

CITY OF NEWBURGH
COUNCIL MEETING AGENDA

April 22, 2013
7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call
4. City Clerk's report for March
5. Registrar of Vital Statistics report for March
6. Civil Service Administrator's report for March/April

Presentations:

7. Certificates of Appreciation for the partners involved in the 2013 Gun Buy Back Initiative

Communications:

8. Approval of the minutes of the April 4, 2013 work session and the April 8, 2013 City Council meeting
9. Notice of Claim: Deborah Perez v. City of Newburgh
10. Notice of Claim: Eleonora Yudovich v. City of Newburgh
11. Notice of Claim: Cesa Lujan v. City of Newburgh
12. Notice of Claim: Jessica Olivencia v. City of Newburgh
13. Notice of Claim: Christopher Page v. City of Newburgh
14. Notice of Claim: Maria Vacante v. City of Newburgh

Public Hearing:

15. A public hearing concerning an ordinance to amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances to add a section related to "large-scale mixed use development special use permit".

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

16. Reminder: Newburgh Clean up day is Saturday, April 27
17. Resolution No. 81 - 2013
A resolution authorizing the City Manager to execute a contract with Workforce Development Institute to develop a business advisory council of local employers to provide employment opportunities for qualified City of Newburgh residents at a cost of \$50,000.00
18. Resolution No. 82 - 2013
A resolution authorizing the City Manager to enter into natural gas and electric contracts with Hess Corp. through the Municipal Electric and Gas Alliance for a two-year term at a fixed rate.
19. Resolution No. 83 - 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$1,004,000.00 from fund balance to capital fund for the purpose of purchasing vehicles.
20. Resolution No. 84 - 2013
A resolution authorizing the City Manager to execute an agreement with International Data Base Corp. d/b/a Interactive Procurement Technologies by Bidnet to provide for web-based solicitation and bidding services.
21. Resolution No. 85 - 2013
A resolution authorizing the City Manager to execute a license agreement with Precision Pipeline solutions to allow access to City-owned property as a staging area for pipe, equipment and related materials for various projects during the 2013 construction season.
22. Resolution No. 86 - 2013
A resolution authorizing the City Manager to execute a license agreement with Kiska Construction to allow access to City-owned property as a staging area and for purposes relating to maintenance and repair of the Route 9W Bridge by the New York State Department of Transportation.
23. Resolution No. 87 - 2013
A resolution authorizing the City Manager to enter into agreements with various parties to provide performing artists and related services in connection with the Newburgh Illuminated Festival.

24. Resolution No. 88 - 2013
A resolution of the City Council of the City of Newburgh opposing the proposed merger of CH Energy Group, Inc. with Fortis, Inc.
25. Resolution No. 89 – 2013
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Watanabe Studio Ltd. to the premises known as One Edward Street.
26. Ordinance No. 4 – 2013
An ordinance to amend Article VII, entitled “Special Use Permits” of Chapter 300 of the Code of Ordinances of the City of Newburgh entitled “Zoning” by adding Section 300-38 entitled “Large-Scale Mixed-Use Development Special Permit”.
27. Ordinance No. 5 - 2013
An ordinance rescinding the language contained in Chapter 121 entitled “Buildings, Vacant” of the Code of Ordinances of the City of Newburgh and amending Chapter 121 entitled “Buildings, Vacant” to require the maintenance of vacant properties in the City of Newburgh, establishing registration requirements, and levying a registration fee on owners of vacant properties.
28. Ordinance No. 6 – 2013
An ordinance amending Chapter 163 entitled “Fees” of the Code of the City of Newburgh. (relates to Chapter 121, Buildings, Vacant)
29. Resolution No. 90 - 2013
A resolution of the City Council of the City of Newburgh assuming lead agency status under the State Environmental Quality Review Act (SEQRA) for a stormwater and drainage easement in connection with the settlement of litigation in the matter of City of Newburgh v. Mark Sarna, Sarna Enterprises, Inc., Mt. Airy/Airy Estates, Inc., New Windsor Development Co., LLC and Drainage District No. 6, Mount Airy Estates, the Reserve, Town of New Windsor, New York, declaring the easement to be an unlisted action, adopting the Environmental Assessment Form, issuing a negative declaration and authorizing the City Manager to execute all SEQRA documents.
30. Resolution No. 91 – 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$40,911.00 from Contingency to Code Enforcement to fund a code enforcement officer dedicated to Broadway for the remainder of 2013.

Old Business:

31. Audio recording of November 19, 2012 Work Session discussion

Agenda - City Council Meeting
April 22, 2013

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

City of Newburgh, Newburgh New York
Work Session of the City Council

Thursday, April 4, 2013

Members Present: Mayor Judy Kennedy
Councilwoman Regina Angelo
Councilman Cedric Brown
Councilman Curlie Dillard
Councilwoman Gay Lee

Also Present: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel

Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 6:00 pm.

Executive Session: At 8:26 p.m. a motion was made by Councilwoman Angelo and seconded by Councilwoman Lee to enter into executive session regarding matters of pending litigation.

YES: 5
NO: 0
CARRIED

Adjournment: Upon consensus, the Council adjourned at 9:20 p.m.

A regular meeting of the City Council of the City of Newburgh was held on Monday, April 8, 2013 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Pastor Donie Murphy with New Beginnings Church followed by the Pledge of Allegiance.

Councilman Brown asked for a Moment of Silence for Sgt. Joe Lee who we lost last week.

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

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the March 21, 2013 Work Session and the March 25, 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 be referred to Corporation Counsel with power to act.

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

CARRIED



City of Newburgh Proclamation

National Service Day

April 9, 2013

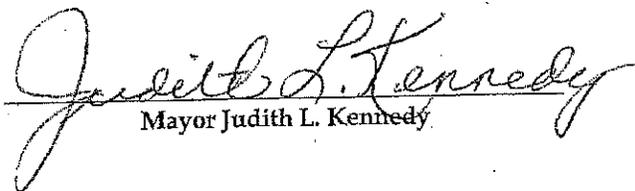
Service to others is a hallmark of the American character, and central to how we meet our challenges, and national service participants such as AmeriCorps and Senior Corps serve in more than 70,000 locations across the country, including the City of Newburgh.

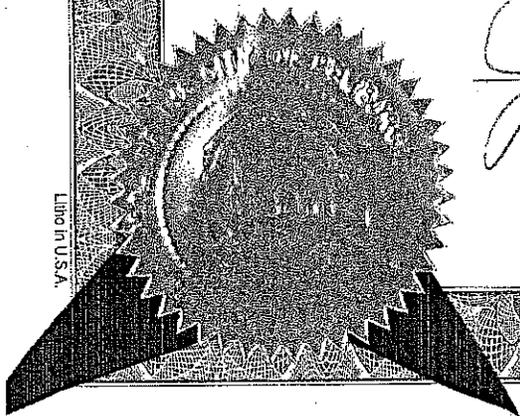
These participants bolster our civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being.

National service represents a unique public-private partnership that helps create more sustainable and resilient communities while providing education, career skills and leadership opportunities for those who serve.

The Corporation for National and Community Service is joining with mayors across the country to support the Mayors Day of Recognition for National Service on April 9, 2013; therefore

I, Judith L. Kennedy, Mayor of the City of Newburgh, NY, do hereby proclaim April 9, 2013, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our City, to thank those who serve; and to find ways to give back to their communities.


Mayor Judith L. Kennedy



COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

There were no comments.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

There were no comments.

CITY MANAGER'S REPORT

City Manager, Richard Herbek, reminded everyone that April 27, 2013 will be Newburgh Clean Up Day. He asked everyone in the community to come out and do whatever they possibly can to help.

RESOLUTION NO.: 69 - 2013

OF

APRIL 8, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$2,400.00 FROM CONTINGENCY TO
CITY COUNCIL AND MAYOR EMPLOYEE BENEFIT
IN CONNECTION WITH DENTAL AND VISION PLANS
WHICH WOULD COVER JULY 1, 2013 THROUGH DECEMBER 31, 2013

BE IT 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.1900 Special Items .1990 Contingency - Emergency	\$2,400.00	
A.1010 City Council .0880 Employee Benefit		\$1,800.00
A.1210 Mayor .0880 Employee Benefit		\$ 600.00

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.: 70 - 2013

OF

APRIL 8, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$1,200.00 FROM CONTINGENCY TO
FIRE DEPARTMENT OTHER EQUIPMENT IN CONNECTION
WITH THE PURCHASE OF DECIBEL METERS

BE IT 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.1900 Special Items	\$1,200.00	
.1990 Contingency		
A.3412 Fire Department		\$1,200.00
.0205 Other Equipment		

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.: 71 - 2013

OF

APRIL 8, 2013

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO
HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC.
TO THE PREMISES KNOWN AS 45 CHAMBERS STREET
(SECTION 30, BLOCK 4, LOT 12)

WHEREAS, on June 7, 2012, the City of Newburgh conveyed property located at 45 Chambers Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 4, Lot 12, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, in preparation for the sale of 45 Chambers Street to the homeowner Habitat for Humanity has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development 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, 5, 6 and 7 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

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 45 Chambers Street, Section 30, Block 4, Lot 12 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 in a deed dated June 7, 2012, from THE CITY OF NEWBURGH to HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC., recorded in the Orange County Clerk's Office on June 15, 2012 in Liber 13358 of Deeds at Page 1005 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed

Dated: _____, 2013

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK
City Manager

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 72 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO
HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC.
TO THE PREMISES KNOWN AS 47 CHAMBERS STREET
(SECTION 30, BLOCK 4, LOT 11)**

WHEREAS, on June 7, 2012, the City of Newburgh conveyed property located at 47 Chambers Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 4, Lot 11, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, in preparation for the sale of 47 Chambers Street to the homeowner Habitat for Humanity has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development 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, 5, 6 and 7 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

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 47 Chambers Street, Section 30, Block 4, Lot 11 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 in a deed dated June 7, 2012, from THE CITY OF NEWBURGH to HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC., recorded in the Orange County Clerk's Office on June 15, 2012 in Liber 13358 of Deeds at Page 1011 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed

Dated: _____, 2013

THE CITY OF NEWBURGH

By:

RICHARD F. HERBEK
City Manager

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 73 - 2013

OF

APRIL 8, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER 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, DECLARING THE PROJECT TO BE AN UNLISTED ACTION, CONSIDERING AN ENVIRONMENTAL ASSESSMENT FORM(EAF), REFERRING SAME TO THE ORANGE COUNTY PLANNING DEPARTMENT AS REQUIRED BY SECTION 239 OF THE GENERAL MUNICIPAL LAWS AND SCHEDULING A PUBLIC HEARING

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 the attached Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site; and

WHEREAS, the Development Agreement obligates the City to adopt modifications to the Zoning Code to permit the proposed development; and

WHEREAS, consistent with the City's Future Land Use Plan and Map, adopted by Resolution No. 172-2011 of September 12, 2011, the City is proposing to adopt an amendment to Article VII, entitled "Special Use Permits" of Chapter 300 of the Code of Ordinances, to add Section 300-38 entitled Large-Scale Mixed-Use Development Special Permit, which will permit the proposed development project at the Mid-Broadway site and allow for other mixed-use development to proceed in the future; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the action to be an Unlisted action, proposes to accept as complete an Environmental Assessment Form ("EAF"), refer the proposed ordinance to the Orange County Planning Department pursuant to General Municipal Law Section 239, and schedule a public hearing in connection with the proposed legislation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. That the City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6; and
2. Classifies the action as an Unlisted Action; and
3. Proposes to accept as complete the Environmental Assessment Form ("EAF") attached hereto; Refers the proposed Ordinance to the Orange County Planning Department as required by General Municipal Law Section 239; and
4. Schedules a public hearing to receive comments concerning "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"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 22nd day of April, 2013, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

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.: 74 - 2013

OF
APRIL 8, 2013

A RESOLUTION TO AUTHORIZE THE AWARD OF A BID
AND TO EXECUTE AN AGREEMENT FOR VENDOR SERVICES
WITH ECONOMY CLEANERS
TO PROVIDE UNIFORM CLEANING SERVICES
TO THE CITY OF NEWBURGH POLICE DEPARTMENT

WHEREAS, the City of Newburgh Police Department has implemented a Quartermaster system for issuing police uniforms which requires that the uniforms be cleaned on a regular basis prior to issuance to police officers; and

WHEREAS, the City of Newburgh has duly advertised for bids for the Uniform Cleaning Services for the City of Newburgh Police Department; and

WHEREAS, bids have been duly received and opened and Economy Cleaners is the low bidder; and

WHEREAS, the fees for items to be cleaned weekly are a flat rate price of \$9.95 for 2 pants and 2 shirts, 4 items of combination, and items to be cleaned on occasion are dress blouse \$3.25 each; winter jacket \$8.00 each; and vest cover \$2.25 each; and

WHEREAS, the quoted prices are fixed and guaranteed for the length of the contract for a term of one (1) year with no annual price index increases; and

WHEREAS, such contract is in the best interests of the Police Department and the citizens of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the Uniform Cleaning Services be and it hereby is awarded to Economy Cleaners and that the City Manager is hereby authorized to enter into a contract for such work in the aforesaid amounts, funds to be had from budget line A.3120.0448.

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

74-13

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2013, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and Economy Cleaners, a firm with principal offices at 567 Broadway, Newburgh, New York, 12550, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter "Department Head").

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning May 1, 2013, and ending April 30, 2014.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set

forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

ARTICLE 7. FAIR PRACTICES

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

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

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

indirectly, to any other bidder, proposer or to any competitor; and

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance

covering personal injury and property damage, and other insurance as may be required by law and as VENDOR may require.

ARTICLE 14. INDEMNIFICATION

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

ARTICLE 16. TERMINATION

The CITY may, by written notice to VENDOR effective upon mailing, terminate

this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

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

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

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

ARTICLE 17. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent

jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 18. SET-OFF RIGHTS

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

ARTICLE 19. GOVERNING LAW

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

ARTICLE 20. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 21. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

ECONOMY CLEANERS

BY: _____
RICHARD F. HERBEK,
CITY MANAGER

BY: _____
NAME:
TITLE:

DATE: _____

DATE: _____

APPROVED AS TO FORM:

MICHELLE KELSON,
CORPORATION COUNSEL

DATE: _____

KATHRYN NIVINS,
ACTING CITY COMPTROLLER

DATE: _____

SCHEDULE A

SCOPE OF SERVICES

UNIFORM CLEANING SERVICES

3.0 CLEANING:

- A. All uniforms are to be thoroughly cleaned and have all stains removed through laundering procedures in accordance with manufacturer's specifications.
- B. All garments are to be spotted for stains and treated with the proper chemicals to insure their removal.
- C. All cleaning chemicals used must meet or exceed current environmental and safety requirements.
- D. The final rinse water shall be brought to a PH of between 5.5 and 6.0.
- E. Officer pants are to be hung on a 13 gauge hanger with a no slip trouser guard.
- F. Officer shirts are to be hung on a 14 gauge executive shirt hanger.
- G. All garments are to be twist-tied and bagged in plastic cover.
- H. All invoices shall be sent to the Police Department on a monthly basis with a summary of all services attached. Such shall be mailed to: City of Newburgh Police Department, 83 Broadway, Newburgh, NY 12550.

SCHEDULE B

FEEES AND EXPENSES

CLEANING PRICE RATE

1. ITEMS TO BE CLEANED WEEKLY - PRICED AT A FLAT RATE:

2 OFFICERS PANTS
2 OFFICERS SHIRTS
4 ITEMS OF COMBINATION \$ 9.95 FLAT RATE PRICE

2. ITEMS TO BE CLEANED ON OCCASION - PRICED PER ITEM:

DRESS BLOUSE \$ 3.25 PRICE EACH
WINTER JACKET \$ 8.00 PRICE EACH
VEST COVER \$ 2.25 PRICE EACH

Quoted prices are fixed and guaranteed for the length of the contract with no annual price index increases.

RESOLUTION NO.: 75 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO A LICENSE AGREEMENT WITH HOUSE OF REFUGE
TO ALLOW USE OF CITY OWNED PROPERTY LOCATED AT
140 BROADWAY FOR THE TUESDAY FARM MARKET**

WHEREAS, the City of Newburgh is the owner of several parcels of real property located at 132, 136, 138, 140, 140A, 144, 146 and 148 Broadway; 6, 10, 12, 16 and 18 Johnston Street; and 6, 8 and 10 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway"; and

WHEREAS, the Tuesday Farm Market has been held on the south side of Broadway between the House of Refuge and the Armory Building; and

WHEREAS, House of Refuge, the Tuesday Farm Market Manager and Orange County propose moving the Tuesday Farm Market to 140 Broadway, the City-owned land on the north side of Broadway, commonly referred to as the "Mid-Broadway site"; and

WHEREAS, the benefits of moving the Tuesday Farm Market include:

1. To provide greater visibility to attract more buyers and vendors;
2. To promote positive activity on Broadway; and
3. To provide more space for Orange County agencies to provide information and conduct demonstrations for the community; and

WHEREAS, moving the Tuesday Farm Market to 140 Broadway the 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 and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with House of Refuge to allow access to and use of several City-owned properties for the purpose of holding the Tuesday Farm 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 HOUSE OF REFUGE, with offices at _____ 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:

132, 136, 138, 140, 140A, 144, 146 and 148 Broadway; 6, 10, 12, 16 and 18 Johnston Street; and 6, 8 and 10 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway".

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 140 Broadway, 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: Licensor 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 Licensor harmless against any claims, actions and proceedings brought against Licensor 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 Licensor 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 July 1, 2013 to September 30, 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

HOUSE OF REFUGE

LICENSEE

By:

Bishop Jeffrey Woody

RESOLUTION NO.: 76 - 2013

OF

APRIL 8, 2013

**A RESOLUTION REAPPOINTING KATHY PARISI
TO THE BOARD OF ASSESSMENT REVIEW**

WHEREAS, it is necessary to appoint members to vacancies on the Board of Assessment Review; and

WHEREAS, each member of such Board serve a five-year term; and

WHEREAS, it is necessary to re-appoint one member whose term of office expired and who is willing to serve a new term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Assessment Review for the term indicated:

Kathy Parisi, to serve a new five-year term commencing retroactively on October 1, 2012 and expiring on September 30, 2017.

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.: 77 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A DONATION OF A VEHICLE FROM THE
CITY OF PORT JERVIS TO BE USED
BY THE CITY OF NEWBURGH POLICE DEPARTMENT K-9 UNIT**

WHEREAS, the City of Port Jervis has offered to donate a 2005 Ford Crown Victoria to the City of Newburgh; and

WHEREAS, this contribution will be used by the City of Newburgh Police Department K-9 Unit; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to accept a 2005 Ford Crown Victoria from the City of Port Jervis, New York, with the appreciation and thanks of the City of Newburgh.

Councilwoman Lee asked if this is going to cost us anything.

City Manager, Richard Herbek, responded with a "no".

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.: 78 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
25th ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh will hold its annual International Festival from Friday, August 30, 2013 through Monday, September 2, 2013, dates inclusive; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding from proceeds from previous festivals available in a Trust and Agency Account and the 2013 City budget; and

WHEREAS, such agreements shall not exceed and the funds in the Trust and Agency Account and the 2013 Festival Budget;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into the referenced agreements in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the 25th Annual International Festival, with the net cost to the City of such agreements not to exceed the Trust and Agency Account proceeds and 2013 Festival Budget.

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.: 79 - 2013

OF

APRIL 8, 2013

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF
ROSEANN DEGEORGE AGAINST THE CITY OF NEWBURGH IN THE
AMOUNT OF THREE THOUSAND FOUR HUNDRED NINETY-FIVE
DOLLARS**

WHEREAS, Roseann DeGeorge 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 Three Thousand Four Hundred Ninety-Five (\$3,495.00) Dollars in exchange for a release to resolve all claims among them; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorney is hereby authorized to settle the claim of Roseann DeGeorge in the total amount of Three Thousand Four Hundred Ninety-Five (\$3,495.00) Dollars, and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

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

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

ADOPTED

RESOLUTION NO.:80 - 2013

OF

APRIL 8, 2013

A RESOLUTION AUTHORIZING THE
EXTENSION OF TIME TO CLOSE TITLE ON THE PROPERTY
LOCATED AT 34 CARTER STREET (SECTION 22, BLOCK 2, LOT 26)
SOLD AT PRIVATE SALE TO STACEY BURKS

WHEREAS, the Council of the City of Newburgh, New York, by Resolution No. 16-2013 of January 14, 2013, authorized the sale of 34 Carter Street (Section 22, Block 2, Lot 26) to Stacey Burks; and

WHEREAS, Mr. Burks resides at said premises; and

WHEREAS, he is requesting an additional of time to close due to unforeseen circumstances in obtaining the necessary funds for the purchase price; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 34 Carter Street is hereby authorized and that the closing shall take place on or before June 13, 2013, that date being sixty (60) days from the date set forth in Resolution No. 16-1013 of January 14, 2013.

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

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

Nays - Councilman Brown - 1

ADOPTED

OLD BUSINESS

There was no old business

NEW BUSINESS

Councilman Brown said that several months ago they spoke with the City Manager about raises and told him that he was not to issue any raises until the Budget. That didn't happen because the City Manager actually issued raises to two employees of the City of Newburgh and he believes that was insubordination. He said that he left it alone primarily because the Budget was coming up in a few months and when they had their last meeting prior to the approval of the Budget the Council discussed what should and shouldn't be in the Budget and part of that discussion was the raises. The Mayor specifically said that all salaries are to return to 2012 salaries and that our City Engineer was to keep half of his salary. That is what he heard and that is what he voted on. Unfortunately they didn't get the Payroll Book prior to voting on the Budget which is essentially a problem because if he had had the Payroll Book prior to voting on the Budget he never would have voted on it because in his opinion there were errors in the Payroll Book. The Fire Chief maintained his salary with about an additional \$7,000.00 and Craig received an increase of about \$13,000.00 which is not what he agreed on. The Fire Chief was supposed to go back to his 2012 salary which was about \$103,000.00 and Craig was to get half of his raise which was only supposed to be about \$7,000.00. That didn't happen and it shows in the Payroll Book. When he got his Payroll Book he immediately e-mailed Councilman Dillard and Mayor Kennedy and asked them what they wanted to do about this problem. The response from the Mayor was that she didn't feel they should tackle it at this time and he didn't hear back from Councilman Dillard. This has been bothering him up until this point. He said that he was elected to this seat for a vote and when he votes on financial matters he is voting for the taxpayers of this City because they are the ones who hold the bill. His vote was not to give anybody in the Non-Bargaining any raise increases except for Craig who was to keep half of his raise and that was it. That is all he voted on. The Council members at this table all heard the same thing that he heard and if they want to dispute that they can. Anyone who was in that room that night heard exactly that. He said that he wants to be fair to all of the employees of this City including the Non-Bargaining employees. We were not in a position to give any raises to anybody last year. Craig came to the Council and asked for a raise and they told him directly that it would be considered in the next Budget but again that didn't happen. This year we have a little bit of money but if

anyone in the room thinks that three million dollars is a lot for a city of this size then he is here to tell them that they are wrong. Three million can be eaten up in minutes or a day because all it takes is a bad weather event or something like that to take that money right out of the Budget. They have to be concerned because the Police and CSEA are now in negotiations but more importantly they need to think forward to the Non-Bargaining who have not had a raise in about five years. How is it fair that two people are allowed to get raises and the other Non-Bargaining employees get none? On top of that they take his vote away. That is not what he was elected for. His vote is supposed to count whether it is a yes or a no. He said that he is going to draft a letter to the New York State Attorney General asking them to launch an investigation to a possible conspiracy between the former City Comptroller and the City Manager. Those people sat in this room and heard exactly what he heard so if they got something different then it is between those two people. If there was a question about who should have gotten what, both had ample amount of time to contact the City Council to get clarification on what should have been done. He added that he will be drafting that letter and he will copy it to all of the Council members, the City Manager, the Governor of New York State and the State Comptroller and we will go from there.

City Manager, Richard Herbek wished to speak.

Councilman Brown said that Mr. Herbek is not allowed to speak unless the Mayor allows him to speak.

City Manager, Richard Herbek said that is not accurate

Councilman Brown said that it is accurate. He has done his part and he is not allowed to speak.

City Manager, Richard Herbek told Councilman Brown that he would read the rules and procedures of the Council.

Councilman Brown told City Manager, Richard Herbek that he is not allowed to speak.

Mayor Kennedy said that they need to bring order back into the room. In order to process through this in a reasonable fashion, according to the Robert's Rules of Order they have to put a topic on the table, agree that they are going to discuss it and then discuss it. She said that on this topic they need to have order with it so everyone has to speak one at a time and they will move forward in that way.

Councilman Dillard said that this is a matter concerning employees so he asked Michelle Kelson, Corporation Counsel, if it should be discussed in Executive Session.

Michelle Kelson, Corporation Counsel, said that if they are talking about the appointment, removal or discipline of a particular person then they have a proper subject for Executive Session. If they are talking about information that is in the adopted Budget, then that may not be a subject for Executive Session.

Councilwoman Lee pointed out that she is really happy that Councilman Brown said that he contacted by e-mail Mayor Kennedy and Councilman Dillard to discuss what should happen at this City Council meeting and he specifically did not say that he e-mailed or contacted her or Councilwoman Angelo.

Councilman Brown said, *"Because I didn't"*.

Councilwoman Lee added that they had a discussion in Executive Session about these salaries and not one of them said anything. It happened to be a day that Councilman Brown wasn't there. They discussed these salaries and they did give the City Manager permission to move forward by virtue of their silence.

Councilman Brown said, *"That's not true"*.

Councilwoman Lee told Councilman Brown not to interrupt her. She said, *"This is not an extension of your kitchen. If you want to bully someone, go home and do it"*.

Mayor Kennedy told Councilwoman Lee to stick to the topic and continue what she was saying.

Councilwoman Lee continued that the City Manager makes the decision. We have staff here who were given increases and those increases were pulled back so there was never a question about what was fair. This has come to the table several times and she wanted to point out that Mayor Kennedy and Councilman Dillard still haven't commented. It is back at the table now with Councilman Brown taking the lead as if he can call for an investigation on his own. She thinks that it is unfair and inappropriate and she is not in any way going to support such an investigation. She thinks that the increases that were given were due. Craig Marti does more than his fair share with an increased work load and they didn't give him another staff person. She thinks the same about Chief Vatter. It is time to stop with the

anger, the hatred and the bullying and give these men the increases they deserve and give the rest of the staff the increases that they deserve. It is not their fault that the funds were so poorly mismanaged that nobody could get an increase. It wasn't an extensive increase for the Non-Bargaining staff and they should have gotten something but the other three Council members said no.

Councilman Dillard said that he had no comment because this may end up in litigation and he may have to testify in Court.

City Manager, Richard Herbek said that he would like to say something and according to Rule five he told Mayor Kennedy that it says very clearly that the City Manager shall be permitted to address the Council and participate in discussions.

Mayor Kennedy said that she does know that.

City Manager, Richard Herbek said that since this has been brought up he not only has a right but a duty to clarify this so there are just a couple of points he wants to make. He said that he gave the Council a Memorandum dated September 27, 2012 which talked about the Non-Bargaining Unit employees, the Fire chief and the City Engineer and he has the authority and the right to give Grade increases. Last summer he did give a Grade increase to the Fire Chief to raise his salary to \$110,483.00. That is the exact same number that is in the Budget so it has not changed since last summer when he was given that Grade increase. With respect to Craig Marti, he was given a Grade increase to increase his salary to \$102,812.00. All of this was very clearly spelled out and clarified back in September, 2012.

Councilman Brown told the City Manager that he may have in fact done that but he was given a direction in Executive Session that there would be no raises until the Budget. All Council members were present and his words were exactly this, *"There will be no raises and all raises will be considered during the 2013 Budget"*, which meant that there would be no raises. Those were the last words so those words carry and that is a direction from this Council that stops the City Manager from doing what he rightfully has the right to do. He told The City Manager that he didn't have the right after he stated what he stated. Before then, "yes" but after that, "no". Those raises came after what was said in Executive Session so they were given illegally under his insubordination.

City Manager, Richard Herbek told Councilman Brown that he doesn't consider it insubordination at all. He feels that he had the right, the power, the duty and the authority to do what he did at that point in time. The only

way that the Council can act is by Resolution, Local Law or Ordinance. Those are the ways that this Council or any Council acts.

Mayor Kennedy said that what we have here is a major difference of what is legally permissible. She said that she does recall the discussion of this Council when they said that they would not give raises this year. She knows that Councilman Brown is talking about a situation where from his perspective it is a matter of fairness when two people received raises when we said that none of the Non-Bargaining would get raises this year. She also knows from the City Manager's perspective that in his definition that is called a step raise which is within his right to do. She said that they have before them a difference of opinion of what is legally possible to do so they may need to have some legal help to figure what that is and what is legally right. She does know that three of the Council said, "no raises" because of the situation with the Budget last year.

Councilwoman Lee asked to see the Resolution.

Mayor Kennedy said that it was not in a Resolution it was when they were talking about raises in discussion. It was not passed by a Resolution so what they have to do is look and see what they have agreed to. They could probably look back at the minutes and what they have documented and they need to do this in a step wise reasonable fashion. She said that this Council operates by rule of law and rule of order and they will do it that way. They will get to the bottom of this and do it properly in the way they need to do it. She suggested that they step back through the minutes and their agreements and come to some decision about what they have done here and where this needs to go.

City Manager, Richard Herbek said that that will have to be done by a member of the Council not by him.

Councilwoman Angelo noted that both of these salaries were included in the 2013 Budget and they had a five to nothing vote on that Budget. They all agreed to the 2013 Budget and their salaries were included.

Councilman Brown said that those salaries were not included in the 2013 Budget and they did not receive that Budget until after they voted on it. Had they received that Budget prior to voting on it they would not have been included. That is what the point is. He said that he did not agree on that and he is not going to accept it. They will launch whatever investigations that need to be launched but he will be writing a letter to the Attorney General asking him to step in and see what he may find.

Mayor Kennedy said that they will have to figure out what they are going to do from here.

Councilman Brown added that he doesn't need the support of the Council and he is not asking for their support on this. He doesn't need the support of the Council to send a letter to the Attorney General. He will prepare it with his own signature on it and he will copy it to each Council member and the City Manager.

Mayor Kennedy said that is anybody's right to write to the Attorney General. She wanted to bring up another topic under Old Business about the proposed merger of Central Hudson and Fortis. This is a Canadian company that is looking at buying out Central Hudson and she has been doing some research on that. She is coming to the conclusion that this is not in the best interest of the citizens in our community because we are going to lose a lot of local control over our gas and electric. She handed out a template for a Resolution and asked the Council if that is something that they would like to talk about next week.

City Manager, Richard Herbek said that it is already on for the next Work Session.

Councilwoman Angelo announced that the Memorial Day Parade Committee appointed David McTamany to be the Grand Marshall.

There being no further old business to discuss, this portion of the meeting was closed.

COMMENTS FROM THE PUBLIC

Kippy Boyle, Grand Street, said to all the Grand Street residents out there that they are having their annual Grand Street yard sale and they would like to expand it. If anyone lives on Grand Street or is a member of one of the Churches it would be great to have everyone participate. They advertised on Craigslist and they get visitors from New Jersey and Connecticut. It will be on Saturday, May 4th from 9:00 to 4:00 and hopefully the trees will be in bloom by then. They always want to talk about positive things for the City and this is one of them. In regard to the Shade Tree Commission, April 26th is Arbor Day and the Commission would like with the support of the Council to plant one tree at the Heritage Center for many reasons. First is the symmetry of the parking lot because four years ago they planted one on the other side and now they would like to finish it up. Also now that the Heritage Center has the Congressional Office there it would be a great opportunity to draw attention to that building. She added that residents on Maple Avenue approached them and they would like to plant three or four trees on their street so they are really excited about getting into some neighborhoods that want to improve their block. They wish they had money to do others but that's going to be it and they will keep the Council and DPW informed of how everything is going to be arranged.

Janet Gianopolous, City of Newburgh, said that on behalf of the homeowners of the City of Newburgh there is a projected three million dollar fund balance and in addition she believes the results of the Auditors report at the Work Session were deemed by the Council to be pretty positive. On behalf of the home owning taxpayers she moved that the Council return a reasonable amount, say one third, of the projected fund balance which would be approximately one million dollars to the taxpayers so that they don't have to worry as they argue over the money that was taken from them.

Sheila Monk, City of Newburgh, said as she came in she heard Councilman Brown talking about the raises. The community was also talking about the raises the City Manager gave so she asked for some clarification on the raises. She knows that the Council said that there would be no raises and that they were not in the Budget. Also in regard to the Police Advisory Committee, some people put in applications. Her sister applied and no one knows where her application is.

Ms. Bell, Town of Newburgh, was wondering about the status of the request for a place to skateboard.

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

COUNCIL COMMENTS

Councilwoman Angelo said that she rode over by the Kenney Apartments the other day and there were a few skateboarders over by the Rite Aid building but they weren't doing any harm. She was shocked to see that someone put graffiti on the front of that beautiful building and there are five windows that are broken and boarded up. When she got out of the car and went around the side of the building there were about twenty garbage bags full of leaves that someone had tossed there. She feels that there has to be a way that they can save that building. Maybe Ian can try to get this building marketed to save it because they went through Hell to get that building over there. We helped Eckard's get over there and then Rite Aid bought it and we have had trouble ever since. It is such a beautiful building although she doesn't know if anything is wrong inside.

City Manager, Richard Herbek, asked Councilwoman Angelo what does she think needs to be looked at.

Councilwoman Angelo said that she keeps saying it would be a great place for a Jo-Ann Fabrics Shop which we lost. That was her hangout for arts and crafts and material. There is no place close by and she thinks that people would really support that. She added that she thinks the City looks much cleaner and there are two artists doing the murals over down at the Waterfront so she encouraged everyone to go take a look. She hopes that they can do the fourth mural but there is a lot of money involved because this time they are using a stain instead of paint but the artist are doing a wonderful job. She thanked everyone for coming tonight.

Councilman Brown said that he already spoke about his feelings on the raises and he is going to move forward with what he said he was going to do. He noted that he takes his position here as a Council member very seriously and he understands that this is a City Council form of government. From his understanding even with a City Council form of government the City Manger works at the direction of the Council so when he is given direction he should follow that direction to the law which he did not. He said that he has just one vote but when he votes he votes for the residents, and more importantly the taxpayers, of the City of Newburgh because the taxpayer holds the bill every time. Now we have a little money in the reserve and he would love to give that money back to the taxpayers of this City but we are not ready for that because we have to tread cautiously with that money. The finances of this City are so important to him that he works hard to make sure that they stay on track so when he votes on a Budget that he believes is supposed to be passed in the manner which he thought it should and he get's something different

and everyone else in the room except two people don't get it the way that the rest of the people in the room did it only says that maybe they did sit around and conspire to defraud this Council. That is a serious, serious charge. Conspiracy is serious and anyone who wants to be tied up in that might want to think twice. He said that he has a responsibility to the taxpayers and he will hold that responsibility until he decides to leave office or his term is up. We have a long way to go and he asked the taxpayers of the City to bear with this Council and bear with him. If they can do it the way it is supposed to be done with the City Manager following the direction of the Council, then they can certainly look to maybe give some taxes back at the end of this year. *"We can only do that if the City Manager follows our direction"*.

Councilman Dillard said that he would like to thank those people who fought so diligently these past two weeks in terms of the redistricting. It was very intense and he will be presenting a full report to the Council, the City and County Democratic Committee and all of the organizations who participated; Hudson Valley Advocates, Community Voices Heard, NAACP and others. All of the information will be coming forth in the next week or two. He said that this shows the resilience of the people here in the City of Newburgh. We can get things done and we got this done. Again he said, *"Thank you"*.

Councilwoman Lee wanted to first apologize because she arrived at the Work Session last week at 6:30 p.m. She started a new job and she is working in the City so she leaves home about 6:30 in the morning and she gets back around 6:30 in the evening so she missed a half hour of the Work Session. She said that she takes issue with Councilman Brown suggesting any kind of fraud. She also takes issue with his stated love for the Council given that he has been out about nine times. She doesn't care if he is gainfully employed because there are other people who travel and work during the day and they do everything that they can to get to this City Council meeting. To say that he made a decision and he so loves the taxpayers that he is making sure that \$15,000.00 is saved she thinks is nothing but nickels and dimes. She said that when they started this and they came to the Council they all agreed to bring some revenue into this City but beating the staff down and not giving them their increases was never part of it. Whether it is two staff members or forty-two, she said in the past when they pulled the increases back that it is very different if your salary is \$100,000.00 than if you are a single parent and your salary is \$42,000.00. They had already agreed and this needs to stop. We need to move forward and no amount of finger shaking or running through the streets screaming or telling people in this community to run to the City Council meetings and scream and beat Mr. Herbek is going to make her look at things differently. This is a municipality. *"It is not my job or their job; it is our job and believe it or not it does not pay that much. Mr. Herbek is responsible for running this City and we need to let him do it"*. The Council is

disturbed now. Give everyone else their increase because it is time. The projection is that we have three million dollars so spend \$500,000.00 and give some of the staff an increase. The people who work for us work hard and they do everything that we ask them to do. It is time that we stop beating on them and pointing our fingers and saying I love you but we are going to work you like the last slave because that is not fair. She told Mr. Herbek that she doesn't get involved in his business because she has enough to do with the legislation. She trusts that things are working out fine because when he came here the City had nothing. There was no payroll in the bank. The taxes were through the roof and right now we have a tax cap which we are managing to live within. Councilman Brown says that we should go beyond the tax cap so all of this sitting out in public and talking about what you love and what your going to do doesn't mean a hill of beans to her if you don't stand in the public and say, "Sorry, your taxes are going to go up 7%". She said if she thinks it and she has a reason for it then she will say it. It doesn't get said behind closed doors. You get a chance to tell her if you don't agree with her but she never does it behind closed doors. When she talked about a city payroll tax, she talked about it in public and she still feels that it is not a bad idea. She still says that we have the water and for our residents it should be free. If people who don't live here are paying a small tax, then our city services can be free and there is nothing wrong with that. She didn't get behind a closed door and whisper that into someone's ear or try to get two other votes. Everyone knows that she said it. It is time for us to just run this City and stop acting like the pay increase for Mr. Marti and Chief Vatter tipped the scale and we are all going to sink to the center of the earth. This is a matter of I told you what to do and you didn't do it. Not I asked you, not we discussed, not you gave us the frame work, not that he said, "Hey, we need to do something for the other staff". If he had then we could have said, "Well you know we can't do much for them but let's give everybody \$300.00." We could have said something. So nothing was said, three votes were had and again it was done over the Internet. This subject is not an Executive Session item. She said that she doesn't have to listen to it in Executive Session and she frankly doesn't remember it happening in Executive Session and Councilman Brown has missed so many session that she doesn't know whether he was here or not. She thanked everyone for coming out tonight.

Mayor Kennedy said that she wants the citizens of this community to understand that in spite of disagreements at this Council that progress is being made here. There are disagreements and different ways that people see things which is not always a bad thing but we have to work our way through. This City is moving forward and things are happening. She said that they will work through this wage issue and she agrees with Councilman Brown in regard to three million dollars not being very much. She is not sure of the

exact percentage of the Budget that we should have as a reserve fund but she believes it should be somewhere around the twelve million dollar mark.

City Manager, Richard Herbek, said that there is no exact percentage but most municipalities strive for a fifteen percent fund balance.

Mayor Kennedy continued that our three million dollars is just a drop in the bucket when it comes to something happening like another blowout of the sewer or something happening on the streets. Money can disappear very fast in the face of a big storm or an emergency of some sort so she wants to encourage all of the citizens of this community not to think that anybody is rolling in dough around here because it's not happening. We are climbing and inching out of the hole and we are on the positive side thank goodness. She would like us to be able to hold the tax line completely this year with no increase at all which would almost be considered a tax give back because if you don't raise it at all it's a pretty monumental day. With this business of wage increases, everybody needs to understand that there are people without work. People who have been without work for several years looking for work and struggling to keep ends together and their bellies fed. When she looks at our employees who want more in the face of people losing their properties and struggling, yes, they are working hard but there are a lot of other people who are working hard that make less; much less. Fair gets to be kind of a funny discussion and they have to be very careful with what they are doing. She knows that the discussion they had last year was how to make it fair between the taxpayers, citizens and the employees. This is like walking on a razors edge because there is no right or wrong. This is a tough hard place that they have been in and she asked for everyone's consideration and patience while they work their way through this. She added that another topic she wants on the table for increasing revenue is the enforcement of our traffic laws. We have a city out of control with traffic laws and if we just managed that then we could change not only the safety of the City but we would put more money into our coffers as well. She noted that the opening of Congressman Maloney's Office was great on Saturday and about one hundred people attended. They are so grateful for his decision to be here to support the City and to help move us forward. They also had a great opening of the Film Office at Motorcyclepedia with about fifty to sixty people in attendance. She gave kudos to Courtney because she did a fabulous job of putting that together. There are about four or five film projects lining up so we will be talking to our people about how to support the films coming here because that means business in our City. She wants everyone to know that there are good things happening here. She encouraged everyone to come out to support the clean-up on the 27th and help get this City cleaned up and then work to help keep it clean so that we can all have pride in this City that we live in which is so beautiful.

There being no further business to come before the Council, the meeting adjourned at 8:10 p.m.

LORENE VITEK
CITY CLERK