

A regular meeting of the City Council of the City of Newburgh was held on Monday, January 11, 2010 at 7:00 P.M. in the Council Chambers, City Hall, 83 Broadway, Newburgh, NY 12550

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

Present: Mayor Valentine, presiding; Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard-5

Councilwoman Angelo moved and Councilman Dillard seconded that the minutes of the regular meeting of December 14, 2009 be approved.

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

CARRIED

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

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

CARRIED

A City of Newburgh resident wished to thank the Police and Fire Departments for rescuing her dog from the ice on the Hudson River earlier today. When she called 911 the Police Department came immediately with great concern and effort to rescue her dog by putting logs out into the water. She understands that there are far more pressing issues happening here but she wanted everyone to know how much this means to her household.

Mayor Valentine noted that it was Lt. Peter Leach who went out on to the logs to rescue the dog.

## PUBLIC HEARING

Mayor Valentine called for a public hearing that was advertised for this meeting to receive comment concerning a local law to amend Chapter 163 entitled "Fees" of the Code of the City of Newburgh.

Acting City Manager, Richard Herbek explained that when working on the 2010 Budget one of the key components that we needed to work on was revenue. Information was obtained on increasing fees and is part of the 2010 Budget so to make these fees become law they need approval of the law amending Chapter 163. All of this information is available on the website and he noted that we are not the only ones doing this. Even in the New York State Budget there are proposed fee increases. The total estimate of proposed additional revenues comes to \$132,550.00.

Councilman Dillard asked if the Water Superintendent, John Platt, could explain the fee increases in water rates.

John Platt, Water Superintendent said that the water rates have not been raised in ten years. The last time they were raised was in 2000 because the sewer department was in deficit and by raising the water rates it raised revenues for the sewer department. For many years those funds have had surpluses but you have also had contractual expenses for labor, chemical costs, electric, etc. Rather than put the whole increase into just water rates he proposed they do something similar to what the sewer fund has; a sewer rate which is 100% of what the water is and also a sewer facility charge. This is a separate charge that pays for just the capital debt of the sewer department so the operating costs are paid for out of the sewer rates and the capital out of the sewer facility charge. By doing that we broke it down to where the water rate will create about an extra million dollars of revenue to offset our operating costs and at the same time we created the proposed water facility charge which will also raise an additional million dollars of additional revenue. Right now the principal and interest payment on our capital debt that we have is about \$800,000.00. If we raise one million dollars from a water facility charge then we will have the \$800,000.00 to pay for that debt and an extra \$200,000.00 which will be put into a capital reserve so that we can start to save money again because right now it is depleted. The water rate will affect everyone but the water facility charge, just like the sewer facility charge, will affect all of the big properties in the city like the Colleges, the Hospital and the Schools which are all tax exempt. Even though they don't pay taxes because of their assessments they will probably pay the highest for the water facility charges. This was an attempt to spread the cost more fairly among some of those that don't necessarily pay taxes.

Acting City Manager, Richard Herbek added that the Budget was approved with a certain amount of water expenditures and water revenues. We need this rate increase in order to meet the expenditures that are included in the City Budget.

John Platt, Water Superintendent noted that the revenues that will be raised will fund the water and sewer department wholly and will replenish its fund balance.

Denise Ribble, 170 Montgomery Street, said that in the Town of Newburgh they left the rate for the first 1,000 gallons and then raised it by 5% for each 1,000 gallons thereafter. She was informed that this had been looked at for the City of Newburgh but she didn't see it in any of the presentations. Our poor taxpayers who are now paying more taxes are also going to have substantial increases in their water bills. It is \$15.00 for water and another \$15.00 for sewer so the actual fee will be \$30.00 for one, two and three-families. For a bigger property they will have the water facility charge and she agrees with Mr. Platt that the big users who don't pay taxes will be paying hopefully a lot more. Her only concern is that we seem to have a tendency to have assessed values and some of these get assessed down by our Assessor and we should not be doing that. She added that she thinks that Councilwoman Bell's suggestion about postponing this increase to allow people the time to absorb what they will have to deal with to pay these increases is relevant. She thinks that an excellent job was done with Section 163-6 on planning, zoning and building fees and suggested that they add to the ARC a pre-review or consulting fee and also a fee for the consistency review which takes a lot of time. Under the swimming pool, it states that children under the age of 18 are free and she feels that there should be a fee. Maybe children under the age of 6 could be free. There is docking at the Newburgh Landing but there is no reference to the other dock which needs to be addressed. On page 27, Under Law Department, it reads that the preparation and review of documents in connection with the purchase of real property from the City is \$200.00 per tax lot but she is wondering if that should be determined by the size or assessed value of the property. Also, item number two in that same section talks about charges for the services of the law department but it is left completely up in the air. We see that we are charging \$40.00 per hour for the GIS Analyst and she thinks that our Law Department's time is worth at least that if not more.

Mayor Valentine noted that the start date for the water and sewer increases would not take effect until April.

Michael Gabor, 400 Grand Street wonders how many of the staff who came up with these fees will be affected by them. He thinks that we should be trying to encourage investments in business and homeownership and this is

not the way to do it. We have a lot of empty buildings and we need more economic development. We are now increasing fees and not doing any economic development to attract people to come here. As far as the water is concerned, he thinks that it is a great idea but that we should be encouraging water conservation. The minimum should be lowered so that people will be encouraged to use less water. He knows people who are using way less than the minimum and this should be addressed.

Brigidanne Flynn, Norton Street said that 163-2B7 copy fee should stipulate per page. Under 163-2E she asked when out in the field how does someone know which signs have obtained permits? Same section under (G) dumpster permit she feels conflicts with 163-12E and doesn't seem to be consistent. As for Swimming Pool Permits, she feels that if someone can afford to put in a swimming pool then they can afford to pay a higher fee. Section 163-3F, Use of Fire Hydrants, she asked if they are charged for the amount of water that is used? Section 163-5, fee for electricians and plumbers, she questioned why there is a difference in the fee. As for Garage Sale Permits, in the spring and summer you see garage sales every weekend all through the City. Are these people getting permits? How do we know? There has to be a way to enforce these things. Section 163-10A1 is a change in the alarm fee but doesn't state if it is for residential or commercial. It is now going from a \$25.00 one time fee to a \$50.00 annual fee? It also notes this is for the Police Department false alarms but should maybe also include Fire Department. There is a section under the ARC, Section 163-16 and she would like to see a similar section added to 163-6C5 for the COA once it has started. As for the water fees, she would like to mimic Mr. Gabor's comments. She is a single family household and she uses less than the minimum and would like to be charged accordingly. She would love to see the fee go to a per use basis which would be much more affordable. (comments submitted and read are attached)

## Section 163.2

A.(2) - Reinspection - Reinspection due to Failure or for any reason?

B.5. - Same as above

\* B.7. - Per Copy? - Should be per page  
25¢ a copy (section 163-9)

B.8. Street Report - What is it? (curious)

C.2 a/b - Check number of Days?  
Trailer on spot      expiration date

\* E. - How do you know when out in field which signs have permits and which do not?  
Enforcement - go hand in hand w/sign regulations.

✓ G. Dumpster Permit Conflicts w/ section 163-12 E. Dumpster permit fees

✓ K. Swimming pool permit - higher fee w/ some type of Biennial Re-inspection esp. of Above ground pools.

M and N - Question as to if annual occupancy inspections are occurring esp in Commercial apartments.

## Section 163.3

F. use of fire hydrant - Charged for water used?

Section 163.5 -

A. 2 Sign/Plate - for license why not a sticker for them like plumbers.  
~~additionally addition~~

A. 3. \$5 per Copy or 25¢ per page  
(Standardize fee for Copies)

License Registration and renewal  
Should be same for Plumbers and electricians (regardless of class)

E. 2 - again who is checking time  
Peddlings or expiration dates

\* O - garage sale permits - who regulating?  
must take place on Sat. when no city  
personnel are around to check.

Section 163-6

F. (3) and (4) Conflict

Says Applicant to pay actual costs  
of publications and mailing of notices  
and Public Hearing fee is \$150 plus cost  
of Publication and transcription

Why is Public Hearing fee \$150<sup>00</sup>  
transcription should be a set fee  
\$3. per page (under fees section)

Section 163-8

<sup>Boats</sup>  
E - Rec. Vehicle over 40 ft should be  
more than \$100 under 40 ft length - 35<sup>00</sup>

G - <sup>launch boat / Jet Ski</sup>  
Should be more - \$20<sup>00</sup>

Delano Hitch -

use of all field should be  
same cost structure for all  
regardless of spot.

\* Section 163-10

A(1) - to make Alarm device  
Systems regardless of Res or Comm  
a \$50<sup>00</sup> annual fee. From 25 one time  
permit. - Enforcement?

A(2) False alarms also fire Dept  
but listed under Police.

Section 163-11

B. Redemption of impounded dog  
plus costs. - under boarding.

C. 1/2 - <sup>Should</sup> State annual fee

E. <sup>under</sup> other Fees - should be the actual  
cost. to Spay/Neuter, & of shots.

Section 163-14 -

- add similar to Section 163-6. C.S.  
for COA.

Maryann Prokosch, Galloway Avenue said that the water increase will be about a \$37.00 increase on a minimum bill. Many people here are on fixed incomes and are not rich people so this will be a big increase for them. She agrees that people should be encouraged to conserve water. In regard to the swimming pool, we should charge something even it's just a quarter or fifty cents. As for the charges for the athletic fields, she noted that we have the City of Newburgh Little League and Pop Warner who provide recreational activities to City residents and she hopes that those groups don't have to pay for these fields.

Hhans Sandiford, 207 N. Miller Street said that he doesn't know who put this together but it is clear that they don't live in the City of Newburgh. He understands that they have to get the money from someplace but this needs to be thought about more because you can't get blood out of a stone and this is thirty pages of fees.

Mayor Valentine noted that these are not new fees, these are existing fees.

Mr. Sandiford continued by saying that we will spend more on enforcement. Currently you don't even know if you have a building violation until you receive an invitation to go to Court. As for the \$25.00 dumpster fee, he feels that most people use trucks instead. The violation fee is going from \$20.00 to \$100.00. Like someone commented earlier nothing is being done to encourage people here to pay taxes. In regard to the laundry and sewage disposal, he feels that this is toxic waste and how can we charge a fee for that? He noted that there are some resolutions tonight regarding the Water Department and asked if the water department fee increases would cover the whole system or just the facility.

Mayor Valentine said that he thinks what Mr. Sandiford is asking is if the money we would be raising now would cover the debt now.

John Platt, Water Superintendent answered "yes". The other resolutions will be rescinding some old capital programs that are no longer in use but are still on the books. We have a capital reserve fund right now and current expenses that we will be charging to that fund. Everything that we are talking about now as far as all of these fees will cover the debt now and in the future.

Charlotte Mountain, Dubois Street said that Page 2 notes trailers and asked what happens when there is a large construction project and the trailer is there for more than thirty days. She noted that there is a place of assembly category buildings, annual inspections for \$150.00 and asked if that will

include Churches and tax exempt properties. She asked if the laundry and sewage disposal fees were new.

Acting Corporation Counsel, Michelle Kelson noted that it is not a new fee if it is not underlined or in brackets.

Ms. Mountain continued that under taxis and vehicles for hire she assumes that one should read taxi driver's license per year. Will the failing to apply for a building permit be retroactive or will this only be for new work now and moving forward? 50% of the building permit fee as the fine for that should probably be higher for a greater deterrent. As for the swimming pool, does a free child mean free from anywhere? She thinks that children in the City of Newburgh who want to use the pool should show proof of residency and get a little ID card to carry with them at a charge of maybe \$5.00 for the year. Then they could swim for free and if kids come from outside of the City then they should be charged \$2.00 or \$3.00.

Acting City Manager, Richard Herbek said that they are in agreement with Ms. Mountain on that and they are taking a look at it as well as all of the recreation fees.

Ms. Mountain added that it is only \$25.00 more to have a night game than a day game and asked if \$25.00 would cover the cost of lighting the field.

Acting City Manager, Richard Herbek said that he doesn't know the answer to that but he would guess probably not.

Ms. Mountain ended by saying that there is a handicapped parking fee for \$25.00 and typically handicapped people have the least earnings capacity so it would be very unfair to start charging them.

Mayor Valentine responded that it is not a fee to park. It is a fee for a handicapped parking space.

There being no one else wishing to speak, the public hearing was closed.

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Michael Gabor, Grand Street questioned resolution #14-2010 for professional services. What are the fees going to be? Was a bid put out? In regard to resolution #1-2010, do we really need a Department of Homeland Security building here to see the problems we have with drugs and everything else? What do we need this for? We should be looking at the drug enforcement agencies taking back the buildings where drug dealings are going on. What does this have to do with us?

Acting City Manager, Richard Herbek responded that Mr. Hadley will be paid at a rate of \$70.00 per hour. We need a City Comptroller and we have received a number of resume's. We are probably looking at a minimum of sixty days before we are able to get someone on board here. We have a critical financial situation on our hands with a 2008 Audit underway and a Fiscal Advisory Board that we need to get going on and we still have a financial problem in the 2010 Budget. Mr. Hadley is very well qualified with excellent credentials and he comes to us on the recommendation of Mr. Genito. He feels that \$70.00 per hour is a bargain to get someone with these qualifications. As for the Emergency Operations Center, we are not going to get a million dollars. We are hoping to get some funding so that we can construct an Emergency Operations Center in one of our existing buildings. Every municipality should have some type of Emergency Operations Center in the event of a major problem. We are taking a look at the Armory and if we are able to acquire that building some of these funds could be used for the renovations for an Emergency Operations Center in that building or some other building.

Brigidanne Flynn, Norton Street said in regard to resolution #1-2010 that a lot of these grants that we apply for have some kind of a financial match and given the tough economic times that we are in she thinks that we need to take a serious look at this. Do we have a 25% match if we were to get this? There is no use in applying for something that we know we aren't going to be able to match and she asked the Council to please keep that in mind. She is sure that the police and fire desperately need this but we need to think about the match part too because that is where we will get into trouble.

Acting City Manager, Richard Herbek said that it is his understanding that there is no match.

Fire Chief, Michael Vatter noted that there is a 25% match but it can be in-kind services or property it doesn't have to be in cash. We won't get a million dollars and we will be lucky if we even get \$250,000.00 but this was an opportunity that we had to explore.

Hhans Sandiford, 207 N. Miller Street said that resolution #6-2010 and 7-2010 refer to water and sewer funds and asked if that means we will be going into those funds and taking this money out and we can assume that everything that they were funded for is done.

Mayor Valentine noted that these are capital expenditures.

Mr. Sandiford asked if this means that our infrastructure has been replaced.

Mayor Valentine said that these are two capital projects that we have done but there are many more.

Michelle Kelson, Acting Corporation Counsel said that we have too many accounts on the books that do the same thing so all we are doing here is simplifying the accounts. One account for water and one account for sewer which will simplify the accounting in the Comptroller's Office.

Mr. Sandiford asked in regard to resolution #8-2010 if we have an independent audit saying that the work was done because we have a track record of not getting what we pay for.

John Platt, Water Superintendent said that this is a project that was put out for bid last year that is being done by Royal Contracting and we have an engineering firm overseeing the project. We approved the bid for the dam repairs and as the contractor submits a bill it goes through the engineering firm to be verified. It is also verified by our in-house engineer. He looks to see that it is all proper and then we authorize that it be paid.

Denise Ribble, 170 Montgomery St. said in regard to resolution #14-2010 that she agrees that \$70.00 per hour is a pretty good bargain but she asked the Council to look at for how long are we going to contract for these services. If we can have an estimate of how long it is going to take us to hire a Comptroller by using a bid process, then we should be able to say for about three months. Mr. Genito, although he charged a higher rate, gave us some pro bono work. Newburgh has a long history of consultants. Two have put in bills for more hours than they worked and their work is not being checked to be sure that they have done the work that they are billing us for and getting paid for. They also don't provide copies of records of their work which are City property once we pay them. With this consultant arrangement and any future consultant arrangements, is there going to be some standard set where above a certain amount of hours or time we would need to look at this again? She encouraged the Council to be supportive of procuring the Armory site. We have so few places where we can actually obtain land and it is so

important. We have the potential to get that property and we also have the city owned property and IDA property on Pierces Road. These lands are critical for us.

Charlotte Mountain, Dubois Street said in regard to resolution #17-2009 that she attended the Auction and there were several developers trying to buy property that had the owner occupancy restriction on them. One developer got caught after he successfully bid on two properties that had this restriction and then those properties went back into the stockpile. In this particular case, this is another developer who purchased a property that had the owner occupancy restriction on it at the Auction but didn't get caught until later. She feels that the Council should tell this particular developer that he cannot have this property with that restriction either. The way the Auction was run was good but nothing was in place to help identify those who were attempting to purchase property as owner occupants or if they were developers. Because others were told that they had to give their properties back she doesn't think that it would be fair to let this one get away with it and could possibly open up litigation from the other contractors. She hopes that in all fairness to everyone that the Council does not allow this particular sale to go through.

Michelle Kelson, Acting Corporation Counsel responded that the owner occupancy provision requires the purchaser to reside in the property for five years and within that time they can convey to another who shall live there for the five years. There was a modification made to the terms of sale that does give that purchaser a little more flexibility than previously granted.

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

## CITY MANAGER

Acting City Manager, Richard Herbek said that now is the time to invest in Newburgh. We are searching for a Comptroller and a Corporation Counsel. The 2008 Audit is underway and we hope to follow that up with the 2009 Audit. With respect to the City Engineer there is now capital financing in place which is a good thing. We recently opened six bid proposals for Robinson Avenue ranging from \$9,616,616.00 to \$11,596,998 and the apparent low bidder is Argenio Brothers. We are continuing with the Brownfield sites and Colden Street is almost ready for development. There is a lot going on in the Youth Bureau and they are working on plans to bring revenue into the City.

Councilman Dillard asked if we have already signed a contract with Argenio Brother because we need language in that contract that a certain percentage of City residents are to be hired for that project.

Mayor Valentine agreed with Councilman Dillard and said that Argenio Brothers is a local company that is based here in Newburgh. This is a two year project and we need to make sure that our voice is heard.

Acting City Manager, Richard Herbek continued by noting that the number of police calls in the November police report breaks down to an average of 97 calls per day or 32 calls per eight hour shift showing how busy our police department has been.

**RESOLUTION NO.: 1 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO APPLY FOR AND TO ACCEPT IF AWARDED  
A GRANT FROM THE DEPARTMENT OF HOMELAND SECURITY  
AND FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION  
FOR THE CONSTRUCTION OF AN EMERGENCY OPERATIONS CENTER  
IN AN AMOUNT NOT TO EXCEED \$1,000,000.00  
WITH A 25 PERCENT CASH, IN-KIND SERVICES OR PROPERTY MATCH**

**WHEREAS**, the Department of Homeland Security and Federal Emergency Management Administration (FEMA) has offered grant funding for the construction or renovation of an Emergency Operations Center (“EOC”) in an amount not to exceed \$1,000,000.00 and requires a 25 percent cash, in-kind services, or property match; and

**WHEREAS**, the facility would be constructed at the Public Safety Building and would provide the space and infrastructure to combine the fire and police communications facilities and to provide appropriate work space for the City’s command and general staff in the event of an emergency; and

**WHEREAS**, this Council has determined that applying for and accepting such grant is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York That the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the Department of Homeland Security and Federal Emergency Management Administration for the construction of an Emergency Operations Center for an amount not to exceed \$1,000,000.00 with a 25 percent cash, in-kind services or property match.

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

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

**ADOPTED**

**RESOLUTION NO.: 2 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AN INTER-MUNICIPAL AGREEMENT BETWEEN  
THE COUNTY OF ORANGE AND THE CITY OF NEWBURGH  
TO ESTABLISH AN AUTOMATIC VEHICLE LOCATOR  
DISPATCHING SYSTEM ("ALV") FOR ORANGE COUNTY**

**WHEREAS**, the County of Orange is collaborating with all of the County's police agencies to establish an Automatic Vehicle Locator Dispatching System ("ALV") for Orange County and the County Executive and Legislature has secured over \$600,000.00 through capital projects and grants to establish such system; and

**WHEREAS**, the City of Newburgh has the opportunity to join with the County of Orange and other local law enforcement agencies in establishing a system to improve police response and safety in New York State and across the County by allowing on-duty police vehicle locations to be viewed on a Computer Aided Dispatching ("CAD") map, and local police agencies that use the CAD dispatching system will be able to manage and view police patrol units; and

**WHEREAS**, all costs associated with this project, including the installation of equipment in police vehicles as identified in the project, software, hardware maintenance, and connectivity charges are included in this project; and

**WHEREAS**, the County's goal is to deliver the fastest level of police service in life-threatening incidents as they are reported by ensuring the closest available police unit with jurisdiction is dispatched to priority calls for service occurring in Orange County, resulting in enhanced officer safety; and

**WHEREAS**, this Council has determined that the City's participation in such program is in the best interests of the City of Newburgh and will enhance law enforcement in the City of Newburgh and in surrounding local municipalities, in cooperation with the County of Orange and other law enforcement agencies;

**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 annexed inter-municipal agreement between the County of Orange and the City of Newburgh in connection with the establishment of an Automatic Vehicle Dispatching System (“ALV”) for Orange County.

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

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

**ADOPTED**

#2-10



(rev. 09/09)

## INTER-MUNICIPAL AGREEMENT

THIS AGREEMENT is entered into as of this \_\_\_ day of \_\_\_, 2009, by and between the COUNTY OF ORANGE by and through its Department of Emergency Services, a municipal corporation and COUNTY of the State of New York, with principal offices at 255-275 Main Street, Goshen, New York, 10924, hereinafter referred to as , "COUNTY"; and the CITY OF NEWBURGH, by and through its Police Department, a municipal corporation with principal offices located at 83 Broadway, Newburgh, New York 12550, hereinafter referred to as "MUNICIPALITY".

### ARTICLE 1. SCOPE OF AGREEMENT

COUNTY is a municipal corporation and a county existing under the laws under the authority of the State of New York.

COUNTY and MUNICIPALITY agree that Automatic Vehicle Locator (AVL) technology exist to provide the highest level of police services to the public as well as provide for increased officer safety by determining officer's location to a reported incident, further there exists a need to implement a system which can greatly improve response to those citizens in need of police services.

COUNTY and MUNICIPALITY want to cooperate to improve police response times to incidents in the COUNTY by enhancing the region's law enforcement capabilities to respond to such incidents safely and to further improve officer safety through the coordination and utilization of the Automatic Vehicle Location (AVL) police dispatch technology to aid in identifying the closest car available for dispatch. To accomplish this, the COUNTY will procure AVL software to enhance its current Computer Aided Dispatching (CAD) and provide the MUNICIPALITY with all necessary hardware/equipment and installation of said hardware/equipment into those patrol vehicles identified by the MUNICIPALITY and approved for by the COUNTY in this project.

To that end, and pursuant to General Municipal Law §99-H, the COUNTY has provided for funding for the procurement of said hardware/equipment.

It is the intention of the parties that the COUNTY shall fund the purchase of the specified Software and hardware and provide the necessary hardware/equipment to the MUNICIPALITY to enable the MUNICIPALITY to participate and perform their responsibilities under this cooperative program. The expenditure of said funds and

the activity of the parties shall be fully in compliance with the terms and conditions of this Agreement, additional terms and conditions specified in Appendix "A" which is annexed hereto and incorporated as if fully set-forth herein.

### ARTICLE 2. TERM OF AGREEMENT

This Agreement is to remain in effect from the point in time it is fully executed by the parties named herein until it is terminated pursuant to the terms of this Agreement

### ARTICLE 3. EXECUTORY CLAUSE

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

### ARTICLE 4. PROCUREMENT OF AGREEMENT

MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by MUNICIPALITY 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. MUNICIPALITY 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. MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this Agreement and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this Agreement without liability, entitling the COUNTY to recover all monies paid hereunder and

**MUNICIPALITY** shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the **COUNTY** for such falsity or breach, nor shall it constitute a waiver of the **COUNTY'S** right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

#### **ARTICLE 5. CONFLICT OF INTEREST**

**MUNICIPALITY** 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 goods or services herein provided. **MUNICIPALITY** 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 **COUNTY**, nor any person whose salary is payable, in whole or in part, by the **COUNTY**, 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 (1) if required by the Orange County Ethics Law as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure Form to include their interest in this Agreement, or (2) if not required to complete and submit such a disclosure form, said person must either voluntarily complete and submit said Disclosure form disclosing their interest in this Agreement or seek a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the **COUNTY** shall have the right to annul this Agreement without liability, entitling the **COUNTY** to recover all monies paid hereunder and **MUNICIPALITY** shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the **COUNTY** for such falsity or breach, nor shall it constitute a waiver of the **COUNTY'S** right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this Agreement.

#### **ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING**

Neither of the parties hereto shall assign any of their rights, interest or obligations under this Agreement, or subcontract for any of the goods or services to be provided by it under this Agreement, without the prior express written consent of the other party.

#### **ARTICLE 7. BOOKS AND RECORDS**

**MUNICIPALITY** 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 8. RETENTION OF RECORDS**

**MUNICIPALITY** agrees to retain all books, records and other documents relevant to this Agreement as long as it is in effect or for **SIX (6) YEARS** after the termination of this Agreement, whichever later occurs. **COUNTY**, or any State and/or Federal auditors, and any other persons duly authorized by the **COUNTY**, shall have full access and the right to examine any of said materials during said period.

#### **ARTICLE 9. AUDIT BY THE COUNTY AND OTHERS**

All invoices presented for payment to be made hereunder, and the books, records and accounts upon which invoices are based are subject to audit by the **COUNTY**. **MUNICIPALITY** shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the **COUNTY** so that it may evaluate the reasonableness of the charges, and **MUNICIPALITY** shall make its records available to the **COUNTY** upon request. All books, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the **COUNTY**, state, or the federal governments, or such other persons duly authorized by the **COUNTY**. Such audits may include examination and review of the source and application of all funds whether from the **COUNTY**, state or federal governments, private sources or otherwise. **MUNICIPALITY** 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 10. INDEMNIFICATION

MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, 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 COUNTY, or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of MUNICIPALITY, its employees, representatives, subcontractors, assignees, or agents.

## ARTICLE 11. TERMINATION

The COUNTY may, by written notice to MUNICIPALITY, which shall be effective upon mailing, terminate this Agreement in whole or in part at any time (1) for the COUNTY'S convenience, (2) upon the failure of MUNICIPALITY to comply with any of the terms or conditions of this agreement, or (3) upon the MUNICIPALITY becoming insolvent or bankrupt.

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

A. Accounting for and refunding to the COUNTY within THIRTY (30) DAYS, any unexpended funds which have been paid to MUNICIPALITY pursuant to this Agreement; and

B. Furnishing within THIRTY (30) DAYS an inventory to the COUNTY of all equipment, appurtenances and property issued to the MUNICIPALITY through or provided under this Agreement, and carrying out any COUNTY directive concerning the disposition thereof.

In the event the COUNTY terminates this Agreement in whole or in part, as provided in this Article, the COUNTY may procure, upon such terms and in such manner as deemed appropriate, goods or services similar to those so terminated, and the MUNICIPALITY 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 COUNTY, any goods or services procured by the COUNTY to complete the performance of this Agreement will be charged to MUNICIPALITY and/or set off against any sums due MUNICIPALITY.

Notwithstanding any other provision of this Agreement, MUNICIPALITY shall not be relieved of liability to the

COUNTY for damages sustained by the COUNTY by virtue of MUNICIPALITY'S breach of the Agreement or failure to perform in accordance with applicable standards, and the COUNTY may withhold payments to MUNICIPALITY for the purposes of set-off until such time as the exact amount of damages due to the COUNTY from MUNICIPALITY is determined.

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

## ARTICLE 12. GENERAL RELEASE

The acceptance by MUNICIPALITY or its assignees of the final payment or Equipment provided 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 COUNTY from any and all claims of MUNICIPALITY arising out of the performance of this Agreement.

## ARTICLE 13. SET-OFF RIGHTS

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

## ARTICLE 14. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. MUNICIPALITY shall provide all goods and perform 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 goods are provided or services are rendered.

## ARTICLE 15. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors and assigns shall be subject to and governed by this Agreement, including any incorporated attachments and amendments or

modifications thereto, which shall supersede any previous understandings or writings between or among the parties.

**ARTICLE 16. 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 both parties. Changes in the scope of this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the provision of additional or

other goods or the performance of any additional or other services, the County Executive of the COUNTY, after consultation with the Department of Emergency Services, executes an amendment to this Agreement, which amendment shall specifically set forth the scope of such additional or other goods or services and the amount of compensation and the extension of the time for performance, if any, for any such goods or 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 any such amendment.

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

COUNTY OF ORANGE

CITY OF \_\_\_\_\_ :

By: \_\_\_\_\_  
EDWARD A. DIANA  
County Executive

By: \_\_\_\_\_  
NAME:  
TITLE:

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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

On the day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, personally appeared **EDWARD A. DIANA**, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On the day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his / her / their capacity(ies), and that by his / her / their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## APPENDIX "A"

**COUNTY** will provide for the consultation, assessment, initial purchase/ installation, and implementation of an Automatic Vehicle Locator solution (AVL) to enhance the existing computer aided dispatching system (CAD) that is presently in use by both the **COUNTY** and local agency CAD users.

**MUNICIPALITY** will allow the **COUNTY** and its authorized vendor(s) access to the police vehicles identified for AVL installation for the purpose of installation and maintenance of required equipment.

**COUNTY** agrees to provide for routine maintenance and repair of the AVL equipment.

**MUNICIPALITY** agrees to provide for repair of hardware that is damaged.

Once hardware is installed, the **MUNICIPALITY** will provide for the transfer of the installed hardware as part of their routine vehicle replacement schedule.

**COUNTY** and **MUNICIPALITY** agree to work within the best practices of mutually agreed and established protocols for dispatching calls received for police service by the Orange County Emergency Service Communications Center (911) and Self-Dispatch agencies.

**MUNICIPALITY** agrees to participate in the Orange County AVL CAD dispatch for the service life of **COUNTY** AVL application.

**COUNTY** and **MUNICIPALITY** will provide staff as necessary to receive training related to the project.

**RESOLUTION # 3 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION DESIGNATING  
DEPOSITORY BANKS**

**BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the following banks be and are hereby designated as depositories for City funds;

Bank of America  
Citizens Bank  
Key Bank of New York, N.A.  
JP Morgan Chase  
M & T Bank  
Orange County Trust Company  
Provident Bank  
TD Bank

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately.

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

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

**ADOPTED**

**RESOLUTION NO.: 4 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION ACCEPTING A DONATION  
FROM ST. PATRICK'S CHURCH  
IN THE AMOUNT OF FIVE HUNDRED DOLLARS  
TO OFFSET THE COST OF POLICE OVERTIME  
FOR THE "OUR LADY OF GUADALUPE PROCESSION"**

**WHEREAS**, St. Patrick's Church has offered to donate Five Hundred (\$500.00) Dollars to the City of Newburgh Police Department to offset the cost for police overtime for the "Our Lady of Guadalupe Procession;" and

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

**NOW THEREFORE BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept the donation from St. Patrick's Church in the amount of Five Hundred (\$500.00) Dollars to offset the cost of police overtime for "Our Lady of Guadalupe Procession."

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

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

**ADOPTED**

**RESOLUTION NO.: 5 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION ADOPTING  
RULES OF ORDER AND PROCEDURE  
FOR THE COUNCIL OF THE CITY OF NEWBURGH  
FOR THE YEAR 2010**

**BE IT RESOLVED** that the Council of the City of Newburgh, New York adopts for use during the year 2010 the Rules of Conduct and Procedure: By Laws, a copy of which is attached hereto and made a part of this Resolution; and

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately.

**Councilwoman Bello asked for clarification. When people give their public comments and they state their name, some people have mentioned to her that they shouldn't have to give their street address. Can it be changed so that people can state their name and whether or not they are a City resident?**

**Mayor Valentine said that that would be fine. It is just a way of determining if a comment is coming from a City resident or not. We are not trying to pry so it is totally up to whatever the Council wants to do. These are rules of order that haven't changed for many years but he thinks it is important to note if the person speaking is a City resident or not.**

**Acting City Manager, Richard Herbek noted that the Work Sessions were to be changed to 6:00 p.m.**

**Mayor Valentine added that he would like it to be more specific with addresses when there is a public hearing because sometimes those comments are submitted to another agency. In that particular case, the information goes to someone else with a different set of rules and they might require a little more information. If it has to do with funding that we get from a Federal agency and they want to know and address or street, then he will make that announcement before the public hearing. These are general rules which were put together many years ago. The things that might change would be times and recording material. Regarding the conduct of the people that speak, he**

tries to express that it is not a time to single out individual people or to be critical because it is a time to voice your opinion to us as an elected body.

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

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

**ADOPTED**

5-10

**City of Newburgh City Council  
Rules of Order and Procedure**

**Rule I: General Rules of Procedure**

- A. The presiding officer shall preserve order and decorum and shall decide questions of order, subject to an appeal by motion to the City Council; the appeal to be taken without debate. The presiding officer may, if (s)he so desires, present motions and resolutions to the City Council, and (s)he may debate on any question which is being considered by it.
- B. When a question is under consideration, no motion shall be entertained except as herein specified, which shall have precedence in the following order:
1. Motion for clarification, or to request reversal of ruling of the presiding officer, or limiting or extending discussion;
  2. Recess the session;
  3. Lay on table;
  4. Postpone to a meeting of a certain date;
  5. Refer to work session;
  6. Amend;
  7. Call the previous question, to be asked as follows: "Shall the main question be put now?" If answered in the negative, the main question remains before the Council.
- C. A motion to lay a question on the table shall be decided without amendment or debate, and a motion to postpone shall be decided without debate.
- D. A motion to adjourn shall always be in order and shall be decided without debate.
- E. Every member desiring to speak shall address the presiding officer. All council members shall confine him/herself to the question under debate and avoid personalities. A member once recognized shall not be interrupted when speaking.
- F. No question or motion shall be debated or put, unless it is seconded. It shall then be stated by the presiding officer.
- G. A motion to reconsider any action taken by the Council may be made on the day such action was taken, either immediately during the session or at a recessed or adjourned session. Such motion must be made by a member on the prevailing side, but may be seconded by any member. The motion is subject to debate. This rule shall not prevent any member of the Council from making or re-making the same or any other motion at a subsequent meeting of the Council.

H. No member of the Council shall by conversation or otherwise delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking or refuse to comply with these rules, or the orders of its presiding officer. The Presiding Officer, subject to appeal by motion to the Council, may direct a member who is acting in violation of this section to leave the meeting or call for a recess or adjournment.

I. As the sergeant-at-arms of the meetings, the Police Chief shall carry out all order and instructions given by the presiding officer, for the purpose of maintaining order and decorum at the meetings, subject to an appeal by motion, to the Council.

J. Any motion may be withdrawn by the maker before it has been amended or voted upon, but in such case any other member may renew the motion at that time.

## **Rule II. Order of Business**

A. The Order of Business shall be in conformity with section 20-3 of the Code of Ordinances.

B. The Order of Business may be departed from by majority vote of the members present.

## **Rule III. Voting**

A. The order of voting shall be by alphabetical order of the last name of each Council member with the Mayor voting last.

B. All votes shall be by roll call. It shall be the duty of the City Clerk to enter on the minutes the names of the members voting for or against the question. Once a question has been put and the vote is being taken, the members of the Council shall confine themselves to voting and shall not resume discussion or make further comments on the question.

C. Every resolution or motion must be seconded before being put to a vote. An abstention, silence or absence shall be considered a negative vote for the purposes of determining the final vote on a matter.

D. No resolution, ordinance or local law may be introduced at a meeting unless the resolution, ordinance or local law has been considered at a work session of the Council prior to the Council meeting or is listed on the written agenda for said meeting. Notwithstanding the foregoing, by majority vote, an item not discussed at work session or appearing on the written agenda may be introduced, considered, and voted upon.

#### **Rule IV. Executive Session**

Whenever the Council shall determine to transact business in an executive session, it shall do so in accordance with the provisions of Open Meetings Law. All executive sessions shall be commenced at the public meeting. Proposals, discussions, statements and transactions in executive session are intended to be and shall be held and maintained in confidence and shall not be disclosed. The presiding officer shall direct all persons except members and designated officers and employees of the City to withdraw.

#### **Rule V. Participation of City Manager and Staff**

The City Manager shall be permitted to address the Council and participate in discussions. Heads of Departments shall be permitted to address the Council. Any other City officer or employee shall be permitted to address the Council with permission of the presiding officer, subject to an appeal by motion to the City Council, the appeal to be taken without debate.

#### **Rule VI. Suspension of the Rules**

In order to hear persons other than members of the City Council, the Mayor, and members of City staff, it shall be necessary to pass a motion suspending the rules of order. A motion to suspend the rules may be made at any time during the meeting and shall be decided without debate. Any such person speaking shall confine himself-herself to the subject and shall spend not longer than three (3) minutes, unless the time is extended by the presiding officer. This rule shall not apply to public hearings.

#### **Rule VII. Guidelines for Public Comment**

- A. The public shall be allowed to speak only during the Public Comment periods of the meeting or at such other time as the presiding officer may allow, subject to appeal by motion to the Council.
- B. Speakers must adhere to the following guidelines:
  - 1. Speakers must be recognized by the presiding officer.
  - 2. Speakers must step to the front of the room.
  - 3. Speakers must give their name, address and organization, if any.
  - 4. Speakers must limit their remarks to 3 minutes on a given topic. The City Clerk shall keep a record of the time and shall inform the presiding officer when the 3 minutes has expired.
  - 5. Speakers may not yield any remaining time they may have to another speaker.

6. Council members may, with the permission of the presiding officer, , interrupt a speaker during their remarks, but only for the purpose of clarification or information.
  7. All remarks shall be addressed to the Council as a body and not to any specific member or to staff.
  8. Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. No profanities shall be used. No personal, slanderous, boisterous remarks shall be made. Council members, the Mayor and staff shall be treated with respect. The presiding officer, subject to appeal by motion to the Council, or the Council, may, by majority vote, request that the presiding officer direct that a speaker violating this provision or any other rule yield the floor and in the event the speaker fails to obey, (s)he may be escorted from the meeting by the sergeant-in-arms.
  9. Interested parties or their representatives may address the Council by written communications. Written communications shall be delivered to the Clerk or their designee. Speakers may read written communications verbatim.
- C. Members of the public not speaking shall observe commonly accepted rules of courtesy and decorum. They shall not annoy or harass others or speak when another speaker is being heard by the Council.

#### **Rule VIII. Use of Recording Equipment**

All members of the public and all public officials are allowed to audio or video record public meetings. Recording is not allowed during executive sessions. The recording should be done in a manner which does not interfere with the meeting. The presiding officer, subject to appeal by motion to the Council, may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the deliberations of the Council, size of the equipment, and the ability of the public to still participate in the meeting. If the presiding officer makes the determination that the recording is intrusive and has the effect of interfering with the meeting, (s)he may request an accommodation to avoid the interference and if not complied with, may ask the individual to leave the meeting room.

#### **Rule IX. Rules for Public Hearings**

The following rules shall apply to a legally required public hearing held before the City Council:

- (a) Speakers shall register in writing prior to the beginning of the hearing by providing their name, address, and organization, if any. Individuals arriving after the commencement of the hearing shall be permitted to register upon arrival as long as the Chairperson has not closed the hearing.

(b) The Presiding Officer shall recognize each speaker, in the order registered, when the hearing is commenced. Speakers shall identify themselves, their address and organization, if any, prior to the remarks.

(c) Speakers must limit their remarks to five (5) minutes. Remarks shall be addressed only to the hearing issues. Speakers may not yield any remaining time they may have to another speaker. The City Clerk shall time speakers and advise the presiding officer when the time has expired.

(d) All remarks shall be addressed to the Council as a body and not to any individual member thereof.

(e) Speakers shall observe the commonly accepted rules of courtesy, decency, dignity and good taste. Any loud, boisterous individual shall be asked to leave by the Presiding Officer and may be removed at the request of the Presiding Officer, subject to appeal by motion to the Council. Speakers addressing issues outside the scope of the hearing shall be asked to cease their comments.

(f) Interested parties may address the Council by written communication. The statements may be read at the hearing, but shall be provided to all Council members and entered in the minutes of the hearing by the City Clerk.

(g) The City Clerk shall include in the minutes of the hearing the name, address and organization, if any, of each speaker, a summary of the remarks, and written statements submitted to the Council.

#### **Rule X. Work Sessions**

There shall be regular work sessions of the Council to be held each Thursday preceding a Monday evening Council meeting. The work sessions shall be held at 6:00 p.m. in the City Council Chambers on the third floor of City Hall unless the Council by majority vote cancels or changes the time or place of such session. The Rules IV, V, VI, and VIII of the Rules of Order of the Council shall apply to all work sessions.

#### **Rule XI. Robert's Rules of Order**

In the event any question in procedure shall arise that is not provided for by these rules, then, in that event, Robert's Rules of Order, Newly Revised, 10<sup>th</sup> Edition, shall be followed.

#### **Rule XII. Adoption of Ordinances**

Provided the proposed adoption of an ordinance has been placed on an agenda for a meeting of the Council at which the public is afforded the opportunity to comment on agenda items before Council action, a formal public hearing will not be conducted prior to

the adoption of such ordinance, unless otherwise required by federal, state, or local law, ordinance, rule or regulation.

This rule shall not be construed to prevent the Council from holding a public hearing on any ordinance at its discretion, provided a majority of the members of the Council in attendance at a meeting, upon a motion or resolution duly introduced, vote to conduct such public hearing.

Date Adopted: May 14, 2001

Amended: February 25, 2002 (Rule XII added)

**RESOLUTION NO.: 6 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION RESCINDING RESOLUTION NO. 126-88 OF NOVEMBER 14, 1988, RESOLUTION NO. 148-90 OF NOVEMBER 13, 1990 AND RESOLUTION NO. 150-90 OF NOVEMBER 13, 1990 WHICH ESTABLISHED A SEWER REPAIR RESERVE FUND AND SEPARATE CAPITAL IMPROVEMENT, EQUIPMENT AND REPAIR RESERVE FUNDS WITHIN THE SEWER FUND**

**WHEREAS**, by Resolution No. 125-88 of November 14, 1988, the City Council of the City of Newburgh, pursuant to Section 6-c of the General Municipal Law, established a Capital Reserve Fund in each of its Enterprise Funds (Water and Sewer) to finance to the cost of the construction, reconstruction, or acquisition of capital improvements or the acquisition of equipment needed to maintain the operations of the water system and the sewer system; and

**WHEREAS**, by Resolution No. 126-88 of November 14, 1988, pursuant to Section 6-D of the General Municipal Law, established a Sewer Repair Reserve Fund; and

**WHEREAS**, by Resolution No. 148-90 of November 13, 1990 amended Resolution No. 125-88 of November 13, 1988 to establish a separate reserve fund for capital improvements and a separate reserve fund for equipment within the Capital Reserve Fund within the Sewer Fund; and

**WHEREAS**, by Resolution No. 150-90 of November 13, 1990, the City Council of the City of Newburgh, pursuant to Section 6-d of the General Municipal Law, established a Repair Reserve Fund in the Sewer Fund; and

**WHEREAS**, Resolution No. 126-88 of November 14, 1988, Resolution No. 148-90 of November 13, 1990 and Resolution No. 149-90 of November 13, 1990, are redundant in that equipment may be purchased and repairs made with funds from the Capital Reserve Fund established by Resolution No. 125-88 of November 14, 1988.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh hereby rescinds Resolution No. 126-88 of November 14, 1988, Resolution No. 148-90 and Resolution No. 150-90 of November 13, 1990.

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

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

**ADOPTED**

**RESOLUTION NO.: 7 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION RESCINDING RESOLUTION NO. 126-88 OF NOVEMBER 14, 1988, RESOLUTION NO. 148-90 OF NOVEMBER 13, 1990 AND RESOLUTION NO. 149-90 OF NOVEMBER 13, 1990 WHICH ESTABLISHED A WATER REPAIR RESERVE FUND AND SEPARATE CAPITAL IMPROVEMENT, EQUIPMENT AND REPAIR RESERVE FUNDS WITHIN THE WATER FUND**

**WHEREAS**, by Resolution No. 125-88 of November 14, 1988, the City Council of the City of Newburgh, pursuant to Section 6-c of the General Municipal Law, established a Capital Reserve Fund in each of its Enterprise Funds (Water and Sewer) to finance to the cost of the construction, reconstruction, or acquisition of capital improvements or the acquisition of equipment needed to maintain the operations of the water system and the sewer system; and

**WHEREAS**, by Resolution No. 126-88 of November 14, 1988, pursuant to Section 6-D of the General Municipal Law, established a Water Repair Reserve Fund; and

**WHEREAS**, by Resolution No. 148-90 of November 13, 1990 amended Resolution No. 125-88 of November 13, 1988 to establish a separate reserve fund for capital improvements and a separate reserve fund for equipment within the Capital Reserve Fund within the Water Fund; and

**WHEREAS**, by Resolution No. 149-90 of November 13, 1990, the City Council of the City of Newburgh, pursuant to Section 6-d of the General Municipal Law, established a Repair Reserve Fund in the Water Fund; and

**WHEREAS**, Resolution No. 126-88 of November 14, 1988, Resolution No. 148-90 of November 13, 1990 and Resolution No. 149-90 of November 13, 1990, are redundant in that equipment may be purchased and repairs made with funds from the Capital Reserve Fund established by Resolution No. 125-88 of November 14, 1988.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh hereby rescinds Resolution No. 126-88 of November 14, 1988, Resolution No. 148-90 and Resolution No. 149-90 of November 13, 1990.

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

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

**ADOPTED**

**RESOLUTION NO.: 8 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE EXPENDITURE OF \$742,635.50  
FROM THE CAPITAL RESERVE FUND IN THE WATER FUND TO PAY  
DOYLE CONTRACTING FOR WORK PERFORMED TO REPAIR THE  
BROWN'S POND DAM**

**WHEREAS**, by Resolution No. 125-88 of November 14, 1988, the City Council of the City of Newburgh, pursuant to Section 6-c of the General Municipal Law, established a Capital Reserve Fund in each of its Enterprise Funds (Water and Sewer) to finance to the cost of the construction, reconstruction, or acquisition of capital improvements or the acquisition of equipment needed to maintain the operations of the water system and the sewer system; and

**WHEREAS**, by Resolution No.: 90 - 2009 of June 15, 2009, the City Council of the City of Newburgh authorized the City Manager to enter into construction services agreement with Doyle Contracting, Inc. for construction services in connection with the rehabilitation of the Silver Stream Reservoir Dam; and

**WHEREAS**, Doyle Contracting, Inc. has performed construction work on the dam rehabilitation project and has requested payment in the amount of \$742,635.50; and

**WHEREAS**, the construction work was performed satisfactorily and the cost of such work is an eligible for payment from the Water Capital Reserve Fund.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh hereby authorizes the payment of \$742,635.50 from the Water Capital Reserve Fund to Doyle Contracting, Inc. for construction work performed in connection with the rehabilitation of the Silver Stream Reservoir Dam.

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

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

**ADOPTED**

**RESOLUTION NO.: 9 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF  
LITIGATION REGARDING THE IN REM TAX FORECLOSURE  
OF A 2005 TAX LIEN AND FURTHER AUTHORIZING THE RE-PURCHASE  
OF REAL PROPERTY KNOWN AS  
482 FIRST STREET (SECTION 20, BLOCK 1, LOT 29)**

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

**WHEREAS**, the former owners, by their attorney, served an Order to Show Cause on the City of Newburgh bearing Orange County Index No.: 2009-10812, which caused the removal of 482 First Street (Section 20, Block 1, Lot 29) from the City's October 1, 2009 property auction; and

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

**WHEREAS**, Jesus Garcia and Hermelinda Giron, the former owners of 482 First Street, being more accurately described as Section 20, Block 1, Lot 29 on the official tax map of the City of Newburgh, have requested to re-purchase the property at private sale; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the property known as 482 First Street to Jesus Garcia and Hermelinda Giron be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, no later than January 15, 2010;

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

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

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

**ADOPTED**

**RESOLUTION NO.: 10 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF  
LITIGATION REGARDING THE IN REM TAX FORECLOSURE  
OF A 2007 TAX LIEN AND FURTHER AUTHORIZING THE RE-PURCHASE  
OF REAL PROPERTY KNOWN AS  
240 BROADWAY (SECTION 29, BLOCK 9, LOT 17.1)**

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

**WHEREAS**, the former owner, by his attorney, served an Order to Show Cause on the City of Newburgh bearing Orange County Index No.: 2009-10922, which caused the removal of 240 Broadway (Section 29, Block 9, Lot 17.1) from the City's October 1, 2009 property auction; and

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

**WHEREAS**, Charles T. Brown, III, the former owner of 240 Broadway, being more accurately described as Section 29, Block 9, Lot 17.1 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the property known as 240 Broadway to Charles T. Brown, III be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said

purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, no later than January 15, 2010;

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

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

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

**ADOPTED**

**RESOLUTION NO.: 11 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF  
LITIGATION REGARDING THE IN REM TAX FORECLOSURE  
OF A 2007 TAX LIEN AND FURTHER AUTHORIZING THE RE-PURCHASE  
OF REAL PROPERTY KNOWN AS  
191 WEST STREET (SECTION 6, BLOCK 6, LOT 45)**

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

**WHEREAS**, the former owner, by his attorney, served an Order to Show Cause on the City of Newburgh bearing Orange County Index No.: 2009-10813, which caused the removal of 191 West Street (Section 6, Block 6, Lot 45) from the City's October 1, 2009 property auction; and

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

**WHEREAS**, Daniel Benegas, the former owner of 191 West Street, being more accurately described as Section 6, Block 6, Lot 45 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the property known as 191 West Street to Daniel Benegas be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon

receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, no later than January 15, 2010;

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

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

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

**ADOPTED**

**RESOLUTION NO.: 12 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING APPROVAL OF VARIOUS INSURANCE  
POLICIES FOR THE PERIOD OF  
JANUARY 1, 2010 TO DECEMBER 31, 2010**

**WHEREAS**, the City of Newburgh has solicited proposals for insurance coverage for the fiscal year 2010; and

**WHEREAS**, Arthur J. Gallagher & Company of New York, Inc., the City's insurance broker, has recommended a package of insurance coverage for property, liability and workers' compensation coverage, as set forth in the attached "City of Newburgh Risk Management Proposal for Fiscal Year 2010; and

**WHEREAS**, such insurance coverage includes the retention of Gallagher Bassett Services, Inc., as the City's third party administrator;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York hereby approves the insurance coverage for the term beginning January 1, 2010 through December 31, 2010; all liability insurance to be provided by U.S. Specialty Insurance Company, and inland marine, property and boiler and machinery to be provided by Praetorian Insurance Company, and with limits, self insured retention amounts and premium rates as set forth in the attached "City of Newburgh Risk Management Insurance Proposal, January 1, 2010 to December 31, 2010;" and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and she is hereby authorized and directed to execute an agreement with Gallagher Bassett Services, Inc. to provide for third-party claims administration services for the period of January 1, 2010 to December 31, 2010.

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

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

**ADOPTED**

12-10

**CITY OF NEWBURGH**  
**2010 RISK MANAGEMENT PROPOSAL**

**PROPERTY, B&M, INLAND MARINE AND AUTO  
 PHYSICAL DAMAGE**

<b>Carrier:</b>	Praetorian Insurance
<b>Limit</b>	\$37,613,783 Agreed Amount Replacement Cost
<b>Flood</b>	\$5,000,000 Annual Aggregate/Per Occurrence
<b>Earthquake</b>	\$5,000,000 Annual Aggregate/Per Occurrence
<b>Extra Expense</b>	Business Income/Extra Expense \$500,000
<b>Misc. Property at Unscheduled Locations</b>	\$250,000 not to exceed \$25,000 any one Item
<b>Underground Property</b>	\$250,000
<b>Water Damage</b>	\$50,000
<b>Emergency Portable Equipment</b>	\$100,000 – Various Outdoor Property (\$100,000 for antennas and other transmission equipment, \$25,000 for Shrubs, signs, fences etc)
<b>Ordinance or Law</b>	\$1,000,000
<b>Sublimits:</b>	EDP - \$250,000, Fine Arts \$50,000, Accounts Receivable \$250,000, Valuable Papers \$75,000, Underground Property \$250,000, Emergency Portable Equipment \$100,000, Rental & Leased Equipment \$250,000, Off Premises Property \$100,000, \$600,000 Mobile Equipment \$100,000 Max Per Item, \$500,000 Misc. Equipment \$25,000 Max Per Item
<b>Newly Acquired Property</b>	Building \$500,000 Personal property \$500,000 Communications Property \$250,000
<b>Debris Removal</b>	\$500,000
<b>Money &amp; Securities</b>	
<b>On Premises</b>	\$25,000 with \$250 Deductible
<b>Off Premises</b>	\$15,000 with \$250 Deductible
<b>Deductible</b>	\$250,000 for Flood and Earthquake \$250,000 All Other Perils

<b>Boiler &amp; Machinery</b>	
<b>Limits:</b>	\$25,000,000
<b>Sublimits:</b>	
Expediting Expenses, Hazardous Bustances and CFC Refrigerants	\$25,000 \$250,000



Contingent Time Element Ordinance or Law	\$25,000
Perishable Goods	\$100,000
Off Premises Power Interruption	\$25,000
Exclusions: Property Perils Computer Data Recognition	
Deductible	\$1,000
<b>Inland Marine</b>	
EDP Equipment	\$1,400,000
Fine Arts	\$50,000
Accounts Receivable	\$250,000
Contractors Equipment	\$1,225,596
Misc. Equipment	\$283,924
<b>Deductible:</b>	\$5,000
170 Vehicles	\$8,560,085, Coverage applies to all Owned and Leased Vehicles, A Max limit of \$5,000,000 applies to each occurrence. Deductible of \$10,000 for each auto in any one occurrence. Coverage applies to all hired and non-owned autos to a max value of \$35,000.
<b>Crime</b>	
Theft of Money and Securities Inside Premises	\$25,000/\$500 Deductible
Outside the Premises	\$10,000/\$500 Deductible

### Business Auto

Physical Damage Coverage is provided at Actual Cash Value for Vehicles Over 5 Years Old.

Hired and Non-Owned Auto is Excess of Other Valid and Collectible Insurance

Customized Vehicle Endorsement NIF 1003 Applies

### PROPERTY & INLAND MARINE INSURANCE

- ◆ Special Form
- ◆ Replacement Cost
- ◆ Automatic \$250,000 EDP equipment, data or media
- ◆ \$500,000 for newly acquired buildings
- ◆ \$500,000 for contents of newly acquired buildings
- ◆ \$250,000 for miscellaneous unscheduled buildings and personal property



- ◆ Automatic \$25,000 for loss resulting from electrical power interruption caused by damage to off-premises electrical apparatus
- ◆ \$250,000 for Extra Expense and Business Interruption
- ◆ \$250,000 for underground property consisting of regulators, basins, sewer and drain pipes, flues, storm basins and drains and ejectors
- ◆ \$250,000 Accounts Receivable
- ◆ \$250,000 Building Ordinance or Law
- ◆ Automatic coverage for Outdoor Property. Coverage applies to a wide range of property for various designated limits and perils
- ◆ \$100,000 for property off premises
- ◆ \$100,000 for property in transit
- ◆ \$100,000 for emergency portable equipment
- ◆ \$ 50,000 for Fine Art
- ◆ \$ 50,000 for water damage caused by accumulation of surface water, seepage through foundations and basements, sewer back-up and other causes
- ◆ \$ 5,000 for Fire Department Service Charges
- ◆ \$ 5,000 for accidentally discharged fire protective devices
- ◆ Automatic Equipment Breakdown Coverage  
Broad definition of Covered Equipment, including electronic data processing equipment, software and media
- ◆ \$100,000 Perishable Goods coverage
- ◆ \$ 25,000 Hazardous Substances
- ◆ \$ 25,000 Expediting Expenses
- ◆ \$ 25,000 CFC refrigerants Contamination
- ◆ Coverage for drying out costs following a flood

#### **AUTOMOBILE PHYSICAL DAMAGE INSURANCE**

- ◆ Broad definition of Insured
- ◆ Automatic coverage for volunteers using their own vehicles within the scope of their duties and at the Insured's direction
- ◆ Non-adjustable and non-auditable policies

#### **Major Exclusions:**

Accounts, Bills, Currency, Evidence of Debt.	Organic Pathogens
Asbestos	Pollution other than from hostile fire, Nuclear Hazard
Fungus, Mold, Dry Rot Endorsement NIF 1167	Terrorism/TRIA
Intentional, Illegal or Fraudulent Acts	Underground Pipes, flues, or drains
Land, crops, animals	Vacancy Limitation*
Neglect/Failure to reasonably protect/preserve prop.	War, Military Action
Flood Zones A&V or within 100 Year Flood Plan	Mold

60 Days Notice of Cancellation, 10 Days for Non Payment of Premium

**Terrorism:                    \$1,400**

**Package Premium:        \$66,689 + \$ 1,870 NY Fire Insurance Fee**



Subject to Receipt of MVRs for all Drivers, or confirmation that they are checked annually and guidelines are enforced for vehicle usage.

We were unable to obtain more advantageous terms and conditions for you directly from the insurance carrier(s), so this quotation was obtained through an intermediary/wholesaler.



# CITY OF NEWBURGH

## 2010 RISK MANAGEMENT PROPOSAL

### EXCESS LIABILITY-OPTION 1

<i>Carrier:</i>	U.S. Specialty Insurance Company
<i>Coverage Basis:</i>	<input checked="" type="checkbox"/> Occurrence
<i>Policy Form Type:</i>	<input checked="" type="checkbox"/> Excess Liability
<i>Policy Term:</i>	01/01/10-11
<i>Limits of Liability:</i>	<b>General Liability</b> \$1,000,000 Bodily Injury & Property Damage \$1,000,000 Personal Injury & Property Damage \$1,000,000 Employee Benefits Liability – Claims Made Coverage \$1,000,000 Damage to Premises Rented to You \$3,000,000 Products Completed Operations Aggregate \$3,000,000 Aggregate <b>Law Enforcement Liability</b> \$1,000,000 Per Occurrence \$1,000,000 Aggregate <b>Auto Liability</b> \$1,000,000 CSL \$10,000 Medical Expenses \$1,000,000 Uninsured Motorists \$50,000 PIP \$50,000 Additional PIP \$25,000 OBEL <b>Public Officials Liability/Employment Practices Liability</b> \$1,000,000 Per Occurrence \$1,000,000 Aggregate <b>Self-Insured Retention:</b> \$500,000 \$1,000 Deductible for EBL <b>Excess Liability</b> \$4,000,000 xs \$1,000,000 - Follows form of above coverage \$10,000 SIR
<i>Statement of Defense Costs:</i>	<input checked="" type="checkbox"/> Within Policy Limit (expenses erode policy limit)
<i>Statement of Defense Costs:</i>	<input checked="" type="checkbox"/> Outside the Limits of Liability for the Umbrella
<i>Cancellation, Nonrenewal, or Material Modification:</i>	30 days written notice for non-renewal and cancellation 10 days non-payment of premium
<i>Major Exclusions:</i>	Included, but not limited to: <ul style="list-style-type: none"><li>• Non-Owned Water Craft</li><li>• Fairs, Carnivals, Circuses</li><li>• Downstream Liability for Owned Dam</li><li>• Pollution Liability</li></ul>



*Coverage  
Enhancements:*

- Underground Storage Tanks Located at Davis Island
- Back Wages
  
- Broad, Governmental-Specific Definition of Insured
- Volunteers as Insureds
- EMT & Paramedic Liability
- Employed Engineers & Surveyors Liability
- Good Samaritan Liability
- Failure to Supply
- Sexual Abuse/Molestation
- Underinsured Motorists Included
- Excess Hire
- Non-Owned Liability

**Premium Payable in Full within 20 days of binding - Policy is Not Auditable**

**Premium:** \$234,115 + NY Law Enforcement Fee \$720

**Terrorism** \$1,884

We were unable to obtain more advantageous terms and conditions for you directly from the insurance carrier(s), so this quotation was obtained through an intermediary/wholesaler.



**CITY OF NEWBURGH**  
**2010 RISK MANAGEMENT PROPOSAL**

**GALLAGHER BASSETT SERVICE FEE**

	# Claims	Rate	Price
Auto Liability-Bodily Injury	1	1,086	1,086
Auto Liability-Property Damage	10	554	5,540
Auto Physical Damage	0	405	0
General Liability-Bodily Injury	18	1,086	19,548
General Liability-Property Damage	21	554	11,634
Professional Liability	4	1,209	4,836
<b>Total Per Claim Fee</b>	<b>54</b>		<b>42,644</b>

Ancillary Services	10,925
Loss Control	4,480
Banking – SIMMS	599
<b>Total</b>	<b>16,006</b>

**Grand Total                      \$58,648**

Quote is based on 100% of anticipated activity. Fee will be reviewed during the service period and adjusted periodically based on actual activity. Deposit account reviews/audits will occur at 18<sup>th</sup>, 24<sup>th</sup>, 36, and 48<sup>th</sup> month of a given claim period.

Fees are payable upon receipt of invoice. GB reserves the right to charge 1% per month, or the maximum legal rate, on balances unpaid after 30 days.

Fee is based on a projection of new claims. Claims in excess of the initial projection will be billed at the per claim rates identified.



**RESOLUTION NO.: 13 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AMENDING THE 2010 BUDGET  
FOR THE CITY OF NEWBURGH, NEW YORK  
TO REFLECT A TOTAL OF FIFTEEN DETECTIVE POSITIONS  
IN THE CITY OF NEWBURGH POLICE DEPARTMENT**

**WHEREAS**, the 2009 Budget for the City of Newburgh Police Department provided for fifteen detective positions; and

**WHEREAS**, three detectives were to be eliminated through a tentative retirement incentive plan which was not implemented before the end of Fiscal Year 2009; and

**WHEREAS**, Resolution No.: 208-2009 of December 14, 2009, provided for the reinstatement of the salaries and benefits for three detectives; and

**WHEREAS**, such reinstatement requires the 2010 Budget to be amended to reflect the total of fifteen detective positions;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the 2010 Budget be and is hereby amended to provide for fifteen detective positions in the City of Newburgh Police Department as follows:

**Decrease** - A 3120.0103                      \$11,768.00

**Increase** - A 3120.0101                      \$11,768.00

**Acting City Manager, Richard Herbek explained that the Council was attempting to do whatever was possible to reduce the tax rate increase and to do that three Detective positions were eliminated in the 2010 Budget. We had been told that there were three Detectives who were interested in retiring if the City adopted a retirement incentive program. At that time we did not realize the process to do this would take approximately three to six months so we are looking at that and will be working on it in the near future but because**

**we couldn't do it in a timely manner we need to modify the Budget to put these individuals back in.**

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

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

**ADOPTED**

**RESOLUTION NO.: 14 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN  
THE CITY OF NEWBURGH AND J. DWIGHT HADLEY, CPA FOR  
PROFESSIONAL CONSULTING SERVICES IN THE AREA  
OF GOVERNMENTAL ADMINISTRATIVE AND FINANCIAL  
MANAGEMENT**

**WHEREAS**, the City of Newburgh wishes to enter into the attached agreement with J. Dwight Hadley, CPA; and

**WHEREAS**, the agreement is for providing assistance in the area of governmental administrative and financial management in the form of consulting services; and

**WHEREAS**, the rate for these services is \$70.00 per hour with a minimum of twenty-four (24) hours per week; and

**WHEREAS**, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with J. Dwight Hadley, CPA, in substantially the same form as annexed hereto with any other provision that Counsel may require, at a rate of \$70.00 per hour for consulting services in the area of governmental administrative and financial management.

**Mayor Valentine said that there was a question as to the time frame on where we are with the Comptroller search and there isn't a time frame in this document. There is a fee and a number of hours but not a time frame.**

**Councilwoman Bell said that she heard that the Comptroller search is being aggressively carried out and resume's have been received so we should be able to estimate that the time period would be about two to three months?**

Acting City Manager, Richard Herbek said that he is hopeful that they will find someone by then.

Councilwoman Bell then suggested that perhaps the language should be for a maximum of a three month period at which time we could look at it again.

Acting Corporation Counsel, Michelle Kelson said that the document they are adopting can be modified.

Councilwoman Bell asked if Mr. Hadley is a retiree of New York State Retirement.

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

Councilwoman Bello does not understand why at a very generous salary of \$70.00 this City feels the need to pay for the gas, food and lodging estimated at about \$300.00 per week when we are in such dire financial straits. \$70.00 is nothing to sneeze at. It is a good hearty salary. She cannot see being responsible to get these people to work because jobs are opportunities. If they want the job then they should be able to buy their own lunch and get themselves to work. This also says approximately \$300.00 per week which is \$1200.00 a month extra and it does not say "not to exceed". This is an open ended disaster in her opinion.

Councilman Dillard said that this gentleman has a long extensive record on handling finances. He doesn't think that this amount of money would be significant in terms of bringing someone on board to assist us in our needs.

Councilwoman Bello said that we are paying him a hearty salary of \$70.00 per hour. Her objection is solely to paying gas, food and lodging. She just doesn't see how that can be justified when we are proposing heavy duty fee increases on the people. We don't have it like that obviously.

Mayor Valentine said that we are going through an audit process right now. We have no one in the Comptroller's Office who is a Comptroller. We have incredibly talented people who are not Comptrollers in the Comptroller's Office. This is a sixty million dollar Budget and we are one year behind in our audit process. We have an audit company that is here that needs to deal with a Comptroller on a daily basis until we find one. If it was for twice the amount of money, he would agree with it tonight. How do you have a city run without a Comptroller? That is what we are doing. We had Mike Genito here for a few months and what he was able to do in correcting what was upstairs in the way of where accounts should be and the whole capital financing that we are now

doing came from one person. He doesn't know how you can estimate the savings over the lifetime of all of that borrowing and it was one decision that he made. This is not a permanent thing. We have a City Manager who is trying to get a full-time Comptroller here. We need that probably more than we need anything else right now because it all has to do with finance. At what particular point are you penny wise and dollar foolish? This is sixty million dollars worth of financing and we are looking at \$5,000.00 and saying lets not do this? By tomorrow morning \$5,000.00 could be wasted. You have to think in the framework of the amount of money that goes through this building and we need someone at the helm to watch it. We get criticized when we don't have someone watching it and we are getting criticized because we put someone there to watch it for \$5,000.00 over three months.

Councilman Dillard said that this gentleman will be responsible for our checks and balances which we truly need here. We have lost so much money because we don't have a process in place and this person will put a process in place until we get a Comptroller.

Mayor Valentine said that we are looking for a Comptroller with experience not an accountant. We had a very good accounting firm help us in a transition time but they told us repeatedly that this is not the way that they normally do accounting because they are not municipal people. They are accounts and CPA's and it is different in the municipal field. The whole way in which you right the picture and have the checks and balances is so important. At the Work Session last Thursday night Mike Genito explained to them in one paragraph that the entire story of the 1.9 million dollars for Marina Ops that sat in limbo for a year was all exactly where it was supposed to be. It was in different accounts but we didn't have anyone upstairs that could literally tear it apart and find it. Same thing with our water and our sewer. We had to go back and look at these reserve funds and literally find where this money was. It is a very complex system that also by the way is not the same one system. They are all run by different software and different computers so in order to get a clear picture of that you need municipal experience. This gentleman has been a Comptroller for the state of New York and we are only looking for someone to stay for one to three months to get us over that hump until we can find someone permanent.

Councilwoman Bell asked what type of background checks do we apply when we are looking for someone who will be responsible for the finances of our City.

Acting City Manager, Richard Herbek said that he discussed this with a number of people including Ken Bond as well as a variety of people in the

finance field. This individual is well known in the State of New York. In each and every case with a full time employee, we do reference checks.

Councilwoman Bell said that a reference check is not the same as a background check.

Acting City Manager, Richard Herbek said that he doesn't know what the practice of the City has been in the past but he agrees that it would be a good idea.

Councilwoman Angelo asked where he is coming from and will he be commuting back and forth.

Acting City Manager, Richard Herbek said that he will be commuting from a little north of Albany and it will take him a while to get here. Concerning the expenses he thinks that he could discuss that with Mr. Hadley and that they could be minimized.

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

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

Nays - Councilwoman Bello - 1

**ADOPTED**

14-10

## AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2010, 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 J. DWIGHT HADLEY, CPA, an individual with an address of 14 Mountain Way, Clifton Park, New York 12065, 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.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties. As such, CITY, in its sole discretion, shall have the right to use, copy, disseminate and otherwise employ or dispose of such material in any manner as it may decide with no duty of compensation or liability therefore to VENDOR or to third parties. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

### ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning January \_\_, 20\_\_, and ending upon termination as provided under ARTICLE 17 TERMINATION of this Agreement.

### 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 fourteen (14) 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.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole

or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. 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, insurance as may be required by law. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Where applicable, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

- A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
- B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;
- C. If the insurance is terminated for any reason, VENDOR agrees to purchase an

unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

### 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.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

#### ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

#### ARTICLE 17. TERMINATION

The CITY may, by written notice to VENDOR effective thirty (30) days after 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. The VENDOR may, by written notice to CITY effective thirty (30) days after mailing terminate this Agreement in whole or in part at any time (i) for VENDOR'S convenience, (ii) upon the failure of the

CITY to comply with any terms and conditions of this Agreement, or (iii) upon the City becoming insolvent or bankrupt.

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

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

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

In the event either party terminates this Agreement, 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,

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 18. 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 19. 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 20. NO ARBITRATION

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

#### ARTICLE 21. 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 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

#### ARTICLE 23. 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 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the

Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise

specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

VENDOR

BY: \_\_\_\_\_  
RICHARD F. HERBEK  
ACTING CITY MANAGER

BY: \_\_\_\_\_  
NAME:  
TITLE:

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## SCHEDULE A

### SCOPE OF SERVICES

To provide professional consulting services focused on the following areas at a minimum of twenty-four (24) hours per week:

1. Provide Assistance to Finance Department staff in preparation of the financial records required for the independent audit of the City's December 31, 2008 Annual Financial Statements.
2. Provide oversight, training and instruction to the Finance Department staff in recording financial transactions, establishing appropriate internal controls, and preparing timely budget and financial statements.
3. Assist the Acting City Manager in recruiting a new City Comptroller
4. Such other financial services mutually agreed to with Acting City Manager.

## SCHEDULE B

### FEES AND EXPENSES

**RATE:** In consideration for the consulting services described in Schedule "A" above, the CITY shall pay the VENDOR at the rate of seventy (\$70.00) dollars per hour plus expenses, as defined below, payable within fourteen (14) days after invoices for such services rendered are received by the City.

**EXPENSES:** The CITY will reimburse the VENDOR for reasonable and necessary travel, meals, lodging and incidental expenses incurred in traveling to/from the City of Newburgh estimated at approximately three hundred (\$300.00) dollars per week. Any request by the CITY to travel to other locations beyond the City's geographic boundaries shall be pre-approved in writing by the CITY. Written documentation and receipts itemizing by date incurred all amounts expended will be submitted for reimbursement within fourteen (14) days of receipt by City.

**RESOLUTION NO.: 15 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF  
URBAN DESIGN ASSOCIATES, INC. V. CITY OF NEWBURGH IN AN  
AMOUNT NOT TO EXCEED \$8,940.00**

**WHEREAS**, Urban Design Associates, Inc. brought an action against the City of Newburgh seeking payment for services rendered; and

**WHEREAS**, an arbitration hearing was held to resolve the matter; and

**WHEREAS**, the parties are desirous of entering into a settlement agreement for the amount of the arbitration award 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 of the arbitration award.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Urban Design Associates, Inc. for an amount not to exceed \$8,940.00, and that City Manager be and he hereby is authorized to execute a written settlement agreement and general release, and any other documents as the City's attorneys may require, to effectuate the settlement as herein described.

**Councilwoman Bello moved and Councilwoman Bell seconded that the resolution be adopted.**

**Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Mayor Valentine - 4**

**Nays - Councilman Dillard - 1**

**ADOPTED**

**RESOLUTION NO.: 16 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO APPLY TO THE STATE OF NEW YORK OFFICE OF  
GENERAL SERVICES FOR TRANSFER AND CONVEYANCE  
OF A CERTAIN PARCEL OF STATE LAND KNOWN AS  
THE NEW YORK STATE ARMORY, 321 SOUTH WILLIAM STREET  
E/K/A 321-393 SOUTH WILLIAM STREET  
LOCATED IN THE CITY OF NEWBURGH, ORANGE COUNTY, NEW YORK**

**WHEREAS**, the State of New York ("State") is the owner of a parcel of property located at 321 South William Street f/k/a 321-393 South William Street, City of Newburgh, County of Orange, and more accurately known as Section 43, Block 1, Lot 13 on the official tax map of the City of Newburgh and consisting of approximately 12.10 acres, hereinafter referred to as the "Premises;" and

**WHEREAS**, the State is authorized to convey its right, title and interest in the Premises to the City of Newburgh pursuant to Section 34 of the Public Lands Law for the purpose set forth in the statute; and

**WHEREAS**, it is the desire of the City of Newburgh to apply for a transfer and conveyance of the Premises for the purposes of park and recreation; and

**WHEREAS**, the consideration for the transfer and conveyance of the Premises as set forth in Section 34 is One (\$1.00) Dollar;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to apply to the State of New York Office of General Services for the transfer and conveyance of the Premises for the purposes of park and recreation pursuant to Section 34 of the Public Lands Law; and

**BE IT FURTHER RESOLVED**, that the City Manager is authorized to execute all documents necessary to effectuate said use and transfer and conveyance of the Premises and that such documents shall be subject to the review thereof by the Corporation Counsel as to form and substance; and

**BE IT FURTHER RESOLVED**, that title shall be transferred after such environmental reviews as may be required by the State Environmental Quality Review Act have been completed.

Councilwoman Bell said that we are talking about a building which is about 69,000 square feet and twelve acres. We have let go of all of our land and we have virtually nothing left so if we could get this it would be really incredible for us.

Mayor Valentine said that this is an authorization to apply for the transfer and conveyance. There is a process that will take place over the next few months with negotiations. There are some rather monumental conditions to this like the usage of the property, the private use of the property and conditions of whether it can be for municipal use or recreation. They have already started looking at other communities that have done the same thing to find out what you can do once you acquire an Armory site. You can't put a Galleria up and you can't just tear the building down so there are some limitations. He thinks that what we could do and the overall vision of what that property could be is worth obviously looking at it over these next four or five months with the final decision being what we have to lobby for in order to get some uses that are not listed right now. The State does not want it and if we don't take it then it will be up to the State to decide what they want to do with it. We do not lose or gain anything in taxes but there is a possibility that if some development could be done on the property over a period of time then it could be a taxable entity in the City but we don't know that yet. We can't just go in there and start building because it doesn't work that way. He feels that this is worth pursuing and moving on to the next round.

Councilwoman Bell said that some of the things they talked about is consolidation of city departments and bringing everyone under one umbrella which would be a cost savings. The other issue is that it could be great for a business incubator or a job development center. She is hot on this green jobs concept and would like for Newburgh to be known as the Green Jobs Development Center of Orange County.

Mayor Valentine said that we can't lose sight of the fact that it is adjacent to Delano-Hitch Park so anything having to do with recreation is in the same area. There is a space in the back that was at one time used for riding horses in competitions that could be used as a soccer field.

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

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

**ADOPTED**

**RESOLUTION NO.: 17- 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION TO AMEND THE TERMS AND CONDITIONS  
OF THE PUBLIC AUCTION AND TO CONFIRM THE SALE  
OF 406 GRAND STREET (SECTION 4, BLOCK 9, LOT 2)  
TO MOHAMMAD S. MAJEED FOR THE PURCHASE PRICE OF \$21,500.00**

**WHEREAS**, this Council did, by Resolution Nos.: 107-2009 and 107(a)-2009, respectively, of July 13, 2009, authorize the sale of several properties at public auction; and

**WHEREAS**, said public auction was duly held on October 1, 2009; and

**WHEREAS**, the Terms and Conditions of the Public Auction required that a closing of title take place on or before December 11, 2009; and

**WHEREAS**, it is now necessary to amend the Terms and Conditions of the Auction to provide for additional time to close;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the Terms and Conditions of the Auction be and are hereby amended to allow a closing of title on or before February 12, 2010, that date being sixty (60) days from the original date of December 11, 2009; and

**BE IT FURTHER RESOLVED**, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is hereby authorized and directed to execute and deliver a deed to said purchaser upon receipt of the indicated purchase price in cash, money order or bank check, made payable to **THE CITY OF NEWBURGH**, on or before February 12, 2010, subject to the annexed **Terms and Conditions of the Auction**; and

**BE IT FURTHER RESOLVED**, that the following property was sold subject to the owner-occupancy provision set forth in paragraph number eleven (11) of the Terms of Sale and the deed thereto shall contain a restrictive covenant to effectuate such provision of the Terms of Sale.

<u>Property</u>	<u>S - B - L</u>	<u>Purchaser</u>	<u>Purchase Price</u>
406 Grand Street	4 - 9 - 2	Mohammad S. Majeed	\$21,500.00

**Councilwoman Bell noted that this person has stated that they will adhere to the owner occupancy stipulation.**

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

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

**ADOPTED**

17-10

# Terms of Sale For Real Property Auction

## STANDARD TERMS:

1. City of Newburgh acquired title to these properties, with the exception of 115 Johnston Street, Section 18, Block 11, Lot 15, and 35 Spring Street, Section 35, Block 1, Lot 1, in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2007-2008 and 2008-2009 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2007-2008 and 2008-2009 and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2007-2008 and 2008-2009 and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY, THE AUCTIONEER, AND THE BROKER MAKE NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the auction any of the properties listed on the schedule of real property.
9. Notice is hereby given that the premises being sold may lie within a Historic District or Design District as designated upon the zoning or tax map. It is the sole responsibility of any bidder to ascertain which specific parcel(s) is so designated and sold subject to the provisions of law applicable thereto.
10. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to

rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

11. Properties identified as 5 City Terrace North, Section 7, Block 6, Lot 9, 7 Forsyth Place, Section 9, Block 2, Lot 15, 406 Grand Street, Section 4, Block 9, Lot 2, 70 Leroy Place, Section 4, Block 10, Lot 4, and 311 Powell Avenue, Section 7, Block 5, Lot 8, will be sold subject to an owner-occupancy restriction. Successful bidders that have agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish their domicile and principal residence at said premises and maintain their domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.
12. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family From Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.

#### AT THE AUCTION

13. All bidders are required to register and provide suitable personal identification, such as a driver's license and passport, at registration. Auctioneer reserves the right to decline registration if identification is not sufficient. Individuals, other than lawyers, acting on behalf of others, not in attendance at the auction, must produce a "Power of Attorney" duly executed and notarized. Incorporated entities, (Inc., Corp., LLC, etc.) are required to provide a corporate resolution with a corporate seal affixed where applicable, authorizing the purchase of real property, prior to the transfer of title, and are encouraged to provide same at registration,
14. All bidders are required to use the bidder number issued to them for all purposes associated with the auction. A bidder may not bid on behalf of a party who is on the prohibited bidder list. A party will be added to such list if he has defaulted in payment of a purchase price or taxes following a purchase. Previously defaulting parties are not allowed to bid.
15. The former owner of the property, or his agent, shall not be permitted to bid on the property or purchase same at the public auction, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens. Purchaser shall provide information necessary to complete, and shall execute, the necessary forms and documents required for recording the deed in the City of Newburgh Clerk's Office. Offer to Purchase Form and sale cannot be assigned. Unless the City agrees in writing, the purchaser executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal.
16. The auctioneer's decision regarding any disputes is final, and the auctioneer reserves the right to reject any bid that is not an appreciable advancement over the proceeding bid.
17. The Successful Bidder will execute an Offer to Purchase form before the end of each auction day for each property he/she is the successful bidder on. The approval of each bid by Resolution of the Newburgh City Council will bind the bidder only and will not constitute a Contract of Sale and the City reserves the right to reject any bid prior to the closing of title and the recording of the deed.
18. The Successful Bidder shall provide information necessary to complete and shall execute the necessary forms and documents required for recording the deed in the Orange County Clerk's Office. The bidder executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid, unless the City agrees in writing. The deed prepared ~~will be in the name of the successful~~ bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal, or unless the bidder is a lawyer.

19. The Successful Bidder shall be responsible for the payment of an eleven percent (11%) buyer's premium (1% buyer's premium discount for cash and other guaranteed funds) in addition to the accepted purchase price, an advertising fee of 1.5% of the bid price, and the closing fees/costs. The "buyer's premium" is the fee/commission earned by the auctioneer. Accepted purchase price is the amount of the bid by the highest bidder, which has been approved by the Newburgh City Council.
20. All required deposits must be paid in full for all successful bids by the end of each auction day. Any successful bidder, who fails to tender the deposit at the end of each auction day, will be forbidden to participate in this or any other auction. Any parcels which the City did not receive deposits for by the end of each auction day will be considered to be defaulted. An attempt will be made to offer the property to the second highest bidder by telephone first, then resold on the last day of the auction at 3:00pm. If a purchaser fails to close on the parcel(s) that he/she bids on at the auction, he/she will be prohibited from participating at future auctions held for the City of Newburgh. Additionally, if a declared high bidder at the auction leaves the auction without making the required down payment, he/she will be prohibited from participating at future auctions held by NYSAuctions.com, Haroff Auction & Realty, Inc., Absolute Auctions & Realty, Inc., and the City of Newburgh reserves the right to take legal action against this high bidder.
21. The terms "bidder", "highest bidder" and "successful bidder" shall all have the same meaning.
22. \$1,000.00 or 20% of the total contract price (total contract price is the combination of the high bid and the buyer's premium, as defined in Section 19 of these terms and conditions), whichever is higher, shall be paid as a down payment on the day of the auction upon execution of an Offer to Purchase Form. Total contract prices selling for less than \$1,000.00 must be paid in full at auction, including all closing costs will be paid with the down payment on the day of the auction for each parcel; to wit; (a) New York State Transfer Tax [\$2.00 for each \$500.00 of the purchase/bid price]; (b) Filing Fee for the Real Property Transfer Report [\$125.00 for residential and \$250 for commercial]; (c) Filing Fee for combined Gains Transfer Tax Affidavit [\$5.00]; and (d) all fees required by the Orange County Clerk for recording of the deed [\$40.00 to record one page deed; \$5.00 for each additional page; and \$.50 for any cross reference]. *Closing costs may be subject to an increase in fees as required by law, without notice.* All recording costs and transfer taxes shall be paid by the purchaser. **All deposits must be made in credit card (Master Card or VISA), cash or guaranteed funds (bank checks/tellers checks/cashiers check) made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions. Wire transfers will not be accepted. The City Comptroller may refund overage of a deposit made in excess of the total contract price plus closing costs/fees once the funds have cleared, or apply said sum to the balance owing on the purchase price.**

#### AFTER THE AUCTION

23. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
24. The entire balance of the accepted purchase price, the buyer's premium as defined in Section 19 of these terms and conditions, and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before February 12, 2010. *The City of Newburgh does not accept credit card payments for the balance of the purchase price, buyer's premium and closing costs/fees after the date of the auction. The City is not required to send notice of acceptance or any other notice to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.* The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
25. Previously defaulting parties are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this auction. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
26. If the successful bidder fails to tender such amount due by the close of business on February 12, 2010, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.

27. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
28. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty arising from this sale.
29. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
30. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
31. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Consulting Engineer.
32. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
33. The successful purchaser on each auction parcel must remove the auction sign within seven (7) days after the recording of the deed.
34. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

**RESOLUTION NO.: 18 - 2010**

**OF**

**JANUARY 11, 2010**

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF  
REAL PROPERTY KNOWN AS  
154 WILLIAM STREET (SECTION 44, BLOCK 4, LOT 12)  
AT PRIVATE SALE TO HOUSE OF GOD  
FOR THE AMOUNT OF \$14,030.59**

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

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

**WHEREAS**, the City of Newburgh desires to sell 154 William Street, being more accurately described as Section 44, Block 4, Lot 12 on the official tax map of the City of Newburgh; and

**WHEREAS**, the prospective buyer has offered to purchase this property at private sale; and

**WHEREAS**, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in cash, money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before March 12, 2010, being sixty (60) days from the date of this resolution; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
154 William Street	44 - 4 - 12	House of God	\$14,030.59

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

Councilwoman Bello said that she doesn't understand the logic in this. With our given financial situation, why when we had a choice between a tax paying business owner purchasing this or a non-profit we went with the non-profit. That is not to say that the purpose for which it is intended by the non-profit is not a humane intent, which it is. She feels that our primary focus should be to increase our tax base not diminish it.

Councilwoman Bell said that the taxes were just a few hundred dollars a year and the price that the House of God offered was about five times what the other offers were.

Councilwoman Bello said that if they are not paying taxes they can afford to offer more.

Councilwoman Bell added that we are talking about several thousand dollars difference in the price plus they will be using this building as a storage and distribution center for food, clothing and aid for people in that area which is necessary. To her it just makes good business sense and morally it seems like the right thing to do.

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

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

Nays - Councilwoman Bello - 1

**ADOPTED**

## **OLD BUSINESS**

**Mayor Valentine noted that Resolution #201-2009 will continue to be tabled until the next Work Session.**

## PUBLIC COMMENTS

Denise Ribble, City of Newburgh said that at the Work Session she was encouraged to hear mentioned that the CDBG Advisory Committee was going to be reconvened. She feels that one of the first courses of business should be to look at how we can prevent tax foreclosures of our citizens and possibly use some of that CDBG money for that process. In 2009 the foreclosure rate in the City of Newburgh was at 22% which is 1/5 of our population. If we are going to raise taxes and fees, then that number is only going to go up unless we do something. In the revenue generating discussions there were two suggestions made. One was to look at a fee structure for safety services and the other was to ask our legislatures to assist us in developing a payroll tax. This would be better than strapping it all on our citizens, killing us and having us not be able to pay taxes. If you foreclose on these people, you won't have the revenues that were put into the 2010 Budget. She added that if we had a Human Resource Director we would know about the retirement incentive and background checks.

Mayor Valentine said in answer to the question about foreclosures that it was already presented as part of the CDBG and we will have a program in place this year.

Pastor Diaz, City of Newburgh said that they came here to help and support the City of Newburgh. He thanked the City Council for approving the sale of the property at 154 William Street and said that they will utilize it to try to help the community.

Maryann Prokosch, Galloway Avenue suggested that when an address is needed that perhaps we should have a sign in sheet because people are conscious of this being on television. In regard to garage sales, fees are great but who will enforce them? She added that she spoke at a previous meeting about parking enforcement and snow removal. We have had three snow storms and no tickets have been issued on her street and people continue to park on the wrong side of the street so the plows can't get through. She hasn't seen the street sweeper in months yet people are still following the parking rules for street sweeping and tickets are being issued for that.

Timothy Hayzill, City of Newburgh told the Council that they are financially and morally obligated to the people of the City of Newburgh. They should put a cultural center on Lander Street to reduce crime and reduce police overtime. If you work with the people in the community, things will get done and you will save money.

Myrtle Williams, Chambers Street said that they have asked for help before and they are now dodging bullets so they are begging for cameras to be placed on the streets. There is gunfire every night and the cops don't even come sometimes. She asked when they are going to get some help down there because it is dangerous. It has gotten so bad that she is afraid to stand by a window. Her neighbor has bullet holes in her car and they come to that area because there are no cameras set up on Chambers and Gidney Avenue.

Michael Gabor, Grand Street, said that he had a trespasser on his property. He called the police and followed the person and the next day it was in the paper that this person was shooting bullets. He went to the police department because they wouldn't respond and spent an hour waiting and was basically told that they wouldn't pursue this any further. He feels that they should have shown him more respect. In regard to the garage sales, a problem that he sees is garbage being put out all day and on weekends and no one is issuing tickets. What good is it if there is no enforcement? He hasn't seen anything on the search continuing for a City Manager and he would like to know what is going on with that. What are we doing about marketing the City and trying to get people to come here? We have to attract them. It is a very simple thing and he sees nothing being done.

Omari Shakur, City of Newburgh said that there was a shooting by his house recently too. A few weeks ago a child went missing and he spoke to the mother and the person in jail and has been told that it is an ongoing investigation. He learned that the police didn't start their search until forty-eight hours after he went missing and the first forty-eight hours is the most critical time. He feels that we have a police department that is here for correction not protection by putting kids in jail. He added that we have about eighty Churches here in the City of Newburgh and when this child went missing he didn't see the Clergy hold any vigils. If they don't have the person who did this then our kids are at risk. They need more information.

Pam Krizek, on behalf of Trestle, Inc. thanked everyone who supported the Young Palettes Envision of the Hudson Art Panel Banners that now proudly hang on Colden Street looking over the Hudson. These art panel banners will invite our residents and visitors from around the area to walk into our Garden of Art starting at the recently renovated Downing Vaux Park at lower Broadway and stroll down Colden Street overlooking the Hudson River as the backdrop. We are hoping to see this Garden of Art blossom and bloom as Trestle, Inc. now offers the public an opportunity to sponsor children's art in art panel banners this spring. They will also be holding a public dedication this spring and noted that not-for-profits are extremely valuable assets to their cities.

Police Chief, Eric Paolilli said in response to a comment made earlier that the ground search for the missing child began that same day. The comment made that the search did not begin until forty-eight hours later is inaccurate. There are aspects of this investigation that he is not at liberty to discuss which he knows is frustrating and he can only imagine what this mother is feeling. In regard to the shots fired calls, they are aware of that. In 2009, the City of Newburgh had forty-seven confirmed shots fired calls and twenty of those happened in the last quarter of the year. In the last ten days they have taken four guns off of the streets so they are addressing this issue. There is an impact team being reassigned to specific areas and they are working aggressively on that. He added that in the last quarter of 2009 police officers were responsible for taking sixteen guns off the streets.

Brian Flannery, 5 Norton Street said that it is important for city official to hear your address because it helps them to understand the concerns throughout different neighborhoods in the City. He finds it very hard to hear at the Work Sessions and he appreciates it when people speak right into the microphone which helps a lot.

Charlotte Mountain, Dubois Street said that she believes St. Luke's Hospital is the largest employer in the City of Newburgh and they are also one of the few employers that do not offer free parking for their employees. As a result, there are a lot of employees and visitors parking on Dubois Street. We also have alternate side of the street parking five days a week for the street sweeper which means she has to move her car every day. For snow removal the car has to be on one side of the street and for street sweeping it has to be on the other so we don't have one system for parking. She added that during the summer there was a community service project held in Downing Park and some parents weren't comfortable driving into the neighborhood. If we could change some of the zoning in the City so that we could maybe have some stores along the Park we could generate some revenue and it would be less scary.

Jenny Loeb, CDBG Committee member said that there are only three members still on this committee so she encouraged the City Council to expand it and make it more permanent. One problem we have had in the past is that the residents didn't have a say on how to spend the money. The original idea to have half residents and half professionals would be good. CDBG is the only money that comes for low income residents and homelessness is a crisis. She announced that Community Voices Heard is helping with the census and there is an effort for the residents of the community to help insure that we get a better census count.

Damon Finch, City of Newburgh congratulated Councilman Dillard and said that he would have liked to have seen him get sworn in. He reminded him that they are watching and they are here to help and support him.

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

## COMMENTS FROM THE COUNCIL

Councilwoman Angelo said that the Palette Program is under Trestle, Inc. and out of three hundred entries sixteen were chosen and she thanked them because it is beautiful down there. She added that Timothy Hayzill is having a Stop the Violence Movement Talent Show and Fundraiser on Saturday. There will also be a round table discussion with many guest speakers. They are still advertising for members for the Human Rights Commission, Civil Service Commission and Waterfront Advisory Committee as well as Board of Assessment Review, Planning, Police Community Relations Board, ARC and Human Advisory. This is an opportunity to work for the community.

Councilwoman Bell echoed what Councilwoman Angelo said about Trestle, Inc. and said that they do great work. At Christmas she was out of town and everywhere she looked while driving there were police officers giving out speeding tickets. When she asked someone about it she was told that it was the only form of revenue generation that they had. She said that down on Martin Luther King Blvd. there are people speeding through our City daily. We could provide a safer environment and generate some money so she asked Chief Paolilli if perhaps an officer could be stationed there during rush hour in the morning and evening.

Police Chief, Eric Paolilli noted that in New York State the money collected for tickets goes back to the State and not the municipality.

Councilwoman Bell said if one of our officers writes a ticket in our City we don't get any of the money?

Michelle Kelson, Acting Corporation Counsel responded that under the New York State Vehicle and Traffic Law there is a revenue sharing provision and municipalities do not receive 100% share of the fine.

Councilwoman Bell said that a percentage is better than a goose egg. In terms of the water fees, we still have people that owe \$30,000.00 in back water bills. She thinks that we should get with the County DSS to target a building and have them come in to help with some relocation strategies for the people that live there. Then have John Platt shut that water off and have Codes put out a condemned sign and then the money will start rushing through the door because then you will have hit people where it really hurts. These people are only concerned about money so let's make them feel it and then the word will get around to the others. It is outrageous to owe \$30,000.00 to \$40,000.00 for water while the poor people are struggling to pay extra money on their taxes. She feels that this is a good thought and that they should work on it. She

added that she thought she heard someone mention putting a wine bar in the Shelter House and she thinks that would be lovely. She thanked everyone for coming and her expression for 2010 is, "Be the change that you wish so see in the world".

Councilwoman Bello thanked everyone for coming tonight.

Councilman Dillard said that for the year 2010 he has three priorities. One is fiscal stability of the City. The second is safety and he noted that he saw on the news where officers here in Newburgh confiscated a forty-four magnum pistol that was in a baby carriage which shows how crime has escalated in this City. He believes that the entire community needs to play a part in this fight against crime and he sees the police officers out on the streets performing their duties. The third thing is that we cannot continue to let garbage pile up in this City. He knows that DPW is short handed but there must be a way to channel some manpower to get this done and he will be looking into this also. He told everyone that he swears to be committed to this City.

Mayor Valentine said in regard to the mention of guns on the streets that Orange County is currently in the middle of a three month buy back and the City of Newburgh is going to have our own special day for this on Saturday at the Activity Center from 10:00 a.m. until 2:00 p.m. There will be law enforcement there from the Orange County Sherriff's Department and our own police department to help in gathering guns. When this was done in 2007 in the City of Newburgh, we recovered twenty-five guns in a buy back. The buy back is co-sponsored by Shoprite where if someone brings in a gun then they will receive a gift certificate. If we get just one gun off the street then this is a success and if we can get twenty-five then that is a huge success. We are doing this with the help of Rev. Jesse Howard and also George Frazier of Hoops Express who has been instrumental in doing an outreach throughout the community to try to get some of our Clergy to be involved and getting the word out. This will be going on through the end of February so if anyone knows anybody that wants to do this there will be no questions asked. They just bring in the gun, hand it in, get their gift certificate and then leave. Again, there is a no questions asked policy so we need to get the word out to get these guns off the streets. He thanked everyone for coming and noted that they have a lot of work ahead of them this year. He will be looking for the support and comments because they are important.

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

LORENE VITEK  
CITY CLERK

