006 and the correction deed from the City of Newburgh to JCL Media, Inc. dated November 23, 2010; and

**WHEREAS**, said deeds included a provision requiring the subject properties be rehabilitated within eighteen (18) months of the date of the deed which were to be completed on or about December 8, 2007; and

**WHEREAS**, JCL Media, Inc. has also requested an extension of time to rehabilitate the property located at 67 Liberty Street (Section 39, Block 5, Lot 14) until November 13, 2014, said date being eighteen (18) months from the date of this resolution; and

**WHEREAS**, the City Council of the City of Newburgh has determined that the permitting proposed transfer to the Folk Music Hall of Fame and granting said extension is in the best interest of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Newburgh, New York that the City Council of the City of Newburgh that the terms of sale by which the premises known as 67 Liberty Street (Section 39, Block 5, Lot 14) in the City of Newburgh were conveyed to JCL Media, Inc. be and the same hereby are amended to allow the conveyance of said premises by JCL Media, Inc. to the Folk Music Hall of Fame and further authorizes an extension of time to rehabilitate said premises until November 13, 2014, said date being eighteen (18) months from the date of this resolution.

**City Manager, Richard Herbek, noted that this is a not-for-profit corporation and he believes there will not be any property taxes forthcoming.**

**Mayor Kennedy said that she is aware of that but she thinks it will help upgrade the Liberty Street corridor and bring business to that street.**

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

**Ayes - Councilwoman Angelo, Councilman Brown, Mayor Kennedy - 3**

**Nays - Councilman Dillard, Councilwoman Lee - 2**

**ADOPTED**

**RESOLUTION NO. 103 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION AUTHORIZING A REQUEST TO AMEND THE ENVIRONMENTAL RESTORATION PROGRAM STATE ASSISTANCE CONTRACT (SAC) C303486 IN CONNECTION WITH THE INVESTIGATION, INTERIM REMEDIAL MEASURES AND PREPARATION OF REMEDIAL ALTERNATIVES FOR CITY OWNED PROPERTY LOCATED AT 350-352 LIBERTY STREET IN AN AMOUNT OF \$40,000 AND TO AMEND RESOLUTION NO: 223 - 2012, THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$4,000.00 FROM FUND BALANCE TO LIBERTY STREET ERP ON SITE**

**WHEREAS**, the City of Newburgh has entered into a State Assistance Contract (SAC) C303486 with the New York State Department of Environmental Conservation (the "Department") to address environmental concerns at 350-352 Liberty Street, and

**WHEREAS**, the nature and extent of the problems at the site were complicated by conditions unknown to the City of Newburgh, and

**WHEREAS**, the Engineer has incurred or will incur costs beyond the limit of the current SAC Agreement Limit of \$380,500.00 in order to complete the required scope of work, the nature of which are described in the attached letter to the Department from C.T. Male Associates dated March 25, 2013, and

**WHEREAS**, it is now necessary to authorize the City Manager to request a SAC Amendment with the Department to cover said costs outlined in C.T. Male Associates March 25, 2013 letter (attached), the cost of which are reimbursable to the City at a minimum of 90% per the SAC;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to request a SAC Amendment to cover additional costs to the contract for the City-owned property located at 350-352 Liberty Street at a cost not to exceed \$40,000; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0911 Fund Balance	\$4,000.00	
H1.1440.0208.5403.2010 Liberty Street ERP On Site		\$4,000.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

103-13  
C.T. MALE ASSOCIATES

Engineering, Surveying, Architecture & Landscape Architecture, P.C.

652 Route 299, Suite 204B, Highland, NY 12528  
845.883.0964 FAX 845.883.0965 ctmale@ctmale.com



March 25, 2013

Mr. David Crosby, P.E.  
Remedial Bureau C  
Division of Environmental Remediation  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7014

RE: *Request for SAC Amendment No. 4 to Rectify Cost Overruns  
Due to Requests for Additional Work and Changes to the Alternative Analysis Report  
350-352 Liberty Street ERP Site; Site #B00189  
City of Newburgh, Orange County  
C.T. Male Project No.: 10.1045*

Dear Mr. Crosby:

C.T. Male Associates (C.T. Male), on behalf of the City of Newburgh, New York, respectfully submits this request for a State Assistance Contract (SAC) Amendment to cover anticipated costs overruns incurred to address out of scope work including highly time sensitive requests from the New York State Department of Environmental Conservation ("Department") that were not addressed in the Remedial Investigation Work Plan dated April 2010 and subsequent modifications. This Proposed SAC Amendment cover costs already incurred and projected costs to bring the project to completion.

The additional costs are the result of the following activities:

- The number of surface samples was doubled overall. Lead was especially prevalent with a detection of 2,550 ppm in one location and this required additional sampling and samples to identify the nature and extent of the impacts for incorporation into the PRAP,
- The number of subsurface confirmatory samples increased due to the size of the excavation,
- Unanticipated complications due to scheduling issues beyond our control substantially lengthening the duration of the field work,
- Complicated bidding process and the creation/revision of the bid documents due to the substantial modification caused by the discovery of five (5) previously

1910 - 2010  
years

# C.T. MALE ASSOCIATES

March 25, 2013

Dave Crosby

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unidentified underground storage tanks, two (2) waste oil tanks and two hydraulic lifts. Engineering associated with the IRM and completion of the CCR was more than twice what was anticipated,

- Completion of the Construction Completion Report (CCR) was substantially more complicated due to the more than doubling of the potential sources requiring remediation and its completion more than doubled the report preparation costs. The approved work plan had the CCR included with the RI report,
- Managing the data turned out to be substantially more complicated due to the Department's implementation of the EDD management structure. We have invested more 45 hours of staff time simply to get the data in a form that was acceptable to the Department. We have had an extremely difficult time meshing the data, some of which resulted from the Department's changes to the process. This was not anticipated when budgeting for this project,
- We have made multiple revisions to the Alternative Analysis Report and it still does not reflect the proposed remedy identified in the Department's PRAP and ROD. The City has expressed concerns that this inconsistency could be an impediment to the future sale of the property,
- We have provided assistance to the Department in the preparation of the PRAP and ROD, and,
- Technical review of the PRAP and ROD and the preparation of a Responsiveness Summary to address concerns with the ROD as well as creating the final reports, assistance at the public meeting and miscellaneous reporting and assistance to the City.

The estimated budget is as follows:

	Project Costs	SAC Amount
Existing Budget	\$380,500.00	\$325,850.00
Estimated Costs Incurred to Date	\$411,000	\$325,850.00
Remaining Funds Available from Original Budget	\$0.00	\$0.00
Cost Estimate to Address Remaining Tasks	\$40,000.00	\$36,000.00
Less Remaining Funds Available from Original Budget	\$0.00	\$0.00
<b>Total Proposed SAC Amendment Costs</b>	<b>\$40,000.00</b>	<b>\$36,000.00</b>
<b>Final SAC Total including Amendment</b>	<b>\$420,500.00</b>	<b>\$362,050.00</b>

## C.T. MALE ASSOCIATES

March 25, 2013

Dave Crosby

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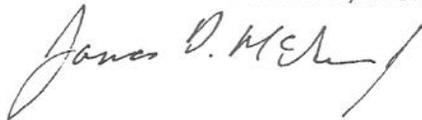
This SAC Amendment request does not seek to extend the contract completion date beyond its current scheduled date.

### Closing

Thank you for your time and attention. Should you have any questions or need further information, please do not hesitate to contact Jim McIver at (845) 691-7234.

Respectfully,

C.T. MALE ASSOCIATES, P.C.



James D. McIver, Jr.  
Managing Geologist

c: William Bennett, P.E., NYSDEC  
Ian MacDougall, Acting Director of Planning and Development, Newburgh, NY  
Dan Reilly, P.E., C.T. Male Associates

**RESOLUTION NO.: 104 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF  
CHRISTOPHER PAGE AGAINST THE CITY OF NEWBURGH IN THE  
AMOUNT OF SEVEN THOUSAND EIGHT HUNDRED FORTY ONE AND  
76/100 DOLLARS**

**WHEREAS**, Christopher Page brought a claim against the City of Newburgh; and

**WHEREAS**, the parties have reached an agreement for the payment of the settlement of the claim in the amount of Seven Thousand Eight Hundred Forty One and 76/100 (\$7,841.76) Dollars in exchange for a release to resolve all claims among them; and

**WHEREAS**, such funds shall be secured by 2013 "M" Funds, Account M.1930.0400 Judgments & Claims; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City's attorney is hereby authorized to settle the claim of Christopher Page in the total amount of Seven Thousand Eight Hundred Forty One and 76/100 (\$7,841.76) Dollars, and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 105 - 2013  
OF  
MAY 13, 2013**

**A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF  
REAL PROPERTY KNOWN AS 72 HASBROUCK STREET  
(SECTION 38, BLOCK 3, LOT 61)  
AT PRIVATE SALE TO KEITH GIFFT**

**WHEREAS**, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

**WHEREAS**, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

**WHEREAS**, Keith Giff, the former owner of 72 Hasbrouck Street, being more accurately described as Section 38, Block 3, Lot 61 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

**WHEREAS**, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of 72 Hasbrouck Street, Section 38, Block 3, Lot 61, to Keith Giff be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the purchase price of \$21,691.50, which represents all past due tax liens, together with all interest and penalties accruing thereon, including attorneys fees, in full; and that said purchase price must be paid no later than June 1, 2015, and in accordance with said terms and conditions; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

## Terms and Conditions of Sale

1. City of Newburgh acquired title to the property known as 72 Hasbrouck Street, more accurately described as Section 38, Block 3, Lot 61 on the official tax map of the City of Newburgh, (hereinafter referred to as “the parcel”) in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. The parcel, including any buildings thereon, is sold “AS IS” and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; and (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title.
3. The purchase price of the property is equal to the total of the delinquent taxes owing on the property in the amount of \$21,691.50. The purchaser shall pay to the City the purchase price as follows:

A down payment in the amount of \$4,273.86 shall be due on or before June 1, 2013. The amount of said down payment consists of \$2,169.15, which includes all of the taxes for the 2012-2013 school district tax year and all the 2013 City/County tax year, and \$2,169.15, which is ten (10%) percent of the delinquent taxes owed. The down payment shall be payable by certified check, bank check, money order or cash.

The balance of the purchase price, after the down payment, plus interest at the rate of 25% per annum shall be due and payable in eight (8) installments as follows:

\$3,174.98 due September 1, 2013  
\$3,174.98 due December 1, 2013  
\$3,174.98 due March 1, 2014  
\$3,174.98 due June 1, 2014  
\$3,174.98 due September 1, 2014  
\$3,174.98 due December 1, 2014  
\$3,174.98 due March 1, 2015  
\$3,174.98 due June 1, 2015

4. Any and all future property taxes levied by the City of Newburgh and the Newburgh Enlarged City School District, including but not limited to the 2013-2014 school tax bill and the 2014 City/County tax bill, shall be paid by the purchaser to the City of Newburgh as the installments come due during the applicable tax year.
5. The purchaser shall continue to be responsible for all water, sewer and sanitation charges.
6. All payments due hereunder shall be payable to the City of Newburgh **by bank check, certified check or money order.**
7. Purchaser is advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. All informational tools, such as slides, tax maps, deeds, photos, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
10. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family From Lead in Your Home." Purchaser also acknowledges that she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.

11. All recording costs and transfer taxes shall be paid by the purchaser. Such recording costs shall be payable to the "Orange County Clerk" by **bank check, certified check or money order**.
12. The entire purchase price and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before June 30, 2015. **The City is not required to send notice of acceptance to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should the purchaser fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the purchaser. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
13. The purchaser warrants that he is in possession of the parcel and shall remain in possession until such time as the payments set forth herein have been paid. Purchaser shall be responsible for all property maintenance during his continued possession of the parcel.
14. If the purchaser fails to close title by the close of business on June 30, 2015, then, the City may, but is not obligated to offer the parcel to another purchaser.
15. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid with interest, but not to any payment of rent. Purchaser agrees that she shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale. However, if purchaser fails to close title in accordance with the terms and conditions set forth herein, she shall be entitled to reimbursement for expenses incurred to bring said parcel into compliance with applicable building and maintenance codes made during her possession as tenant, and as required as a condition of sale, upon presentation of proof that such expenses were incurred in a form that is satisfactory to the City.
16. The sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any

defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.

17. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Purchaser may remain in possession of property until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
  
18. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
  
19. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
  
20. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he is the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he nor his assigns shall convey the property until after the date of the deed conveying title to the purchaser. If such conveyance in violation of these terms and conditions, the purchaser understands that he may be found to have committed fraud, and/or intent to defraud, and will be liable for damages to the City of Newburgh.

-----  
KEITH GIFFT

Date: \_\_\_\_\_

**RESOLUTION NO.: 106 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION TO AMEND RESOLUTION NO. 163-2007 REGARDING THE SALARY AND BENEFIT PLAN FOR NON-BARGAINING UNIT EMPLOYEES AND TO AMEND RESOLUTION NO. 223-2012, THE 2013 BUDGET OF THE CITY OF NEWBURGH AND THE PERSONNEL ANALYSIS BOOK REGARDING SALARY OF THE PLANNER**

**WHEREAS**, this Council, by Resolution No. 163-2007 of August 20, 2007, adopted a salary and benefit plan for non-bargaining unit employees; and

**WHEREAS**, this Council, by Resolution No. 223-2012, adopted the 2013 Budget of the City of Newburgh and the Personnel Analysis Book; and

**WHEREAS**, this Council desires to amend said Resolutions,

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh that Schedule A of Resolution No. 163-2007, the salary and benefit plan for non-bargaining unit employees, is amended as follows, effective immediately:

**Grade 4**  
~~Planner~~

**Grade 5**  
Planner; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh that Resolution No. 223-2012, the 2013 Budget of the City of Newburgh and the Personnel Analysis Book, is amended to reflect a net increase of \$3,733.00 in the adjustment of the salary of the Planner from Grade 4, Step 5 to Grade 5, Step 2.

~~Strikethrough~~ denotes deletion  
Underlining denotes addition

Councilman Dillard suggested that they table resolution #106-2013, #107-2013 and #108-2013 for the reasons he mentioned at the Work Session. They are all connected and until they come up with a clear and concise manner in which to deal with this he doesn't think they should do this and cause unnecessary expenses for the City in terms of lawsuits.

Councilman Brown said that he disagreed with Councilman Dillard. #107-2013 should not be included in the table; it's a resolution that shouldn't even be on the Agenda.

Mayor Kennedy said that we are talking about #108-2013.

Councilman Brown said that he knows but he is clarifying what Councilman Dillard said. #107-2013 shouldn't be on the Agenda because it should have never happened and it has nothing to do with #106-13 or #108-13. He agrees that #106-2013 should be tabled because they are talking about giving increases in the middle of the year outside of the Budget. He feels that they should stick to the Budget and stay focused on what they voted on in terms of salaries. He said before that Ian did an excellent job in that Department but he was compensated to do so. Considering that we are in a fight right now with two Unions and we aren't sure what we are going to get out of that in terms of cost, he thinks it's important that they hold on to every dollar that we have until those negotiations are done. Then we can determine if we have the money to settle those Union disputes or not. He thinks we should table this at least until after negotiations with the two Unions.

Councilman Brown moved and Councilman Dillard seconded that the resolution be tabled.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Mayor Kennedy - 4

Nays - Councilwoman Lee - 1

**TABLED**

**RESOLUTION NO.: 107 - 2013**

**OF**

**MAY 13, 2013**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH  
MEMORIALIZING ITS INTENT WITH RESPECT TO THE  
CONSIDERATION OF SALARY INCREASES FOR NON-BARGAINING  
UNIT POSITIONS  
IN CONNECTION WITH THE 2014 BUDGET PROCESS**

**WHEREAS**, the salaries of the City Engineer and the Fire Chief positions were increased during 2012 and the salary of the City Engineer position was increased in the 2013 budget process; and

**WHEREAS**, this Council intends to be equitable in the adjustments of the salaries of all positions, including the non-bargaining positions;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh does hereby memorialize its intent that if salary increases are considered for non-bargaining unit positions during the 2014 budget process that the positions of City Engineer and Fire Chief shall not be included in the consideration of any such salary increases.

**Councilman Brown said that #107-2013 is a resolution that should also be tabled based on his comments to resolution #106-2013. We need to hold on to every dollar that we have and this resolution puts future obligations on the City based on information that we don't have. We don't know what the tax collections are going to be this year or how much money we are going to have in terms of raises and salaries. We don't know what emergencies may come up so he thinks it's important that they table this along with #106-2013 so at least they have the opportunity to know when it comes time for Budget whether we will be able to address the Non-Bargaining employees. He added that he is on board with giving the Non-Bargaining employees a raise this year but he can't be on board with giving them a raise if it's at the cost of the taxpayers of this City. If there is going to be an increase in property taxes this year, he can't see himself saying "yes" just to give the Non-Bargaining employees a raise. They have to watch the pocketbook from now moving forward so that there is no increase in taxes and then we can hopefully look at giving Non-Bargaining a raise for 2014.**

**Councilman Brown moved and Councilman Dillard seconded that the resolution be tabled.**

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Mayor Kennedy - 4**

**Nays - Councilwoman Lee - 1**

**TABLED**

RESOLUTION NO.: 108 - 2013

OF

MAY 13, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,  
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
AND THE PERSONNEL ANALYSIS BOOKLET  
TO ADJUST THE SALARIES OF THE FIRE CHIEF AND CITY ENGINEER

**BE IT RESOLVED**, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, and the 2013 Personnel Analysis Booklet is hereby amended to reduce the salary of the City Engineer by \$9,691.00 from \$100,692.00 to \$91,001.00 and to reduce the salary of the Fire Chief by \$6,644.00 from \$110,843 to \$103,839.00 as follows:

		<u>Decrease</u>	<u>Increase</u>
A.1440	Engineering		
.0101	Salary	\$ 9,691.00	
A.3412	Fire Department		
.0101	Salary	\$ 6,644.00	

**Councilman Dillard said that Councilman Brown has mentioned that the finances of the City are uncertain and he agrees but he also feels that if we open up this can of worms it will cost the City far more than it is worth in terms of letting it ride until the next Budget period. He feels that this should go forth until the next Budget period when the adjustment should be made.**

**City Manager, Richard Herbek, asked Councilman Dillard if what he is saying is that the salaries should be left alone at the moment.**

**Councilman Dillard responded, "Exactly".**

City Manager, Richard Herbek, said he explained the rationale for what he did at that point in time. We have been trying to hire quality people at appropriate salary levels. In the case of the City Engineer, he should have been hired at a Grade 8 and not a Grade 7 which he thinks was a mistake that happened before he arrived on the scene. There were two ways to try to solve the problem. One was through a step increase which is what he did, and the other would have been to bring this up as a Grade increase similar to what we did with the City Planner in resolution #106-2013. That could have been done and it might have been a better way to handle it at the time but his goal has been to try to keep quality people in the City's employ and not have these positions become revolving doors. That has been the history here with a lot of turnover of key staff and it is not serving the City well. He has heard what Councilman Brown has said about saving the taxpayers money but he thinks that the case could be made that it will be more costly to the City if we begin losing some of these key people to other jobs. What he has done his entire career is look at the salary scales and what the relative value of the position is at various levels. That is why the Fire Chief was originally hired at \$109,000.00. The positions of Fire Chief and Police Chief for many years were at the exact same level and they are out of sync right now. The salary of the City Engineer should be in the Grade 8 range because he is a critical staff member. The City never had a City Engineer. For many years they retained an Engineering Consulting Firm and around 2007 or 2008 the City decided to go a different route and start a department of Engineering. He believes that was a good decision for the City even though he wasn't here at the time but the City Engineer was made certain promises and commitments and he was attempting to keep that salary level in line with what he had been told and promised by the City Council and City Manager at that time. That is why he did what he did.

Councilman Dillard told the City Manager that he is totally against what he did because it displayed insubordination to the Council.

City Manager, Richard Herbek, said that he disagrees.

Councilman Dillard said that this fight will go on but what the City Manager did was insubordination.

Councilman Brown said that these two employees came on board at the salaries that they accepted. There was no contract between the Fire Chief or the City Engineer. They came on board knowing what their salaries were going to be and any promises made during or after they came on board is just a promise. They are not bound by a contract or anything else to give raises. He said that they have an obligation to the taxpayers of this City. There are people right now who are trying to figure out how they are going to meet their

tax bill this next quarter and that is not fair. If we can give them a 6% or 13% decrease in their tax bill, maybe they will be able to meet their tax bills next year. That shouldn't be a consideration at this point in time. What we should be considering is the fact that two people received raises when they shouldn't have received them and the amount of the raises that they received is unheard of. This resolution is about what this whole Council agreed to in the Budget and it is to set the ship in the right direction. They agreed that these salaries would go back to the 2012 salaries and that Craig Marti would keep half of his raises. That is all that this is saying and nothing else but what they agreed to in the 2012 Budget. Mr. Herbek and the Comptroller took it upon themselves to change that without Council approval. When he received his Payroll Book this past January he sent an e-mail to Councilman Dillard and Mayor Kennedy explaining to them that these raises were in there and asking them what they were going to do about it. The Mayor decided that she didn't want to do anything at that time which he thought was ridiculous. How do you not fight for the taxpayers of this City right then and there? Councilman Dillard did not respond to his e-mail so he assumed that he was alright with those raises. He said that it is not alright with him and he hasn't been alright with it since they went into effect. He said that the Council can vote any way that they want to but it's a message that either you're going to fight for the taxpayers of this City or you're not.

Mayor Kennedy read the following statement to clarify exactly where she is, *"This issue did begin in July, 2012 when the topic of a salary increase for Craig Marti and Mike Vatter was mentioned to the City Council by City Manager, Rick Herbek. At least three of us said that we wanted to wait until the Budget planning time to do any salary changes. There was no formal resolution passed at that time and no formal vote. The next thing that happened was that we heard that the salary increases had happened anyway. Craig Marti's salary which had been at a 7.1 Grade level was now at a 7.6 level in the payroll book which was a 7.94% increase. Mike Vatter was moved from and 8.4 Grade level to and 8.6 level with a pay increase of 6.4%. The Council was not informed of any of this action. Councilman Brown found out about it through an informal channel in the Town. City Manager, Mr. Herbek, does claim that he can make step increases for all of the employees according to a formal step increase chart. In fact, there is some precedence for this action since it has been going on for several years; however, neither the City Charter nor the City Code formally gives this power to the City Manager. The Charter says that the Council shall by ordinance determine and regulate the compensation of all Officers and the Code says that increases during the fiscal year are authorized. The City Council of the City of Newburgh shall have the power and the authority by ordinance or by resolution to increase the salary or compensation of any City Officer or employee at any time during the fiscal year of the City. Either before or after the appointment of any such Officer or employee whether*

*or not such salary or compensations have been fixed or provided for in the Budget for the City. It says in both cases that the City Council is the one who holds the purse strings. During the final Work Session on November 19<sup>th</sup> before the Budget was passed several compromises were made. One item that the three Council people were very clear about was that wages for the Non-Bargaining employees would stay at the 2012 level except that we would agree that Mr. Marti would have half of the salary increase given in August. When we voted on that Budget the following Monday Councilman Brown, Councilman Dillard and myself all believed that the wages had been rolled back to the 2012 level except for the one half increase agreed on for Mr. Marti. However, that was not the case; all wages except Craig Marti's and Chief Vatter's were rolled back. Mike Vatter's full August increase was kept in place and Craig Marti was promoted again to an 8.2 Grade level given another 7.36% increase totaling a 15.3% increase over a six month time frame. Not one word of these increases was mentioned at the time of the vote. It seems to be a very sneaky move. It is not clear whether we had a copy of the payroll book in time for us to review it. There were many changes that had to be updated and the accounting department had to have time to do all the work between Council sessions. However, the fact remains, we as a City Council did pass the Budget with the raises included whether we knew they were there or not. It was a legal document approved by the Council. We did it and the bottom line is that it is not fair that two Non-Bargaining employees got salary increases last year while the others did not. Yes, it is true that Craig Marti was promised a higher wage when he was hired. It is also true that Mr. Marti does not have an employee contract with the City and I think it's also true that Craig probably said that he would leave if he did not get the raise which might be why the City Manager, I don't want to put words in his mouth, but it might be why he did what he did. Perhaps Chief Vatter also threatened the same action; however, we need to remind every public employee in this City that it is the taxpayers that pay your wages, your benefits and your pension. No one promises them anything. Their taxes go up and the services are minimal and many people are losing their houses or just leaving. Many have lost jobs during this economic meltdown. Public employees do not have the right to have automatic pay increases while everyone else's salary is on the downward slide. Everything has changed since 2008. New rules and new norms are being set whether we like it or not. In the words of the French Queen Marie Antoinette, we cannot say Let Them Eat Cake. Remember that she lost her head for that deal. So now here we are with two male Non-Bargaining employees who got raises last year when it was clear the intention of those raises were not given. We can rescind the raises by resolution tonight and then Mr. Marti, Chief Vatter and the City Manager can file lawsuits to fight the resolution. We can all hire lawyers which could cost the City four or five times the amount of money in legal fees. If we don't pass the resolution we are at risk of other City employees filing lawsuits for discrimination because they didn't get a raise. Normally when you work with a bargaining unit everybody has to*

*be treated the same. By picking out two and giving those raises and not the others you have discriminated against the ones who didn't get a raise. There is lawsuit potential for passing this resolution and there is lawsuit potential for not passing it. We sit on the edge of the knife right now. We can create a negative spectacle in front of the television and the newspapers and we can lose our focus on the big picture of moving this City forward in a positive direction and spend time fighting like children in a sandbox and we can throw this City under the bus if we want to because this issue has the potential to do all of that or we can all come to the table and figure out a fair way; fair to the taxpayers, fair to the other Non-Bargaining people and fair to what we need to do here. We need to get much more creative with what we are doing. It is within the power of the people here tonight, except Chief Vatter, who is not here to actually sit to the table and come up with some rational solution to this that is going to work because as I see it right now passing this resolution either way; passing it is a problem and not passing it is a problem. We have got to do something. I agree with Councilman Brown that we have got so many potential issues coming with labor and bargaining and as pensions and insurance keep going up. One of the reasons we are in this trouble right now is that the City Manager back in 2005, 2006 or 2007 started giving raises every year. Raises that were not justified and now we sit in this mess. I really say that we have to figure out that there is a difference between right and being effective. Sometimes we can be dead right and dead wrong at the same time. It all depends on your perspective. I am asking now if we are going to come together as adult people to solve a dilemma of these raises that happened that three of us said we were not going to do. The horse is out of the barn now what do we do?*

Councilwoman Lee told Mayor Kennedy that she is glad she asked. Although Mayor Kennedy turned to Councilman Brown and Dillard for direction she is going to toss in her two cents. Resolution #106-2013 should not be tabled as she thinks the staff should get some kind of increase and resolution #107-2013 shouldn't be tabled either. She is not going to vote to increase the taxes as she thinks that we are going to stay within the tax cap and she is going to say "no" to taking the funds back from the staff. If they said no to an increase, the City Manager works by resolution so a resolution should have come with that. It keeps coming up that the Council said "yes" but it was Mayor Kennedy, Councilman Dillard and Councilman Brown. That's alright but it was not the full Council because she wants it to be known that she never supported it. She never supported not giving people an increase. She thinks that since we have a surplus the staff should get the increases that they are due. She also thinks that since the taxes were increased so high over a two year period that the homeowners should get some kind of reprieve maybe in the form of not having to pay property tax in a certain period alphabetically or maybe we could give out a coupon. There are many creative ways to do this but increasing the taxes is not an option for her. It is not the taxpayers' fault

that the City has mismanaged its funds for many years which is where she stands.

Councilman Dillard suggested that they speak with Craig Marti and Chief Vatter in Executive Session and hammer this out in terms of negotiations.

Councilman Brown told Councilman Dillard that this was already negotiated. It was negotiated at the Work Session prior to voting on the Budget. This is just fixing what was broke and that's all. Craig and Mike Vatter understood what was discussed at that Work Session. They understood that they weren't going to get their raises and for either one of the two to threaten a lawsuit against this City he says, "Shame on you". They came on board knowing what their salary was. This City is not in a position to give raises to anyone. This resolution is just to fix what was broke and that's it. We don't need to negotiate anything. He said that Councilwoman Lee's suggestion to give abatements alphabetically is the craziest thing he has ever heard in his life. This resolution doesn't need to be tabled it needs to be voted on and they can vote any way that they like. Every time you table this resolution you have two people receiving a salary that they were not supposed to receive. It needs to be voted on tonight and they can vote any way that they like. He is not asking them to vote one way or the other. He knows what his vote is going to be and he assumes that everyone at this table knows what there vote is.

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

Ayes - Councilman Brown, Mayor Kennedy - 2

Nays - Councilwoman Angelo, Councilwoman Lee - 2

Abstain - Councilman Dillard - 1

DEFEATED

## PUBLIC COMMENTS REGARDING GENERAL MATTERS

Dawn Wilkin, representing the Team Newburgh Coalition located on the grounds of Newburgh Free Academy at the Gateway Center, said that they have been doing a lot of work in regard to the open sales of drug paraphernalia next to the candy and gum within the City of Newburgh. They are requesting the opportunity to present their findings at a Work Session and to submit the nine hundred letters signed in support of redoing the ordinance.

Councilwoman Lee said that she would love to hear it. She thinks that it is a wonderful idea.

Mayor Kennedy said that she is in favor of that.

City Manager, Richard Herbek said that May 23<sup>rd</sup> is filling up pretty quick and the next Work Session would be June 13<sup>th</sup>.

Dawn Wilkins responded that that date would be great.

Councilwoman Lee thanked them for the good work that they are doing.

Megan Dubois-O'connor, member of Team Newburgh said that she works for Power Against Tobacco funded by the New York State Department of Health. She noted that they provide a plethora of information, resources and advice along with a policy center that can help draft an ordinance and explain the legalities. It is all free of charge paid by our tax dollars so with all of this paraphernalia that is being sold as tobacco products they can work in conjunction with one another and provide these services free of charge to the City of Newburgh. She noted that she is working with Dawn and she will be at the presentation also.

Mayor Kennedy said that she didn't know that they did that. This is really good news.

Lisa Edwards, 165 Johnson Street, said that she bought her house a few years ago and she has been exhausted with cleaning up problems that she has resolved. With the help of George Bowles other things have been resolved as well. There are two outstanding issues that Mr. Herbek is aware of and he has been waiting for some paperwork that she will be submitting this evening. (copy attached)

Ms Lisa A. Edwards  
165 Johnston Street Apt#2  
Newburgh, NY 12550  
(914) 505-5451

May 13, 2013

City of Newburgh, NY  
Attention:

Mayor Judy Kennedy  
Councilwoman Mrs. Regina Angelo  
Councilman Cedric Brown  
Councilwoman Gay Lee ✓  
Councilman Curlie Dillard  
Richard F. Herbek, City Manager

As a new homeowner in the City of Newburgh and residing in the Lank Bank Area I've been exhausted in getting major issues and concerns addressed in the past 3 years.

***Currently the 2 major concerns that I am asking your help on are as follows:***

**1) 160 N. Miller Street**

Major concerns with the homeowner at 160 N. Miller Street, Mr. William Giametta who works for the City as a Code Enforcement Officer. His rental unit on the 2<sup>nd</sup> and 3<sup>rd</sup> floor have been imposing a problem for me, my family and my tenants for the past year. The apartment has housed up to 13 + dogs at the same time. As an ongoing problem this is a nuisance 24/7 and has diminished my quality of life with major noise disturbances. On April 15th 2013 I addressed Mr. Giametta when he and Mr. Steve Hunter were at my home on another matter. Mr. Giametta spoke with me on the issue advised me that his wife owes the home(s) and he manages the property(s). When I asked him who pays the rent he advised me that they are on assistance, one of the programs. He took my phone numbers and assured me he would take care to the issue and get back to me in 1 to 3 days. Not to worry that he would take care of it. Mr. Giametta has not follow up nor returned my phone call.

(Lisa Edwards continues)

Note:

- \* I was advised by several neighbors that no one lives in the unit and hasn't for some time; someone comes to feed the dogs.
- \* I'm Requesting: Mr. Giametta is investigated as to his involvement in ownership, management, etc.
- \* I'm requesting to meet with Mayor Kennedy, all Council members, Chief Michael Vatter and the City Manager on this issue so that this disturbance is removed.
- \* Please see attached map location, photos of dogs and the rental unit and one police blotter entry of the disturbance.

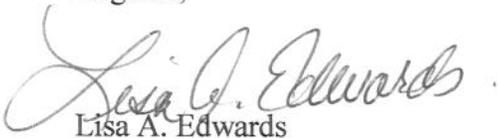
2) **Police Concern:**

Friday May 3, 2013 I called 911 in great fear with a domestic dispute which involved a weapon. At the location of the incident the Police did not take a statement. When the victim tried to file a report and have an abuser arrested the officer dismissed my tenant alleging that she fabricated the story, re-victimizing the victim. She immediately called me extremely upset and distraught. I was the caller and a witness to the incident so we went to City Hall and then the Police Department before they would do their job and take her report and a request for an O.P.

- \* I'm requesting a meeting with the Mayor, Council, City Manager and Chief of Police on this matter.

I look forward to working with you on the above issues.

Regards,

  
Lisa A. Edwards

Lisa A. Edwards  
165 Johnston St  
Newburgh, NY 12550

# Neighborhood Diagram



CITY OF NEWBURGH POLICE DEPARTMENT  
55 BROADWAY  
NEWBURGH  
NEWBURGH, NY 12550-  
(845) 561-3131

Entry/CC#: **CN-009231-13** Date: **05/06/2013** Time: **02:55** Tour: Desk Officer:

Call Type.....: **ANIMAL COMPLAINT** Priority...: **1** How Received: **TELEPHONE**

Caller.....: **EDWARDS, LISA**

Bus. Name..:

Address.....:

City/St/Zip: ,

Call Back #: **(845) 505-5451**

Location of Assignment: **165 JOHNSTON ST, NEWBURGH**

Cross Street.....:

Business Name.....:

Description.....: **STATES NEIGHBORS DOGS ARE BARKING ALL NIGHT**

Disposition.....: **COMPLETED**

Post: Dispatched: **Y** Dispatched Date: **05/06/2013** Call Taker: **PEREZ**

**OFFICERS INVOLVED**

Serial #:448 Rank:PO Name:HUMBERTO PEREZ

**UNITS INVOLVED**

Unit: DO Officers: (272)

Disp. Time: 03:08 | Arv. Time: 03:08 | Comp Time: 03:08

Rcv'd to Comp: 0:13 :: Disp to Comp: 0:00

**ASSOCIATED NUMBERS**

**PERSONS INVOLVED**

Name.....:EDWARDS, LISA

DOB: / /

Address.....:

City/State/Zip: ,

Phone Number...:(845) 505-5451

Business Number...( )

Sex.....: Race:

Person Type...:CALLER

**NARRATIVE FROM CAD SYSTEM**

Lisa Edwards states she lives at 165 Johnston st and states her neighbors at 160 N. Miller and 166 N. Miller have dogs who are constantly barking through the night. Ms. Edwards states she spoke to Mr. Giamatta from 160 N. Miller who she states owns four pit pulls. Ms. Edwards stated he told her he would take care of the problem but has yet to do so. Ms. Edwards stated this has been an ongoing problem for over a year.

[Mon 05/06/2013 03:04 By PEREZ448]

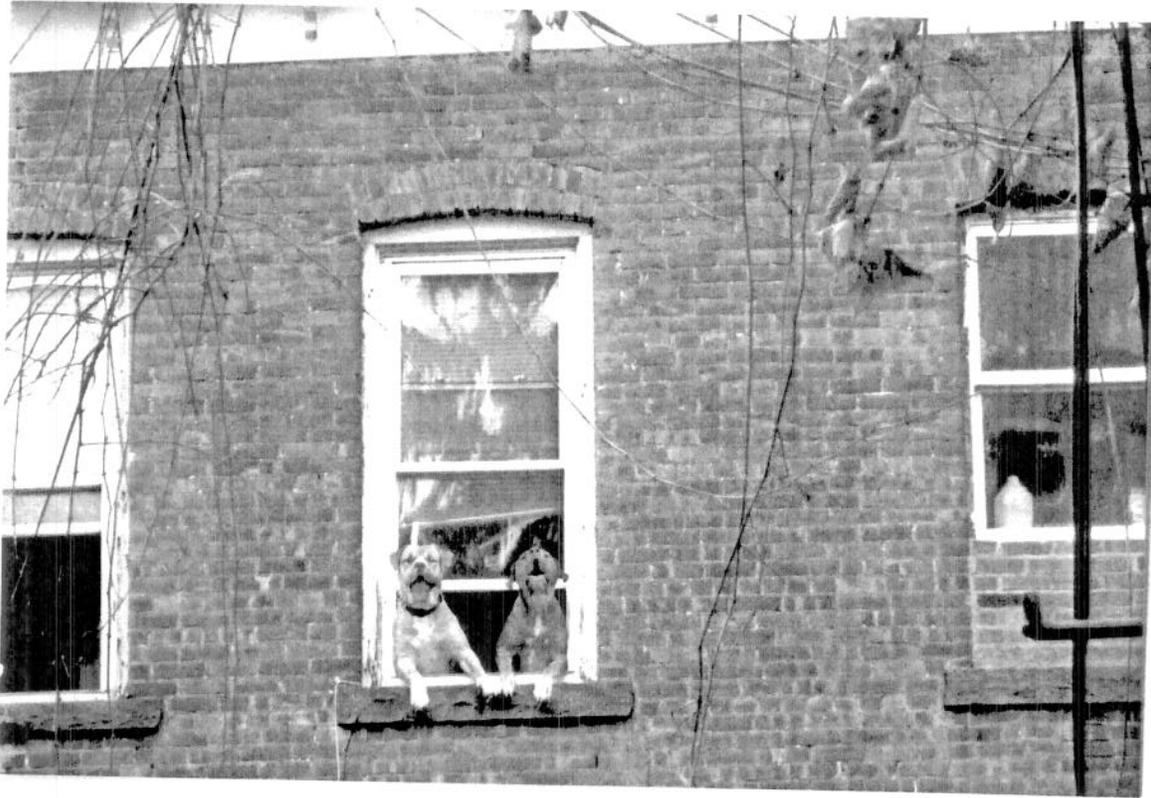
[Mon 05/06/2013 03:08 By PEREZ448]

160 N Miller St. / owner .

William Giannetta  
Code Enforcement  
2nd & 3rd FLAPT



160 N Mill St • 2/3 FL



160 W miles  
2nd / 3rd  
FL



George Bowles, 125 North Plank Road, said that Montgomery Street School is the School where he started his teaching career forty-seven years ago and Horizon on the Hudson was later. In the last forty-seven years we have closed five schools here in the City of Newburgh and we now have one left. We should fight to keep this school open because it is a legend in the school system. We need everyone's help to keep the school open. It would be a shame to lose all of the elementary schools in the City of Newburgh. Another issue is Pit Bulls in the City of Newburgh which is not good. Most Pit Bulls should be insured for one million dollars. They bite people and the person who owns the dog doesn't have a collar on it. He went over to 160 N. Miller Street and saw five dogs. There is a tenant on the first and second floors and there is a dog kennel on the third floor with all of the windows out and the Code Compliance people know about it. The quality of life is not good.

Natasha Cotton, Newburgh, thought that the Purple Heart dedication was awesome and that we need that here, however, that same Armory was the beginning of the 369<sup>th</sup> Colored Infantry Group that went on to become the Harlem Hell Fighters. She said that we never give the black people any type of play here. She has been fighting with Councilwoman Angelo forever about the Memorial Day Parade because they don't see the black people. Maybe we can get a banner for the 369<sup>th</sup> Infantry just like we did for the Purple Heart. She added that on August 17, 2013 they will be having the African American Day Parade once again. They have added an education abroad program and they would like to team up with some partners to see if they can send three disadvantaged youths out of the Country to be able to study abroad. As a tourism thing they have also added the Help Newburgh Live Project because they are tired of seeing Newburgh die. They want everyone to come out and help Newburgh live and she would like to see City Hall take part in it as well.

Jesse Blackman, City of Newburgh, said that he brought a matter before the Council about four to five months ago. They spoke with him and he was very pleased. He is supposed to be getting back his meters in a day or two and he would love to get this matter solved so he would like to know if the Council would see him again shortly.

Omari Shakur, City of Newburgh, said that the Purple Heart dedication was a good thing but there have been three deaths recently in our community. A reporter was just asking him how he felt about it and when these tragedies occur he noticed that you never see anyone from City Hall or any of our religious leaders. Newburgh has a lack of leadership. If five people from the same party can't get along then there is something wrong with that picture. He said that in June when the Petitions come out you will see who is running for Office asking for your votes. We have to understand and recognize as a community that there is no help coming. When the bombings at the Boston

Marathon happened their Officials were on top of it but here people are asking him questions instead of the Mayor or City Council. He noted that the City Workers have been working without a raise for the last five years so how did this other person receive a raise after one year? What has he been doing so well that our City workers haven't been doing?

Janet Gianopoulos handed out a copy of Work Session minutes from the Walla Walla City Council and said that it seems like a lot of confusion lately was caused by a lack of clarity on something that the Council works and votes on at every general meeting which is to accept the Work Session minutes. She looked on the City website and has not found any Work Session minutes and it seems to her that since the Council has consistently voted to approve Work Session minutes then these minutes must exist and they should be posted on the website so the public can see them. At the top of the Organizational Chart for Walla Walla, Washington it lists the citizens and it seems like sometimes we forget that at this table but the citizens employ the Council and then they employ others. One Council person spoke about the residents scrounging to pay their taxes and those people with mortgages have to pay taxes every month which is difficult so she asked the Council to please keep an eye on that. Do not wait until November and please post minutes of all meetings. The Council is talking on behalf of the residents and meeting publicly which should be recorded in minutes. Again she said that she finds no Work Session minutes on the website but since the Council has been voting to approve them they must exist otherwise that would be fraud.

City Manager, Richard Herbek, clarified that they do not take minutes of Work Sessions. That is an optional requirement. Minutes are only required where actions are taken by a City Council and in the case of most of our Work Sessions there are no resolutions or local laws approved and there is no action taken. We could do what Walla Walla does but then it becomes a Budget issue because you need a Clerk to be there to take the minutes of the Work Session. What we do is audio tape the Work Session so that there is an oral record. Another option is to video tape the Work Sessions as there are municipalities that do that too. We are looking into video streaming live which is another method. We occasionally need to go into Executive Session during a Work Session and when you go into Executive Session that is an action that they need to vote on so the minutes need to record the vote to go into Executive Session. There are minutes of when Council has voted to go into and out of Executive Session but he is not aware of any actions taken in recent history at an Executive Session. If the Council would like to take minutes at Work Sessions, they would have to Budget the funds necessary to accomplish that.

Gail Fulton, Liberty Street, said in regard to resolution #96-2013 that she is confused about issuing a Negative Declaration. She asked for an explanation.

City Manager, Richard Herbek, said that before the Council takes an action they need to consider the environmental impacts of a particular action. In certain cases a positive declaration, for example, would lead to a full environmental impact statement which is a long process. In this particular case, there was an environmental assessment form that was created and the Council issued a negative declaration under the SEQRA law that there are no environmental impacts on the action. The action is relating to the statute relating to the creation for the adoption of an amendment to the City Code. It doesn't affect the project and this is to put in place the ability from a zoning standpoint of considering the Mid-Broadway Project.

Ms. Fulton asked if this is the planning part.

City Manager, Richard Herbek, responded with a "yes".

Barbara Smith, Powell Avenue, said that she was confused about what the Council was voting on because at the Work Session they said they were only going to vote on the SEQRA but she believes that maybe someone thought that they were voting on the actual amendment. She thinks that the City Council needs to read the Ordinance and figure out what the special permit does and if after a year if things don't go as planned who is it up to to extend or deny another year of this special permit. Ms. Gianopolous' question was not only the minutes but the fact that the Council approves the minutes for the Work Sessions. How can they approve something that they don't do? Every week or month the Council approves the Work Session minutes by a vote and what she is saying is how can you vote on something that you don't have? If you are going to vote "yes", then present the minutes.

Corporation Counsel, Michelle Kelson, said that the Work Session minutes only consist of a record of the motions, seconds and votes taken at the Work Session. The only time that they typically vote at a Works Session is at the end of the Work Session when they enter Executive Session and then again to exit the Executive Session. Those are the only actions that are taken and those are the only things that are recorded. There will not be twenty-seven pages of minutes like you would have for a Council meeting. She thinks that people are looking for something that doesn't exist.

Barbara Smith said that the Council is voting on something that doesn't exist. It only exists if they go into a closed meeting and something happens so why vote on something that they don't have? Don't give the impression that

they have them. She asked what the vote was on resolution #108-2013 and would the Council please clarify it for the public.

Mayor Kennedy stated that it was two in favor, two against and one abstain, which means that the motion does not carry.

Timothy Hayes-el, City of Newburgh, said that he is a lifelong resident of the City of Newburgh and has made it a point to attend the City Council meetings for the last ten years as well as social meetings concerning the City of Newburgh. He said that he had an opportunity attend the Orange Hudson Valley Region Market Forecast and he was disrespected by Mayor Judy Kennedy who asked him what he was doing there because it was by invitation only. Then the People at the Newburgh Brewing Company who passed out jugs to everybody made a point to not give them one. He told the Mayor he doesn't like the direction that they are going in with her. He said it was very nasty and racist.

Mayor Kennedy asked if she could explain.

Timothy Hayes-el told the Mayor that she can't explain anything and she already had her say. He said that he felt utterly disrespected and racism is not going to be tolerated in the City of Newburgh in 2013.

Kippy Boyle, Grand Street, said on behalf of the Shade Tree Commission that they celebrated Arbor Day on Maple Street and the City Manager was there and photos were taken. She wanted to say thank you to Joe Szeli and his family on Maple Street for their donation to supplement the meager money that the Shade Tree had. They planted four trees there and it looks great. Last week she was glad to see the Mayor, City Manager and City Engineer attend a Green Infrastructure Conference at Kaplan Hall. It was an all day conference with very good speakers from around the region on storm water management and things that we can do to improve the City. The Shade Tree Commission has been intervening on sidewalk replacements because it is an opportunity for trees to be planted in place of sidewalks which means that the water goes there. She said that if anyone owns property on Broadway and they plan to replace their sidewalks make sure that they talk to the Shade Tree Commission because it is an opportunity to save them and the City some money.

Ms. Bell, former City of Newburgh resident, asked about the group that came a few months ago looking for a place to skateboard.

City Manager, Richard Herbek, said that they looked at three locations for the skateboard facility and the number one location would be right next to the Activity Center between the parking lot and the horseshoe pits. The next step is to design it so they will probably have to retain someone that does this kind of work. There is a process that they will have to go through to get that kind expertise and it's a question of putting it out for public bid.

Tammie Hollins, City of Newburgh, said in regard to the Board of Education election that is coming up we all know that they were trying to close a number of the elementary schools mainly Horizon on the Hudson. She and her two sons attended that school and the educators did a great job. It has been stated that the residents of the City of Newburgh do not get out to vote so she is asking everyone in this City to please come out and vote on May 21, 2013. There are a number of candidates running and her vote will be for Runston "Pop" Lewis who has been in the Board of Education for twenty-three years and he will make sure that they do not close Horizon on the Hudson School. She told everyone to come out and make their vote count. In regard to the Purple Heart presentation she said that Mayor Kennedy got up and did the presentation but didn't ask the Council to come up. She did the presentation on her own. In regard to the Orange County Partnership Commercial Summit, the person who spoke earlier was correct because she was there also. The Mayor never said "hello" or "how are you doing" because the first thing she asked her was "how did you get in here"? She told the Mayor that there is nothing she can say or explain. She reminded everyone to get out on May 21<sup>st</sup> and make their vote count to get real leaders who are going to come here and build a City for all of us.

Brenda McPhail, City of Newburgh, said that it was brought to her attention that Newburgh Community Action would like to be saved. She is not against that organization but if we are going to save it we have to change the people who are in it. If 280 Broadway was doing what they were supposed to be doing we wouldn't have all of the issues that we have and crime wouldn't be so bad. We have a lot of non-profits that could be giving us taxes and we need to deal with that. We have the Department of Social Services with a big parking lot and no meters. Most of those people don't live here in the City of Newburgh and we aren't getting one dime from them. People sit down at the Waterfront all day and we aren't getting a dime from them either. We keep talking about the same things over and over again but nobody is listening. They keep getting the same results year after year no matter who is sitting in office. She told the Council that if they are not business minded then they won't make a business decision. The City of Newburgh is a business and they must be business minded. She told everyone to get on board and do what is right for Newburgh.

Sheila Monk, City of Newburgh, thanked Ms. Hollins and Tim Hayes-el for bringing up the Summit and Mayor Kennedy because it was very disrespectful. The community worked her campaign and put her in office and she turned her back on the residents of the City of Newburgh. She said that they will be having Elections again and you might deceive us once but no more. She said that they are going to get out and educate the community on voting because we need to build a City for all of us. They are going to campaign for people who are for them. She said that we need to do a recall on the Mayor because we need a strong Mayor for our City.

Patricia Thomas, City of Newburgh, asked if taxes are being raised in the City.

The Mayor responded with a "no".

Ms. Thomas said that was what she thought she heard and was going to ask what would warrant raising taxes. What is the City doing about these buildings and a place for the youth? There is a lot out there that is vacant and so much could be done regarding these buildings. Why not help people get their own homes? Why not help them? The buildings are eyesores and they are going to waste so there could be places for the youth to go. There is a playground that has no swings so why doesn't the City do something? She would like to have some input on this because she is tired of looking at certain things here. Young people like to see role models and something going on in their own City. Let the people use vacant lots and buildings instead of letting them lie dormant.

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

## COUNCIL COMMENTS

Councilwoman Angelo said that she entered a contest about a month ago for fireworks called Red, White, Blue & You. They are going to chose two cities and it had to be one hundred and fifty words. She read what she submitted, *"Dear Sirs, I am honored and privileged to be a member of the Newburgh City Council and to enter our City in Destination America USA Weekend Red, White and You Fourth of July Celebration. Newburgh, a patriotic city of great natural beauty is nestled on the majestic Hudson River with an abundance of rare and significant historic architecture. Our city has the proud distinction of Washington's Headquarters in our midst. General Washington made Newburgh his Headquarters and his family their home during the latter part of the Revolutionary War. It was at Headquarters Newburgh that General George Washington created the Badge of Military Merit, the forerunner of the Purple Heart. It was here he declined to be crowned King of the New Republic. We are proud of our heritage in Newburgh and we hope you will agree that Newburgh is the ideal hometown for Red, White and You"*. She said that she hasn't heard anything yet but who else has Washington's Headquarters but Newburgh? Two cities could be chosen and she hasn't given up hope yet. She reminded everyone that the Parade will be on May 27<sup>th</sup> and they have nearly forty units with four bands. She encouraged everyone to get out and support the Parade. She thanked everyone for coming.

Councilman Brown first wanted to apologize to the taxpayers of this City and told them that he will continue to fight for them through his term on this Council. As he said earlier, everyone needs to remember that this is an election year and if they don't have people on this Council fighting for them as a taxpayer and they are only concerned about what's going on with the employees here at City Hall, then they need to make their vote count in November. When you have a Council member who abstains his vote because either he is not man enough to vote yes or no, they should question that. He said that when he is fighting he wants someone in the trenches with him who is not going to abstain the fight. *"You can vote yes or no but you don't abstain the fight"*. He wants someone next to him who is man enough to vote yes or no. To the taxpayers in this City he said to remember that. *"If you want someone to fight for you, make sure your vote is not abstained"*. *"If you have a Council member like Councilwoman Angelo who consistently votes no on issues that she should be voting yes on, then she is not supporting the taxpayers either"*. He told everyone to take note of that in November too. They need someone in the Ward that she is a part of to vote for the taxpayers of this City. He said that he will be taking note from now until Election Day in November.

Councilman Dillard said to explain why he voted to abstain is because Councilman Brown feels that he is the only one fighting for the taxpayers; he and Mayor Kennedy. *"Unbeknownst to the people, Councilman Brown and Mayor Kennedy do a lot of conniving and they are not going to pull me into that mess"*. He said that when he was elected to the Council he came in upright. No one can buy him and no one will buy him.

Councilman Brown asked Councilman Dillard to say what he has done for this City in the last four years.

Councilman Dillard said that the record will show what he has done and he asked Councilman Brown what he has done since he has been on the Council except cause confusion, be a non-team player and as he indicated earlier be conniving with the Mayor to disrespect his people. He said that we will continue this fight but he has something more important to state. The Board of Education has target Horizon on the Hudson to close. Horizon on the Hudson is the foundation of our community and many of our children have attended the school. When you strip away at the foundation, you destroy the community which is basically what's going on now. We lost West Street, Liberty Street, Washington Street and Broadway Schools. Currently there are only two elementary schools in our city; Gidney Avenue and Horizon on the Hudson. The Board of Education believes that Horizon is the easiest school to close because City residents do not vote. It has been stated by the members of the Superintendent's Cabinet that there will be less of a backlash from the community in closing Horizon. Horizon will be used as office space for Central Administration. This City must unite and not allow the Superintendent and Central Administration to close Horizon even though the Mayor has indicated that everything is alright. He said that he is supporting Runston Lewis because he assured him that he would not support the closing of Horizon on the Hudson School. It has been stated that our city residents do not vote so let's prove them wrong. He told everyone to exercise their right to vote during the School Board Election on May 21, 2013 and also at the Election in November.

Councilwoman Lee said that City of Newburgh is the birthplace of the Purple Heart which is absolutely magnificent. She is very proud and a little sad that our Veteran's still don't have a place to meet. They still don't have an administration where they can help Veteran's. They still have to borrow space from Mr. Kaplan and thank God for him. We have properties here that can be used for Veteran's Administration and that should happen. She said that she was asked on Thursday what she has done so she recapped a few things. She read over two hundred pages of proposals hence the Council came together to look at the Mid-Broadway Project. Congressman Maloney tells the joke that he moved to the City of Newburgh because she beat him and she told him that

he is a Congressman now and he can't take his shirt off so no one will ever know. He is in the City because of her insistence, pushing and begging. There are so many wonderful things that turned around in this City. She is the person who talked about a payroll tax and she still thinks it's a good idea. It would increase the revenue and should cut expenses for the City services for the homeowners. She said that she has a two-family home, not a two-family that's listed as a one family, and she has been unemployed and has struggled just as much as everyone else. She has been in foreclosure three times and today she learned from her Mortgage Company that she is not in foreclosure because she is a victim of Hurricane Sandy. Many people don't realize the impact that it had on the City of Newburgh but it had a devastating impact on her and her house. To start with her roof was damaged, her deck was damaged and she has what is tantamount to a mud slide in her basement along with mold. The Mortgage Company has come to her house and they have taken her back payments because she has been struggling to clean up this damage for six months and they gave her additional time. She understands what people are saying when they talk about their difficulties. She knows first hand what it is to have taxes go through the roof and then to have to pay for damage that was caused by a natural disaster. The pipes inside her wall exploded so she gets struggle, tax increase and that we need to do something. What she takes issue with is anybody assuming that she is not doing her part on this City Council. It does not require her to read or have conversation with the staff. It doesn't require her to say if someone needs her help just give her a call. It doesn't require her to say anything like that. What she does is say "yes" or "no" to the legislation but she is in it and she has been in it. She is in it so much that residents in the City of Newburgh asked her how she could allow NCAC to struggle the way it is and not leave her job to come back and help this organization. They don't need a big building but they need the organization and what it has delivered to the people. She knows that she is doing something when she is asked to leave her job to save this organization. She added that if anyone at the table feels they want to top that then they can have at it. She thanked everyone and said good night.

Mayor Kennedy said that she appreciated the Purple Heart Presentation tonight as it was a beautiful ceremony. There were many people standing and she didn't have a script written out so she just sort of winged it. It wasn't about her, it was about the Veteran's and she was just there to give the presentation. It wasn't anything to do with her. There was a Broker's Conference here last Thursday and at least ten people from the community called her prior to the Conference wanting to know if they could attend including a few Doctors and Lawyers. She told them that they could not attend as it was by invitation only and it was for brokers and real estate professionals. Three people spoke tonight and someone said something about racism but she was surprised to see these people there because she was told

that it was reserved for brokers. That was all. It was just a surprise. She added that she is pleased about the skateboard progress and she is happy to see that move forward. Every day after school starting around 1:00 p.m. there are about six hundred young people who go to the Boys and Girls Club for a youth program. There are about six hundred children who go to the Armory Center for activities and she doesn't know how many are going to the Center for Hope. At our next Work Session everyone will see a new proposal to give our young people a new opportunity. There is a whole group of people who have been working for several months to try to put something together for our young people. In regard to Horizon on the Hudson she wrote the letter that said we were not going to close it and she doesn't know anything about them still trying to close it. She said that she was told that they were not closing that school and she in no way supports the closing of Horizon on the Hudson. She does support Runston Lewis being on the Board but she is not in any way shape or form part of the closing of that school. She added that she doesn't believe that she and Councilman Brown have had a phone conversation since January.

Councilman Brown said that is correct. They have not met or spoke on the phone so he doesn't know what Councilman Dillard is talking about.

Mayor Kennedy said that she has no idea what that is about but she will let it go. She reiterated the Parade for Councilwoman Angelo and anyone that wants to be in it should get their notice in.

There being no further business to come before the Council the meeting adjourned at 9:45 p.m.

LORENE VITEK  
CITY CLERK