



CITY OF NEWBURGH
SPECIAL CITY COUNCIL MEETING
AGENDA
May 28, 2014
7:00 p.m.

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

4. Resolution No. 139-2014
A resolution in support of the Hudson Valley Casino & Resort, LLC (HVCR) to be located in the Town of Newburgh, NY
5. Resolution No. 140-2014
A resolution to authorize the City Manager to execute a Memorandum of Understanding with the Hudson Valley Casino and Resort, LLC (HVCR) for a Share of the Host Community Gaming Tax Revenue
6. Resolution No. 141-2014
A Resolution Authorizing the City Manager to execute a Memorandum of Understanding with the Town of Newburgh for a Share of the Host Community Gaming Tax Revenue in Connection with the Hudson Valley Casino and Resort Project

Opportunity for questions from the Press

Adjournment:

RESOLUTION NO.: 139 - 2014

OF

MAY 28, 2014

A RESOLUTION IN SUPPORT OF THE
HUDSON VALLEY CASINO AND RESORT, LLC (HVCR)
TO BE LOCATED IN THE TOWN OF NEWBURGH, NEW YORK

WHEREAS, on November 5, 2013, voters in the State of New York approved by referendum an amendment to the State Constitution that permits the development of commercial gaming facilities in the State; and

WHEREAS, on March 31, 2014, the New York Gaming Facility Location Board released a Request for Applications seeking applications for licenses to operate commercial gaming facilities in the State; and

WHEREAS, Hudson Valley Casino Resort, LLC ("HVCR") and its affiliates have proposed a casino development to be located on undeveloped land directly southwest of the intersection of Interstate 87 and Interstate 84 in the Town of Newburgh; and

WHEREAS, the proposed development would have a substantial positive economic benefit on the City of Newburgh as well as the County of Orange, the Town of Newburgh, and surrounding municipalities; and

WHEREAS, the economic benefits of the proposed project include, but are not limited to the creation of thousands of construction and related jobs and the creation of thousands of long term casino, hotel and related jobs; and

WHEREAS, the HVCR casino project is a very large development project and is the only project that will significantly reduce the school taxes of every property owner in the Newburgh Enlarged City School District; and

WHEREAS, HVCR and its affiliates have agreed to make certain accommodations to the City in order provide economic opportunities to City residents and to allow the City directly to realize an economic benefit; and

WHEREAS, HVCR and its affiliates have expressed to the City a commitment to address poverty in the City by providing and supporting employment, job training and educational opportunities for residents of the City.

NOW, THEREFORE, BE IT RESOLVED, that in furtherance of the above-referenced goals, the Council of the City of Newburgh, New York hereby fully supports the development of the Hudson Valley Casino and Resort in the Town of Newburgh, New York.

RESOLUTION NO.: 140 - 2014

OF

MAY 28, 2014

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE A
MEMORANDUM OF UNDERSTANDING WITH
THE HUDSON VALLEY CASINO AND RESORT, LLC (HVCR) FOR A
SHARE OF THE HOST COMMUNITY GAMING TAX REVENUE

WHEREAS, on November 5, 2013 voters in the State of New York approved by referendum an amendment to the State Constitution that permits the development of commercial gaming facilities in the State; and

WHEREAS, on March 31, 2014, the New York Gaming Facility Location Board released a Request for Applications seeking applications for licenses to operate commercial gaming facilities in the State; and

WHEREAS, HVCR and its affiliates have proposed a casino development to be located on undeveloped land directly southwest of the intersection of Interstate 87 and Interstate 84 in the Town of Newburgh; and

WHEREAS, the proposed development would have a specific positive economic benefit on the City of Newburgh as defined in Memorandum of Understanding to include:

1. Upon the award of a gaming facility license by the New York State Gaming Commission and upon the opening of HVCR's gaming facility, HVCR shall make an annual, unrestricted contribution to the City of Newburgh general operating fund equal to 15% of the Host Community fee paid to the Town of Newburgh. The annual contribution described in the preceding sentence shall continue for so long as HVCR, or its affiliates, successor or assigns are licensed to operate and actually operate a casino facility in the Town of Newburgh.
2. Upon the award of a gaming facility license by the New York State Gaming Commission and upon the opening of HVCR's gaming facility, HVCR shall operate regular shuttle service between mutually agreeable locations in the City and HVCR's gaming facility in order to provide transportation to employees and patrons.
3. The Council of the City of Newburgh agrees NOT to pass a resolution in support of any other Casino development project.

THEREFORE, BE IT RESOLVED City Council of the City of Newburgh agrees to the terms and conditions of the MOU as described above and that the City Manager be and he hereby is authorized to execute the MOU on behalf of the City of Newburgh.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") is entered this ____ day of May, 2014 by and between Hudson Valley Casino and Resort, LLC ("HVCR") and the City of Newburgh, New York (the "City").

WHEREAS, on November 5th, 2013 voters in the State of New York approved by referendum an amendment to the State Constitution that permits the development of commercial gaming facilities in the State; and

WHEREAS, on March 31, 2014, the New York Gaming Facility Location Board released a Request for Applications (the "RFA") seeking applications for licenses to operate commercial gaming facilities in the State; and

WHEREAS, HVCR and its affiliates have proposed a casino development to be located on undeveloped land directly southwest of the intersection of Interstate 87 and Interstate 84 in the Town of Newburgh; and

WHEREAS, the proposed development would have a substantial positive economic benefit on the City of Newburgh, the County, the Town of Newburgh, and surrounding municipalities; and

WHEREAS, the economic benefits of the proposed project include, but are not limited to the creation of thousands of construction and related jobs and the creation of thousands of long term casino, hotel and related jobs; and

WHEREAS, HVCR and its affiliates have agreed to make certain accommodations to the City in order provide economic opportunities to City residents and to allow the City directly to realize an economic benefit; and

WHEREAS, HVCR and its affiliates have expressed to the City a commitment to address poverty in the City by providing and supporting employment, job training and educational opportunities for residents of the City.

NOW, THEREFORE, in consideration of the mutual covenants, promises, representations and agreements set forth herein, the Parties agree as follows:

1. This MOU shall terminate if the City Council of the City of Newburgh passes a resolution in support of any casino development project in the Catskills/Hudson Valley Region other than the project that HVCR has proposed.
2. Upon the award of a gaming facility license by the New York State Gaming Commission and upon the opening of HVCR's gaming facility, HVCR shall make an annual, unrestricted contribution to the City of Newburgh general operating fund equal to 15% of the Host Community fee paid to the Town of Newburgh. The annual contribution described in the preceding sentence shall continue for so long as HVCR, or its affiliates, successor or assigns are licensed to operate and actually operate a casino facility in the Town of Newburgh.

3. Upon the award of a gaming facility license by the New York State Gaming Commission and upon the opening of HVCR's gaming facility, HVCR shall operate regular shuttle service between mutually agreeable locations in the City and HVCR's gaming facility in order to provide transportation to employees and patrons.

IN WITNESS WHEREOF, each party hereto has caused this MOU to be executed on its behalf by its duly authorized representative as of the date written above.

HUDSON VALLEY CASINO
AND RESORT, LLC

CITY OF NEWBURGH, NEW YORK

RESOLUTION NO.: 141 - 2014

OF

MAY 28, 2014

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
MEMORANDUM OF UNDERSTANDING WITH THE TOWN OF NEWBURGH FOR A
SHARE OF THE HOST COMMUNITY GAMING TAX REVENUE IN CONNECTION
WITH THE HUDSON VALLEY CASINO AND RESORT PROJECT**

WHEREAS, on November 5, 2013 voters in the State of New York approved by referendum an amendment to the State Constitution that permits the development of commercial gaming facilities in the State; and

WHEREAS, on March 31, 2014, the New York Gaming Facility Location Board released a Request for Applications seeking applications for licenses to operate commercial gaming facilities in the State; and

WHEREAS, Hudson Valley Casino and Resort, LLC and its affiliates ("HVCR") have proposed a casino development to be located on undeveloped land directly southwest of the intersection of Interstate 87 and Interstate 84 in the Town of Newburgh; and

WHEREAS, the proposed development would have a substantial positive economic benefit to the Town of Newburgh, the City of Newburgh, the County of Orange and the surrounding municipalities; and

WHEREAS, the economic benefits of the proposed project include, but are not limited to the creation of thousands of construction and related jobs and the creation of thousands of long term casino, hotel and related jobs; and

WHEREAS, the Town Board of the Town of Newburgh has adopted a resolution in support of the application of HVCR; and

WHEREAS, the City Council of the City of Newburgh has adopted a resolution in support of the application of HVCR; and

WHEREAS, the Upstate New York Gaming and Economic Development Act provides that ten percent of the State's gaming tax revenues will be split evenly between the host municipality and the host county, and accordingly should a gaming facility license be awarded to HVCR by the New York State Gaming Commission and HVCR open the proposed gaming facility, the Town, as the host municipality, will be entitled to receive five percent of the State gaming tax revenue from the HVCR casino development; and

WHEREAS, the Town and The City recognize that in the present-day environment crime increasingly cuts across municipal jurisdictional lines, and interjurisdictional, spillover crime needs to be addressed at its sources in order to keep streets and neighborhoods safe; and

WHEREAS, studies have demonstrated a correlation between the distance from perpetrators' residences and the commission of certain crimes, and between paths of travel and nodes of routine activity such as shopping, entertainment and school and the commission of crimes, and accordingly perpetrators who reside within a radius of a municipal boundary or whose paths cross municipal boundaries will more likely engage in interjurisdictional crimes; and

WHEREAS, the Town and the City share municipal boundaries and paths of travel along streets and highways which lead to interjurisdictional, spillover crimes; and

WHEREAS, the proposed HVCR casino development may also have an impact on crime beyond the Town's boundaries; and

WHEREAS, increased law enforcement and public safety funding to the City will further a public purpose, to wit the protection of the safety and welfare of the citizens of the Town and the City from interjurisdictional, spillover crime; and

WHEREAS, the Town Board of the Town of Newburgh has found that certain accommodations to the City pertaining to the Town's host community share of the gaming tax revenues will allow the City to increase funding to the City's public safety, law enforcement and crime reduction activities which will further a proper public purpose; and

WHEREAS, HVCR and the City have also entered into a MOU pursuant to which HVCR will make certain financial contributions to the CITY general operating fund; and

WHEREAS, the City Council finds that entering into a Memorandum of Understanding to provide the appropriate legal framework for the Town to make an annual payment to the City in an amount equal to fifteen (15%) percent of the Town's host community share of the gaming tax revenue with the City for the purpose of funding the City's public safety, law enforcement and crime reduction activities 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 that the City Manager be and he hereby is authorized to execute a Memorandum of Understanding with the Town of Newburgh the same form as annexed hereto with other provisions as Corporation Counsel may require, including but not limited to the Town Board of the Town of Newburgh providing an annual contribution to the City of Newburgh general operating fund equal to fifteen (15%) percent of the host community share of the gaming tax revenue which payment shall be expended by the City of Newburgh on public safety, law enforcement and crime reduction activities in the City of Newburgh.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") is entered this ____ day of May, 2014 by and between the Town of Newburgh, New York (the "Town") and the City of Newburgh, New York (the "City") (collectively referred to herein as the "Parties").

WHEREAS, on November 5th, 2013 voters in the State of New York approved by referendum an amendment to the State Constitution that permits the development of commercial gaming facilities in the State; and

WHEREAS, on March 31, 2014, the New York Gaming Facility Location Board released a Request for Applications (the "RFA") seeking applications for licenses to operate commercial gaming facilities in the State; and

WHEREAS, Hudson Valley Casino and Resort, LLC ("HVCR") and its affiliates have proposed a casino development to be located on undeveloped land directly southwest of the intersection of Interstate 87 and Interstate 84 in the Town of Newburgh; and

WHEREAS, the proposed development would have a substantial positive economic benefit on the Town, the City, Orange County, and surrounding municipalities; and

WHEREAS, the economic benefits of the proposed project include, but are not limited to the creation of thousands of construction and related jobs and the creation of thousands of long term casino, hotel and related jobs; and

WHEREAS, the Town Board of the Town has adopted a resolution in support of the application of HVCR; and

WHEREAS, the City Council of the City is considering the adoption of a resolution in support of the application of HVCR; and

WHEREAS, the Upstate New York Gaming and Economic Development Act provides that ten percent of the State's gaming tax revenues will be split evenly between the host municipality and the host county, and accordingly should a gaming facility license be awarded to HVCR by the New York State Gaming Commission and HVCR open the proposed gaming facility, the Town, as the host municipality, will be entitled to receive five percent of the State gaming tax revenue from the HVCR casino development; and

WHEREAS, the Parties recognize that in the present-day environment crime increasingly cuts across municipal jurisdictional lines, and interjurisdictional, spillover crime needs to be addressed at its sources in order to keep streets and neighborhoods safe; and

WHEREAS, studies have demonstrated a correlation between the distance from perpetrators' residences and the commission of certain crimes, and between paths of travel and nodes of routine activity such as shopping, entertainment and school and the commission of crimes, and accordingly perpetrators who reside within a radius of a municipal boundary or whose paths cross municipal boundaries will more likely engage in interjurisdictional crimes; and

WHEREAS, the Parties share municipal boundaries and paths of travel along streets and highways which lead to interjurisdictional, spillover crimes, and Town crime reports demonstrate such spillover crime within the Town; and

WHEREAS, the proposed HVCR casino development may also have an impact on crime beyond the Town's boundaries; and

WHEREAS, increased law enforcement and public safety funding to the City will further a Town purpose, to wit the protection of the safety and welfare of the citizens of the Town from interjurisdictional, spillover crime; and

WHEREAS, the Town Board of the Town accordingly finds that certain accommodations to the City pertaining to the Town's host community share of the gaming tax revenues will allow the City to increase funding to the City's police department which will further a Town purpose; and

WHEREAS, HVCR and the City have also entered into a MOU pursuant to which HVCR will make certain financial contributions to the CITY general operating fund.

NOW, THEREFORE, in consideration of the mutual covenants, promises, representations and agreements set forth herein, the Parties agree as follows:

1. This MOU shall be effective upon the City Council of the City adopting a resolution of support for the HVCR application.
2. Upon the award of a gaming facility license by the New York State Gaming Commission and upon the opening of HVCR's gaming facility, the Town Board of the Town shall take such actions as are necessary including but not limited to the adoption of a local law pursuant to the Municipal Home Rule law, the approval of an inter-municipal agreement pursuant to Article 5-G of the General Municipal Law, the deposit of the host community gaming tax revenues into the Town general fund and/or the appropriation therefrom, in order for the Town to make an annual payment to the City of Newburgh equal to fifteen (15%) percent of the host community share of State gaming tax revenue paid to the Town of Newburgh. The annual payment to the City described in the preceding sentence shall continue for so long as HVCR, or its affiliates, successor or assigns are licensed to operate and actually operate a casino facility in the Town of Newburgh.
3. The annual payment provided for in the preceding paragraph 2 shall be used by the City solely for the purposes of increased policing and public safety so that interjurisdictional crime may be prevented. The City shall not divert funding from its police department which it otherwise would have budgeted, in anticipation of this funding from the Town for increased policing and public safety activity.

4. If a court of competent jurisdiction determines that any portion or portions of this MOU is or are declared illegal or invalid, all other portions shall, to the maximum extent possible, remain in full force and effect.
5. Approvals required pursuant to this MOU shall not be unreasonably delayed or withheld.
6. This Memorandum of Understanding affords no authority, supervision or control to the Town over the City's police department and officers, and its law enforcement, public safety and crime reduction activities and programs, all acts and omissions in that regard remaining solely within the authority, supervision and control of the City, its officials, officers, employees and agents. The City its officials, officers, employees and agents will comply with all applicable provisions of the United States and New York Constitutions, laws, rules and regulations in all actions, programs and activities for which funds paid by the Town pursuant to this Memorandum of Understanding and any subsequent agreement are used.
7. The Town reserves the right to setoff and deduct from the payments to the City pursuant to this MOU and any subsequent agreement any loss or denial of funding or penalties assessed to the Town directly attributable to its making the payments to the City. Nothing in this paragraph shall affect the percentage amount of the annual payment of the host community share of the State gaming tax revenue set forth in paragraph no. 2.

IN WITNESS WHEREOF, each party hereto has caused this MOU to be executed on its behalf by its duly authorized representative as of the date written above.

TOWN OF NEWBURGH, NEW YORK CITY OF NEWBURGH, NEW YORK

By: _____
Gilbert J. Piaquadio, Deputy Supervisor

By: _____
Michael G. Ciaravino, City Manager